

1980 WL 120907 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 2, 1980

\*1 Charles P. Edwards, Esquire  
Assistant County Attorney  
Spartanburg County  
P. O. Box 5306  
Spartanburg, SC 29304

Dear Mr. Edwards:

In a letter to this Office you stated that pursuant to Act No. 480 of 1980, which permits a municipality to prosecute any of its cases in a magistrate's court upon approval of the governing body of the county, the Town of Pacolet Mills intends to request that a contract be entered into between the Town and Spartanburg County which would authorize a Spartanburg County magistrate to hear and determine municipal cases in the magistrate's court. Referencing such a proposed arrangement, you have asked whether the fines and penalties collected by the magistrate as a result of any municipal cases tried before him would belong to the Town's treasury or the County's treasury.

As you are aware, Act No. 480 of 1980 provides for a uniform system of municipal courts in this State. It authorizes the establishment of a municipal court by each municipality and provides for its jurisdiction, powers, and manner of operation. While allowing for the appointment of a judge to preside over a court established pursuant to its provisions, Section 14-25-25 states that:

‘ . . . (a) municipality may contract with any other municipality in the county or with the county governing body to employ the municipal judge of the other municipality or a magistrate to preside over it's court.’

However, as to those municipalities which do not choose to establish their own courts, Section 14-25-5(c) provides:

‘(a)ny municipality may prosecute any of its cases in any magistrate court in the county in which such municipality is situate upon approval by the governing body of the county.’

Act No. 480 of 1980 also states that:

‘(a)ll fines and penalties collected by the municipal court shall be forthwith turned over by the Clerk to the treasurer of the municipality for which such court is held.’ Section 14-25-85 [Emphasis added].

However, it appears that Section 14-25-85 is inapplicable to those situations whereby a municipality chooses to contract with a county to permit its cases to be tried in a magistrate's court pursuant to Section 14-25-5(c), supra.

As to your question concerning whether the fines and penalties collected by a magistrate as a result of a municipal case being tried before him should be turned over to the municipality's treasurer or the county treasurer, reference must be made to [Section 22-1-70, Code of Laws of South Carolina, 1976](#), which states that:

‘(a)ll fines and penalties imposed and collected by magistrates in criminal cases must be forthwith turned over by them to the county treasurers of their respective counties for county purposes.’

Therefore, pursuant to such provision, and fines and penalties collected by a magistrate as a result of a municipal case tried in his court must be turned over to the county treasurer. However, it appears that the county and municipality in their contract authorizing the county magistrate to hear and determine municipal cases could provide that the municipality receive some portion of the funds generated as a result of such an arrangement. Such an arrangement would be left to the discretion of the county and municipal officials. Of course, it should be remembered that pursuant to [Section 23-23-70, Code of Laws of South Carolina, 1976](#), as amended, a certain amount of all monies generated from fines and forfeitures in criminal cases must be forwarded to the State Treasurer for the law enforcement training program and Law Enforcement Hall of Fame. This would include municipal criminal and traffic cases tried by a county magistrate pursuant to such an arrangement as referenced above.

\*2 If there are any questions, please contact me.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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