

The State of South Carolina



Office of the Attorney General

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February 10, 1987

The Honorable Tee Ferguson
Member, House of Representatives
402B Blatt Building
Columbia, South Carolina 29211

Dear Representative Ferguson:

In a telephone call to this Office you questioned the location for a jury trial in a magistrate's court. You stated that it is the practice in your county to have a trial in the jury area where the magistrate who issued an arrest warrant typically presides even though such location is not the jury area where the offense occurred. The warrants are issued by a magistrate while sitting as a night or weekend magistrate at the county seat as opposed to sitting in the jury area where he typically serves as magistrate.

Section 22-2-170 of the Code states:

(m)agistrates shall have jurisdiction throughout the county in which they are appointed. Criminal cases shall be tried in the Jury Area where the offense was committed, subject to a change of venue, pursuant to the provisions of § 22-3-920 of the 1976 Code; provided, however, that the chief magistrate for administration of the county, upon approval of the county governing body, may provide for the selection of magistrates' jurors countywide upon the affirmative waiver by the defendant of his right to be tried in the jury area where the offense was committed.

Therefore, pursuant to such provision, a defendant has the right to have his case tried in the jury area where the offense was

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committed, subject to any change of venue which may be required. As to your situation, a defendant would have the right to have his case tried in the jury area where the offense was committed even though such is not the jury area of the magistrate who originally issued the arrest warrant.

If there is anything further, please advise.

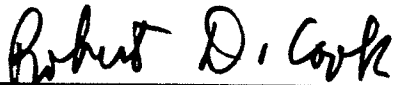
Sincerely,



Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook
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