

1978 WL 35192 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 27, 1978

**\*1 RE: Magistrates Conducting Bail Proceedings For Municipal Courts in Spartanburg County**

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

Dear Neal:

In a recent letter to this Office you asked:

Should Spartanburg County Magistrates conduct bail proceedings for municipal court cases in Spartanburg County?

Forwarded along with the requesting letter was a copy of a letter from the Spartanburg County Attorney concerning the acceptance of bail money from defendants charged in the various municipal courts of Spartanburg County. In this letter reference was made to [Section 22-5-530 of the 1976 Code](#) of Laws which states:

All persons charged and to be tried before any magistrate for any violation of law shall be entitled to deposit with the magistrate, in lieu of entering into recognizance, a sum of money not to exceed the maximum fine in the case for which such person is to be tried.

It was further noted that by virtue of [State v. Langford, 223 S.C. 20, 73 S.E.2d 854 \(1953\)](#), this section is also applicable to charges preferred in municipal courts. The letter states that

‘Therefore, when a person is brought in by a police officer of any of the municipalities, the magistrate on duty should accept bail money in the same manner as in a case involving someone brought in by a Sheriff’s deputy.’

Please be advised that a previous opinion of this Office, dated February 16, 1978, a copy of which is enclosed, stated that in reference to the refusal of Sumter County magistrates to set bail in criminal cases originating in the City Recorder’s Court, such refusal was proper. This opinion stated that by virtue of [Section 14-25-970 of the 1976 Code](#) of Laws which grants municipal courts the same jurisdiction as is possessed by magisterial courts, such municipal courts were granted the power and duty to set bail in accordance with the Bail Reform Act of 1969.

It would similarly follow that in the opinion of this Office it is not the duty of a magistrate to conduct bail proceedings for municipal court cases in this instance. I am unaware of any statutory authority for such practice and it does not appear that [Section 22-5-530](#), *supra*, may be construed to mandate such a practice.

I would also bring to your attention a recent opinion of this Office, dated March 9, 1978 a copy of which is also enclosed, which states that by virtue of [Section 5-7-230 of the 1976 Code](#) of Laws a municipality is authorized to appoint an assistant or associate municipal judge who is empowered to act only in the absence of the chief judge. Therefore, I suggest this as a possible solution to any problems which may occur during a period when a particular municipal judge is not able to act and the magistrate is not authorized to act in the capacity of conducting bail proceedings for municipal court cases.

With best wishes, I am  
Very truly yours,

\*2 Charles H. Richardson  
Assistant Attorney General

1978 WL 35192 (S.C.A.G.)

---

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.