

1983 S.C. Op. Atty. Gen. 80 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-54, 1983 WL 142725

Office of the Attorney General

State of South Carolina

Opinion No. 83-54

August 3, 1983

\*1 The Honorable Allan T. Holmes  
Chief Judge for Administrative Purposes  
Post Office Box 497  
North, South Carolina 29112

Dear Magistrate Holmes:

In a letter to this Office you raised several questions concerning the jury selection procedure in magistrate's court. Based upon the procedure as described in your letter, it is my understanding that you are concerned with the procedure where a jury is drawn for a single trial, as opposed to a situation where there is a term of jury trials in magistrate's court.

In your first question, you indicate that the legality of drawing a jury without a magistrate supervising has been questioned. [Section 22-2-80, Code of Laws of South Carolina](#), 1976, as amended, provides that a jury list shall be selected in the following manner:

‘ . . . [a] person appointed by the magistrate who is not connected with the trial of the case for either party shall draw out of Compartment A of the jury box thirty names and the list of names so drawn shall be delivered to each party or to the attorney for each party.’

As is obvious, such section only requires that a disinterested party draw such names. The section on its own makes no requirement that the magistrate be in attendance to supervise, and, therefore, such a requirement cannot be inferred. However, of course, the magistrate should be satisfied that the individual he selects will carry out his duty in a competent and impartial manner.

In your second question, you indicate that there is a problem in that an allowance of two to three weeks must be made for the sheriff's department to serve a summons. While [Section 22-2-90, Code of Laws of South Carolina](#), 1976, as amended, states that the list of forty jurors for a term of jury trials in magistrate's court is to be drawn not less than ten nor more than twenty days prior to a scheduled term of jury trials, there is no time frame established in association with the selection of a jury for a single magistrate's court trial. Therefore, inasmuch as no statutory time is prescribed, the fact that a two to three week time period must be allowed to serve jury summons is not in conflict with any statutes. I can only suggest that care be taken when questioning jurors for bias or prejudice that assurances be made that nothing has transpired which would result in such jurors not being fair and impartial.

In your remaining question, you asked whether students and individuals over sixty-five years of age may be omitted from the jury list prior to striking with others being substituted for them. Pursuant to [Section 14-7-850, Code of Laws of South Carolina](#), 1976, as amended, persons over sixty-five years of age are exempt from jury service. However, an exemption is not a disqualification. [State v. Toland](#), 36 S.C. 515, 15 S.E. 599. Therefore, while certain persons are exempt by statute from jury duty, such exemption is a personal privilege which may be waived. There is no provision for eliminating students from jury lists prior to striking them. Furthermore, students are not generally exempt from jury service. See: [Section 14-7-850](#). Therefore, students and individuals over sixty-five years of age should not generally be omitted from a jury list prior to striking.

\*2 If there are any questions, please contact me.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

1983 S.C. Op. Atty. Gen. 80 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-54, 1983 WL 142725

---

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.