

1980 WL 120664 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 11, 1980

*1 Honorable Harriett S. Pierce
Judge of Probate Kershaw County
Room 302, Kershaw County Courthouse
Camden, South Carolina 29020

Dear Judge Pierce:

I have been asked to respond to your letter of February 5, 1980, requesting an opinion from this Office. In your letter you state that the county line of Kershaw County had changed since the institution of probate proceedings in that county, and that now the 'subject matter' of the estate lies in Lancaster County and that the estate is still open.

Your question is whether venue for administration is now with the Lancaster or Kershaw County Probate Court?

I call your attention to §§ 21-15-10, 21-15-1610, [14-23-250](#) and [14-23-260](#), [South Carolina Code](#) of Laws, 1976, as amended. Section 21-15-10 states that the probate of a will belongs to the Probate Judge of the county in which the decedent was last an inhabitant unless not an inhabitant of this State then in the county where the greater portion of his estate is located. It is assumed for the purposes of this opinion that decedent was last an inhabitant of Kershaw County. Section 21-15-1610 states that the venue for proceedings on the settlement of an estate shall be in the county in which the 'will was proved or the administration of the estate was granted'.

[Section 14-23-250](#) states that once a probate court takes cognizance of the settlement of an estate, the court 'shall have jurisdiction of the disposition and settlement of all the personal estate of such deceased person to the exclusion of all other probate courts.' [Section 14-23-260](#) states that the jurisdiction of a probate court cannot be attacked except on an appeal or when the lack of jurisdiction appears on the record.

Section 4-3-341, the codification of the Act that changed the boundary of Kershaw and Lancaster Counties, does not conflict with the above sections. Section 4-3-341 states that 'upon application' [by officials of Lancaster County] the Clerk of Court, Sheriff and Probate Judge of Kershaw County shall furnish certified copies of official records to Lancaster County, and these records shall have the same effect there as they would have had in Kershaw County.

It is the opinion of this Office that venue remains in Kershaw County once letters of administration have been granted in Kershaw County, and there is a subsequent change in the boundary line between Kershaw and Lancaster Counties.

Very truly yours,

Eugene W. Yates, III
Assistant Attorney General

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