

1979 S.C. Op. Atty. Gen. 228 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-143, 1979 WL 29144

Office of the Attorney General

State of South Carolina

Opinion No. 79-143

May 21, 1979

*1 Magistrates are without authority to suspend the one hundred dollar fine provided as punishment in 1976 Code § 56-1-460 or an amount below such a minimum amount.

Thomas J. Quinn
Assistant Public Defender
Richland County Public Defender
Richland County CourtHouse
Columbia, South Carolina 29201

Dear Mr. Quinn:

In a letter to this office you asked whether a magistrate in sentencing a defendant found guilty of violating [Section 56-1-460 of the 1976 Code](#) of Laws must sentence to a fine of one hundred dollars or may he suspend part of the fine?

[Section 56-1-460](#), supra, states in part:

(a)ny person who drives a motor vehicle on any public highway of this State at a time when his license to drive or privilege to do so is cancelled, suspended or revoked shall, upon conviction, be punished by a fine of one hundred dollars or imprisonment for thirty days for the first violation . . .

[Section 22-3-800 of the 1976 Code](#) of Laws, as amended states in part:

notwithstanding the limitations of Section 17-25-100 and 24-21-410, after a conviction or plea for any offense within his jurisdiction any magistrate may at the time of sentence suspend the imposition or execution of a sentence upon such terms and conditions as he may deem appropriate . . . Provided, further, when a minimum sentence is provided for by statute, except in Section 34-11-90, the magistrate shall not have authority to suspend such sentence below the minimum sentence so provided.

With reference to the above, in the opinion of this office, the one hundred dollar fine provided by [Section 56-1-460](#), supra, is a minimum fine and therefore, pursuant to [Section 22-3-800](#), supra, the magistrate is without authority to suspend the one hundred dollar fine provided as punishment below such minimum amount.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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