

1977 WL 37045 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 6, 1977

\*1 Honorable L. R. Wallace  
Magistrate  
Cherokee County Courthouse  
Gaffney, South Carolina 29340

#### QUESTION

May a magistrate execute warrants regarding criminal actions within the municipalities lying in the county of his jurisdiction when sought by police officers or other proper persons?

#### STATUTES AND CASES

Art. 4 and Art. 7, Section 4, Statutes at Large No. 690 (1976); Section 14–25–970 of the Code of Laws of South Carolina, 1976; [State v. Blue](#), 264 S.C. 468, 215 S.E. 2d 905 (1975).

#### DISCUSSION

Section 14–25–970, Code of Laws of South Carolina, 1976, provides:

The municipal court shall also have all such powers, duties and jurisdiction in criminal cases made under municipal or State law as are now conferred by law upon the magistrates appointed and commissioned for the county in which the court is established, except that such court shall not have the authority of a magistrate to appoint a constable.

The implication is that the jurisdiction of magistrate and municipal courts is to be concurrent with respect to violations of the law in the municipality. This conclusion is affirmed by the statement of legislative intent accompanying the statute. It says that municipal courts are to have ‘the same jurisdiction in criminal matters as is provided by law for magistrates’ courts including the power to issue arrest warrants and search warrants. . . .’. Section 14–25–970, Code of Laws of South Carolina (1976).

The South Carolina Supreme Court has also addressed this question. In [State v. Blue](#), 264 S.C. 468, 215 S.E. 2d 905 (1975), the Court held that the ‘jurisdiction conferred on Recorders, therefore, includes concurrent jurisdiction with magistrates to issue warrants for arrests within the city limits for offense beyond their jurisdiction to try. . . .’.

The same position was taken in Attorney General's Opinion No. 2497, 1967–68, p. 174, which concluded that:

It is our opinion that the magistrate and mayor would have concurrent jurisdiction, where a crime is committed within the limits of an incorporated town, and said crime is a violation of the town's ordinances as well as a statutory offense.

Any concern that the magistrates' powers to execute warrants in connection with crimes committed within the town's corporate limits because of changes embodied in the Judicial Reform Act of 1976 should be allayed by Article 7, Section 4, of the Act, Statutes at Large, No. 690 (1976). Section 4 says that ‘[e]xcept as provided in Article 4, the provisions of this act shall not affect

the jurisdiction, duties or functions of the magistrate and municipal courts of this State.’ However, Article 4 deals solely with civil jurisdiction and monetary limitations on civil jurisdiction.

Thus, the cases and law cited above are still valid.

CONCLUSION

Where a crime is committed within a municipality lying in the county of his jurisdiction and that crime is a statutory offense, a magistrate may execute warrants regarding the crime when sought by police officers or other proper persons.

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