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# The State of South Carolina



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February 20, 1992

The Honorable Woodrow M. McKay  
Member, House of Representatives  
P. O. Box 500  
Timmonsville, South Carolina 29161

Dear Representative McKay:

In a letter to this Office you requested an opinion on behalf of Magistrate Lynch. In his letter which you forwarded Magistrate Lynch questioned the authority of Chief Magistrate McLeod to assign him to weekend duty in the Florence area. He stated that such duty in Florence removes him from his usual work location.

In his letter Magistrate Lynch refers to Section 22-1-10 of the Code which provides that a magistrate's number of work hours, compensation and work location remains the same throughout his term of office except as in compliance with Section 22-1-10. However, also to be considered is the Order of the Chief Justice dated June 20, 1991 designating the Chief Judges for Administrative Purposes of the Summary Courts. By such Order, Magistrate McLeod was designated Chief Judge for Florence County. Pursuant to such Order, the Chief Judge is authorized to:

Coordinate the activities of the summary court judges of the county with other affected persons and/or agencies to insure cooperation and effective judicial service ...

Establish with the other magistrates of the county, a schedule so arranged that a magistrate will be available, in person or on call, at all times in the county to issue warrants and conduct bail proceedings ....

Therefore, each Chief Magistrate is authorized to coordinate the activities and duties of the other magistrates within his county. Any questions regarding construction of the

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referenced Order as to activities in Florence County should be directed to the State Court Administration office.

As to Section 22-1-10, it is unclear as to whether its provisions mandating that a magistrate's work location remain the same throughout the magistrate's term of office would control as to the situation addressed. Such provisions were included in legislation enacted in 1991 as part of Act No. 136. Pursuant to Section 22-1-10 prior to its being amended in the referenced manner, Florence County magistrates were appointed for four year terms commencing May 1, 1990. The referenced 1991 amendments, which again were enacted only after magistrates for Florence County were most recently appointed in 1990, provide for a method of notification by the county governing body to the county Senatorial delegation of the number of magisterial positions available and the work hours, compensation and location for each position prior to the commencement of magisterial terms. The provision further provides that such factors remain the same unless changed in the manner authorized. However, inasmuch as Florence County magistrates were appointed for four year terms before such amendments became effective, it is questionable whether such would be effective or controlling as to these magistrates until the conclusion of their present terms and the appointment of magistrates for new terms beginning in 1994.

Referencing the above, it appears as to the situation addressed, the Order of the Chief Justice providing for coordination of activities and duties of county magistrates by the Chief Magistrate would be the more controlling factor as to the situation involving Magistrate Lynch. Again as to any questions regarding the construction of such Order, such should more appropriately be directed to the State Court Administration Office.

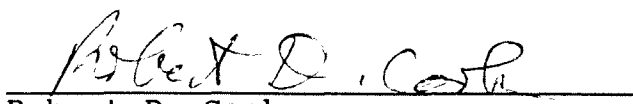
With kind regards, I am

Very truly yours,

  
Charles H. Richardson  
Assistant Attorney General

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REVIEWED AND APPROVED BY:

  
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