

1980 WL 121019 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 21, 1980

\*1 Colonel W. J. Seaborn  
Highway Patrol  
P. O. Box 191  
Columbia, South Carolina 29202

Dear Colonel Seaborn:

Major Meek has asked our office to provide an answer to the following question:

What is the proper procedure in 'signing off' the uniform traffic summons where a courtesy summons is involved and: 1) The defendant cannot be found after the issuance of a bench warrant, or 2) the defendant cannot be located to collect the fine after being found guilty by trial in absence.

The problem appears to be essentially one between the magistrate and county officials regarding accounting procedures for bond and fine money. Since there is no bond money involved, we are dealing with fine money where the fine is uncollectable. The solution to the accounting problems is, outside the expertise of this office. However, as to 'signing off' the ticket, the solution is quite simple. The magistrate should indicate 'trial in absence' on the face of the ticket in the proper box, and in the 'Date Bail Rec'd-By' box he should indicate 'courtesy summons'. On the back of the ticket, a notation should be made by the magistrate and signed by him to the effect that this is a courtesy summons with no bail deposited and the defendant cannot now be found to collect the fine. A bench warrant is outstanding and if the defendant is ever located, the fine will be collected.

This is the only proper way to handle the situation since it reflects exactly what has happened. Unfortunately there is no way to make fine money appear where none exists and all the magistrate can do is to report the facts.

If you have any other questions regarding this or any other matter, please do not hesitate to contact this office.

Sincerely,

Patrick M. Teague  
Assistant Attorney General

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