

1980 WL 121253 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 30, 1980

\*1 Mr. Michael G. Lefever  
Deputy Director  
Department of Juvenile Placement and Aftercare  
P. O. Box 5535  
Columbia, SC 29250

Dear Mr. Lefever:

You have recently asked the opinion of this office concerning the disposition of the case Sheila Stephen Reece, a juvenile of the age of fourteen, who pleaded guilty on February 28, 1980 to possession of cocaine in the Court of General Sessions in Spartanburg County. The subject was sentenced to one year to the 'Youth Services Division (Willow Lane).' Subsequently, on April 14, 1980 the subject entered pleas of guilty to forgery, common law robbery and armed robbery in the Court of General Sessions and was sentenced to the State Board of Youth Services.

Your inquiry specifically dealt with the following questions.

1. Since the presiding Judge made a direct commitment of a juvenile to the Department of Youth Services, does the State Board of Juvenile Placement and Aftercare have the authority to either conditionally or unconditionally release (parole) the juvenile subject to the Board's normal and usual authority as stated in Section 24-15-510, South Carolina Code of Laws, 1976?
2. If the State Board of Juvenile Placement and Aftercare is not the proper releasing authority, then who would have that responsibility?
3. If the State Board of Juvenile Placement and Aftercare is the releasing authority, what consideration must be given to the fact that the sentencing Judge provided for a one (1) year sentence instead of the normal indeterminate period?

It is the opinion of this office that Juvenile Placement and Aftercare has no authority or responsibilities in this matter because the subject entered the pleas of guilty in General Sessions Court. See [Golden v. State Board of Juvenile Placement and Aftercare](#), 266 S.C. 427, 223 S.E.2d 777 (1976). If the sentencing in General Sessions Court is valid, the proper paroling authority would be in the Probation, Pardon and Parole Board pursuant to Section 24-21-10, *et seq.* Code of Laws of South Carolina. Furthermore, any person convicted of an offense against the State of South Carolina shall be in the custody of the Board of Corrections. [Section 24-3-20](#), [Code of Laws](#) (1976). See Article XII Sections 2, 3, and 9.

Assuming that the fact that the subject is of the age of fourteen is correct, the opinion of the office is that the Court of General Sessions did not have proper jurisdiction over the child on these particular offenses. Therefore, the sentences would be a nullity. The Family Court has 'exclusive' jurisdiction over a child under the age of seventeen. [Section 14-21-510](#), [Code of Laws](#) (1976), as amended (1978). If the child is sixteen years old and charged with an offense which would be a misdemeanor or felony if committed by an adult, the Family Court may, in its discretion bind the child over to General Sessions Court. [Section 14-21-540](#) [Code of Laws](#) (1976) (emphasis added). See also 1976-77 [Opinion of the Attorney General](#), No. 77-364, p. 288. Furthermore, any child under the age of seventeen who is alleged to have committed murder or rape may be properly transferred to General Sessions Court. [Section 14-21-510\(C\)](#), [Code of Laws](#) (1976), as amended (1978). Clearly, the General Sessions Court is without jurisdiction over the child because the child was neither sixteen years of age at the time of the incident nor was the child alleged

to have committed either murder or rape. Jurisdiction over these matters lie exclusively in the Family Court and can not be waived to give criminal jurisdiction to the Court of General Sessions.

Sincerely,

\*2 Donald J. Zelenka  
State Attorney

1980 WL 121253 (S.C.A.G.)

---

End of Document

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