

1973 WL 26666 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 16, 1973

***1 In re: Mirande Warnings, Necessity for in Investigatory State.**

The Honorable Francis I. Prince
Magistrate
Anderson County
Post Office Box 4 ??, Station B
Anderson, South Carolina 29021

Dear Judge Prince:

As I understand the decisions subsequent to Miranda, and Miranda, too, for that matter, questions may be asked in the investigatory stage, unless the finger of guilt points so strongly to one person as the guilty party that a charge could then be made against that person without further investigation. In other words, sufficient probable cause has been established upon which to charge the suspect, but, technically, the actual warrant has not been obtained.

I do not understand the 'trash pile' cases to be in this category - - - because more than more suspicion is required to make operative the Miranda evidentiary rule. Stone information, the only evidence in the trash pile cases at the point we are talking about is, perhaps, a letter or envelope with a name and address on it. This, of course, is not sufficient to constitute probable cause to obtain a warrant. Further investigation is required. The person whose name is found is a suspect, it is true—but not to the extent that he can be singled out to the reasonable exclusion of other persons—such as, possibly, garbage men or others who might have dumped the garbage unlawfully.

In the foregoing circumstances, it is my feeling that Miranda warnings are not required.

Best personal regards!

Very truly yours,

Joseph C. Coleman
Deputy Attorney General

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