

1980 WL 120878 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 16, 1980

*1 Honorable Carrington Salley Baker
Judge
City of Florence Recorder's Court
Box DD
City-County Complex
Florence, SC 29501

Dear Judge Baker:

In a letter to this Office, you asked whether an arrest warrant issued by a municipal recorder charging a violation within the jurisdiction of the general sessions court must be endorsed by a magistrate of the county in which the municipality is located prior to the warrant being executed outside the municipality but within the county.

As you are aware, [Section 22-5-190, Code of Laws of South Carolina, 1976](#), provides in part that:

(a) magistrate may endorse a warrant issued by a magistrate of another county when the person charged with a crime in such warrant resides in or is in the county of the endorsing magistrate.'

Such section also states in a later provision that

(w)henever a warrant is issued by a . . . recorder . . . requiring the arrest of anyone charged with the violation of a municipal ordinance, or of a State statute within the trial jurisdiction of the municipal authorities, and such person sought to be arrested cannot be found within the municipal limits, but is within the State, the officer issuing such warrant may send it to the magistrate having jurisdiction over the area in which such person may be found, which magistrate may endorse the warrant, which shall then be executed . . . ' (Emphasis added)

No specific provision is made for the endorsement of a warrant issued by a municipal recorder charging an individual with a violation of an offense within the trial jurisdiction of the court of general sessions prior to its being executed outside the limits of the municipality of the issuing recorder. However, the absence of such authority may be explained by an examination of the history of [Section 22-5-190](#) and [Section 14-25-970, Code of Laws of South Carolina, 1976](#), the latter section providing the jurisdictional authority of municipal recorders generally.

That portion of the provision now coded as [Section 22-5-190](#) which permits the endorsement of a warrant issued by a municipal recorder charging a violation of a municipal ordinance or State statute within the trial jurisdiction of the municipal recorder was included in Act No. 351 of 1961 [52 STAT. 587 (1961)]. It may be suggested that one reason for not providing for the endorsement by a magistrate of warrants issued by municipal recorders which charge a violation of a general sessions court offense may be that prior to the enactment of Act No. 249 of 1975 [59 STAT. 581 (1975)] and the decision of the South Carolina Supreme Court in [State v. Blue, 215 S.E.2d 905 \(1975\)](#), municipal recorders were considered to be without general authority to issue arrest warrants charging violations of State statutory offenses beyond the jurisdiction of the municipal court to try, except where clearly authorized by statute. (See: 1974 Opinion of the Attorney General's Office No. 3908, page 345). Act No. 249 of 1975 added the words 'made under municipal or State law' to the section now codified as [Section 14-25-970, supra.](#), so as to provide by such section that

*2 '(t)he municipal court shall also have all such powers, duties, and jurisdiction in criminal cases made under municipal or State law as are now conferred by law upon the magistrates appointed and commissioned for the county in which the court is established, . . .'

Also, in the preamble to such Act, the Legislature specifically provided that it was the intention of the General Assembly that municipal recorders have jurisdiction to issue arrest warrants for general sessions court offenses. Furthermore, the Supreme Court in the referenced Blue decision held that a municipal recorder had authority to issue an arrest warrant for an offense which occurred within the municipal limits of the respective municipal court, but which was beyond the trial jurisdiction of such court.

Inasmuch as municipal recorders are now recognized as being authorized to issue arrest warrants charging violations of State statutes which are beyond the trial jurisdiction of such recorders, in the opinion of this Office, prior to such warrants being executed within the county of the issuing recorder, but beyond the limits of the municipality where the court is located, such warrants should be forwarded to a magistrate of the county in which the municipality is located for endorsement as otherwise generally provided by [Section 22-5-190](#), *supra*. There is no question that the territorial jurisdiction of the recorder's court is the limits of the municipality in which the court is created. 9 McQuillan, *Municipal Corporations*, Section 27.03 (3rd Ed.). Furthermore, inasmuch as [Section 22-5-190](#), *supra*, provides generally for the endorsement of arrest warrants which are to be executed outside the jurisdictional limits of the judge who issued them, it appears that it would be necessary that municipal warrants also be endorsed in the referenced circumstances.¹

If there are any questions concerning the above, please do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

Footnotes

- 1 This office does not agree with the argument that [Section 14-25-970](#), *supra*, which again grants a municipal court '. . . all such powers, duties and jurisdiction in criminal cases . . . as are now conferred by law upon the magistrates appointed and commissioned for the county in which the court is established . . .' (Emphasis added) should be interpreted as an additional grant of territorial jurisdiction with the result that city recorders would be construed as having jurisdiction beyond the boundaries of the municipality where the court is created.

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