

1981 WL 158140 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 9, 1981

*1 Frank Powell
Sheriff
Richland County
Office of the Sheriff
1400 Huger Street
P.O. Box 143
Columbia, S.C. 29201

Dear Sheriff Powell:

In a letter to this office you raised several questions concerning warrants issued by a coroner. Specifically you asked:

1. Should the Coroner issue an arrest warrant for a person who has previously been charged in a criminal warrant for the same offense?
2. Is the Sheriff required to serve these warrants on these persons without making an arrest as is ordered in the warrant?
3. Does the Coroner have the authority to issue warrants for persons other than the principal involved, i.e., Accessory to Murder?

[Section 17-7-610, Code of Laws of South Carolina](#), 1976, specifically provides that:

‘. . . if the finding of the inquest be wilful killing by the hands or means of another the coroner shall forthwith issue his warrant directed to the sheriff or to one or more constables for the county for all the persons implicated by such finding.’

Therefore, a coroner is obligated to issue his arrest warrant in such instances. A coroner is not authorized to issue an arrest warrant and commit a suspect to jail until after an inquest has been held. However, as you indicate, frequently an individual has already been arrested and perhaps even released on bond prior to an inquest.

Referencing the statutes concerning the holding of inquests, this office in a prior opinion, 1970 Op. Attorney General No. 2962 p. 222, held that such statutes do not require a coroner hold an inquest in every case of violent or suspicious death in a county.

[Section 17-7-20, Code of Laws of South Carolina](#), 1976, states in part:

‘(w)henever a body is found dead and an investigation or inquest is deemed advisable, the coroner . . . shall go to the body and examine the witnesses . . .’ (Emphasis added.)

[Section 17-7-100, Code of laws of South Carolina](#), 1976 also references the fact that whether an inquest is held is discretionary. As to whether an inquest is held, the referenced opinion of this office stated:

‘(i)n making such determination, a coroner would be justified in considering whether or not he feels that an adequate investigation of the death has already been made by law enforcement officers. If it is shown to his satisfaction that such an investigation has already been made, and that an inquest is not likely to bring to light additional information not already known to law enforcement agencies, the coroner may lawfully decline to hold an inquest.’

Therefore, it is apparent that the problems you raise concerning a warrant issued by a coroner charging an individual, who has already been charged in a regular arrest warrant with a criminal offense, could be avoided by the coroner not holding inquests in such instances. However, if an inquest is held and a warrant is issued by a coroner, it is the recommendation of this office that such warrant not be executed in the typical sense. Recognizing that the obvious result of the execution of such a warrant is the incarceration of the individual named in the warrant, there is a very definite question as to whether a coroner may be considered to have jurisdiction to cause an individual who has properly been released on bond to be incarcerated again. Instead of executing the coroner's warrant, it is recommended that the individuals named in such warrant be simply notified of the issuance of such warrant. Service of the warrant without incarcerating the individual named in the warrant appears to be sufficient.

*2 As to your remaining question concerning whether a coroner is authorized to issue a warrant for persons other than the principal, in the opinion of this office, accessories could be charged in such warrants. [Section 17-7-150, Code of Laws of South Carolina](#), 1976 provides the coroner's jury charge. Such provisions states that the jury is to declare whether the deceased died:

'(1) By mischance and accident or by felony;

(2) If by felony, whether by his own or another's;

(3) If by mischance, whether by the act of God or of man;

(4) If by another's felony, who were principals and who were accessories, who threatened him of life, or murder, and with what instrument he was struck or wounded; and

(5) If by mischance or accident, by the act of God or man, whether by hurt, fall, stroke, drowning or otherwise . . . '

The form of the verdict for a coroner's jury, as provided in [Sections 17-7-240, et seq., Code of Laws of South Carolina](#), 1976, indicates that more than one person may be charged as having been responsible for an individual's death. Furthermore [Sections 17-7-610, et seq., supra](#), which, again, provide the form for a coroner's arrest warrant also indicates that more than one person may be charged inasmuch as the warrant may be directed to 'all the persons implicated' by the jury's findings. Referencing such provisions, it may be determined that accessories could be charged in such warrants.

If there are any questions concerning the above, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

1981 WL 158140 (S.C.A.G.)