

1978 S.C. Op. Atty. Gen. 149 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-116, 1978 WL 22585

Office of the Attorney General

State of South Carolina

Opinion No. 78-116

June 14, 1978

***1 SUBJECT: Magistrates, Jurisdiction**

Magistrate courts with proper subject matter and amount in controversy would have jurisdiction over transitory actions in tort or contract on federal lands within this state.

TO: Mr. Neal Forney
Assistant Director
S. C. Court Administration

QUESTION:

Do magistrates have jurisdiction over contract and tort actions arising on land within the state under the exclusive jurisdiction of the United States when such actions are within the subject matter and amount in controversy jurisdiction of the magistrates' courts.

AUTHORITIES INVOLVED:

[Section 3-1-120, Code of Laws of South Carolina \(1976\).](#)

[Stokes v. Adair, 265 F.2d 662 \(4th Cir., 1959\).](#)

[Mater v. Holly, 200 F.2d 123 \(5th Cir., 1952\).](#)

42 Words and Phrases, Transitory, page 492.

DISCUSSION:

Both tort and contract actions are considered 'transitory' in nature. Generally, 'transitory' causes of action may be sued upon anywhere that service may be had on the defendant. 42 Words and Phrases, Transitory, page 492. In [Mater v. Holly, 200 F.2d 123 \(5th Cir., 1952\)](#), an action for personal injuries was brought in the United States District Court for the Northern District of Georgia. The cause of action arose as a result of alleged negligence of the defendants within the boundaries of Fort McPherson, Georgia. The State of Georgia ceded the lands comprising Fort McPherson to the United States retaining jurisdiction for the service of state process. The Court of Appeals for the 5th Circuit noted that although the United States had exclusive jurisdiction over the lands comprising the federal reservation, the cause of action for personal injuries could still be maintained in state court. The Court of Appeals citing the United States Supreme Court case of [Ohio River Contract Co. v. Gordon, 244 U.S. 68, 37 S.Ct. 599, 61 L.Ed. 997](#), stated that 'an action for personal injuries suffered on a reservation under the exclusive jurisdiction of the United States, being transitory, may be maintained in a state court which has personal jurisdiction of the defendant.' See also [Stokes v. Adair, 265 F.2d 662 \(4th Circuit, 1959\)](#). The Court in [Mater, supra](#), went on to state that jurisdiction would also be proper in the Federal District Court so long as the amount in controversy requirement of [28 U.S.C.A., Section 1331](#) is complied with.

Inasmuch as the same principles applied in the aforementioned cases appear to be applicable to the situation presented in this state which also involve a grant of exclusive jurisdiction to the United States (see [Section 3-1-120](#)), a similar conclusion would appear reasonable.

CONCLUSION:

Therefore, it is the opinion of this Office that a magistrate court with proper subject matter and amount in controversy jurisdiction would have jurisdiction over transitory actions in tort or contract which arise on federal lands in this state.

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