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The State of South Carolina



Office of the Attorney General

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May 29, 1986

Louis L. Rosen, Director
South Carolina Court Administration
Post Office Box 50447
Columbia, South Carolina 29250

Dear Mr. Rosen:

By your letter of May 21, 1986, you have asked whether one person may serve concurrently as a municipal judge of one city while serving as city prosecutor for another municipality located within the same county without violating the dual office holding prohibitions of the State Constitution. By an opinion of this Office dated May 3, 1982, it was determined that one individual serving in the positions of associate municipal judge for one city and city prosecutor for another city would hold dual offices; the enclosed opinion refers to other opinions with similar conclusions. It would make no difference that the two municipalities were located in the same or two counties; the result would still be the same, that dual office holding was occurring. The result would also be the same for one serving as a municipal judge rather than as an associate municipal judge; see Op. Atty. Gen. No. 84-11, enclosed.

Also enclosed are opinions discussing how dual office holding works: vacating one office upon acceptance of a second office and the concepts of de facto and de jure officers. See

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Ops. Atty. Gen. dated February 18, 1986 and February 10, 1984.
If you should have additional questions, please advise.

With kindest regards, I am

Sincerely,

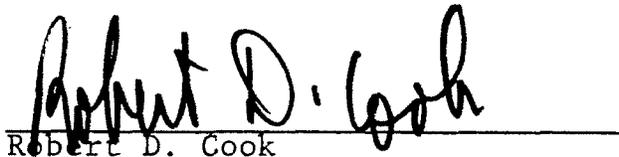
Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:



Robert D. Cook

Executive Assistant for Opinions