

1979 WL 43036 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 30, 1979

\*1 W.D. Sowell  
Chief of Police  
Town of McBee  
McBee, South Carolina 29101

Dear Chief Sowell:

In a letter to this office you asked whether a municipal court has jurisdiction to try and determine a case involving a defendant arrested for simple possession of marihuana.

Pursuant to [Section 14-25-970 of the 1976 Code](#) of Laws, municipal courts in cities of one thousand in population and over have the same jurisdiction to try cases made under state law involving offenses committed within the corporate limits of the city as magistrates. Please be advised that [Section 44-53-370 of the 1976 Code](#) of Laws states in part that any person found guilty of possession of twenty-eight grams or one ounce or less of marihuana is guilty of a misdemeanor and is ‘ . . . subject to imprisonment for a term not to exceed three months or a fine not to exceed one hundred dollars, or both.’ Inasmuch as the offense of simple possession of marihuana is beyond the jurisdiction of a magistrate to try in that pursuant to [Section 22-3-550 of the 1976 Code](#) of Laws, as amended, magistrates ‘ . . . have jurisdiction of all offenses which may be subject to the penalties of either fine of forfeiture not exceeding two hundred dollars or imprisonment in the jail or workhouse not exceeding thirty days . . . ,’ the referenced offense is similarly beyond the jurisdiction of a municipal court.

If there is anything further, do not hesitate to contact this office.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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