

1978 WL 34891 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
May 2, 1978

***1 RE: Civil Jurisdiction of Magistrate Courts**

Mr. Neal Forney
Assistant Director
South Carolina Court Administration
P. O. Box 11788
Columbia, S. C. 29211

Dear Mr. Forney:

You have asked whether a magistrate has the authority to try a civil case which is beyond the amount in controversy jurisdiction of his court under Section 22-3-10 when the case has been transferred to the magistrate by a court of superior jurisdiction with the consent of the plaintiff and the defendant.

The rule in this state is that in order to have jurisdiction of a case, the court must have jurisdiction not only of the defendant but of the subject matter as well, and jurisdiction of the subject matter may not be waived or conferred by consent of the parties. See cases generally collected at 7 S. C. Digest, Courts, Key Nos. 23, 24, and 37(1).

Accordingly, it is the opinion of this Office that jurisdiction to try cases other than those specifically enumerated by law may not be conferred upon the magistrate courts by consent of the parties or by direction of a court of superior jurisdiction.

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

Very truly yours,

Richard P. Wilson
Assistant Attorney General

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