

1980 WL 120673 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 13, 1980

\*1 Honorable R. A. Holley  
Magistrate  
Graniteville District  
41 Canel Street  
Graniteville, South Carolina 29829

Dear Magistrate Holley:

In a letter to this Office you put forth the following factual situation: A defendant is arrested by a city policeman for a violation of a municipal ordinance without an arrest warrant and placed in the county jail. The policeman who was the arresting officer later obtains a warrant from a ministerial recorder of the municipality. You state that the county jail is located within the limits of the municipality of the issuing ministerial recorder. Instead of the city policeman serving the warrant, the warrant is given to a county deputy sheriff for service. You have asked whether prior to service by the deputy sheriff, should a county magistrate endorse the warrant?

[Section 22-5-190, Code of Laws of South Carolina](#), 1976, provides that when an arrest warrant is issued by a municipal judicial officer and the defendant is not within the municipal limits but is in the State,

‘ . . . the officer issuing such warrant may send it to the magistrate having jurisdiction over the area in which such person may be found, which magistrate may endorse the warrant which shall then be executed by the magistrates' constable or the sheriff of the county of the endorsing magistrate.’

Therefore, pursuant to the above, an arrest warrant is to be endorsed when the person on whom the warrant is to be served ‘ . . . cannot be found within the municipal limits but is within the State.’ As to your situation, inasmuch as the individual on whom the warrant is to be served is in the county jail which is within the limits of the municipality, it would not be necessary for a county magistrate to endorse the warrant prior to service.

Additionally, pursuant to [Section 23-15-40, Code of Laws of South Carolina](#), 1976:

‘(t)he sheriff of his regular deputy, on the delivery thereof to him, shall serve, execute and return every process, rule, order or notice issued by any court of record in this State or by other competent authority . . . .’

Therefore, pursuant to the above, a deputy sheriff would be authorized and required to serve an arrest warrant issued by a municipal ministerial recorder of his county in the referenced circumstances.

If there is anything further, please contact me.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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