

The State of South Carolina

Library #193



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Office of the Attorney General

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January 9, 1986

Honorable Robert N. King
Register of Mesne Conveyances
P. O. Box 726
Charleston, SC 29402

Dear Mr. King:

You have requested advice as to your duties under §12-51-135 of the Code of Laws of South Carolina, 1976, as amended. This recent law provides as follows:

"If a warrant, which has been filed with the Clerk of Court in any county, is determined by the Tax Commission to have been issued and filed in error, the Clerk of Court, upon notification by the Tax Commission, must remove the warrant from its book." (Emphasis added). Act 201 Part II §49, Acts & Joint Resolutions of South Carolina, 1985 (§12-51-135).

The following rule of statutory construction is applicable here:

"In the interpretation of statutes, the first rule of construction is that of intention on the part of the legislature. Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966). Where the terms of a statute are clear and unambiguous, there is no room for construction and the terms must be accorded their literal meaning. McCollum v. Snipes, 213 S.C. 254, 49 S.E.2d 12 (1948). Indeed, '[t]here is no safer nor better rule of interpretation than that when language is clear and unambiguous it must be held to mean what it plainly says.' Jones v. South Carolina State Highway Department, *supra*, 146 S.E.2d at 168." Detyens v. C. E. Maguire, Inc., (Opinion No. 351, S.C. Court of Appeals, December 31, 1984).

Here, the legislature's direction to "remove" warrants "issued and filed in error" gives clear indication that the legislature meant that any references in "the book" to the taxpayer be deleted.

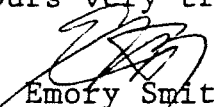
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Therefore, references in your book which name the taxpayer should be struck or "whited-out". Although, in express terms, this statute refers only to "the book" and not to the actual warrant document, the reference in the title of the statute to the warrants and the evident purpose of the law to correct errors in issuance and filing indicates that the warrant, itself, should be removed from your files. See Sutherland Statutory Construction, Volume 2A, §47.03 (4th Ed.). ^{1/} To clarify your records upon removal of the warrant and references to it in your book, I suggest that you note in your book and file, without reference to the taxpayer by name, that the warrant was removed pursuant to §12-51-135 at the request of the South Carolina Tax Commission of _____ date. I realize that this procedure may not be consistent with normal practice as to other records; however, the removal of these records and references does appear to be mandated by §12-51-135.

In conclusion, under §12-51-135, upon notification by the Tax Commission that a warrant has been issued and filed in error, you should remove the warrant from your files and all references to it in your book. The removal of these records and references can be explained by notations in your record that they were removed upon the request of the Tax Commission pursuant to this law.

If you have any questions or if I may be of additional assistance, please let me know.


Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESJr/srcj

cc: The Honorable Edith C. Paget, President
Association of Clerks of Court and Registers of Mesne
Conveyances

REVIEWED AND APPROVED BY:


Robert D. Cook, Esquire
Executive Assistant for Opinions

^{1/} The provision for the removal of the warrants and references thereto is consistent with legislative provisions for other records such as §17-1-40 that provides for the destruction of law enforcement arrest and booking records, etc., for individuals charged with criminal offenses which are later discharged or dismissed, etc. See, Ops. Atty. Gen. (February 26, 1979).