

1975 WL 28856 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
May 27, 1975

***1 Re: Execution of Judgment**

Honorable L. E. Kornahrens, Jr.
Sheriff
Charleston County
County Office Building
Charleston, SC 29401

Dear Sheriff Kornahrens:

It has come to our attention that your office has adopted a policy of requiring attorneys issuing executions to list in detail the property owned by the judgment debtor by including license and serial number of vehicles, marine equipment and mobile homes, and by including lot and block numbers as well as deed book and page numbers for real property. This policy is in part the result of a letter of opinion from this office written by Herman L. Moore, Law Clerk, and dated March 18, 1975.

Upon further consideration of this matter, it appears that no law of this State requires that the attorney issuing an execution against the general property of the judgment debtor list the property to be levied upon. Section 10-1708 of the 1962 Code of Laws provides that an execution issued by an attorney
' . . . must intelligibly refer to the judgment, stating the court, the county in which the judgment roll or transcript is filed, the names of the parties, the amount of the judgment if it be for money, the amount actually due thereon and the time of docketing in the county to which the execution is issued.'

However, the statute contains no further requirement as to the listing of property. It must be concluded that Section 10-1708 specifies all that needs to be included in the execution form directed to the sheriff and signed by an attorney. As the Supreme Court of this State has held:
'There is no safer nor better rule of interpretation than that when language is clear and unambiguous, it must be held to mean what it plainly says.' Jones v. S.C.S.H.D., 247 SC 132, 136, 157 SE2d 166.

The General Assembly, of course, is free to add such a requirement of listing if it chooses to do so.

It is thus the opinion of this office that an attorney (or party) issuing an execution against a judgment debtor's general property need not list the debtor's property before the sheriff levies against it and that he cannot be required to do so. This is so even though it is certainly the better practice for an attorney to list the property, as the practice followed by most attorneys attests. The letter of Mr. Moore dated March 18, 1975, is accordingly superseded.

Sincerely,

George C. Beighley
Staff Attorney

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