

1979 WL 42789 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 1, 1979

***1 RE: State vs. John Covington State vs. J. W. Alexander State vs. Robert C. Hall**

The Honorable Hugh F. Comer
Hickory Grove, South Carolina 29717

Dear Judge Comer:

Mr. Neal Forney has brought to our attention three cases involving hunting without consent on lands of another in which you improperly suspended sentences. As you are aware, [Section 50-1-130 of the 1976 Code](#) of Laws provides that for such an offense;

‘ . . . the offender shall suffer the penalty of a fine of not less than twenty-five dollars nor more than one hundred dollars or imprisonment for not less than ten days nor more than thirty days.’

Furthermore, it is provided in [Section 22-3-800 of the 1976 Code](#) of Laws, as amended, that although magistrates may suspend certain sentences,

‘ . . . when a minimum sentence is provided for by statute . . . the magistrate shall not have authority to suspend such sentence below the minimum sentence so provided.’

Although the sentences given the three referenced individuals were improperly suspended, I have contacted Mr. Frederick Zeigler, Assistant Attorney General, associated with the S. C. Wildlife and Marine Resources Department, and he indicated that the Department does not wish to pursue the matter any further.

As previously pointed out above, such suspensions in these three cases were improper and you had no authority to suspend the sentences below the minimum provided by law. The process which might be involved in correcting these errors would be expensive and time consuming for the State, and in view of this fact, no further action in regard to these cases will be taken by this office at this time. You should be mindful of the statutory requirements with respect to sentencing, and I trust that this will not occur again.

Sincerely,

Charles H. Richardon
Assistant Attorney General

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