

1981 WL 158161 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 24, 1981

*1 C. David Stone
Sheriff
Pickens County
P.O. Box 491
Pickens, South Carolina 29671

Dear Sheriff Stone:

In a letter to this office you indicated that there is a problem in your County with defendants, particularly those charged with fraudulent check offenses, entering pleas before magistrates prior to being served with an arrest warrant that has been turned over to the Sheriff's department for execution. Referencing such, you have asked whether a defendant can plea guilty before a magistrate prior to the execution of the arrest warrant charging the defendant with a particular criminal offense. Furthermore, you have asked if the warrant should be executed after an individual has appeared before a magistrate and entered a plea.

Please be advised that a magistrate should not accept a plea from a criminal defendant without having the arrest warrant before him. In a magistrate's court, the arrest warrant constitutes the charging paper and serves as the formal document which specifically informs a defendant of the charges against him.

If a defendant, who has learned that a warrant charging him with an offense has been issued, wishes to enter a plea, the magistrate should ask that the original and all copies of the warrant be returned to his office. It is not necessary that the warrant be executed by the Sheriff's Department prior to a plea being entered. After a plea has been entered, no further action should be taken by the Sheriff's Department toward executing the arrest warrant charging an offense to which a plea has been entered.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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