

1976 S.C. Op. Att'y. Gen. 200 (S.C.A.G.), 1976 S.C. Op. Att'y. Gen. No. 4365, 1976 WL 22984

Office of the Attorney General

State of South Carolina

Opinion No. 4365

June 11, 1976

***1 THE CITY RECORDER OF BENNETTSVILLE HAS NO JURISDICTION OVER JUVENILE MATTERS THAT ARE WITHIN THE SCOPE OF THE PROVISIONS OF THE FAMILY COURT ACT.**

TO: Charles R. Hunter, Jr.
City Recorder
Bennettsville, South Carolina

QUESTION PRESENTED:

Whether the Bennettsville City Recorder has jurisdiction over cases involving juvenile offenders.

AUTHORITIES:

Sections 15–1002 through 15–1018, 1962 Code of Laws of South Carolina, as amended.

Sections 15–1095 through 15–1095.52, 1962 Code of Laws of South Carolina, as amended.

DISCUSSION:

The Municipal Court of Bennettsville operates under the provisions of Section 15–1002, *et seq.*, of the 1962 Code of Laws of South Carolina, as amended, ‘for the trial and determination of all cases arising under the ordinances of such city.’

The jurisdiction of this Court is set out in Section 15–1010:

‘Such municipal court shall have jurisdiction to try and determine all cases arising under the ordinances of the city in which the court is established and generally shall have all such judicial powers and duties as are now conferred upon the mayor of such city, either by its charter or by the laws of this State. The municipal court shall also have 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.’

Municipal courts have jurisdiction over all cases arising under the ordinances of the city, and have the same jurisdiction over cases arising under the State's criminal laws as a magistrate. However, a municipal court does not have any jurisdiction over juvenile matters that are within the scope of the provisions of Section 15–1095 through Section 15–1095.52 of the Code, the Family Court Act, since, as Section 15–1095.9 states:

‘(A) Except as otherwise provided herein, the court shall have exclusive original jurisdiction and shall be the sole court for initiating action:

(1) Concerning any child living or found within the geographical limits of its jurisdiction:

(d) Who is alleged to have violated or attempted to violate any State or local law or municipal ordinance, regardless of where the violation occurred; . . .'

Thus, in those counties where a Family Court exists, the Family Court has exclusive jurisdiction over juveniles who are charged with the violation of any State or local law or municipal ordinance.

Since Marlboro County does not have a Family Court established under the Family Court Act, the provisions of the Act will be applicable to 'any court exercising similar jurisdiction' in Marlboro County. Section 15-1095. Therefore, in Marlboro County the duties of the Family Court under the Family Court Act will be carried out by the Circuit Court and concurrently by the Probate Court.

*2 Furthermore, Section 15-1095.50 precludes a magistrate or city recorder from handling a case that is within the scope of the Family Court Act by providing that all such cases are to be referred to the Family Court:

'Whenever a person is brought before a magistrate or city recorder and, in the opinion of the magistrate or city recorder, the person should be brought to the (Family) court, the magistrate or city recorder shall thereupon transfer such case to the (Family) court and direct that the persons involved be taken thereto.'

CONCLUSION:

Therefore, the opinion of this Office is that the City of Bennettsville has no jurisdiction over juvenile matters that are within the scope of the provisions of the Family Court Act, and all such cases that are brought before the City Recorder should be transferred to the Circuit Court or the Probate Court for disposition under the Family Court Act.

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