

1978 WL 35012 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 3, 1978

***1 RE: Magistrate Authorizing Person from Another County to Execute Endorsed Warrant**

Mr. Neal Forney
Assistant Director
South Carolina Court Administration
P. O. Box 11788
Columbia, S. C. 29211

Dear Mr. Forney:

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

When a warrant issued in another county is presented by a constable or officer from another county for endorsement, can the magistrate authorize the constable or officer from the other county to execute it within his county?

In your letter you mention that

There is confusion among some magistrates as to whether or not the constable or officer from another county may be authorized to execute an endorsed warrant because of the limitations of [Section 22-5-160 of the 1976 Code](#) of Laws which provides that magistrates may select any citizen in the county to execute a warrant for an offense charged above the grade of a misdemeanor or the provisions of [Section 22-9-20 of the 1976 Code](#) of Laws for the appointment of a constable to act by virtue of such appointment only on a particular occasion.

Please be advised that [Section 22-5-190 of the 1976 Code](#) of Laws expressly provides:

A magistrate may endorse a warrant issued by a magistrate of another county when the person charged with a crime in such warrant resides in or is in the county of the endorsing magistrate. When a warrant is presented to a magistrate for endorsement, as herein provided, the magistrate shall authorize the person presenting it or any special constable to execute it within his county.

Thus there is specific statutory authorization for the person presenting the warrant to execute it regardless of whether he is a constable or officer from another county. [Section 22-5-160](#) is not relevant inasmuch as it applies to those situations where the magistrate issues the warrant himself instead of endorsing a warrant issued by the magistrate of another county. [Section 22-9-20](#) refers to those situations where a magistrate chooses to authorize a certain individual to act as a special constable for a particular situation. However [Section 22-5-190](#) specifically states that while a special constable may execute the warrant, the person presenting it may also be authorized to do so.

With best wishes, I am

Very truly yours,

Charles H. Richardson
Assistant Attorney General

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