



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON  
ATTORNEY GENERAL

May 29, 1998

The Honorable David H. Maring, Sr.  
Resident Judge, Fifteenth Judicial Circuit  
104 Screven Street  
Georgetown, South Carolina 29440

Dear Judge Maring:

You have requested an opinion as to whether South Carolina Code Section 9-8-120 (4) (Supp. 1997) prevents a retired judge from drawing retirement pay while serving in a federal judicial position in South Carolina.

Section 9-8-120 says a judge receiving retirement pay "who engages in the practice of law may not serve as a justice or judge in any court in this state." The code does not specifically address the question of whether this prohibition includes serving in a federal judicial position. However, Section 9-8-10 defines "judge" only as "a justice of the Supreme Court or a judge of the court of appeals, circuit or family court of the State of South Carolina."

A previous Opinion of the Attorney General addressed whether a retired judge could serve as a special referee without the loss of retirement pay. The opinion concluded that "since it does not involve service as associate judge, circuit court judge or family court judge, or practice before a judge or jury," service as a special referee is not prohibited by Section 9-8-10. (Ops. Atty. Gen. February 3, 1981).

Since Sections 9-8-120 (4) and 9-8-10 do not specifically mention federal judicial positions, it appears that service in such a position is not prohibited by the laws governing the Judicial Retirement System. It therefore appears that a retired judge may draw retirement pay while serving in a federal judicial position. However, this letter is an informal opinion. It has been written by the designated Senior Assistant Attorney General and represents the opinion of the undersigned attorney as to the specific question

*Request Letter*

asked. It has not been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Kenneth P. Woodington". The signature is fluid and cursive, with a prominent horizontal stroke at the end.

Kenneth P. Woodington  
Senior Assistant Attorney General