

1979 WL 42986 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 8, 1979

*1 Mr. Tom D. Murtiashaw, Jr.
Magisterial Court Administrator
Richland County Law Enforcement Center
1328 Huger Street
Columbia, South Carolina 29201

Dear Mr. Murtiashaw:

In your letter of May 3, 1979, you referenced a proposed procedure to be followed in Richland County magistrate's court when a defendant who has been issued a 'courtesy summons' fails to post bond prior to his court date and further fails to appear in court for trial. Basically the proposed procedure involved trying the defendant in his absence, and if the defendant is found guilty, a letter would be sent advising the defendant of such finding. The letter would state that if the fine imposed is not paid within a certain period of time, an arrest warrant would be issued. You further stated that if the defendant failed to respond to the letter, a bench warrant would be issued as to a defendant residing in Richland County while if the defendant was not in Richland County, a numbered arrest warrant would be issued for service outside the county.

In response to the above procedure, this office can only advise that while there is nothing inherently incorrect in following such a suggested procedure, it is the recommendation of this Office that due to the problems that may arise if such a procedure is followed, the better policy would be to have an arrest warrant issued for any defendant who, having been issued a courtesy summons, fails to post bond prior to trial or fails to appear in court for trial. I have been informed that this is the policy that is also recommended by the office of the South Carolina Court Administration. Upon arrest, the person could be brought before the court, bond could be set, and a trial date set.

Obviously, until the Legislature responds to the matter, of courtesy summons, problems in handling such summons will arise. Please be advised, however, that a bill is pending in the Legislature, H2196, a copy of which is enclosed, which provides statutory authorization for the issuance of courtesy summons by the highway patrol as to certain violations.

If there are any further questions, do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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