

1977 S.C. Op. Atty. Gen. 325 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-399, 1977 WL 24735

Office of the Attorney General

State of South Carolina

Opinion No. 77-399

December 16, 1977

*1 TO: Neal Forney
Assistant Director
South Carolina Court Administration

QUESTIONS PRESENTED:

1. Is the use of a rubber stamp to imprint the name of a magistrate on warrants and uniform traffic tickets lawful if the imprinting is done by the magistrate personally?
2. May a magistrate direct someone else, such as his secretary, to imprint his name on a court paper, if the act is done in the presence of the judge and at his specific direction?
3. When magistrates receive arrest warrants from other courts that have been obviously imprinted with a rubber stamp signature, should they endorse the warrant under the provisions of Section 22-5-190 of the Code of Laws of South Carolina (1976)?

AUTHORITIES:

80 C.J.S., Signatures, Sections 6 and 7;

[Smith v. Greenville County](#), 188 S.C. 349, 199 S.E. 416 (1938).

DISCUSSION:

As a general rule, it has been said that an official may affix his signature by any means, including by rubber stamp, so long as there is no statute which specifically prescribes a particular mode for subscribing his name to documents. 80 C.J.S., Signatures, Section 7. Our research has disclosed no applicable statute. Furthermore, South Carolina appears to adhere to the general rule stated above, since in [Smith v. Greenville County](#), 188 S.C. 349, 199 S.E. 416 (1938), the Supreme Court said that ‘the general rule as to the mode one may adopt in affixing his signature [is that it] may be written by hand, or printed, or stamped, or typewritten . . .’ (emphasis added) 118 S.C. at 353. Since there is no statute specifying the means by which a magistrate is to sign court documents, it may be concluded that he may use a rubber stamp for the purpose of affixing his signature.

It would also appear that the general rule allowing another person to sign a document for an official as long as he is in the presence and under the direction of the official (*See* 80 C.J.S., Signatures, Section 6), is applicable to the situation of a magistrate's secretary using such a rubber stamp under his direction and in his presence. However, it should be recognized that the person signing documents under the direction of the magistrate cannot lawfully perform that officer's judicial functions, e.g. making a determination of probable cause or noting a bond forfeiture. Therefore, the person's authority to sign documents is strictly limited to signings performed in the magistrate's physical presence and can be exercised only over the specific papers and in the specific manner which the magistrate has directly authorized in each particular case.

In keeping with the principles discussed above, the use of a rubber stamp to affix a magistrate's signature to a warrant for service in a foreign county appears proper. Such a signature is entitled to full force and effect as noted above. An endorsing magistrate, therefore, should not refuse to consider a foreign warrant on that ground alone if the warrant is otherwise properly presented in compliance with Section 22-5-190 of the 1976 Code of Laws of South Carolina.

CONCLUSION:

- *2 1. A magistrate may use a rubber stamp to affix his signature on court documents.
- 2. A magistrate may direct someone else in his presence to use a rubber stamp to affix his signature.
- 3. A magistrate may endorse an arrest warrant which was stamped with the signature of the issuing magistrate.

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