

1975 WL 29223 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 7, 1975

***1 In Re: Sentence, Duty of Presiding Judge to Impose**

Colonel P. F. Thompson
Director of Law Enforcement
State Highway Patrol
Post Office Box 191
Columbia, South Carolina 29202

Dear Colonel Thompson:

You have inquired as to the duty of a magistrate or municipal judge to impose sentence upon a defendant upon conviction or plea of guilty.

A 'conviction' consists of a verdict of guilty or plea of guilty and imposition of sentence thereon by the presiding judge. In other words, a verdict of guilty or plea of guilty without imposition of sentence is not a conviction.

Imposition of sentence by the magistrate or recorder after plea of guilty or verdict of guilty is a ministerial duty which can be compelled by mandamus proceeding, and is not discretionary. It is the duty of the judge to impose sentence in such circumstances.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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