

1977 S.C. Op. Atty. Gen. 150 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-200, 1977 WL 24542

Office of the Attorney General

State of South Carolina

Opinion No. 77-200

June 28, 1977

*1 TO: Mayor J. Walter Hamm
Prosperity, South Carolina 29127

QUESTION PRESENTED:

Would it be proper for the Town of Prosperity to employ a city recorder for criminal jury trials while the mayor continues to perform the other duties such as guilty pleas, the issuance of search and arrest warrants, etc.?

STATUTES INVOLVED:

Sections 15-1075 and 153-1076, Code of Laws of South Carolina, as amended.

DISCUSSION:

Section 15-1075 provides that the Town of Prosperity may employ a recorder and that the recorder is to be chosen by majority vote of the town council.

Section 15-1076 provides that the recorder, in criminal cases, shall have the same jurisdiction and powers of the mayor in such cases.

From the foregoing, it is clear that the powers and jurisdiction of the recorder are identical to those of the mayor. He would have jurisdiction not only to hold jury trials but also to issue warrants, take guilty pleas, and perform the other duties of his office.

Since the recorder is vested with the foregoing powers by the statute, he may not be deprived thereof except by repeal of the statute. However, if, as a procedural matter, the governing body of the town, the recorder, and the mayor agree to proceed in the manner you describe, it would be proper.

CONCLUSION:

Although the recorder shares jurisdiction with the mayor to issue warrants, take guilty pleas, and perform the other duties of a criminal court of limited jurisdiction, he can confine himself to presiding over jury trials and allow the mayor to perform the other duties exclusively.

Joseph R. Barker
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