

1977 S.C. Op. Atty. Gen. 98 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-112, 1977 WL 24454

Office of the Attorney General

State of South Carolina

Opinion No. 77-112

April 20, 1977

*1 Honorable James W. Rodgers

Mayor of the Town of McColl

McColl, South Carolina 29570

Dear Mayor Rodgers:

In response to your letter of April 4, 1977, in which you ask this Office to supply the McColl Police Department with information pertaining to the jurisdiction of a municipal court, county court, and State court as far as juveniles are concerned, your attention is called to the following review of South Carolina law.

Since it is my understanding that the Family Court functioning in Marlboro County is only a domestic relations court, then Marlboro County does not have a Family Court established under the Family Court Act, the provisions of which are in Section 15-1095 through 15-1095.52, 1962 Code of Laws of South Carolina, as amended. Since the County does not have this Court, the provisions of this Act will be applicable to 'any court exercising similar jurisdiction' in Marlboro County. Section 15-1095, supra. Therefore, in Marlboro County the duties of the Family Court under the Family Court Act should be carried out by the Circuit Court and concurrently by the Probate Court.

The South Carolina Supreme Court in case of [Shedden v. State of South Carolina](#), 265 S.C. 334, 218 S.E.2d 421 (1975), held that the Family Court Act does not purport to affect the original jurisdiction of the: court of general sessions in criminal matters in any county that is without a childrens or domestic relations court. The Court stated that the Act does not necessarily establish a Family Court for every county in South Carolina, but does provide that where a court is established it has the exclusive jurisdiction to initiate any action against a child who is defined in Section 15-1095.2 as 'a person less than seventeen (17) years of age'. In this case Bamberg County had no Family Court and the Court of General Sessions, in the Court's opinion, had the requisite jurisdiction to dispose of the criminal charge against Respondent, who was a minor, because the General Assembly had not granted exclusive jurisdiction of such matters to another court having jurisdiction in Bamberg County. South Carolina Constitution, Article 5, Section 7 (1895).

Section 71-251 through 71-260, Code of Laws of South Carolina, 1962, cites the powers of Probate Courts as far as juveniles are concerned. Section 71-258, supra, states that the arrest of a child under the age of eighteen (18) shall be reported to the Probate Court for investigation and action. The Probate Court is given powers under the above sections to handle matters relating to juveniles or to remand the case to the General Sessions Court if necessary for trial and punishment.

In reference to your question pertaining to the jurisdiction of a municipal court as far as juveniles are concerned, the jurisdiction of this Court is set out in Section 15-1010, 1962 Code of Laws of South Carolina, as amended, where it states:

'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 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.'

*2 Therefore, municipal courts have jurisdiction over all cases arising under the ordinances of a city and have the same jurisdiction over cases arising under the State's criminal laws as that of a magistrate's court. However, a municipal court does not have any jurisdiction over juvenile matters that are within the scope of the provisions of Section 15–1095 through 15–1095.52 of the Code, the Family Court Act, since, as Section 15–1095.9 states:

‘a. Except as otherwise provided herein, the court shall have exclusive original jurisdiction and shall be the sole court for initiating action:

1. Concerning any child living or found within the geographical limits of its jurisdiction:

d. who is alleged to have violated or attempted to violate any State or local law or municipal ordinance, regardless of where the violation occurred; . . .’ (Emphasis Added)

Thus, in those counties where a Family Court exists, the Family Court has exclusive jurisdiction over juveniles who are charged with the violation of any State or local law or municipal ordinance. Again, Marlboro County does not have such a family Court established under the Family Court Act so the provisions of the Act will be applicable to any court exercising similar jurisdiction in Marlboro County, and this necessarily implies that the duties of a Family Court under the Family Court Act will be carried out by the Circuit Court and concurrently by the Probate Court.

Furthermore, Section 15–1095.52, supra, precludes a magistrate or city recorder from handling a case that is within the scope of the Family Court Act by providing that all such cases are to be referred to a Family Court:

‘Whenever a person is brought before a magistrate, or city recorder and, in the opinion of the magistrate or city recorder, the person should be brought to the (family) court, the magistrate or city recorder shall thereupon transfer such case to the (family) court and direct that the persons involved be taken thereto.’

As stated above, juveniles under seventeen (17) who are delinquent, neglected or abandoned are within the exclusive jurisdiction of the family courts. However, any person who is charged with the serious felonies of murder, manslaughter, rape, attempt to rape, arson, common law burglary, bribery, or perjury are within the exclusive jurisdiction of the Court of General Sessions whether or not a juvenile. South Carolina Constitution, Article 5, Section 1 (1895). Additionally, the Court of General Sessions may take jurisdiction over any cases of riot, assault and battery and larceny. South Carolina Constitution, Article 5, Section 18 (1895).

Section 15–1095.8 states as follows:

‘. . . Any county courts or other courts now existing which may be exercising the jurisdiction of children's or juvenile and domestic relations courts shall continue to exercise such jurisdiction unless and until the same be changed by an act of the General Assembly.’

As far as the Marlboro County Court is concerned, Section 15–696, Code of Laws of South Carolina, amended by 1973 (58) 847 states:

*3 ‘The county court shall have concurrent jurisdiction with the court of common please in all civil cases and special proceedings, both at law and in equity, when the amount demanded in the complaint or the property involved does not exceed fifteen thousand dollars and in all other civil cases and special proceedings, both at law and in equity, in which there is no money demand or in which the amount involved cannot be monetarily measured. The court shall have concurrent jurisdiction with the circuit court to hear and determine all appeals in civil cases from judgments rendered by magistrates' courts and the proceedings on such appeal shall be the same as for appeals from the magistrates' courts to the courts of common pleas and general sessions.’

Thus, it can be seen that the county court is given no jurisdiction over juveniles.

I hope this satisfactorily answers your inquiry, and if I can be of further assistance, please do not hesitate to call upon me.

With kindest regards, I am

Very truly yours,

Charles H. Richardson

Staff Attorney

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