

1976 WL 30642 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 5, 1976

*1 Honorable David H. Maring
Georgetown County Public Defender
P. O. Box 806
Georgetown, South Carolina 29440

Dear Mr. Maring:

This is in reply to your letter of January 20, 1976, concerning the responsibility for preparation of bonds in the case of indigents.

The provisions of Section 17-300(a) state that where certain determinations are made the judge may:

'Require the execution of an appearance bond in a specified amount with good and sufficient surety or sureties approved by the courts;' (emphasis added)

This would seem to place the burden on the defendant to prepare and execute the bond, insofar as the term 'require' is used. It seems to connote that the judge makes the execution a prerequisite to release.

On the other hand, Section 17-300.3 speaks in terms of the court issuing an order. Whether the court may require the benefited party to prepare the order, a common practice, is a question that no clear-cut answer exists for the problem appears to be one where no firm answer can be given and perhaps is worked out best by agreement.

I might bring to your attention the fact that the Office of Judicial Education, a branch of the Court Administrator, has form bonds. These were prepared by this Office for use where the defendant is released on his own recognizance or surety is required.

You may wish to contact:

Mr. Neal Forney

Office of Judicial Education

P. O. Box 11788

Columbia, S. C. 29211

As to the fees which a magistrate may charge in the case of release on bond, the provisions of Section 27-431, 1962 Code of Laws, must govern.

Hoping this will be of assistance to you, I am

Yours truly,

Cameron B. Littlejohn, Jr.
Staff Attorney

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