

1974 WL 28111 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 18, 1974

***1 In Re: Unlawful Drug Violations, Jurisdiction of Magistrates and Municipal Courts**

Lt. James K. Wilson
S. C. Law Enforcement Division
P. O. Box 1166
Columbia, South Carolina 29202

Dear Lt. Wilson:

You have inquired as to the jurisdiction of magistrates and municipal judges to dispose of unlawful drug cases.

Magistrates and municipal judges have no jurisdiction to dispose of criminal cases in which the maximum penalty that can be imposed is more than \$100 fine or 30 days imprisonment—except when the statute specifically provides for such jurisdiction (litter law).

Since all penalties for possession or distribution contained in the State's unlawful drug law (Section 32-1510.27, et seq.) are more than \$100 or 30 days, and there is no specific provision bestowing jurisdiction on those courts, it is the opinion of this Office that magistrates and municipal judges have no authority to dispose of such cases.

A case 'disposed of' without proper jurisdiction by a magistrate or municipal judge may be prosecuted subsequently in a proper court whether or not an arrest warrant is outstanding.

Very truly yours,

Joseph C. Coleman
Deputy Attorney General

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