

1980 WL 120805 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 1, 1980

*1 Thomas O. Lawton, Jr., Esquire
Attorney at Law
P.O. Box 646
Allendale, SC 29810

Dear Mr. Lawton:

In a letter to this office, you indicated that Magistrate Edenfield questioned whether he is authorized to sentence a defendant to work for a particular municipality under the supervision of the municipality's police department. Please be advised that I am unaware of any statutory authority generally permitting such a sentence by a county magistrate.

Admittedly [§ 17-25-70, Code of Laws of South Carolina](#), 1976 does provide that a magistrate may sentence a defendant to a 'municipal chain gang' if a county does not maintain a chain gang
' . . . if terms as to the working and maintenance of such convicts are agreed upon by and between the governing body of the county and the municipal authorities operating such chain gang.'

However, the suggested sentence which would require a defendant to work for a municipality under the supervision of the police department does not appear to be authorized by such statute. Moreover, the South Carolina Supreme Court in [State v. Moore, 255 S.E.2d 449 \(1979\)](#) quoted the following with approval:

'a judgment by a court in a criminal case must conform strictly to the statute, and any variation from its provisions, either in the character or the extent of punishment inflicted, renders the judgment void. . . .' [255 S.E.2d at 449](#).

Therefore, it would appear that a magistrate is not generally authorized to sentence in the manner proposed by Judge Edenfield.

If there are any questions, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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