

1979 WL 43115 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 16, 1979

\*1 Honorable Donald V. Meyers  
Solicitor  
Eleventh Judicial Circuit  
Lexington County Courthouse  
Lexington, South Carolina 29072

Dear Donnie:

In a recent letter you stated that unexecuted arrest warrants were being forwarded by certain Edgefield County magistrates to the Clerk of Court's Office in Edgefield County. You indicated that the result has been a situation in which pending cases are appearing on the Clerk's records when in fact no arrests have ever been made.

In response, your attention is directed to the recent rule promulgated by the South Carolina Supreme Court, Circuit Court Rule 95, a copy of which is enclosed, which references the disposition of arrest warrants. Such rule provides in part that:

‘A. Magistrates, municipal judges, and other officials authorized to issue arrest warrants shall, in all cases within the jurisdiction of the Court of General Sessions, forward to the Clerk of the Court of General Sessions all documents pertaining to the case including, but not limited to, the arrest warrant and bond, within fifteen (15) days from date of arrest in the case of an arrest warrant and date of issuance in the case of other documents. Transmittal shall be pursuant to procedures now or hereafter promulgated by the Office of South Carolina Court Administration.’

Such rule is in keeping with previous instructions from the South Carolina Court Administration Office, copies of which are enclosed, concerning the filing of warrants and related papers with the Clerk of Court. Pursuant to such, transmittal of arrest warrants to the General Sessions Court is required within fifteen (15) days from the date of the arrest of the accused. I am unaware of any statutory provision or court rule which references the transmittal of unexecuted arrest warrants by a magistrate to the Clerk of Court's Office and therefore to do such would be improper.

As to the problem with arrest warrants that are difficult to execute, enclosed please find a previous letter dated October 26, 1978 from this Office suggesting a means of handling such warrants.

If there is anything further, do not hesitate to contact me.  
Sincerely,

Charles H. Richardson  
Assistant Attorney General

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