

1974 WL 27771 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 20, 1974

*1 Magistrate Archie Chandler
St. Charles, SC 29134

Dear Magistrate Chandler:

You have asked whether or not an individual can legally be charged with two counts of disorderly conduct as a result of being found in a public place in a grossly intoxicated condition and using obscene or profane language.

§ 16-558 of the 1962 Code of Laws of South Carolina, as amended, provides as follows:

Any person who shall (a) be found on any highway or at any public place or public gathering in a grossly intoxicated condition or otherwise conducting himself in a disorderly or boisterous manner, (b) use obscene or profane language on any highway or at any public place or gathering or in hearing distance of any school house or church or (c) while under the influence or feigning to be under the influence of intoxicating liquor, without just cause or excuse, discharge any gun, pistol or other firearm while upon or within fifty yards of any public road or highway, except upon his own premises, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or be imprisoned for not more than thirty days. (1952 Code § 16-558; 1949 (46) 466; 1968 (55) 2842; 1969 (56) 153).

Although subsections a, b, and c of the act set forth three separate modes of conduct which may, if taken alone, be sufficient to convict one of disorderly conduct, such modes of conduct collectively constitute only one offense. It would constitute double jeopardy, therefore, to try an individual on two counts of disorderly conduct arising out of one set of circumstances in which two of the above-cited subsections were being violated. [State v. Stedman 216 S.C. 579, 595 S.E.2d 168](#)

Very truly yours,

W. Davies Merry, III
Assistant Attorney General

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