

1984 S.C. Op. Atty. Gen. 142 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-56, 1984 WL 159863

Office of the Attorney General

State of South Carolina

Opinion No. 84-56

May 18, 1984

*1 Mr. J. P. Pratt, II
Executive Director
South Carolina Department of Parole and Community Corrections
Post Office Box 50666
Columbia, South Carolina 29250

Dear Mr. Pratt:

Your letter of May 8, 1984, has been forwarded to me for reply. In it, you requested a copy of an order stating that circuit judges may not impose public service as a condition of probation. Neither this Office, nor the State's Supreme Court has issued an opinion or an order to this effect.

The circuit judges have been granted broad authority in the sentencing of convicted criminals. In that authority is included the right to suspend a sentence and place the criminal on probation. [S.C. CODE ANN. § 24-21-410](#) (1976 and Supp. 1983). '[P]robation is not a matter of right, but a matter of grace, and may be granted to a deserving accused by the trial judge in the exercise of his sound discretion.' [State v. Cantrell](#), 250 S.C. 376, 158 S.E.2d 189 (1967).

When a trial judge imposes a probationary sentence, [S.C. CODE ANN. § 24-21-430](#) (1976 and Supp. 1983) authorizes him to impose conditions of probation, which may include the eight (8) enumerated conditions 'or any other.' *Id.* In [State v. Wilson](#), 274 S.C. 352, 264 S.E.2d 414 (1980), the South Carolina Supreme Court examined this Section and concluded that the phrase 'or any other' grants permission to the trial judge to impose such other conditions as he deems appropriate in the exercise of his sound discretion.

Since a condition of public service would serve the objective of probation, to suspend the term of imprisonment but keep the probationer in the custody of the State in the Department of Parole, such a condition may be properly imposed by a circuit court.

If I can be of further service to you in this matter, please do not hesitate to call me.

Sincerely,

Donald J. Zelenka
Assistant Attorney General

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