

1980 WL 121183 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 21, 1980

*1 M. Eve Moredock, Esquire
Staff Attorney
S. C. Court Administration
Post Office Box 11788
Columbia, South Carolina 29211

Dear Eve:

In a letter to this Office you asked the following questions:

Are county employees, who work in the offices of county officers, but whose offices are not housed within the courthouse, disqualified or exempted from jury service based on [South Carolina Code Section 14-7-820](#) or [Section 14-7-850](#)?

[Section 14-7-820, Code of Laws of South Carolina](#), 1976, which provides for the disqualification of certain individuals from serving as jurors, states:

‘(n)o 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 juror in any civil or criminal case.’

[Section 14-7-850, Code of Laws of South Carolina](#), 1976, as amended, which exempts persons from serving as jurors, states in part:

‘(n)o 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 . . .’

For a county employee, whose office is not located within the courthouse walls, to be disqualified from jury duty pursuant to [Section 14-7-820](#), *supra.*, it must be determined that such employee come within the definition of a ‘county officer’. Clearly, pursuant to such section, a county employee, who is not considered to be a county officer, is not disqualified unless he works ‘within the walls’ of the courthouse.

Generally a public officer has been defined as:

‘(o)ne who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great, in the performance of which the public is concerned, and which are continuing and not occasional or intermittent . . .’ [Sanders v. Belue](#), 78 S.C. 171 at 174, 58 S.E. 762 (1907).

An employee has been defined as:

‘. . . one who merely performs the duties required of him by persons employing him under an express contract or otherwise, though such persons be themselves public officers and though the employment be in or about a public work or business . . .’ [Ibid.](#) at 174.

In [State v. Johnson](#), 123 S.C. 50, 115 S.E. 748 (1923) the South Carolina Supreme Court held that a deputy sheriff, although not specifically designated in the section now codified as [Section 14-7-820](#) as ineligible, was nevertheless within the phrase ‘or

other county officer' since he had the rights and powers of a constable or magistrate, was required to take the constitutional oath of office, was required to execute bond and had duties similar to a sheriff, constable, or magistrate who by [Section 14-7-820](#) is designated as ineligible for jury service.

Referencing the above criteria, if an individual's responsibilities and duties are such that he is clearly a county employee, as opposed to being a county officer, and the individual does not work 'within the walls' of the courthouse, the individual would not be disqualified from jury duty pursuant to [Section 14-7-820](#), supra.

*2 As to whether an individual, who works in the office of a county officer, may claim an exemption from jury service pursuant to [Section 14-7-850](#), supra., unless that individual may be considered to be a county officer, as earlier defined, he would not be exempt from jury service. (I am assuming that such individual would also not come within one of the other categories of individuals specifically exempted from jury service.) A county employee is not exempt by [Section 14-7-850](#), supra., from jury service.

If there are any further questions, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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