

1977 WL 37163 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 21, 1977

***1 RE: Letter of February 28, 1977, to Attorney General Daniel R. McLeod**

W. F. Robertson, III, Esq.
Attorney at Law
P. O. Box 2547
Greenville, South Carolina 29602

Dear Mr. Robertson:

Your letter of February 28, 1977, to Mr. McLeod has been referred to me for reply. After reading your letter, I am somewhat confused over your due process question and have been unable to answer the same. I do not feel that the prosecutor as a layman, rather than an attorney, has anything to do with any due process questions as to the fairness of the trial. As to the question of due process with respect to the magistrate being a layman, this was recently brought before the Federal Court and it was determined that the magistrate need not be a licensed attorney.

A question of whether or not an officer may act as a prosecutor has been addressed in the Circuit Courts of this State on several occasions and it was determined that it was entirely proper for the arresting officer to prosecute in Magistrates Court. Whether or not a designated officer other than the arresting officer can prosecute was not directly addressed in the above case. However, it is my opinion that the same principles would apply and I can find no reason to distinguish between a prosecuting officer and an officer such as Corporal Condurus.

If you have any further questions, please do not hesitate to write to me.

Sincerely,

A. Camden Lewis
Assistant Attorney General

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