

The State of South Carolina



Office of the Attorney General

Opinion No 87-89

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November 9, 1987

The Honorable Michael E. O'Dowd
Charleston County Magistrate
Post Office Box 31861
Charleston, South Carolina 29407-1861

Dear Judge O'Dowd:

In a letter to this Office you questioned whether a magistrate would have jurisdiction over a charge pursuant to Section 16-13-420 of the Code if the value of the property leased or rented is less than two hundred (\$200.00) dollars.

Section 16-13-420 states:

(a)ny person having any motor vehicle, trailer, appliance, equipment, or tool in his possession or under his control by virtue of a lease or rental agreement who willfully and fraudulently fails to return the motor vehicle, trailer, appliance, equipment or tool within seventy-two hours after the lease or rental agreement has expired, or who fraudulently secretes or appropriates the property to any use or purpose not within the due and lawful execution of his lease or rental agreement shall be guilty of larceny. (emphasis added.)

Pursuant to Section 16-13-30 of the Code, the offense of petit larceny is committed if the value of the property stolen is less than two hundred (\$200.00) dollars. Such statute further provides that the offense of petit larceny is within the jurisdiction of the magistrate's court.

In a prior opinion of this Office dated April 14, 1987 it was concluded that the offense of breach of trust with fraudulent intent where the value of the property involved is more than fifty dollars but less than two hundred dollars is within the jurisdiction of the magistrate's court. Section 16-13-230 of the Code states

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(a)ny person committing a breach of trust
with a fraudulent intention shall be guilty
of larceny...

The opinion, citing several State Supreme Court cases that determined that the offenses of breach of trust with fraudulent intent and larceny are closely associated, determined that the offense of breach of trust with fraudulent intent is governed by statutory provisions applicable to the offense of larceny.

Similarly, in the opinion of this Office, a court's jurisdiction of cases arising under Section 16-13-420 is controlled by the statutory provisions applicable to the offense of larceny. Therefore, such cases are within the jurisdiction of a magistrate if the value of the property rented or leased is less than two hundred (\$200.00) dollars. If there are any further questions, please advise.

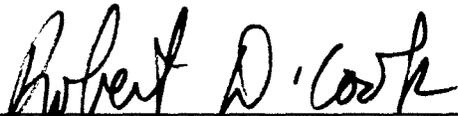
Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/rhm

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions