

1977 S.C. Op. Atty. Gen. 104 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-122, 1977 WL 24464

Office of the Attorney General

State of South Carolina

Opinion No. 77-122

April 27, 1977

*1 Patrolman C. W. Hiers
913 Stiles Drive
Charleston, S. C. 29412

Dear Patrolman Hiers:

In reference to our telephone conversation in which you asked about issuing and serving a uniform traffic ticket when arresting an individual for a misdemeanor violation other than a traffic violation, your attention is called to the following review of South Carolina Law.

Section 46–871, Code of Laws of South Carolina, 1962, as amended, states:

‘There shall be one uniform traffic ticket used by all law enforcement officers in the State, counties, and municipalities having traffic jurisdiction, the service of which shall vest all traffic courts with jurisdiction to hear and dispose of the charge for which such ticket was issued and served . . .’

Thus by this statute, the uniform traffic ticket where served upon any arrestee confers upon a magistrate the jurisdiction to entertain the action without any further issuance of an arrest warrant. This includes those situations where the arrestee for a traffic violation is brought before a magistrate or is incarcerated at the time of the offense. Opinion No. 3269, 1972 Op.Atty.Gen. 68 (Copy Enclosed).

However, when an individual is arrested for a misdemeanor violation other than a traffic offense, while there is nothing to prevent the officer from issuing and serving the uniform traffic ticket, the criminal offense may not be properly disposed of by the court unless and until an arrest warrant has been issued and served on the arrestee or is in the possession of the magistrate when the trial is held. The warrant serves a variety of purposes. It informs the arrested persons of the charge against him, thus meeting the requirement of Section 17–255, Code of Laws of South Carolina, 1962. A warrant is necessary in cases triable by a magistrate because the warrant constitutes the charging paper, and the Defendant must be informed of the charges against him. Section 43–111, Code of Laws of South Carolina, 1962. For a case triable in county or circuit court, a warrant is necessary in order for the Solicitor to draw up the indictment. Thus while an officer is permitted to arrest without a warrant for misdemeanors committed in his presence, a warrant should be obtained as soon after as possible.

If there are any further questions, do not hesitate to call.

Very truly yours,

Charles H. Richardson
Staff Attorney

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