

1982 WL 189319 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 10, 1982

*1 Charles Richard Stewart, Esquire
Staff Attorney
Greenville County Attorney's Office
14-A Courthouse Annex
Greenville, South Carolina 29601

Dear Mr. Stewart:

You have requested an opinion as to whether the Clerk of Court may invest in a short term account funds held by her. This includes judgments from civil cases, cash bonds collected from magistrates, and restitution paid in court.

A review of the Code reveals no specific authority for such investments, but § 11-1-20 does provide for the disposition of funds earned as interest collected on funds deposited by county officers. This section thus appears to take for granted the power of a Clerk of Court to make such investments. The Supreme Court similarly took this power for granted in the case of [U.S.C. v. Elliott](#), 248 S.C. 218, 149 S.E.2d 433 (1966). However, the same case provides that where the funds are owing to some private individual, the interest must go to the same person who is entitled to the funds. Thus, if the category which you refer to as judgments, etc. from civil cases is actually private money held in escrow, the interest on the funds would have to also go to the private owners.

Needless to say, this apparently-implied right to invest does not extend beyond the period of time for which the Clerk is authorized to hold the funds.

Sincerely yours,

Kenneth P. Woodington
Senior Assistant Attorney General

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