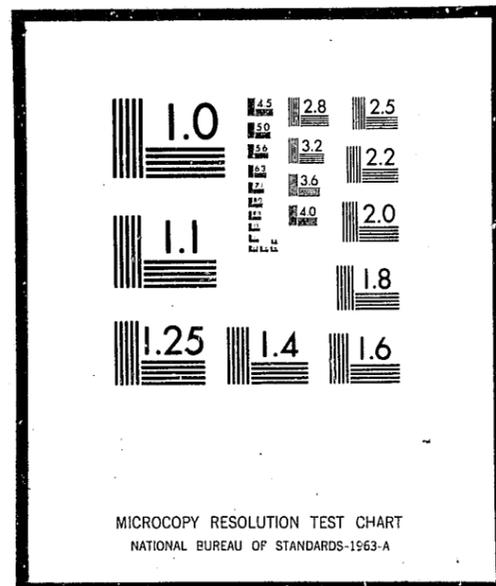


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U.S. DEPARTMENT OF JUSTICE
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SOUTH CAROLINA LAW ENFORCEMENT ETV TRAINING PROGRAM

DUTIES and RESPONSIBILITIES of MAGISTRATES (Procedure in a Magistrate's Court)

PART IV STUDY WORKBOOK

Prepared by SOUTH CAROLINA LAW ENFORCEMENT DIVISION • in cooperation with SOUTH CAROLINA EDUCATIONAL TELEVISION NETWORK

SOUTH CAROLINA LAW ENFORCEMENT-^{Educational Television} TRAINING PROGRAM

FROM CRIME TO COURT

Duties and Responsibilities of Magistrates, Part 4

(Procedure in a Magistrate's Court), Study Workbook

Part IV

Study Workbook

LAW ENFORCEMENT - E.T.V. TRAINING PROGRAM

Duties and Responsibilities of Magistrates
(Procedure in a Magistrate's Court)

Part IV

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Sponsored by

South Carolina Law Enforcement Division
in cooperation with
South Carolina Educational Television Network

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South Carolina Governor, Robert E. McNair
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Program Objectives

The material contained herein relates to its accompanying TV presentation. It enlarges upon the general topic of Basic Criminal Law and deals with "Procedure in the Magistrate's Court."

LAW ENFORCEMENT - ETV TRAINING PROGRAM

Review and Study Workbook

INSTRUCTIONS: This review and study workbook is designed to be of use both during the group discussion period, which follows a television program, and by you at home on your own.

It should serve as (1) an effective aid to the Group Discussion Leader and to you for engaging in group discussions after you have viewed a TV program; also, it should serve as (2) a means for you to privately check and see how well you learned the points covered in the TV lesson; and (3) as an opportunity for you to review the material on your own, at home, to be sure that you have gotten all out of the TV program and the group discussion that you want to.

Here is how the Study Workbook is to be used.

FOR THE GROUP DISCUSSION PERIOD

For the group discussion period which follows the television program, the discussion leader will provide you with the general and specific instructions. Just be sure that you write the answers he provides you in the space between the dashed lines and not in the blank spaces of the body of the items themselves. You will see what is meant when you get into the workbook proper.

FOR HOME REVIEW AND STUDY

Use the Workbook for review and study on your own as follows:

Before you get to the first item, cover the printed text of the workbook with a blank sheet of paper. Slide the blank paper down until you come to a triple star or asterick (**). Continue reading the printed material, above the stars, until you come to a numbered blank.

Fill in the blank with the word, words, or sentences which is/are missing to make sense out of the sentence so that it will then read correctly.

After you have filled in all of the blanks which

are contained in an item, slide the loose sheet of paper down from its position, even with the stars, until it is just far enough to reveal the numbered correct answer or answers. These will be the answers which you have already filled in during the group discussion period. The numbers on these answers will correspond to the numbered blank or blanks which you will have just completed in the body of the item at home.

Next, slide the blank paper down past the printed material of the next item until you come to another set of three stars. Stop the blank paper so as not to reveal the answers. Answer the item by filling in the blanks. Proceed throughout the Workbook as just described.

By using this method at home, you can both (1) check to see how well you have learned the content of the associated television program; and you can (2) find out immediately, item by item, whether the answer you have just given is correct.

Even after the workbook has been filled in, both in the blanks contained in the body of the items and between the dashed lines, it provides an excellent means for review.

An EXAMPLE of how to use this "Study Workbook" at home is as follows:

Of the various courts within the judicial system of this State, none is more important than the (1) _____ Court, because it processes the greatest number of criminal cases.

*** Note: Throughout the Workbook, the three stars indicate that you should not slide your blank paper farther down until you have given your answer or answers by filling in all the blanks in the item -- after you have written your answer[s], slide the blank paper on down to reveal the answer[s].

Answer: (1) Magistrate's

Note: Although the answer is printed in on this page of example, ordinarily this page would not contain the answer until you write it in during the group discussion period. In some cases there may be other words which mean the same thing as those given you as the answer. When this is true, the important fact is whether you have given an answer which does not differ significantly in meaning from the one given as the "correct" answer.

If there are any further questions about how to use the Study Workbook, either during the group discussion period or at home, do not hesitate to ask your group discussion leader for additional instructions.

Now to proceed with your review:

A magistrate's court acquires jurisdiction of a case upon the filing of the (2) _____.

Answer: (2) _____

The information may take the form of an (3) _____, a properly issued (4) _____, or a properly issued (5) _____.

Answer: (3) _____
(4) _____
(5) _____

Where a defendant in a criminal case has been properly notified as to the time, date, and place of trial and he does

not appear, the first thing that the magistrate should do is to call or have his constable to call the defendant's name (6) _____ times from the door of the court room.

Answer: (6) _____

After allowing a reasonable short time, i.e., a few minutes or so, to pass, the magistrate should proceed with the case.

Many of South Carolina's lower court judges simply go no further with the case and declare that the defendant's bond or cash bail is (7) _____ because of his failure to appear.

Answer: (7) _____

Most magistrates, however, go further and try the offender (8) _____.

Answer: (8) _____

A trial in absentia is really no different as a practical matter as a trial that is conducted where the defendant is present. To try an individual in his absence, the arresting officer is placed under oath and allowed to present his evidence. If there are other witnesses, they, too, are permitted to testify. Additionally, the constable or other person who was designated to call the defendant's name three times is summoned to the stand to testify to that fact and that there was no response. In those cases where the magistrate himself called the defendant's name, the magistrate simply lets the record reflect that the defendant's name was called and he did not respond.

As soon as the evidence is complete, the magistrate makes his findings. The offender is either adjudged guilty or not guilty. In the event the magistrate finds the offender not guilty, he proceeds no further. Where the accused is found guilty, the sentence is imposed. The practice in South Carolina is to apply the forfeited bond or cash bail to the sentence; however, a magistrate is not required to do this.

The forfeiture of bail procedure ends/does not end (9) _____ a case forever.

Answer: (9) _____

A trial in absentia completely ends/does not end (10) _____ a case forever.

Answer: (10) _____

Where there has been a forfeiture of bail and nothing more, the offender is entitled to and may demand a trial at a later date.

In those instances where the offender is present, he should be called forward and the (11) _____ read to him so that he may be informed as to the nature of the charges against him.

Answer: (11) _____

After the accused has been so informed, the magistrate should endeavor to determine whether the defendant has an (12)

Answer: (12) _____

As of this date, there is/is not (13) _____ a South Carolina or a United States Supreme Court decision requiring the appointment of attorneys for indigents in the magistrate courts of this State.

Answer: (13) _____

It is/is not (14) _____ necessary that the State be represented by an attorney.

Answer: (14) _____

Highway patrolmen and other officers may/may not (15) _____ prosecute their own cases.

Answer: (15) _____

A defendant in a criminal case will have one of three pleas. They are: (16) _____, (17) _____, or (18) _____.

Answers: (16) _____

(17) _____

(18) _____

In the event the accused pleads guilty, the magistrate first of all should satisfy himself that the accused understands the nature of the charges against him.

Next, the magistrate should make sure that the defendant understands the (19) _____ which could be imposed.

Answer: (19) _____

Thirdly, the magistrate should inform the accused that he has a (20) _____

Answer: (20) _____

Finally, the magistrate should satisfy himself that the person entering the guilty plea feels that he is actually (21) _____ of the charge that has been preferred against him.

Answer: (21) _____

Once the preliminary questions are asked, the magistrate should permit the arresting officer to relate the facts concerning the arrest.

Following the officer, the magistrate should hear from the defendant or his lawyer, or both. As soon as everyone is heard from, the magistrate imposes his sentence.

The word "nolo contendere" means (22) _____

Answer: (22) _____

Such a plea is not an admission of guilt although it is treated as a (23) _____

Answer: (23) _____

Where a person pleads nolo contendere, a magistrate would proceed as he would in a guilty plea, except that there is no need for the magistrate to satisfy himself that the accused believes himself to be guilty.

Whenever a person pleads not guilty, he should be immediately informed that he has a right to a trial by jury.

Of course, if he does not demand a jury trial, he
(24) _____ it.

Answer: (24) _____

The State does not have/has (25) _____
a right to demand a jury trial should it desire to have one.

Answer: (25) _____

Section 43-116 of the South Carolina Code of Laws sets
forth how jurors are to be selected; however, there are local
exceptions.

That section prescribes that the sheriff, constable,
or other officer appointed by the magistrate shall write the
names of (26) _____ respectable voters of the
vicinity upon (27) _____ ballots, fold the bal-
lots and give them to the magistrate.

Answer: (26) _____

(27) _____

Although the term "respectable voters of the vicinity"
has not been judicially defined, it at least means that the
jurors must be (28) _____.

Answer: (28) _____

Prospective jurors must come from the (29) _____.

Answer: (29) _____

When the constable or other officer has prepared the
ballots, they are placed in a (30) _____ which
the magistrate is to shake.

Answer: (30) _____

At the direction of the magistrate, the officer who

prepared the ballots pulls one from the box and reads the name aloud to the parties.

Each party, the patrolman, for example, or the defendant, may challenge the juror without assigning/if he assigns (31) _____ a reason therefor.

Answer: (31) _____

Both sides have a right to reject (32) _____ jurors without giving any reason whatever.

Answer: (32) _____

Neither party is allowed more than six preemptory challenges, making a total of twelve. In the event the first twelve names are preemptorily challenged. the six names in the box will represent the jury.

Should one of the jurors drawn by unavailable or disqualified by law to serve, the vacancy can be/cannot be (33) _____

filled by agreement of the parties.

Answer: (33) _____

Should the parties be unable to agree as to the filling of the vacancy, the constable or other officer should prepare in the same manner that the original eighteen names were prepared a number of ballots (34) _____ times the number deficient.

Answer: (34) _____

For example, where there is one juror short, the officer would select (35) _____ names; and each party would get (36) _____ additional strike[s].

Answers: (35) _____

(36) _____

In South Carolina, either party to a criminal action may move the court to place jurors on their (37) _____

Answer: (37) _____

Voir dire means (38) _____
_____ and denotes a preliminary examination which the
court makes of one presented as a juror.

Answer: (38) _____

Whenever a motion of this nature is made, the magis-
trate must/need not (39) _____ grant that
motion.

Answer: (39) _____

A magistrate must make a reasonable inquiry of the
jurors to determine whether (40) _____ or
(41) _____ exists.

Answers: (40) _____

(41) _____

It is also discretionary with the magistrate as to
whether he or the attorneys examine the jurors. Should a juror
be either biased or prejudiced, he may be challenged for cause
and not permitted to serve on the jury.

After the parties have selected the jury, the jury
should be sworn and seated and the information either read to
them or a brief statement concerning the nature of the charges
given by the magistrate.

Following a brief instruction to the jury concerning
the nature of the case which they are about to hear, the parties
offer their evidence.

During the trial of a case, the magistrate is required/
is not required (42) _____ to have a steno-
grapher present to take the testimony.

Answer: (42) _____

A magistrate should, before proceeding to hear the
evidence, and where there is no stenographer present, inquire
of the defendant whether he will waive the taking and signing
of the testimony or any part thereof.

If the defendant does not waive such, the testimony
must be taken down in writing by the (43) _____
and signed by the (44) _____.

Answers: (43) _____
 (44) _____

While a witness is testifying, the magistrate should write a (45) _____ of the relevant facts.

Answer: (45) _____

At some point either during or after the trial, preferably right after the witness has testified, the summary should be read to the witness and he be asked to sign it. Where a stenographer is present, however, the testimony does not have to be read over by the witness and signed by him.

At the conclusion of the State's case, the defendant is entitled to make a motion for a (46) _____ of not guilty.

Answer: (46) _____

The test to be employed in considering whether the

motion is to be granted or not is not whether the State has proved the accused's guilt beyond a (47) _____, rather, the test is the sufficiency of the evidence and not its (48) _____.

Answers: (47) _____
 (48) _____

Where there is any evidence from which the jury may justifiably find the existence or non-existence of the material facts in issue or if the evidence is of such character that different conclusions as to such facts may be reasonably drawn therefrom, the issues should be submitted to the jury.

In considering a motion for a directed verdict, a magistrate must view the evidence in the light most favorable to the State/defendant (49) _____.

Answer: (49) _____

Upon the conclusion of the State's case, the defendant is entitled to put forward his evidence. He can be/cannot be (50) _____ compelled to testify.

Answer: (50) _____

The fact that a defendant does not testify can be/cannot
be (51) _____ held against him.

Answer: (51) _____

At the end of the defendant's case, the State should
be given an opportunity to offer (52) _____
testimony or evidence if it desires to do so.

Answer: (52) _____

When all of the evidence is in, the defendant may
make another motion for a directed verdict. Whether or not this
motion is granted will be determined in the same manner as the
motion for a directed verdict following the State's evidence.

A defendant can/cannot (53) _____ be con-
victed in a magistrate's court of any offense which is not
charged in the arrest warrant or summons.

Answer: (53) _____

For example, if the defendant had been charged with
drunk driving and the evidence discloses that he was guilty only
of reckless driving, a verdict of not guilty should be directed.

After the evidence is in and motions made, the parties
are entitled to argue to the jury.

The State will (54) _____ and (55)
_____ where the defendant has introduced evi-
dence; however, the (56) _____ argument may be
waived.

Answers: (54) _____
(55) _____
(56) _____

Where the defendant has not introduced any evidence,
he does not have/has (57) _____ a right to open and
close.

Answer: (57) _____

In their argument to the jury, the parties should confine themselves to the evidence and the inferences which can reasonably be drawn therefrom.

Following the arguments to the jury, it becomes the duty of the magistrate to instruct them as to the law/facts/ law and facts (58) _____ and as to the manner by which they are to reach their verdict.

Answer: (58) _____

There are six parts contained within a magistrate's charge to a jury, and they are as follows: (59) _____, (60) _____, (61) _____, (62) _____, (63) _____, and (64) _____.

Answers: (59) _____
(60) _____
(61) _____
(62) _____
(63) _____
(64) _____

The first part of the charge should disclose the nature of the offense which the defendant has been alleged to have committed. Secondly, the jury should be instructed as to the presumption of innocence. Thirdly, they should be told that the State has the burden of proof and must prove the defendant guilty beyond a reasonable doubt. Fourth, the jury should have the particular statute involved read to them and explained. Additionally, the magistrate may read to the jury any special instructions prepared by the attorneys. Finally, the jury should be instructed as to the form of the verdict and that they must agree unanimously. The verdict, of course, may be either guilty or not guilty. [See Appendix for example of jury charge.]

In the event the jury finds the defendant guilty, it becomes the duty of the magistrate to sentence him.

In South Carolina, a magistrate has/does not have (65) _____ the authority to suspend a sentence.

Answer: (65) _____

He may impose a fine or require confinement. A magistrate may impose/cannot impose (66) _____ both a fine and imprisonment.

Answer: (66) _____

A magistrate may impose a fine only, or he may imprison the defendant without allowing him to pay a fine in the alternative.

ANSWER KEY

- | | |
|---|---|
| (1) magistrate's | (23) guilty plea |
| (2) information | (24) waives |
| (3) arrest warrant | (25) has |
| (4) Highway patrol summons | (26) eighteen |
| (5) Wildlife officer's summons | (27) eighteen |
| (6) three | (28) registered electors
(persons entitled to
vote) |
| (7) forfeited | (29) vicinity |
| (8) in absentia (or in his
absence) | (30) box |
| (9) does not end | (31) without assigning |
| (10) completely ends | (32) six |
| (11) information (or warrant
or summons) | (33) can be |
| (12) attorney | (34) three |
| (13) is not | (35) three |
| (14) is not | (36) one |
| (15) may | (37) voir dire |
| (16) guilty | (38) to speak the truth |
| (17) nolo contendere | (39) must |
| (18) not guilty | (40) bias |
| (19) sentence | (41) prejudice |
| (20) right to a trial by
jury | (42) is not required |
| (21) guilty | (43) magistrate |
| (22) no contest | (44) witness |

OFFENSE

The defendant is charged by the State of South Carolina, under this warrant (summons) with having violated Section _____ of the South Carolina Code of Laws (with having committed the offense of _____.)

PRESUMPTION OF INNOCENCE

I charge you that it is an important rule of the law of evidence that every defendant in a criminal trial is always presumed to be innocent of the crime with which he is charged until his guilt has been proved beyond a reasonable doubt. This presumption of innocence accompanies the accused throughout the trial and until the jury has reached a verdict of guilty based upon the testimony.

BURDEN OF PROOF

The burden is upon the State to establish by evidence to your satisfaction beyond every reasonable doubt the guilt of the accused. A reasonable doubt, however, is not a fanciful, imaginary, or whimsical doubt; but it is a doubt for which you can give some reason.

STATUTE

As you were told a moment ago, the defendant is charged

with having violated Section _____ of the South Carolina Code of Laws (having committed the offense of _____). That Section reads as follows:

(Read Statute)

(That offense is defined as follows:)

(Define the Offense)

EXPLANATION OF STATUTE (OFFENSE)

(At this point, explain to the jury either the meaning of the statute or the offense which is involved.)

FORM OF VERDICT

Your verdict in this case will be one of two forms. If, from the evidence and the law, you find that the defendant is not guilty, you will simply write "not guilty" on the back of the warrant (summons) and sign your name as foreman. If, from the evidence and the law, you find that the defendant is guilty, then you will write on the back of the warrant (summons) the word "guilty" and sign your name as foreman. Whatever your verdict, it must be unanimous; that is, all six of you must agree.

Whenever you have reached your verdict, please knock on the door and you will be brought back into the Courtroom.

END