

1975 WL 29352 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 2, 1975

*1 Mack R. Jolley
Chief of Police
Gaffney Police Department
P. O. Box 278
Gaffney, South Carolina 29340

Dear Chief Jolley:

You have inquired of this Office as to whether prisoners sentenced by the Municipal Court of Gaffney may be used on public jobs such as road maintenance.

The provisions of Section 47-1325, 1962 Code of Laws, would seem to indicate that the answer is in the affirmative. 'Every person sentenced to imprisonment in any such city or town, either directly or in consequence of a failure to pay a fine imposed, shall be subject to work upon the public roads of such city or town of over one thousand inhabitants or of the county in which such city or town is situate during the term of such imprisonment.'

This would seem to be the general law on the subject. As is said in 60 Am.Jur.2d Penal and Correctional Institutions § 35: 'Imprisonment at hard labor is not of itself a cruel and unusual punishment within constitutional provisions prohibiting such punishments. It is universally held that the state is entitled to the labor of the convict, although his service is compulsory and unpaid, and there is no federally protected right of a state prisoner not to work while imprisoned after conviction, even though the conviction is being appealed.

The Thirteenth Amendment to the United States Constitution permits involuntary servitude 'as a punishment for crime whereof the party shall have been duly convicted,' but express statutory authority is necessary for the imposition of hard labor as a punishment for crime.'

The authorizations of Section 47-1325 would seem to provide the necessary statutory authority to require duly convicted prisoners to work on the public roads.

Yours truly,

Cameron B. Littlejohn, Jr.
Law Clerk

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