

1974 S.C. Op. Atty. Gen. 80 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3722, 1974 WL 21240

Office of the Attorney General

State of South Carolina

Opinion No. 3722

February 21, 1974

**\*1 In Re: Bench Warrants**

Mrs. Ann Sandifer  
Clerk of Court  
Post Office Box 279  
Goose Creek, South Carolina 29445

Dear Mrs. Sandifer:

You have inquired by what means a municipal court may order the arrest and incarceration of a defendant who has been given an alternative fine or imprisonment sentence and has been given time in which to pay the fine, but who is in default as to such payments.

The proper procedure upon which such a person should be arrested and placed in jail is a bench warrant from the judge of the municipal court setting forth the facts involving the charge made against the defendant, the facts of the trial, and imposition of sentence, and the fact that the alternative fine has not been paid and that the sentence of imprisonment should now be put into effect. There would not be an additional charge to be placed against such defendant. Such a bench warrant would be valid only within the limitations of the municipality, but would not require endorsement by a magistrate whose jurisdiction includes the municipality.

You have inquired further as to whether or not it is proper for a municipal judge to charge a fee for the withdrawal of a warrant.

There is no authority for the imposition of a fee for the withdrawal of a criminal warrant. The quashing of a criminal warrant is technically not the right of an individual in the first place. An arrest warrant should be quashed only by an official representing the state, such as the solicitor, county or city attorney, or the arresting officer. In no event should a fee be charged for the quashing of an arrest warrant.

You have inquired further whether or not attorneys for the State and the defense are entitled to a list of the jurors who are going to serve on a particular case. The identity of jurors who have been drawn to serve on a particular case is a matter of public record and upon demand any interested party should be furnished with a list of such jurors.

Yours very truly,

Joseph C. Coleman  
Deputy Attorney General

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