

Lib. 255

The State of South Carolina



Office of the Attorney General

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July 22, 1986

The Honorable Joseph P. Mizzell, Jr.
Solicitor, First Judicial Circuit
P. O. Box 1525
Orangeburg, South Carolina 29115

Dear Solicitor Mizzell:

In a letter to this Office you raised several questions on behalf of Sheriff Carl Knight. Such questions have arisen as the result of the annexation by the City of North Charleston of an area lying in Dorchester County. In responding to such questions, I am assuming that the annexation complies with all legal requirements.

In your first and second questions you have asked whether individuals arrested by North Charleston city police officers who are charged with either misdemeanor or felony violations should be incarcerated in the North Charleston City Jail or the Dorchester County Jail. In a prior opinion of this Office dated September 6, 1979 it was stated that:

... the county jail is the general jail for the incarceration of pre-trial detainees and the county authorities are responsible for the custody and safekeeping of those prisoners committed to them. Moreover, it appears that it is mandatory that the county authorities accept any pre-trial detainee who is charged with a crime within the jurisdiction of the court of general sessions whether it be by delivery by a law enforcement officer who made the arrest or by transfer from a municipal jail.

Such Opinion was in response to the question of whether a sheriff, as custodian of a county jail, could refuse the

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transfer of prisoners charged with general sessions offenses. An opinion dated March 21, 1983 stated that a municipality is responsible for the care and maintenance of defendants arrested or convicted of violations of municipal ordinances or state criminal offenses within the jurisdiction of the municipal court if such defendants are lodged in a county jail. However, the opinion also determined that a county is responsible for the care and maintenance of individuals charged with a violation of state law where the case is within the jurisdiction of the court of general sessions. See also: Opinion of the Attorney General dated December 18, 1979; City of Greenville v. Pridmore, 162 S.C. 52, 160 S.E.2d 144 (1931).

Referencing the above, as to arrests made by North Charleston police officers of criminal violations within the jurisdiction of the municipal court, such defendants should be incarcerated in the North Charleston City Jail. If these individuals are taken to a county jail, the City would be responsible for the costs of care and maintenance. As to arrests by such officers of violations within the jurisdiction of the court of general sessions, such individuals should be incarcerated in a county jail. However, inasmuch as the City of North Charleston lies in both Charleston and Dorchester Counties, consistent with the requirement that a defendant charged with a general sessions court offense be tried in the county where the offense is committed, it would appear that those defendants charged with offenses which were committed in the Charleston County portion of the City of North Charleston should be incarcerated in the Charleston County Jail. Likewise, defendants charged with offenses committed in the Dorchester County portion of the City should be incarcerated in the Dorchester County Jail.

You also questioned whether an arrest warrant issued by the municipal judge for the City of North Charleston should be countersigned or endorsed by a Dorchester County magistrate before being executed by a North Charleston police officer. I am assuming that any arrest by the North Charleston police in such circumstances would take place within the city limits of North Charleston.

Section 22-5-190 of the Code provides that when an arrest warrant is issued by a municipal judge and the defendant is not within the municipal limits but is within the State,

... the officer issuing such warrant may
send it to the magistrate having jurisdiction

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over the area in which such person may be found, which magistrate may endorse the warrant, which shall then be executed by the magistrates' constable or the sheriff of the county of the endorsing magistrate....

As set forth, such statute is only applicable when a warrant is issued by a municipal judge and the defendant named in the warrant is not within the limits of the municipality but is within the State. As a result, the warrant must be endorsed by a magistrate with jurisdiction over the area where the defendant is located prior to being served outside the limits of the municipality. However, such statute would not apply to the situation reference by you where an arrest is made by a city police officer of a defendant found within the city limits pursuant to a warrant issued by the municipal judge. I am unaware of any requirement which would mandate that such a warrant be endorsed by a county magistrate in instances where the municipality lies in two separate counties.

If there is anything further, please advise.

Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/an

cc: Carl Knight, Sheriff
County of Dorchester
100 Sears Street
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REVIEWED AND APPROVED BY:



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