

1973 WL 27682 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 3, 1973

*1 Honorable Phillip W. Arrowsmith
County Attorney
Post Office Box 1266
Florence, South Carolina 29501

Dear Mr. Arrowsmith:

You have asked the opinion of this Office as to whether statutory authorization is necessary for Florence County to undertake the abolishment of its chain gang.

In my opinion, statutory enactment to abolish the chain gang is most probably required. The history of the statutes relating to chain gangs is outlined in the case of [City of Greenville v. Pridmore](#), 162 S.C. 52, 160 S.E. 144. The statutes in existence then are largely present day, although codified in different sections of the Code. The one which leads me to believe that statutory exemption for Florence County is indicated is Section 55-451, which states that convicts who are sentenced to labor on the public works shall be under the exclusive supervision and control of the county supervisor and by him formed into a county chain gang and required to labor on the highways, etc.

Section 55-476 states that 'when the chain gang is not employed or when convenient and practicable, they shall be confined in the county jail for safekeeping under the direction of the county supervisor.' This statute seems to be authority for the keeping of prisoners in the county jail, particularly under the circumstances which now exist in Florence County.

On the other hand, Section 17-554 states that male convicts shall be sentenced to hard labor on the public works of the county in which convicted if such county maintains a chain gang, and in the alternative—.

The Pridmore case recently refers to such phraseology as 'if a county chain gang is formed,' which indicates that a county chain gang may or may not be formed, but I am uncertain as to whether it would not be formed in this sense if the provisions of Section 55-476 are met.

Additionally, the situation is complicated by the ambiguous nature of the phrase 'chain gang.' Chief Justice Blease, in the Pridmore case, stated that the term means 'those prisoners who are sentenced to the public works of a county,' but the Constitution provides that all prisoners sentenced to hard labor may be employed upon the public works of the State or county.

My conclusion is that the numerous statutes relating to sentences and maintenance of chain gangs can best be removed from doubt by amending the law so as to clearly remove Florence County from the necessity of maintaining a chain gang. The basic organic act for the Florence County governing board provides whatever authority would then be needed to maintain, regulate, and support prisoners.

I therefore advise that, in the opinion of this Office, a statutory provision should be sought to authorize Florence County to abolish its chain gang.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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