

1976 S.C. Op. Atty. Gen. 89 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4273, 1976 WL 22893

Office of the Attorney General

State of South Carolina

Opinion No. 4273

February 26, 1976

*1 The provisions of the Uniform Bail and Recognizance Act (§§ 17–300, et seq., 1962 Code of Laws, as amended) applies to Municipal Recorders' Courts.

TO: Director of Judicial Education

QUESTION PRESENTED:

Does Act No. 319 of 1969 (p.383), known as the Uniform Bail and Recognizance Act, apply to Municipal Recorders' Courts?

AUTHORITIES INVOLVED:

Act No. 319 of 1969 (p.383);

Section 15–1010, 1962 Code of Laws;

Act No. 249 of 1975 (p.581);

[State v. Blue, 264 S.C. 468, 215 S.E.2d 905 \(1975\).](#)

DISCUSSION:

The question of whether the Uniform Bail and Recognizance Act applies to Municipal Recorders' Courts can be answered by reference to two authorities.

Firstly, Section 15–1010 of the 1962 Code of Laws was amended by Act No. 249 of 1975 (p.581). This Section now reads: ‘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.’

The Amendment as such confers upon the recorders the same powers and duties as are conferred upon the magistrates. The Uniform Bail and Recognizance Act at Section 17–300 of the 1962 Code, as amended, states that:

‘Any person charged with a noncapital offense triable in either the magistrates', county or circuit court shall, at his appearance before any of such Courts, be ordered released pending trial on his own recognizance without surety in an amount specified by the Court.’

This imposes a duty upon the magistrates' courts, and by virtue of Act No. 249 of 1975 this same duty is shared by the Municipal Recorders' Court as mentioned in Section 15-1010.

Secondly, on June 5, 1975, South Carolina Supreme Court decided the case of [The State v. Blue](#), 264 S.C. 468, 215 S.E.2d 905. There, Chief Justice Lewis without reference to Act No. 249 held that Recorders have all such powers, duties and jurisdiction in criminal cases as are conferred by law upon the magistrates. The Court in [Blue](#) apparently remedied the situation insofar as the Uniform Bail and Recognizance Act is concerned even had the Legislature not come along later with Act No. 249.

CONCLUSION:

The provisions of the Uniform Bail and Recognizance Act (§§ 17-300, et seq., 1962 Code of Laws, as amended) applies to Municipal Recorders' Courts.

Cameron B. Littlejohn, Jr.
Staff Attorney

1976 S.C. Op. Atty. Gen. 89 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4273, 1976 WL 22893