

1977 WL 37266 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 9, 1977

***1 MUNICIPAL COURTS DO NOT HAVE JURISDICTION TO TRY CASES INVOLVING THE VIOLATION OF A MUNICIPAL ORDINANCE WHERE THE MAXIMUM PRESCRIBED PENALTY EXCEEDS ONE HUNDRED DOLLARS OR THIRTY DAYS.**

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QUESTION PRESENTED:

Do municipal courts have jurisdiction to try cases involving the violation of municipal ordinances where the maximum prescribed penalty exceeds one hundred dollars or thirty days?

AUTHORITIES:

Sections 15-901, et seq.; 15-1002, et seq.; 43-63; 47-32, 1962 Code of Laws of South Carolina, as amended.

[City of Anderson v. Seligman](#), 85 S.C. 16, 67 S.E. 13 (1910).

DISCUSSION:

Section 15-901, et seq., and Section 15-1002, et seq., of the 1962 Code of Laws of South Carolina, as amended, set forth the two types of municipal courts that exist in this State.

Section 15-901, et seq., provides for the powers, duties and jurisdiction of mayors' courts, and as interpreted by the State Supreme Court in [City of Anderson v. Seligman](#), 85 S.C. 16, 67 S.E. 13 (1910), gives to mayors 'the same power to try persons charged with a violation of an ordinance, that a magistrate had, to try a person charged with the violation of a statute or other law of the State, in cases where the punishment did not exceed a fine of \$100 or imprisonment for thirty days.' Section 15-905 specifically limits the maximum sentence a mayor may impose to one hundred dollars or thirty days. Thus, mayors' courts have jurisdiction to try all cases arising under the ordinances of a municipality where the maximum sentence that may be imposed does not exceed one hundred dollars or thirty days.

The jurisdiction of a recorder's court is set out in Section 15-1010 as follows:

Such municipal court shall have jurisdiction to try and determine all cases arising under the ordinances of the city in which the court is established and generally shall have all such judicial powers and duties as are now conferred upon the mayor of such city, either by its charter or by the laws of this State. The municipal court shall also have all such powers, duties and jurisdiction in criminal cases made under municipal or State law as are now conferred by law upon the magistrates appointed and commissioned for the county in which the court is established, except that such court shall not have the authority of a magistrate to appoint a constable.

This Section confers upon city recorders the jurisdiction of a mayor's court to try violations of municipal ordinances and 'also . . . such powers duties and jurisdiction in criminal cases made under municipal or State law as are now conferred by law upon the magistrates appointed and commissioned for the county in which the court is established . . . '.

The general law setting forth the criminal jurisdiction of magistrates is found in Section 43-63, which confers jurisdiction upon magistrates over offenses where the penalty does not exceed one hundred dollars or thirty days. With a few local exceptions (See Section 43-540.1, Section 43-894), this jurisdiction has never been altered. Thus, recorders' courts generally have jurisdiction to try cases involving either a violation of a municipal ordinance or a State law where the maximum penalty does not exceed one hundred dollars or thirty days.

*2 In 1975 the General Assembly amended Section 47-32, to read in part as follows:

The municipal governing body may fix fines and penalties for the violation of municipal ordinances and regulations not exceeding two hundred dollars or imprisonment not exceeding thirty days.

The General Assembly has neither increased the jurisdiction of the municipal courts nor authorized the municipal governing bodies to provide for such an increase.

Since municipal courts generally have jurisdiction where the prescribed penalty does not exceed one hundred dollars or thirty days, any municipal ordinance carrying a maximum penalty that exceeds one hundred dollars or thirty days would be without the jurisdiction of the municipal court.

CONCLUSION:

It is the opinion of this Office that with certain local exceptions municipal courts do not have jurisdiction to try cases involving the violation of a municipal ordinance where the maximum prescribed penalty exceeds one hundred dollars or thirty days.

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