

Library 2154

The State of South Carolina



Office of the Attorney General

Opinion No 86-47
P132

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-758-3970

April 9, 1986

W. C. Bain, Jr., Director of Public Safety
City of Spartanburg
P. O. Box 546
Spartanburg, South Carolina 29304-1749

Dear Chief Bain:

In a letter to this Office you questioned whether an arrest warrant could be issued in lieu of a uniform traffic ticket for the criminal offenses listed in Section 56-7-10 of the 1976 Code of Laws, as amended. You also asked whether the issuance of a traffic ticket for the listed criminal offenses is optional under any circumstances. Section 56-7-10 states:

(t)here will be a uniform traffic ticket used by all law enforcement officers in arrests for traffic offenses and for the following additional offenses: ... No other ticket may be used for these offenses. The service of the uniform traffic ticket shall vest all traffic, recorders', and magistrates' courts with jurisdiction to hear and to dispose of the charge for which the ticket was issued and served.

In State v. Biehl, 271 S.C. 201, 246 S.E.2d 859 (1978) the South Carolina Supreme Court dealt with the question of whether an arrest warrant was necessary in circumstances where a law enforcement officer did not actually see an offense but instead arrested the defendant based on facts disclosed upon his arrival at the scene and upon information with which he was supplied. Instead of proceeding under a warrant, the officer issued a uniform traffic ticket.

At the time of the offense, the statute authorizing a uniform traffic ticket, former Section 56-7-10, stated:

"(u)niform traffic ticket shall be used by all law-enforcement officers; effect of service; forms.

Chief Bain
Page 2
April 9, 1986

There shall be one uniform traffic ticket used by all law-enforcement officers in the State, counties and municipalities having traffic jurisdiction, the service of which shall vest all traffic courts with jurisdiction to hear and dispose of the charge for which such ticket was issued and served, and which shall have the following forms: ..."

The Court in construing such provision specifically held that Section 56-7-10 did not repeal the separate statutory provision relating to the commencement of criminal proceedings by the use of an arrest warrant. Instead, the Court determined that Section 56-7-10 merely provided a separate method by which a court could acquire jurisdiction in a traffic case.

As referenced above, the language of former Section 56-7-10 is similar to the present language of such provision. While not precisely addressing the same issue as raised by you, Biehl can be read as indicating that a traffic ticket is not the sole means by which a defendant can be cited for a traffic offense or such other offense as listed in Section 56-7-10. Implicit in the Court's decision in Biehl was the recognition that a uniform traffic ticket is a means, but not the exclusive means, by which proceedings against a defendant may be initiated. Therefore, an arrest warrant may be issued in lieu of a uniform traffic ticket for the criminal offenses listed in Section 56-7-10.

As to your second question concerning whether the issuance of a traffic ticket for the criminal offenses listed in Section 56-7-10 is optional, consistent with the above response, either a traffic ticket or an arrest warrant may be used for citing the offenses listed in such provision.


If there is anything further, please advise.

Sincerely,


Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:


Robert D. Cook
Executive Assistant for Opinions