

1977 WL 37348 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 25, 1977

*1 Mr. Neal Forney
Assistant Director
S. C. Court Administration
Post Office Box 11788
Columbia, South Carolina 29211

Dear Mr. Forney:

You have inquired of our office whether the supervising patrolman of an arresting officer may present the State's case in magistrate courts. It appears that such a practice constitutes the practice of law by one not admitted to the practice of law and, therefore, contravenes Rule IV of the Supreme Court Rules Concerning the South Carolina Bar.

The exception outlined in [State v. Messervy, 258 S.C. 110](#), does not extend to other than the prosecuting witness. The Opinion of the Attorney General dated February 17, 1958, which appears at page 268 of the Annual Report for that year states: Other members of the Police Force cannot act for him [the arresting officer] because we then get into the realm of practicing law.

Further support for this view is found in [State ex rel. Daniel v. Wells, 5 S.E.2d 181 \(1939\)](#), in which the Court defined the practice of law to include the management of court proceedings for another before judges and the courts. The Court then prohibited the appearance of a layman employee of an insurance company before single member committees of the industrial commission. A correct reading of [Messervy, supra](#), in conjunction with [Wells, supra](#), indicates that the practice inquired about is improper. The common law exception for the prosecuting witness would simply not encompass any person other than that witness.

Very truly yours,

Richard P. Wilson
Assistant Attorney General

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