

1977 S.C. Op. Atty. Gen. 151 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-201, 1977 WL 24543

Office of the Attorney General

State of South Carolina

Opinion No. 77-201

June 28, 1977

*1 TO: Recorder
Town of Jonesville

QUESTION PRESENTED:

Does a municipal judge or recorder have the same power in civil matters as a magistrate?

AUTHORITIES:

§ 15–1002 of the 1962 Code of Laws of South Carolina, as amended, [1976 Code § 14–25–910].

§ 15–1010 of the 1962 Code of Laws of South Carolina, as amended, [1976 Code § 14–25–970].

§ 43–1 of the 1962 Code of Laws of South Carolina [1976 Code § 22–1–10].

§ 43–51 of the 1962 Code of Laws of South Carolina [1976 Code § 23–3–10].

3 Sutherland on Statutory Construction (4th ed. 1974) § 67.03, p. 224.

DISCUSSION:

Section 15–1010 of the 1962 Code of Laws of South Carolina, as amended, declares the jurisdiction of municipal courts in this State saying:

Jurisdiction—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.

Inasmuch as the powers of local or special jurisdiction are restricted to the subject matter or territory designated by statute, it accordingly must be concluded that the above quoted statute, although conferring upon municipal courts the same duties, powers, and jurisdiction in criminal cases as are presently conferred upon magistrates, clearly limits that equality of authority to criminal matters. See 3 Sutherland § 67.03, p. 224. On the civil side a municipal court has only those judicial powers and duties now conferred upon mayor's courts. See Opinion of the Attorney General dated March 9, 1977.

Section 43–1 of the 1962 Code of Laws of South Carolina provides for the Governor to appoint magistrates for a county or territorial portion of a county. Section 15–1002 of the 1962 Code of Laws of South Carolina allows the city council of a city with a population of at least 1,000 to establish a municipal court for ‘the trial and determination of all cases arising under the

ordinances of such city.' These statutes further indicate that the jurisdiction of the magistrate's and municipal courts cannot be deemed the same unless there is a specific indication to the contrary such as the reference to criminal cases contained in § 15-1010, supra.

The General Assembly having neither increased the jurisdiction of the municipal courts nor authorized the municipal governing bodies to provide for such an increase, it must be concluded that the civil jurisdiction of the municipal courts is not the same as that of the magistrate's courts. See § 43-51 of the 1962 Code of Laws of South Carolina.

CONCLUSION:

*2 Therefore, it is the opinion of this office that a municipal court does not have the same power in civil matters as a magistrate's court inasmuch as under § 15-1010, supra, the municipal court has criminal jurisdiction as conferred by law upon the magistrate of the county and civil jurisdiction as conferred upon a mayor's court to try and determine cases arising under the ordinances of the city in which the court is established.

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