

1972 S.C. Op. Atty. Gen. 91 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3286, 1972 WL 20430

Office of the Attorney General

State of South Carolina

Opinion No. 3286

March 24, 1972

\*1 The Honorable C. M. Rye  
Magistrate  
900 St. Andrews Road  
Columbia, South Carolina 29210

Dear Judge Rye:

Thank you for your telephone call of today requesting my opinion as to whether you may reopen a criminal matter which ended in September, 1971, with a guilty verdict against defendant on two counts of petty larceny.

This letter confirms my opinion to you based on the facts presented that under no circumstances can you reopen the matter and allow defendant at this date to plead guilty to a lesser charge even though the fine or penalty may remain the same.

S. C. Code § 43-143, which provides that motions for new trials in magistrate's court must be made within five (5) days from judgment, has been a part of the law of this State at least since 1816. It was early held that magistrates, then known as trial justices, possessed no inherent power to correct injustices, their prerogatives being only those provided by statute. Doty & Co. v. Duvall, 1 S.C. 143. The Duvall case held that a trial justice had no power to reopen a case on a motion for new trial when the motion was not made within five (5) days. The only remedy available to the moving party was to appeal to the circuit court within the time allowed by the code.

If I may be of further assistance to you in this matter or any others, please do not hesitate to call.

With kindest personal regards,  
Yours very truly,

James C. Harrison, Jr.  
Assistant Attorney General  
Administrator for Magistrate Court

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