

1975 WL 29616 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 24, 1975

***1 Re: Civil Liability of South Carolina National Guardsmen**

Mr. T. Eston Marchant, Esq.

Attorney at Law

P. O. Box 1549

Columbia, SC 29202

Dear Mr. Marchant:

In response to your letter of March 18, 1975, the Attorney General's Office will provide legal counsel to any guardsmen who might be prosecuted in any civil or criminal action for acts done or omitted in good faith in the course of his employment. It is the further opinion of this Office that the term 'in the course of his employment' would include acts or omissions by a guardsman made in performing his duties at inactive duty training (weekend drills) and active duty training (summer camp). The defense of such guardsmen by the Attorney General's Office, however, is limited to courts of this State or of the United States. Therefore, we would not be able to defend a guardsman in an action brought in another state's court. The fact that the action arises from acts or omissions on a federal installation, state property, or privately owned property will not affect our representation of the guardsman as long as the action is before a South Carolina court or a court of the United States. I would also agree with your conclusion that Section 1-234 South Carolina Code of Laws (1962) would not apply in instances where the National Guard has been federalized and placed on active duty by the President.

If I can be of further assistance to you in this matter, please do not hesitate to contact me. With kindest regards, I am
Very truly yours,

Richard B. Kale, Jr.

Assistant Attorney General

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