



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

November 3, 2023

Robert G. Moore, Jr., Esq.  
Attorney, Alcorn County  
Post Office Box 1990  
Corinth, Mississippi 38835

Re: Commencement of Criminal Proceedings

Dear Mr. Moore:

The Office of the Attorney General has received your request for an official opinion.

### **Question Presented**

Is a general affidavit accompanying a misdemeanor ticket necessary to commence a criminal proceeding, or will a ticket/citation suffice to commence a criminal proceeding?

### **Brief Response**

A ticket that has been sworn prior to filing will suffice to commence a criminal proceeding.

### **Applicable Law and Discussion**

Mississippi Code Annotated Section 99-1-7, which provides the general requirements for the commencement of a prosecution, states: “A prosecution may be commenced, within the meaning of Section 99-1-5 by the issuance of a warrant, or by binding over or recognizing the offender to compel his appearance to answer the offense, as well as by indictment or affidavit.”

Section 21-23-7(1), which provides for the operation of municipal courts generally, states, in pertinent part: “Except as otherwise provided by law, criminal proceedings shall be brought by sworn complaint filed in the municipal court.” The Mississippi Supreme Court has stated that a traffic ticket that contains the requirements cited in Section 63-9-21, the Uniform Traffic Ticket Law, constitutes a “sworn affidavit” as referred to in Section 21-23-7(1). *Wheeler v. Stewart*, 798 So. 2d 386, 390 (Miss. 2001). This office has previously opined that a ticket is an affidavit having been sworn prior to filing. MS AG Op., *Hogsett* at \*1 (Feb. 29, 2008). Therefore, in response to

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your question, a ticket that has been sworn prior to filing will suffice to commence a criminal proceeding.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Gregory Alston*

Gregory Alston  
Special Assistant Attorney General

OFFICIAL OPINION