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OPINION 03-50

57 - Justices of the Peace
15 - Courts
R.S. 14:134

Mr. A. J. Montalbano
Justice of the Peace
61261 Anchorage Drive
Lacombe, LA 70445

A constable who does not perform his duties at the direction of the Justice of the Peace can be reported to the District Attorney for possible malfeasance.

Dear Mr. Montalbano:

This office is in receipt of your request for an opinion of the Attorney General in regard to the recourse of a Justice of the Peace to see that the constable performs his duties. You indicate the constable refuses to attend court, and has refused to issue a citation after a complaint was filed by a complainant after witnessing a violation and agreeing to appear.

This office has stated that constables are not classified under the judicial system but are peace officers, Atty. Gen. Ops. 02-240, 96-230, 84-830, 84-399. In Atty. Gen. Op. 96-230, while finding that a constable is considered a peace officer with all the powers of arrest, this office further stated that a constable is employed under the jurisdiction of the court of the Justice of the Peace to execute all orders, citations, writs, summons and seizures issued by the justice of the peace of his district. Therein this office stated as follows:

Therefore, should the constable refuse to act after a direct order by the justice of the peace, the justice of the peace may appoint a special deputy constable to carry out those duties. Moreover, he may report the constable to the District Attorney's office for possible prosecution under malfeasance pursuant to LSA-R.S. 14:134.

We hope the observations of this earlier opinion sufficiently answers your inquiry.

Very truly yours,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

By: Barbara B. Rutledge
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