

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3680
FACSIMILE: 803-253-6283

October 18, 1994

The Honorable Lee S. Alford
Family Court Judge, Sixteenth Judicial Circuit
Post Office Box 342
Rock Hill, South Carolina 29731

Ouida G. Swann, Esquire
Assistant Solicitor, Family Court
Sixteenth Judicial Circuit
Post Office Box 726
York, South Carolina 29745

Dear Judge Alford and Ms. Swann:

Attorney General Medlock has referred to me your letter of September 23, 1994 for reply.

The question presented was whether or not Magistrate's Court had jurisdiction over cases involving a juvenile charged with the criminal offense of minor in possession of beer, or violation of the open container law.

My research of the applicable statute would appear to indicate that magistrates do not possess such jurisdiction.

Pursuant to S.C. Code Ann. §20-7-410 (1976 and 1993 cum. supp.) Magistrate and Municipal Courts have concurrent jurisdiction with the Family Court as to juveniles under seventeen years of age who are charged with traffic violations and violations of Title 50 of the Code of Laws relating to fish, game and watercraft laws.

The Honorable Lee S. Alford
Ouida G. Swann, Esquire
Page 2
October 18, 1994

The same statute also requires the Family Court to report all adjudications of juveniles for moving traffic violations to the Department of Public Safety as required by other Courts of this State.

Generally, Magistrate and Municipal Courts can impose sentences not exceeding a fine of \$200 or imprisonment for thirty days, under S.C. Code Ann. §§22-3-550 and 14-25-65. However, as to juveniles, Magistrates and Municipal Judges have no authority to commit juveniles under seventeen years of age to a correctional facility. As expressed in a memorandum from the Office of Court Administration dated January 8, 1982, ". . . a child under the age of seventeen years may be committed only to the Board of Youth Services and only by Order of a Circuit or Family Court Judge." That memorandum noted that S.C. Code Ann. §24-15-510, which had authorized Magistrates to sentence youths to county or municipal jails, had been repealed.

The question then is whether or not a violation of the open container law or the offense in minor of possession of beer is a traffic violation, moving violation, or violation of Title 50. We can rule out Title 50, since neither crime falls within its purview. Unlawful possession of beer by a minor would appear to be found at S.C. Code Ann. §61-9-85 (1993 cum. supp.) and nothing in that statute designates which court would have jurisdiction. Similarly, the "open container" law is found at S.C. Code Ann. §61-9-87 (1993 cum. supp.), and the statute does not designate trial jurisdiction.

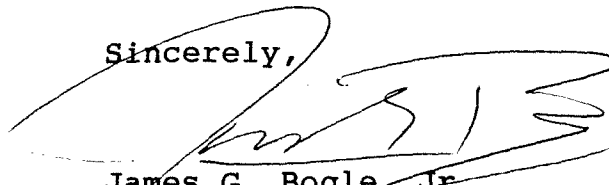
The Family Court's jurisdiction is found at S.C. Code Ann. §20-7-400, which gives exclusive jurisdiction to the Family Courts over juveniles alleged to have violated any state or local law or municipal ordinance, regardless of where the violation occurred, except as provided in §20-7-410.

It would appear clear from the statutes that Magistrates, Municipal Courts, and Family Courts do have concurrent jurisdictions, but only regarding certain limited matters. Neither minor in possession of beer nor open container law are moving violations, although I am informed that they may be written up on the uniform traffic ticket, nor do they fall within the purview of Title 50 of the Code, dealing with fish, game or watercraft. My advice to you would therefore be that only the Family Court possesses jurisdiction over those two criminal charges.

The Honorable Lee S. Alford
Ouida G. Swann, Esquire
Page 3
October 18, 1994

Should you have any questions or desire further information,
please advise.

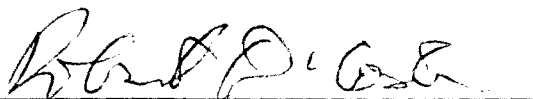
Sincerely,

A large, stylized handwritten signature in black ink, likely belonging to James G. Bogle, Jr.

James G. Bogle, Jr.
Assistant Attorney General

JGBjr:ypj

Approved by:

A handwritten signature in black ink, likely belonging to Robert D. Cook.

Robert D. Cook
Executive Assistant for Opinions