

1975 WL 29662 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 4, 1975

*1 Magistrate Ray B. Edenfield
Magistrate's Court
County of Allendale
Allendale, South Carolina 29810

Dear Magistrate Edenfield:

I am responding to your question regarding whether magistrates and recorders may continue to sentence juveniles to confinement for less than thirty days now that Allendale, Bamberg and Barnwell Counties have a family court.

As you stated, § 55-50.30 of the Code states that children under seventeen may be committed to the Department of Youth Services only by certain courts, and that no child shall serve more than thirty days at any other place of confinement. The act goes on to state that its provisions shall not prevent magistrates or recorders from sentencing children under seventeen to county or municipal jails for periods not to exceed thirty days where jurisdiction presently exists.

§ 15-1095.8, which is part of the 1968 Family Court Act, states as follows:

‘ . . . Any county courts or other courts now existing which may be exercising the jurisdiction of children's or juvenile and domestic relations courts shall continue to exercise such jurisdiction unless and until the same be changed by an act of the General Assembly.’

However, other sections of the Family Court Act would appear to take nearly all criminal jurisdiction regarding juveniles from the magistrates courts and vest it in the family courts. § 15-1095.8, 8 of the Act, as amended in 1974, establishes the Family Court of Allendale, Barnwell and Bamberg District, with such powers, duties, and jurisdiction as prescribed in the Family Court Act, which is § 15-1095 et seq. of the Code.

§ 15-1095.9(A)(1)(d) and (3) give the family court exclusive original jurisdiction and authority for initiating action in cases involving children under seventeen found within the jurisdiction who have allegedly violated any state or local law.

§ 15-1095.11 requires criminal cases to be transferred to the family court if it is discovered that the accused was under seventeen years at the time of the alleged offense.

And § 15-1095.50 requires magistrates and recorders to transfer persons brought before them to the family court when they are of the opinion that such person should have been brought before the family court.

Therefore, it would appear from these sections of the Code, that magistrates and recorders in counties with family courts may no longer sentence minors under seventeen, as such authority is within the sole jurisdiction of the family court.

Sincerely,

Bob Davis
Law Clerk

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