

1978 WL 34679 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 1, 1978

**\*1 RE: Magisterial Jurisdiction in Selected Areas of Spartanburg County**

Mr. Neal Forney  
Assistant Director  
South Carolina Court Administration  
South Carolina Supreme Court  
Post Office Box 11788  
Columbia, South Carolina 29211

Dear Mr. Forney:

Your letter to the Attorney General regarding magisterial jurisdiction in selected areas of Spartanburg County has been referred to me for reply. Thank-you for your patience in awaiting our response.

You have asked whether any magistrate in Spartanburg County has territorial jurisdiction in criminal matters arising in the Whitney, Drayton, Cedar Springs, and Ben Avon sections of that county. In particular, you asked whether any such magistrate has territorial jurisdiction for trials, preliminary examinations, issuance of warrants, or the conducting of bail proceedings in those areas.

Act No. 1648 of 1968, Section 27A, page 3928, designates the respective magisterial districts for Spartanburg County and declares, among other things, 'all city precincts, plus Whitney, Drayton, . . . , Ben Avon, Cedar Springs, . . . shall be under the jurisdiction of the two civil judges with offices at the courthouse.' No magistrates are otherwise designated for those areas.

That section goes on to state:

'The magistrates in Spartanburg County shall have magisterial jurisdiction over the precincts as listed beside their name. They shall try all cases occurring within the boundaries of their respective precincts. No magistrate shall try any case, either criminal or civil, which occurs outside his magisterial jurisdiction as set forth above.

If any person is convicted either by trial or plea of guilty by any magistrate and it appears that the case was made outside the magisterial jurisdiction, the same shall be void and jeopardy shall attach.

This provision shall not affect the countywide jurisdiction of the civil courts of Spartanburg.' Id at 3929.

However, you have also advised that the jurisdiction of the two civil judges referenced above will be terminated on or about June 31, 1979. Your question therefore concerns the proper administration of the criminal laws in those areas after the termination of their jurisdiction.

This office has previously rendered its opinion that Spartanburg County magistrates have separate and exclusive territorial jurisdiction in criminal matters. 1970 Op. A.G., No. 2936, page 190. That opinion also notes, however, that Section 43-1012.3 of the 1962 Code of Laws of South Carolina provides that '[t]he magistrates shall have jurisdiction

throughout the county to issue warrants of arrest, to hold preliminary examinations and perform any and all duties provided for by the general laws with reference to the powers and duties of such magistrates.’

The provisions of the aforementioned Act which provide that all trials shall be conducted only by the magistrate in the particular precinct in which the offense occurred are consistent with the general requirements of [Section 22-3-530 of the 1976 Code of Laws of South Carolina](#).

\*2 Therefore, it appears that any magistrate in Spartanburg County may issue warrants of arrest, hold preliminary examinations, and perform any and all duties provided for by the general laws relating to magistrates, except for conducting trials of offenses which occur outside their respective territories. See, 1966 Op. A.G., No. 2195, page 338.

As no magisterial districts as such appear to exist for those areas and since the provisions of the aforementioned Act expressly preclude transferring trial matters to a magistrate outside the respective territories, it must be concluded that once the jurisdiction of the two civil judges ends there will be no magistrate courts with jurisdiction to conduct criminal trials of offenses arising in those areas.

In order to rectify the situation, it appears that action by the General Assembly would be necessary to provide for the creation or expansion of magistrate courts for those and any other areas in Spartanburg County which may be affected in the described manner upon termination of the trial jurisdiction of the civil and criminal court.

I trust the preceding discussion adequately answers your questions, however, if any further explanation is required, please feel free to contact me.

With best regards, I am  
Very truly yours,

Richard P. Wilson  
Assistant Attorney General

1978 WL 34679 (S.C.A.G.)