

1978 WL 35189 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
October 26, 1978

***1 RE: Filing of Arrest Warrants**

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

Dear Neal:

In a recent letter to this Office you asked the following:

1. Should the sheriff or other law enforcement agency return an arrest warrant which cannot be executed to the magistrate who issued it for filing in the magistrate's office or should it be kept at the sheriff's or other law enforcement agency office?
2. If the arrest warrant is given to a magistrate's constable for execution and the defendant cannot be located, is the arrest warrant then turned over to the sheriff or other law enforcement agency for filing or is it filed by the magistrate?

In response to your questions, this Office is unaware of any specific statutes which would provide an answer to your questions. However it may be stated that once an arrest warrant is issued, such warrant does not 'grow stale' by virtue of any inability to immediately execute it. Therefore, attempts to execute it should continue to be made. It would appear that due to the number of warrants issued in some counties, it may be necessary that the sheriff return such to the magistrate after some period of time has elapsed and all good faith attempts to execute the warrant have been unsuccessful. However this Office would suggest that the sheriff maintain some system which would reflect any outstanding warrants so that, if possible, such may be executed in the future. One suggested means of doing so may be a system of maintaining certified copies of such warrants in the sheriff's offices. However, as stated, this Office is unable to provide an absolute response to your inquiry inasmuch as there are no applicable statutes strictly governing such procedures. Instead, an examination by magistrates and sheriffs as to what procedures would work best for their respective situations should be made in each situation.

With best wishes, I am
Very truly yours,

Charles H. Richardson
Assistant Attorney General

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