

The State of South Carolina



Office of the Attorney General

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October 21, 1987

Nancy E. Shealy, Staff Attorney
South Carolina Court Administration
P. O. Box 50447
Columbia, South Carolina 29250

Dear Ms. Shealy:

In a letter to this Office you referenced a provision of Richland County Ordinance No. 1315-85, the burglar alarm control ordinance, which states that upon the accumulation of eight false alarms at one location within one year, the sheriff's department alarm administrator may request a magistrate to issue and have served upon the offending party a rule to show cause. Upon a finding by the magistrate of a violation of the ordinance, the offending party is assessed a fine of one hundred (\$100.00) dollars. You have questioned whether a magistrate is authorized to issue the referenced rule to show cause.

As noted in your letter, pursuant to Section 22-3-550 of the Code magistrates have jurisdiction of all offenses which may be subject to the penalties of a fine not exceeding two hundred dollars or imprisonment not exceeding thirty days. Criminal proceedings in magistrate courts are initiated on information setting forth the offense charged, upon which an arrest warrant is issued. Section 22-3-710 of the Code. Pursuant to Section 22-3-10(3) of the Code magistrates have civil jurisdiction in actions for a penalty, fine or forfeiture when the amount claimed or forfeited does not exceed one thousand dollars. Civil suits are commenced by the filing of a complaint. Administrative and Procedural Rules for Magistrate's Court, Rule 5.

Service of a rule to show cause is typically considered to be a means to invoke the equity jurisdiction of a court. Cannon v. Goodyear Tire and Rubber Co., 248 S.C. 412, 150 S.E.2d 525 (1966). See also: In re Casale, 517 A.2d 1260 (Pa. 1986); Peabody v. Carr, 169 A. 126 (Pa. 1933). However, this

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Office has recognized in prior opinions dated January 12, 1979 and January 14, 1980 that magistrates in this State have no equity powers. Also, as referenced by you, in magistrate's courts, civil cases are initiated by the filing of a complaint while criminal proceedings are initiated by an arrest warrant.

Referencing the above, this Office is unaware of any basis which would authorize a magistrate to issue a rule to show cause in the situation where there has been an accumulation of false alarms at a particular location. As stated, such a proceeding involves the equity jurisdiction of a court and magistrates in this State have no equity powers.

If there are any questions, please advise.

Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions