

6494 Liberty



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

April 21, 1998

Sergeant Jolene Vancil
City of Greer Police Department
Staff Services and Planning
101 West Poinsett Street
Greer, South Carolina 29650

Re: Informal Opinion

Dear Sergeant Vancil:

You note that your Department "is receiving differing interpretations" of S.C. Code Ann. Sec. 22-5-180. Therefore, you are requesting an opinion regarding the service of warrants by sworn law enforcement officers who are the affiant on the warrant. Your specific question is as follows:

[d]o SC Statutes 22-5-150, 22-5-160, and 22-5-180 apply to law enforcement officers sworn by the powers of their jurisdiction, or are they only applicable to a civilian [whom] a Magistrate has deputize[d] as a special officer for the service of a specific warrant?

I am enclosing a copy of an Opinion dated May 22, 1980 for your review which answers your question. In that Opinion, we stated as follows:

... this Office in several previous opinions has consistently held that pursuant to Section 22-5-180, supra, a magistrate should not authorize and a law enforcement officer should not serve an arrest warrant issued upon such officer's affidavit. (See 1958 Op. Atty. Gen., p. 269, 1958 Op. Atty. Gen., p. 211, 1936 Op. Atty. Gen., p. 111, 1927 Op. Atty. Gen.,

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p. 93.) Early opinions of the South Carolina Supreme Court have also recognized this principle. (See, e.g., State v. DuPre, 134 S.C. 268, 131 S.E. 419 (1926); State v. Prescott, 125 S.C. 22, 119 S.E. 637 (1923) (dis. op. Watts); State v. Williams, 76 S.C. 135, 56 S.E. 783 (1907); State v. Culbreath, 121 S.C. 89, 113 S.E. 476 (1922). **Therefore, pursuant to Section 22-5-180, supra, the law enforcement officer who acts as the affiant in obtaining an arrest warrant should not serve such warrant.** (emphasis added).

This Opinion remains the Opinion of this Office. Accordingly, as we consistently advise, pursuant to § 22-5-180, "... the law enforcement officer who acts as the affiant in obtaining an arrest warrant should not serve such warrant."

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General

RDC/an
Enclosure