

1973 WL 26995 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 6, 1973

***1 re: Reimbursement of Assigned Counsel Pursuant to Defense of Indigents Act of 1969**

Honorable J. B. Bankhead
Clerk of Court
Chester County
Post Office Box 144
Chester, South Carolina 29706

Dear Mr. Bankhead:

Your letter of recent date addressed to the Attorney General has been referred to me for consideration and reply.

I will not recite herein the facts as set forth in your letter other than to state that after private counsel was appointed to represent a defendant, and after he had completed some work on the case, the Solicitor not prosessed the original charge, and the defendant was tried on a lesser charge in magistrate's court.

The question you have presented is who is to approve the voucher of assigned counsel for payment.

Section 17-288, Code of Laws of South Carolina (1962), 1971 Cum. Supp., provides:

'Private, appointed counsel shall submit a voucher to the clerk of court of the county of appointment setting forth all details of the appointment for purposes of remuneration under § 17-284 and reimbursement of expenses under § 17-287, and the public defender shall do likewise under § 17-287. It shall be the duty of the clerk of court to present the voucher to the trial judge for approval and to transmit the same to the State Treasurer who shall make payment to the appropriate party.' (Emphasis added).

Under the foregoing provision, private counsel is permitted to submit a voucher signed by the trial magistrate. It may be that you do not have available the amendment to Rule 1 of the Defense of Indigents Act of the Supreme Court dated September 20, 1972, and I enclose a copy of the same for your information. Rule 1 was amended to comply with the decision of the United States Supreme Court in the case of [Argersinger v. Hamlin](#), 407 U.S. 25, 32 L. Ed. 2d 530, 92 S. Ct. 2006.

Very truly yours,

Raymond G. Halford
Assistant Attorney General

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