

1972 WL 25335 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 30, 1972

***1 In re: Arrest, Misdemeanor, Possession of Warrant**

Captain W. D. Thomas
Sheriff's Department
York, South Carolina

Dear Captain Thomas:

You have inquired whether or not an arrest for a misdemeanor may be made by an officer who did not see the offense committed, when a warrant has been issued but is not in the arresting officer's possession.

The general rule is that a misdemeanor arrest warrant must be in the possession of the arresting officer when executed. Corpus Juris Decundum, Arrest, S. 4. Evidence discovered as a result of a search 'incident-to-arrest' would probably be the subject of a 'fruit-of-the-poisonous-tree,' suppression order when the arrest was technically unlawful.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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