

1976 WL 30561 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 24, 1976

*1 Unless there is established in Calhoun County a court that exercises the jurisdiction of a family court, the Calhoun County magistrate's courts have jurisdiction over cases of first offense Driving Under the Influence when committed by a juvenile under the age of seventeen.

Captain J. C. Pace
South Carolina Highway Patrol

QUESTION PRESENTED:

Can a minor under the age of seventeen be tried in the court of a Calhoun County magistrate for first offense of Driving Under the Influence?

AUTHORITIES:

[Shedden v. State, 265 S.C. 334, 218 S.E.2d 421 \(1975\).](#)

Sections 15-1095 et seq; Section 43-68; 1962 Code of Laws of South Carolina, as amended.

DISCUSSION:

The criminal jurisdiction of the Calhoun County magistrate's courts is set forth in Section 43-68 of the South Carolina Code which states in part as follows:

Magistrates shall have exclusive jurisdiction of all criminal cases in which the punishment does not exceed a fine of one hundred dollars or imprisonment for thirty days . . .

This jurisdictional statute would clearly apply to first offense Driving Under the Influence when committed by a minor under the age of seventeen. However, the provisions of Act 1195 of 1968, the Family Court Act (Sections 15-1095 et seq. of the South Carolina Code) provide that:

Any county in this State which has established or shall establish, pursuant to the provisions of this chapter, a children's or juvenile and domestic relations court or any court exercising similar jurisdiction, shall . . . be required to follow the plan and procedures herein set forth. § 15-1095.

Except as otherwise provided herein, the court shall have exclusive original jurisdiction and shall be the sole court for initiating action:

(1) Concerning any child living or found within the geographic limits of its jurisdiction:

(d) Who is alleged to have violated or attempted to violate any State or local law or municipal ordinance, regardless of where the violation occurred. § 15-1095.9.

This grant of exclusive jurisdiction to courts exercising family court jurisdiction will only be applicable to Calhoun County if there is located there 'a children's court, a domestic relations court, or a court exercising similar jurisdiction.' [Shedden v. State, 265 S.C. 334, 218 S.E.2d 421 \(1975\).](#)

CONCLUSION:

Therefore, it is the opinion of this Office that unless there is established in Calhoun County a court that exercises the jurisdiction of a family court, the Calhoun County magistrate's courts have jurisdiction over cases of first offense Driving Under the Influence when committed by a juvenile under the age of seventeen.

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