



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

January 11, 2005

The Honorable Glenn G. Reese  
Senator, District No. 11  
P. O. Box 142  
Columbia, South Carolina 29202

Dear Senator Reese:

In a letter to this office you raised questions regarding a magistrate being placed on interim suspension pursuant to Rule 17(b) of Rule 502, Rules for Judicial Disciplinary Enforcement. Inasmuch as your questions ask for a construction of the referenced Rules for Judicial Disciplinary Enforcement, a matter within the authority of the State Supreme Court, it would be inappropriate for this office to comment further beyond the Rules themselves as to any particular situation or particular investigation.

As to your question regarding whether when a magistrate is placed on interim suspension, is an investigation ongoing, enclosed is a copy of Rule 17 which details the matter of interim suspension of a judge. Subsection (b) states that:

**Other Misconduct or Incapacity.** Upon receipt of sufficient evidence demonstrating that a judge poses a substantial threat of serious harm to the public or to the administration of justice, the Supreme Court may suspend the judge or transfer the judge to incapacity inactive status pending a final determination in any proceeding under these rules. (emphasis added).

Therefore, the magistrate may be suspended pending a final determination of any proceeding.

As to your question regarding whether during an interim suspension, may a magistrate ask for reinstatement, subsection (d) of Rule 17 states:

**Motion for Reconsideration.** A judge placed on interim suspension or transferred to incapacity inactive status may apply to the Supreme Court for reconsideration of the order. A copy of the motion shall be filed with the Commission and served on the disciplinary counsel. (emphasis added).

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Therefore, the magistrate may ask for reconsideration if placed on interim suspension status. No reference is made to any particular time frame to seek reconsideration.

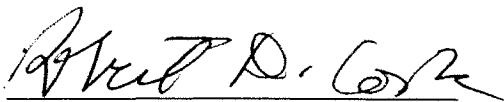
With kind regards, I am,

Very truly yours,



Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General