

The State of South Carolina



Office of the Attorney General

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March 6, 1990

The Honorable Stephen S. Bartlett
Municipal Court Judge
City of Greenville
Municipal Court
Post Office Box 488
Greenville, South Carolina 29602

Dear Judge Bartlett:

Attorney General Medlock forwarded me your letter in which you asked that we review prior opinions of this Office, nos. 85-122 and 79-108, which determined that a magistrate is without authority to order the expungement of criminal records. Instead, the opinions indicated that defendants seeking expungement should apply to the circuit court for an order of expungement. You were particularly concerned with the expungement of records for fraudulent check cases.

By an Order dated February 25, 1988, a copy of which I am enclosing, former Chief Justice Ness instructed that Form SCCA/223 (Order for the Destruction of Arrest Records, also enclosed) is to be used

...for the destruction of arrest records in all cases where the defendant meets the statutory requirements for the destruction of such records. This form order is required to be used for this purpose in the court of general sessions to the exclusion of all others and until further order of the Chief Justice... .

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The Order makes specific reference to fraudulent check convictions. Therefore, in light of such Order, you may wish to contact the State Court Administration Office for any further clarification.

With best wishes, I am


Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR/nnw
Enclosure

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions