

1979 WL 42736 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 4, 1979

***1** Mr. Neal Forney
Assistant Director
South Carolina Court Administration
South Carolina Supreme Court
P. O. Box 11788
Columbia, South Carolina 29211

Dear Mr. Forney:

In a recent letter to this Office, you asked:

Does the mayor, the mayor protectorate, or an alderman selected by the city council of the Town of Pine Ridge have the authority to issue arrest warrants and conduct bond proceedings during the temporary absence of the municipal recorder?

In your letter you indicate that some confusion has arisen due to the provisions of [Sections 14-25-930](#) and [14-25-940 of the 1976 Code](#) of Laws.

A previous opinion of this Office, a letter from Ms. Henderson dated March 9, 1978, indicated:

. . . the language of [Section 14-25-940](#) is permissive, *i.e.*, it states that the mayor 'may' appoint and acting recorder. Although the language in [Section 14-25-930](#) is mandatory (the municipal court 'shall be held by the mayor, mayor pro-tempore or an alderman' in the event of a temporary absence or disability of the recorder), [Section 14-25-940](#) allows the mayor the discretion to appoint someone other than the officials named in [Section 14-25-930](#) to hold municipal court . . .

Therefore, in the opinion of this Office, if the mayor chooses not to appoint someone as an acting recorder pursuant to [Section 14-25-940](#), pursuant to [Section 14-25-930](#), the municipal court shall be presided over by either the mayor, mayor pro-tempore, or alderman selected by the city council in the case of the temporary absence, sickness or disability of the recorder. As the presiding officer of the court, he would exercise the jurisdiction granted the court pursuant to [Section 14-25-970 of the 1976 Code](#) of Laws. Such section grants to municipal courts

. . . all such judicial powers and duties as are now conferred upon the mayor . . . (and) . . . all such powers, duties, and jurisdiction in criminal cases made under municipal or State law as are now conferred by law upon the magistrates . . . for the county in which the court is established . . .

This would include the authority to issue arrest warrants as referenced in [State v. Blue, 215 S.E.2d 905 \(1975\)](#), and conduct bond proceedings, inasmuch as magistrates are authorized to do such pursuant to [Section 22-5-510 of the 1976 Code](#) of Laws.
Sincerely,

Charles H. Richardson
Assistant Attorney General

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