

1979 WL 42754 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 12, 1979

*1 Mr. Neal Forney
Assistant Director
South Carolina Court Administration
Post Office Box 11788
Columbia, South Carolina 29211

Dear Mr. Forney:

In a recent letter to this Office you asked:

Should Sumter County magistrates issue warrants, conduct bail proceedings, and hold preliminary examinations for general sessions court cases that originate in the municipal courts of Sumter County?

The response provided below is in reference to recorders presiding over municipal courts established pursuant to [Section 14-25-910 of the 1976 Code](#) of Laws. In answer to such request, reference is made to a recent letter from this Office dated December 5, 1978, a copy of which is enclosed, which was intended to indicate that it is within the authority of a city recorder to issue warrants, hold preliminary examinations, and conduct bail proceedings for cases involving arrests made within the city limits, for offenses which are committed within the city limits but which are beyond the jurisdiction of the recorder to try.

In addition to the previous opinions cited in the December 5th letter, please be advised that authority for recorders issuing warrants and holding preliminary examinations for cases which originate within the city but are beyond the jurisdiction of the recorder to try is found in the decision of the South Carolina Supreme Court in [State v. Blue, 215 S.E. 2d 905 \(1975\)](#). In that decision the Court stated that with reference to the authority granted municipal recorders by that section now codified as § 14-25-970 in the 1976 Code of Laws,

(t)he jurisdiction conferred on Recorders, therefore, includes concurrent jurisdiction with magistrates to issue warrants for arrests within the city limits for offenses beyond their jurisdiction to try and . . . to sit as examining courts in such cases, where the offenses are committed within the corporate limits of the city. [215 S.E. 2d at 908](#).

Furthermore, the preamble to Act. No. 249 of 1975 which added the words 'made under municipal or State law' in the second sentence of Section 14-25-970 states:

Whereas, the General Assembly has determined that the enactment of Section 15-1010 of the 1962 Code was intended to confer upon municipal courts the same jurisdiction in criminal matters as is provided by law for magistrates' courts including the power to issue arrest warrants and search warrants, to try cases under municipal and State law within their jurisdictional penalty limits, to hold preliminary hearings and bind over to grand juries cases under State law beyond their penalty limits; . . .

It was stated that such was an attempt to clarify legislative intent.

To answer your question specifically, while admitting that magistrates have concurrent jurisdiction with recorders, there does not appear to be any authority which specifically mandates that magistrates must perform those duties for city cases as outlined in your question. Instead, as indicated, municipal recorders are authorized to issue warrants, hold preliminary hearings, and conduct bail proceedings for such cases.

*2 Hopefully the above provides a sufficient answer to your request.
Sincerely,

Charles H. Richardson
Assistant Attorney General

1979 WL 42754 (S.C.A.G.)

End of Document

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