



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
 ATTORNEY GENERAL

December 10, 2001

The Honorable Alston C. Badger
 Mount Pleasant Municipal Judge
 Post Office Box 1012
 Charleston, South Carolina 29402

Re: "Conditional Guilty Pleas"

Dear Judge Badger:

In your letters to this Office, you request an opinion on the following question:

Can a judge accept a "conditional guilty plea" if the conditions imposed by the State are that the defendant must complete some type of deferment (i.e.: P.T.I., community service, substance abuse treatment, etc.) resulting in the guilty plea later being vacated and the pending charge dismissed?

It is my opinion that our appellate courts would most likely find the conditional guilty plea arrangement used in the Town of Mount Pleasant to be improper. State v. Peppers, 346 S.C. 502, 552 S.E.2d 288 (2001).

Moreover, I believe it likely that the courts would find the arrangement to be in violation of the South Carolina Constitution. Article V, § 4 of the South Carolina Constitution requires that the Chief Justice "shall be the administrative head of the unified judicial system." In City of Pickens v. Schmitz, 297 S.C. 253, 376 S.E.2d 271 (1989), our Supreme Court recognized that the municipal courts of South Carolina are part of the unified judicial system. In a previous opinion dated August 19, 1998, this Office recognized that our Supreme Court has held "that the establishment of a uniform judiciary is mandatory and that statutes which extend or perpetrate a non-unified system or which operate so as to postpone or defeat the purpose of Article V must be deemed unconstitutional." See, Douglas v. McLeod, 277 S.C. 76, 282 S.E.2d 604 (1981) Likewise, the Court has recognized that the Constitution forbids piecemeal regulation of the court system by local governments. Id.

Further, Article VIII, §14 of the South Carolina Constitution provides in pertinent part that:

*Respectfully,
 Charlie Condon*

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In the enacting provisions required or authorized by [Article VIII relating to local governments], general law provisions applicable to the following matters shall not be set aside:

....

(4) the structure for the administration of the State's judicial system;

(5) criminal laws and the penalties and sanctions for the transgression thereof;

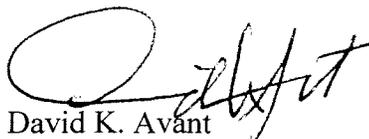
and

(6) the structure and the administration of any governmental service or function, responsibility for which rests with the State government or which requires statewide uniformity.

In the above-referenced opinion, this Office opined that Section 14 of Article VIII effectively withdraws administration of the State judicial system from the field of local concern. I believe this logic to be applicable to Mount Pleasant's conditional guilty plea arrangement.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,



David K. Avant
Assistant Attorney General

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