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The State of South Carolina



Office of the Attorney General

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August 8, 1991

The Honorable J. Archie Lee
Conway Magistrate
P. O. Box 544
Conway, South Carolina 29526

Dear Magistrate Lee:

In a letter to this Office you asked whether a magistrate can hire and discharge county employees assigned to his office.

Enclosed is a copy of an opinion of this Office dated October 26, 1989 which dealt with the question of whether an employee discharged from employment by a magistrate is entitled to a grievance hearing. The opinion citing Section 4-9-30(7) of the Code concluded that "... such an employee is not entitled to ... (a) ... hearing because she was 'employed in a department or agency of county government under the direction of (an) elected official or an official appointed outside county government.'"

Section 4-9-30(7) authorizes counties

to develop personnel system policies and procedures for county employees by which all county employees are regulated except those elected directly by the people, and to be responsible for the employment and discharge of county personnel in those county departments in which the employment authority is vested in the county government. This employment and discharge authority does not extend to any personnel employed in departments or agencies under the direction of an elected official or an official appointed by an authority outside county government (emphasis added)

Magistrates, who are appointed by the Governor with the advice and consent of the Senate pursuant to Article V, Section 26 of the State

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Constitution, would be an "official appointed by an authority outside county government."

Section 22-8-30 of the Code states that counties are to provide personnel necessary for the proper operation of a magistrates court, that these employees are to be county employees and that these employees must be paid by the county. Therefore, while employees of a magistrate's office are considered "county employees" and are paid by the county, any decision regarding the actual hiring and discharge of these employees is a decision of an individual magistrate pursuant to Section 4-9-30(7).

With kind regards, I am


Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR/an
Enclosure

REVIEWED AND APPROVED BY:



Robert D. Cook
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