

1980 WL 120797 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 28, 1980

*1 The Honorable Marion P. Carnell
Member
House of Representatives
Box 119
Ware Shoals, South Carolina 29692

Dear Mr. Carnell:

In response to your inquiry, I have checked again into the law regarding the situation of a magistrate who reaches the mandatory retirement age and the status which he then occupies if his successor has not been appointed and qualified. The law is clear, in my opinion, that the magistrate, upon reaching the mandatory retirement age, must continue to hold his office until his successor has been appointed and has qualified. There are quite a number of opinions of this Office to the same effect, all being based principally upon the decisions of the South Carolina Supreme Court in [Rogers v. Coleman](#), 245 S.C. 32, 138 S.E.2d 415, as well as other cases that have been decided. The previous opinions are cited at the foot of this letter.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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