

1975 WL 174065 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 9, 1975

Re: Solicitor's Presence at Civil Commitment Hearings

*1 Honorable Randolph Murdaugh, Jr.
Solicitor
Fourteenth Judicial Circuit
Post Office Box 457
Hampton, South Carolina 29924

Dear Solicitor Murdaugh:

Your letter of April 3, 1975 addressed to the Attorney General has been referred to me for reply.

You indicate that the Judge of Probate for Colleton County has requested that you be present at all civil commitment hearings and that this office has advised the Judge of Probate that it was your duty to attend hearings.

The provisions for civil commitment of individuals to a State Mental Health facility are contained in Section 32-951, et seq., 1962 Code, as amended. There is no duty imposed, statutory or otherwise, upon the solicitor to be present at a civil commitment hearing on an emergency commitment (Section 32-955, et seq.) or regular judicial hearings. (Section 32-955, et. seq.).

When an individual, charged with the commission of a criminal offense, has been ordered examined or the question of capacity to stand trial, the court may eventually set a hearing pursuant to Section 32-979 on the question of fitness. Under Section 32-979(2) when the individual is found unfit to stand trial and unlikely to become fit in the foreseeable future then a duty is placed upon the solicitor to initiate judicial admission proceedings. If the observation order is extended and unfitness is found at the expiration of the additional hospitalization under Section 32-979(3) judicial admission is initiated.

Section 32-980 provides upon acquittal by the jury on the grounds that the individual was not responsible for his conduct, and the court believes he needs hospitalization, it can order the prosecuting attorney to initiate judicial admission proceedings.

The procedures outlined, supra, are the normal civil commitment procedures which do cast a duty upon the solicitor to take affirmative action, however, there is no statutory duty imposed upon the solicitor to participate in a regular emergency or judicial admission hearing, and I am not aware of any opinion from this office which indicates such a duty does exist.

Wish kindest regards,
Very truly yours,

Raymond G. Halford
Assistant Attorney General

1975 WL 174065 (S.C.A.G.)

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.