

1978 WL 35293 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 28, 1978

*1 Joseph M. McCulloch, Jr., Esquire
Staff Attorney
South Carolina Court Administration
P. O. Box 11788
Columbia, S. C. 29211

Dear Mr. McCulloch:

In a letter to this Office you asked the following question:

Are magistrate's constables considered court officers within the meaning of Rule 9 of the rules of practice for the Circuit Courts of South Carolina?

As you state in your letter, according to Rule 9, officers of the Court are prevented from acting as surety upon a recognizance or any undertaking in this State. Rule 9 also states that:

Furthermore, no Court or Clerk of Court in this States shall accept in any case pending before a Court in this State, or appealed to a Court in this State, any bail bond or surety bond in respect of which an attorney or court official, or any agent or employee of an attorney or court officer, or any member of the immediate family or an attorney or court, officer, or any corporation in which any person aforesaid owns an interest, acts, indirectly or directly, as bail or surety . . .

The above-referenced Rule does not expressly define exactly what officers are included in its provision concerning 'officer of the Court'. However, [Section 22-9-70 of the 1976 Code](#) of Laws, which is part of the chapter of the Code dealing with magistrate's constables, states in part that:

all or so many of the constables of any county as may be thereto required by the sheriff shall be bound to attend any of the circuit courts, shall be officers of court . . .

Therefore with reference to this statute and to overall apparent implications of Rule 9, it is the opinion of this Office that a magistrate's constable is included in the definition of 'officer of the Court' so as to bring him within the prohibitions of Rule 9.

With best wishes, I am

Very truly yours,

Charles H. Richardson
Assistant Attorney General

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