

1972 WL 25350 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 8, 1972

\*1 Mr. Manning Bell

Route 3

Box 59

Loris, S. C. 29569

Dear Mr. Bell:

You have requested that this office furnish you the answers to the following questions:

1. When would the end of the fiscal year be?—In the case you posed, June 30, 1972, pursuant to Section 14-17 of the 1962 Code of Laws of South Carolina.
2. Is a 72 year old man eligible for appointment to office as magistrate?—Section 61-103 of the 1962 Code of Laws of South Carolina provides, 'Any employee in service who has attained the age of 70 years shall be retired forthwith . . .'. There is no other provision permitting one who has attained the age of 72 years to be appointed to an office, the intent of the law being that those persons who have attained the age of 72 are ineligible for such appointment. It is the opinion of this office that the terms of Section 61-103 prohibits the appointment of one who has attained the age of 72 years to a public office of this State.
3. What action is appropriate to require a 72 year old man so appointed to be removed from office?—Action could be taken on behalf of a private individual by way of a civil action, or the appointing officer, the Governor of this State, could take action to remove him.
4. When and by whom would the action be taken to retire him from the magistrate's office?—The Governor of this State has authority to retire him from the magistrate's office.
5. Has Section 61-103, Code of Laws of South Carolina, 1962, been amended?—This section of law has not been amended to allow magistrates 72 years or older to be appointed to office.
6. Do magistrates come under Section 61-103 or Section 61-102 of the State laws of South Carolina?—Magistrates would apparently come under Section 61-103.
7. What are the educational requirements for a man to be qualified to serve as magistrate?—The sole requirement is that the magistrate be a qualified elector, and there are no additional educational requirements for such.
8. Is it true that a newly elected magistrate would be required to go to school or college for a six months training course?—I am aware of no such procedure by which a magistrate is required to attend a training course, nor am I aware of any such training course being offered.

I trust this has been sufficient to answer the questions which you posed. If we may be of any further assistance, please do not hesitate to call or write.

Very truly yours,

Timothy G. Quinn

Assistant Attorney General

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