

1972 WL 25244 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 17, 1972

\*1 The Honorable Thomas W. Greene  
Solicitor  
Thirteenth Circuit  
County Court House  
Greenville, S. C. 29601

Dear Solicitor Green:

The Attorney General has given me your letter of March 13, 1972 for consideration and reply.

You have asked whether or not the crime of bigamy has been committed in the state of South Carolina when the first marriage was performed within this state, but the second marriage took place in another state.

I have been unable to find a South Carolina case in point. However, the general law is as follows:

The place the second marriage is entered into is often determinative of whether a crime is committed under the statutory provision involved. Under statutes which merely penalize a person for entering into a second marriage while validly married to another person, a crime is committed only when the bigamous marriage is entered into in the state. .... The scope of bigamy has been extended, however, by statutes punishing cohabitation within the state after a bigamous marriage. Under statutes of this type, making it an offense for a person who, having a husband or wife living, marries another, to continue to cohabit with the second husband or wife within the jurisdiction, the place of the second marriage is immaterial, and the offense is committed wherever the parties to the second marriage continue to cohabit. 10 Am Jur 2d Bigamy Sec. 12. Also see 10 CJS Bigamy Sec. 5(d).

In [State v. Jones 227 N.C. 94, 40 SE 2d 700 \(1946\)](#) a North Carolina couple entered into a bigamous marriage in South Carolina. The North Carolina Supreme Court ordered the husband's conviction for aiding and abetting in bigamy vacated, holding that: The State of South Carolina was the sovereign whose authority was flouted when the bigamous marriage was celebrated. The courts of this state have no jurisdiction to impose punishment therefor.

South Carolina's criminal bigamy statute reads in pertinent part as follows:

Any person who is married who shall marry another person shall ..... on conviction by punished by imprisonment. ....

It is my conclusion that the South Carolina statute makes criminal the celebration of the marriage rather than bigamous cohabitation following the celebration, therefore no crime has been committed in this state.

Please contact me if I can be of further assistance.

Sincerely,

Walter Bailey  
Law Clerk

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