

1975 WL 29648 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 1, 1975

**\*1 Re: Contempt Powers of Magistrates**

Chief Charles Skipper  
Marion Police Department  
P. O. Box 996  
Marion, South Carolina 29571

Dear Chief Skipper:

Pursuant to our telephone conversation of March 24, please find enclosed a copy of a memorandum I prepared last year for Judge Harwell's information.

I advised you on the authority of the case of [Hornsby v. Hornsby](#), 187 S.C. 463, 198 S.E. 29 (1938) that the judge would have to issue a rule to show cause. It has, however, been brought to my attention that Section 43-134, 1962 Code of Laws, would limit the power of magistrates in this regard. The Section provides for the power to punish for contempt only in those cases where the contempt occurs in the presence of the court. If the defendant is not present then the magistrate cannot invoke the authorizations of this statute and is without power to punish for contempt.

I suggest that if you have difficulty with a particular case you contact Solicitor Summerford and see if he can iron it out for you.

Yours truly,

Cameron B. Littlejohn, Jr.  
Law Clerk

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