

1978 WL 35154 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 5, 1978

**\*1 RE: Concurrent sentences involving fines**

Joseph M. McCulloch, Jr.  
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S.C. Court Administration  
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Columbia, SC 29211

Dear Mr. McCulloch:

Thank you for your letter requesting the opinion of this Office regarding concurrent sentences where fines are involved.

Your question is whether it is appropriate to impose concurrent sentences when fines and imprisonment, or fines solely are involved and, if so, how should they be computed? A concurrent sentence means that a convict is given the privilege of having each day served be considered as service of more than one sentence; [Maxey v. Manning, 224 S.C. 320, 78 S.E.2d 633 \(1953\)](#). While in practical effect a concurrent sentence means that a convict must serve only the longer of the sentences imposed at the same time, the two sentences remain separate. 24B C.J.S., [Criminal Law](#), § 1996(1). One does not extinguish the other. It therefore is inappropriate to refer to concurrent sentencing in the case of fines imposed for separate offenses. Concurrent or consecutive sentences refer, as explained above, to a manner of computing time to be served. It would not be possible to credit funds in the same manner to satisfy two separate sentences. The reasoning is made clear by considering the result of any other rule. If a defendant were to be convicted in two separate counties and the fines imposed were concurrent, to which county would he pay the fine?

However, in cases where the option of a fine or imprisonment is given, there exists no bar to the imposition of a concurrent sentence, referring solely to the term of imprisonment. In other words, a sentence of two months or two hundred dollars could be made concurrent to a sentence of three months or three hundred dollars. Should the defendant elect not to pay the fines, the sentence would be two months and three months to be served concurrently, or a total of three months (two of which would operate to satisfy the first sentence). Should he elect to pay the fines, he would pay five hundred dollars, the aggregate of the two fines.

In the instance where both fines and imprisonment are imposed, the terms of imprisonment may be made to run concurrently as well, but the fines must be paid in the aggregate since, as already explained, concurrent sentences refer only to time of confinement and not to payment of fines.

In answering your question, I have not discussed South Carolina Code of Laws, 1976, Section 17-25-310, dealing with the apportionment of fines if the defendant elects to serve part of the sentence.

I hope this has been of some assistance to you. If you have any further questions, please do not hesitate to contact me.  
Very truly yours,

Katherine W. Hill  
Assistant Attorney General

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