

1973 WL 26824 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 30, 1973

***1 Re: Horry County Magistrates, Jurisdiction to Recognize General Sessions Defendants and Hold Preliminary Hearings**

Honorable R. L. Bellamy
Magistrate
Route 3
Box 357
North Myrtle Beach, S.C. 29582

Dear Judge Bellamy:

You have inquired as to the effect of Act R414, Acts of 1973, on the authority of magistrates of Horry County to set bond and hold preliminary hearings in criminal cases beyond their jurisdiction to try.

Act R414 provides that a new associate judge of the Civil and Criminal Court of Horry County shall have certain powers and responsibilities with reference to preliminary hearings, setting bonds, and with return of arrest warrants. For example, the Act reads in part:

‘ . . . all arrest warrants may be returned to the associate judge.’ Emphasis added.

‘All requests for a preliminary hearing may be addressed to the associate judge.’ Emphasis added.

‘The associate judge shall be charged with the responsibility of . . . setting bail in all but capital cases, holding preliminary hearings . . .’

In view of the language of the Act, it is the opinion of this office that it was neither intended to change nor does it change the authority of magistrates of Horry County to release general sessions defendants on bond and to hold preliminary hearings, or that it affects the authority of Horry County magistrates in any other way. It is reasonably clear that the Act was intended to give the Civil and Criminal Court of Horry County concurrent jurisdiction with magistrates of the County in certain matters. Otherwise, the validity of the Act would be questionable in view of Article 3, Section 34(IX), inasmuch as the general law (Sections 43-231 and 43-232, 1962 Code of Laws of South Carolina) gives to magistrates the power to recognize defendants except in capital cases and to hold preliminary hearings.

This opinion is limited to the issue raised by your inquiry, viz., in what manner Act R414 affects the powers of Horry County magistrates; it is not intended as an expression of opinion as to the validity of the Act or any provision thereof.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

1973 WL 26824 (S.C.A.G.)