

1984 WL 249888 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 15, 1984

*1 The Honorable M. L. Turner
South Congaree Town Recorder
Municipal Office Building
1633 Berry Road
South Congaree, SC 29169

Dear Judge Turner:

In a letter to this office, you questioned whether a municipal court judge is eligible to serve as a juror for any court system other than his own.

In examining your question, two statutory provisions are of particular relevance. [Section 14-7-820, Code of Laws of South Carolina, 1976](#), states:

No clerk or deputy clerk of the court, constable, sheriff, probate judge, county commissioner, magistrate or other county officer or any person employed within the walls of any courthouse shall be eligible as a juryman in any civil or criminal case.

[Section 14-7-850, Code of Laws of South Carolina, 1976](#), as amended states:

No person shall be exempt from service as a juror in any court of this State, except officers of the United States, of this State or of a county or municipal corporation while in the actual discharge of his duties as such . . .

Of course, such statutory provision provides for an exemption which is a personal privilege which an individual may claim or waive. 1967 Op. of the Att'y Gen. No. 2370 P. 217. Furthermore, as is apparent, neither Code section states specifically that municipal judges may not serve as jurors. However, as stated, magistrates are expressly prohibited from serving as jurors. Generally, magistrates and municipal court judges have been treated similarly in considering their duties and authority. See: [§ 14-25-45, Code of Laws of South Carolina, 1976](#), as amended. Furthermore, pursuant to [§ 14-7-850](#), it is apparent that a municipal court judge, being an officer of a municipal corporation, would be exempt from serving as a juror 'while in the actual discharge of his duties' as a municipal court judge. Of course, when considering the wide range of duties of a municipal court judge, it is difficult to specifically define when such would be applicable. Also, pursuant to [§ 14-7-850](#), any municipal court judges who are also practicing attorneys would be exempt from serving as jurors.

Referencing the above, this office is unable to conclusively state that a municipal court judge is prohibited from serving as a juror in any court of this state. However, it is apparent that there is a basis for strongly advising against such practice. Furthermore, consideration may be given to requesting an opinion of this State's Judicial Standards Commission on the question raised here. Such could be done by writing the Commission in care of the Honorable C. Victor Pyle, Jr., Judge of the 13th Circuit Court, 312 County Courthouse, Greenville, SC 29601.

If there is anything further, please do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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