

1981 WL 158025 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 26, 1981

*1 The Honorable James O. Dunn
Solicitor
Fifteenth Judicial Circuit
Post Office Drawer 1276
Conway, South Carolina

Dear Solicitor Dunn:

Attorney General McLeod has referred your letter of October 6, 1981, to me for reply. As I understand it, your question concerns the applicability of the following provisions of South Carolina Code of Laws § 44-53-370(d)(3):

A person charged under this item for a first offense for possession of controlled substances may forfeit bail by nonappearance and upon forfeiture the bail shall be distributed as provided in subitem (1) of this item.

It is the opinion of this office that this forfeiture of bail provision only applies to first offense simple possession of marijuana and hashish cases, and not to any general sessions offenses. You are correct in your interpretation of this provision as being limited by subitem (1), which clearly has reference only to those offenses over which magistrates have jurisdiction.

Further, it would be the advice of this office that magistrates should not advise defendants that they need not appear on any charges, but should only advise the defendants of the consequences of their failure to appear.

I hope this letter has been of assistance to you, and if I can be of any further help, please do not hesitate to contact me.

With best personal regards, I am,
Yours very truly,

John M. Barton
Assistant Attorney General

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