

7103 Liberty



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON  
ATTORNEY GENERAL

May 22, 2001

John Mullins, City Manager  
City of Woodruff  
231 E. Hayne Street  
Woodruff, South Carolina 29388

**Re: Your Letter of February 14, 2001  
S.C. Code Ann. §16-11-700**

Dear Mr. Mullins:

In your above referenced letter, you ask this Office to "... review State Law 16-11-700 and tell me if this law can be enforced even when an officer isn't present to view it (being committed??)."

Section 16-11-700 makes littering a criminal offense and provides in pertinent part as follows:

No person may dump, throw, drop, deposit, discard, or otherwise dispose of litter or other solid waste, as defined by Section 44-96-40(46), upon any public or private property or waters in the State whether from a vehicle or otherwise including, but not limited to, a public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley ...

The statute itself contains no requirement or provision that, as a prerequisite to prosecution, a police officer witness the crime. Accordingly, we must look to the general tenets of criminal law to determine the answer to your question.

The general rule regarding the issuance of an arrest warrant based on other than eyewitness testimony from an arresting officer was set out by this Office in a prior opinion where it was stated: "[a]ny citizen who has reasonable grounds to believe that the law has been violated has the right to cause the arrest of a person who he honestly and in good faith believes to be the offender ... [citation omitted] ... The probable cause expressed in the affidavit of an arrest warrant may be based on personal knowledge or hearsay ... [citation omitted] ... The affiant to an arrest warrant must be able to satisfy an inquiring magistrate that sufficient facts and information exist to support the warrant

*Request Letter*

Mr. Mullins  
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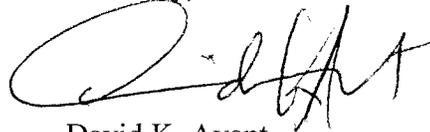
which determination is entirely within the magistrate's judgment. The penalty for perjury attaches to the facts alleged in the affidavit." See OP. ATTY. GEN. (Dated November 4, 1993 [93-74]).

Further, all that is necessary to sustain a criminal conviction is "[t]he presentation of any direct or circumstantial evidence reasonably tending to prove the defendant's guilt..." State v. Crane, 296 S.C. 336, 372 S.E.2d 587 (1988). In fact, a criminal conviction may be obtained on the presentation of circumstantial evidence alone, with no direct evidence. See OP. ATTY. GEN. (Dated October 14, 1980) (copy attached). Such evidence can come from any individual with knowledge.

Accordingly, S.C. Code Ann. §16-11-700 can be enforced even if the violation was not directly observed by a law enforcement officer.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Avant', written over a horizontal line.

David K. Avant  
Assistant Attorney General

DKA/an  
Enclosure