

1973 WL 26726 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 3, 1973

***1 Re: No. 182—Magistrates**

Honorable Walter T. Lake
Newherry, South Carolina

Dear Mr. Lake:

You have requested that we advise you as to the validity of a proposed statute which would allow a defendant in a Recorder's Court of Magistrate's Court within the County of Newherry to have the venue of the action changed one time upon the motion of the defendant from any such court to any other Magistrate's court within the county to be selected by the defendant and which would allow any magistrate in Newherry County to set bond for any defendant arrested by any other magistrate or recorder in Newherry County.

In our opinion the proposal would clearly violate Article 3, Section 34 of the State Constitution which prohibits the General Assembly from enacting either local or special laws where a general law can be made applicable. Moreover, there is no constitutional provision, of which we are aware, that would allow a Magistrate Court to entertain cases solely within the jurisdiction of a Recorder's Court.

It seems to us that where there is a problem with a magistrate or recorder not allowing a defendant in a criminal case to be arraigned at the first reasonable opportunity as the law requires, such magistrate or recorder is leaving himself open to a charge of official misconduct.

With kindest personal regards,
Sincerely,

C. Tolbert Goolsby, Jr.
Deputy Attorney General

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