

1974 S.C. Op. Atty. Gen. 313 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3883, 1974 WL 21381

Office of the Attorney General

State of South Carolina

Opinion No. 3883

November 7, 1974

***1 In a criminal case before a magistrate's court, the returning of a 'mercy' verdict should not be allowed.**

Clarendon County Magistrate

I am in receipt of your letter to this Office in which you request an answer to the following question:
Can a jury in a criminal case before the magistrate return a verdict with the recommendation of mercy?

In answer to your question, please be advised that there are two forms of verdict in the magistrate's court—guilty and not guilty. The returning of a 'mercy' verdict should not be allowed and would be of no concern in a magistrate's trial. I call your attention to the executive order of the Governor dated March 11, 1971 and signed by the Honorable John C. West, Governor of the State of South Carolina. Provision 4 of this order specifically prohibits magistrates from suspending fines. Provision 5 of the same order requires that on a finding of guilty by the court, the magistrate is required to adhere to the minimum statutory requirements with regard to sentencing. Further it should be noted that special verdicts as discussed in the South Carolina Code of Laws relates only to civil cases except where there has been an indictment by the Grand Jury, and in the latter case such verdicts are specifically discussed in the Code of Laws (*See* 1962 Code of Laws of South Carolina, as amended, §§ 16.52, 16.57, 16.72, 16.91, 16.331 and 16.337). It should be noted that the crimes discussed in the above cited section are all felonies and therefore outside the jurisdiction of the magistrate's court.

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