

1979 WL 42851 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 8, 1979

**\*1 RE: Sentencing by Magistrates**

Mr. Edward J. Dennis, IV  
Attorney-at-Law  
337 East Main Street  
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Moncks Corner, South Carolina 29461

Dear Mr. Dennis:

Enclosed please find a copy of 1967 Op. Att'y Gen. No. 2289, p. 109 which you requested in your letter dated March 2, 1979. As to the question raised in the first section of the opinion concerning then two or more sentences are imposed at the same time, must those sentences (either imprisonment or fine) run concurrently, this Office is still in agreement with that portion of the opinion which states that a magistrate has the authority to impose sentences of imprisonment to run concurrently or consecutively. As stated, if the magistrate makes no indication of how such sentences should run, they would run concurrently. However, as indicated in the opinion, if the decision of the magistrate is that the sentences of imprisonment should run consecutively, a statement of such intent would result in consecutive sentences of imprisonment.

However, as to the matter of fines, your attention is directed to the enclosed opinion dated October 5, 1978, which states that 'it . . . is inappropriate to refer to concurrent sentencing in the case of fines imposed for separate offenses.' The opinion states further that where there is the option of a fine or imprisonment, there is no bar to the imposition of a concurrent sentence referring solely to the term of imprisonment. However as to the matter of another separate sentence imposed with the option of a fine or imprisonment, if the defendant elects to pay the fines, he would pay the aggregate of the fines. However where both fines and imprisonment are imposed, the opinion indicated that terms of imprisonment may be made to run concurrently but again the fines must be paid in the aggregate. The enclosed opinion explains in detail the above determinations. This opinion should be construed to include sentencing by magistrates.

As to the second portion of Opinion No. 2289, this Office is still in agreement with its holding that a magistrate may impose a sentence of imprisonment with no fine if he wishes to do so. Enclosed is a copy of 1970 Op. Att'y Gen. No. 3034, p. 323 which also reaffirmed this position.

If there is anything further, do not hesitate to contact me.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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