

1974 WL 27748 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 13, 1974

***1 In re: DUI, Trial Dates**

Captain Jack Timmerman
State Highway Patrol
Columbia, South Carolina

Dear Captain Timmerman:

One area of traffic law enforcement in which this office has experienced some difficulty in reconciling practice with reasonableness is in the setting of trial dates by some arresting officers—particularly with reference to DUI cases.

Often, as you know, trial is scheduled by the arresting officer on the day following the arrest. Sometimes the trial is set for the same day. Although the State Supreme Court has held that no specific period of time is necessary between arrest and trial, a defendant is entitled to an adequate opportunity to defend himself if he desires to do so. It has been my observation that obvious abuses in setting trial dates on uniform traffic tickets place law enforcement officers and their agencies in an unfavorable light.

It is suggested that arresting officers of the State Highway Patrol set trial dates on uniform traffic tickets not sooner than the seventh day following the arrest. There may be reasonable flexibility in less serious offenses, such as speeding, but in DUI cases, particularly, it appears that a seven-day rule is not unreasonable.

When and if a defendant should wish to enter a plea or stand trial at an earlier time, there is nothing to prevent the matter being handled at an earlier date than that indicated on the traffic ticket. In such cases, a notation could be made in the trial judge's docket book or on the back of the records copy of the ticket as to the date the case was concluded.

I believe that adoption of the foregoing suggestion would place the Highway Patrol in a more defensible position legally when attempts are made to 're-open' cases out-of-time.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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