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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Municipalities – Parking Violations
– District Courts – Fines – Warrants
– Jefferson County

Attorney General's Opinion No. 2007-103, regarding the remedies available to the municipal court for the failure to appear or pay the fine on a parking ticket, applies equally to the district court in municipalities without municipal courts, except that, if the defendant is found in contempt by the district judge, the defendant may be fined \$100 and placed in jail for up to five days.

Dear Mr. Black:

This opinion of the Attorney General is issued in response to your request on behalf of the City of Pinson.

QUESTION

Are the remedies stated in A.G. Opinion No. 2007-103 regarding enforcement of parking tickets in municipalities that retain municipal courts also available in cities that do not retain municipal courts for the enforcement of its parking ordinance violations in the district court?

FACTS AND ANALYSIS

In an opinion to Honorable Robert W. Ennis, this Office addressed the remedies available for the failure to appear or pay the fine on a parking ticket in municipalities with municipal courts. Opinion to Honorable Robert W. Ennis, Attorney, City of Tuscaloosa, dated June 6, 2007, A.G. No. 2007-103. You question whether that opinion applies to municipalities without municipal courts whose municipal ordinance violations are brought in district court.

The *Ennis* opinion construed Rule 19(B) of the Alabama Rules of Judicial Administration. Rule 19(B) provides for the administrative disposition of parking tickets as follows:

(B) *Municipal Parking Offenses.* The [Uniform Traffic Ticket and Complaint] shall not be used to charge municipal parking offenses. Municipal parking offenses shall be processed administratively by each municipality. The governing body of a municipality shall have the power to establish a fine and cost schedule for the summary disposition of all municipal parking offenses. *In municipalities retaining municipal courts*, municipal court magistrates shall administratively process all municipal parking offenses wherein a dispute arises. *In all other municipalities, the governing body of the municipality may designate city clerks or appoint administrative hearing officers*, who shall be neutral and detached from law enforcement, to accept payment for parking tickets and to determine parking offense disputes. Within 14 days from any administrative decision of a contested case, a defendant may appeal such decision to the appropriate circuit court for a trial de novo in accordance with the provisions of Ala. Code 1975, Sections 12-11-30 and 12-14-70.

ALA. R. JUD. ADMIN. 19(B) (emphasis added).

Despite the requirement of Rule 19(B) that, in municipalities with municipal courts, municipal court magistrates dispose of parking tickets administratively, the *Ennis* opinion concluded that there are remedies

available to the municipal court for the failure to appear or pay the fine on a parking ticket. That opinion opined as follows:

If a defendant fails to appear on a parking ticket, a municipal judge may issue a supplemental summons advising that the defendant will be subject to arrest for contempt for again failing to appear. If the defendant fails to appear on the supplemental summons, the municipal judge may issue a warrant for the arrest of the defendant, and, if found in contempt, the defendant may be fined \$50 and placed in jail for up to five days.

If the defendant appears and a fine is imposed at the hearing, but the defendant fails to pay the fine, a municipal judge may issue a warrant for the arrest of the defendant under Rule 26.11 of the Alabama Rules of Criminal Procedure. The municipal judge may reduce the fine to an amount the defendant is able to pay; order the defendant's employer to withhold payments from wages to pay fines; or, subject to the limitations of Rule 26.11(i), place the defendant in jail until the fine is paid or no longer than one day for each \$15 of the fine.

As an alternative to Rule 26.11, a municipal judge may issue a warrant for the arrest of the defendant for contempt, and, if found in contempt, the defendant may be fined \$50 and placed in jail for up to five days.

Ennis at 6-7.

This conclusion was based on the general authority of the municipal court under the Alabama Rules of Criminal Procedure and its statutory contempt power. The *Ennis* opinion specifically reasoned as follows:

Municipal parking offenses, as municipal ordinance violations, remain under the jurisdiction of the municipal court. . . .

Furthermore, this Office has stated that a person who fails to appear on a traffic citation may be arrested and jailed for contempt under section 12-14-31(a) of the Code of Alabama. Opinions to Honorable William Dennis Schilling, Municipal Judge, Pleasant Grove Municipal Court, dated June 26, 2000, A.G. No. 2000-179; and to Mr. R. C. Cheatham, City Manager, City of Anniston, dated April 16, 1980, A.G. No. 80-00340. Section 12-14-31(a) provides that a municipal judge may fine a person found in contempt \$50 and imprison the person up to five days. ALA. CODE § 12-14-31(a) (2006).

Id. at 4-5.

This same analysis applies to municipalities without municipal courts. For those municipalities as well, municipal parking offenses are municipal ordinance violations. The only difference is the court with jurisdiction over such offenses. Section 143 of article VI of the Re-compiled Constitution of Alabama provides that “[t]he district court shall have jurisdiction of all cases arising under ordinances of municipalities in which there is no municipal court.” ALA. CONST. art. VI, § 143 (amend. 328). As this Office has explained, the municipal court has exclusive original jurisdiction of violations of municipal ordinances unless there is no municipal court, in which case the district court has jurisdiction. Opinion to Honorable Bruce Hart, Mayor, Town of Falkville, dated December 17, 1996, A.G. No. 97-00051.

Contempt power for the district court varies from contempt power for the municipal court only in that the district judge may fine a person found in contempt \$100. ALA. CODE § 12-11-30(5) (2006); ALA. CODE § 12-12-6 (2006); *see* opinion to Honorable Tom Woodard, Judge of the District Court of Pickens County, dated December 1, 1995, A.G. No. 96-00053. Accordingly, despite the requirement of Rule 19(B) that, in municipalities without municipal courts, the city clerk or other hearing officer appointed by the city council dispose of parking tickets administratively, the remedies available to the municipal court for the failure to appear or pay the fine on a parking ticket are also available to the district court, with the exception noted for the amount of the fine.

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CONCLUSION

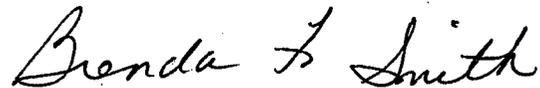
Attorney General's Opinion No. 2007-103, regarding the remedies available to the municipal court for the failure to appear or pay the fine on a parking ticket, applies equally to the district court in municipalities without municipal courts, except that, if the defendant is found in contempt by the district judge, the defendant may be fined \$100 and placed in jail for up to five days.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

TROY KING
Attorney General

By:



BRENDA F. SMITH
Chief, Opinions Division

TK/GWB

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