



ALAN WILSON
ATTORNEY GENERAL

April 12, 2012

The Honorable Lloyd B. Ward
Coroner, Barnwell County
P.O. Box 1092
Barnwell, SC 29812-1092

Dear Coroner Ward:

We received your letter requesting an opinion of this office regarding the authority of a deputy coroner to carry a firearm.

Law/Analysis

Pursuant to S.C. Code Ann. §17-5-110:

[a] coroner or deputy coroner, while engaged in official duties of his office, is authorized to carry a pistol or other handgun. He is considered so engaged when going to or returning from the actual performance of his duties. However, coroners and deputy coroners must be certified and trained by the South Carolina Law Enforcement Division in the proper use of handguns.

Consistent with this provision, we have previously advised that coroners are authorized, "while engaged in official duties of his office," to carry a handgun or a pistol. See Ops. S.C. Atty. Gen., March 27, 2006; June 27, 1991. In addition, pursuant to §17-5-110, a deputy coroner (or coroner) "is considered so engaged [in official duties of his office] when going to and returning from the actual performance of his duties." [Emphasis added]. Under these circumstances, a deputy coroner may lawfully carry a handgun or pistol. We note the authority to carry a weapon is contingent upon the deputy coroner receiving training and certification from the South Carolina Law Enforcement Division in the proper use of handguns.

Generally, the authority of the deputy coroner is defined by the territorial limits of the county. Ops. S.C. Atty. Gen., February 22, 1972; July 15, 1969; see also §17-7-10 ["the coroner of the county is which the body is found dead" ascertains the cause of death]; Ops. S.C. Atty. Gen., March 22, 2006 [the coroner of the county where a body is found has jurisdiction to hold the inquest]; June 27, 1968 [same]. We note that §17-7-10 allows the coroner of the county where the injury occurs, rather than the county where the body is found, to have jurisdiction only in circumstances when an injured body is taken to another county for medical purposes. Based on the foregoing, the deputy coroner who is otherwise outside his territorial jurisdiction, and not engaged in "official duties of his office" or going to and

returning from the actual performance of his duties, is not authorized to carry a pistol or handgun pursuant to §17-5-110.

However, whether or not a particular situation with a deputy coroner complies with §17-5-110 involves numerous questions of fact which are beyond the scope of an opinion of this office to resolve. Only a court could make such a determination and not this office. See Ops. S.C. Atty. Gen., May 25, 2010; March 10, 2004.

We note that pursuant to 2010 S.C. Acts No. 222, §2 (the "Act"), §17-5-115(A) provides that a deputy coroner may, at the discretion of the coroner, attend the South Carolina Criminal Justice Academy to be trained and certified as a Class III officer. In addition, subsection (B) states that a law enforcement officer, as defined by §23-23-10(E)(1),¹ who is certified by the South Carolina Law Enforcement Training Council and appointed by the coroner to serve as deputy coroner, may, at the discretion of the coroner, retain law enforcement status as a Class III officer.² However, subsection (C) expressly limits the authority of deputy coroners, providing that:

[a deputy coroner's] classification [as a Class III officer] is limited to the deputy coroner's official duties as provided by law and does not authorize the officer to enforce the state's criminal laws. [Emphasis added].

These provisions do not affect our consideration of §17-5-110 as it pertains to deputy coroners. The deputy coroner must be engaged in his "official duties" as provided by State law to lawfully carry a firearm, regardless of his law enforcement status as a Class III officer under the Act.

We advise that when a deputy coroner falls outside the scope of §17-5-110 or §17-5-115, respectively, then §§16-23-10 *et seq.* would regulate the legality of carrying a pistol or handgun. Specifically, §16-23-20 provides that "[i]t is unlawful for anyone to carry about the person any pistol,

¹Section 23-23-10(E)(1) provides that "law enforcement officer" means "an appointed officer or employee hired by and regularly on the payroll of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State and who possesses, with respect to those laws, the power to effect arrests for offenses committed or alleged to have been committed."

²S.C. Code Ann. Regs. 38-007 distinguishes between Class 1 ("law enforcement officers with full powers"), Class 2 ("jailers, correctional officers and juvenile correctional officers") and Class 3 certifications. As to Class 3 certifications, subsection (C) of such provision states that:

[c]andidates for basic certification as law enforcement officers with limited powers of arrest or special duties shall successfully complete a training program as approved by the [Department of Public Safety] and will be certified as Class 3-SLE. [Emphasis added].

whether concealed or not,” unless one of twelve listed exceptions is present.³ If a person is carrying a pistol in South Carolina and one of the twelve exceptions do not apply, then that person may be criminally charged with a violation of §16-23-20.

One of the notable exceptions is for regular, salaried “law enforcement officers.” See §16-23-20(1). As previously noted, the Act provides that a deputy coroner may, at the discretion of the coroner, retain law enforcement status as a Class III officer. Over the years, we have interpreted the §16-23-20 exception as it pertains to various circumstances. See, e.g., Ops. S.C. Atty. Gen., June 6, 2007 [off-duty police officers and reserve police officers]; January 16, 2007 [Governor’s constables]; April 24, 1997 [Code Enforcement Officers]. However, we note that §16-23-60 specifically states the “[p]rovisions of this article [involving the possession of handguns] must not be construed to grant any additional police powers not authorized by law. . . .”

In interpreting §17-5-115, as with any statute, the primary purpose is to ascertain the intent of the Legislature. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). A statute as a whole must receive a practical, reasonable and fair interpretation consonant with the purpose, design and policy of the lawmakers. Caughman v. Columbia Y.M.C.A., 212 S.C. 337, 47 S.E.2d 788 (1948). In construing a statute, a court cannot read into the statute something not within the manifest intention of the Legislature as gathered from the statute itself. Laird v. Nationwide Ins. Co., 243 S.C. 388, 134 S.E.2d 206 (1964). The words used must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute’s operation. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991).

Pursuant to §17-5-115(C), a deputy coroner is not authorized to enforce the criminal laws of this State. Most importantly, the Legislature expressly limited the authority of a deputy coroner by conditioning his authority as a Class III officer to the performance of his “official duties” as deputy coroner as provided by State law. See, e.g., §§17-5-10 *et seq.* This provision, which is consistent with the limited authority of a deputy coroner to carry a pistol or handgun pursuant to §17-5-110, is equally specific in its limitation of the law enforcement authority of a deputy coroner. Accordingly, a deputy coroner who is also a Class 3 officer, but not performing his “official duties” as deputy coroner, may not avail himself of the general exception provided in §16-23-20(1). See Ops. S.C. Atty. Gen., February 1, 2006 [“ . . . where a specific statute and a general statute concerning the same subject matter are inconsistent with one another, the specific statute will usually control”]; October 13, 2005 [“...with respect to a conflict arising between a statute dealing generally with a subject, and another dealing

³Among the exceptions provided in §16-23-20 are those licensed hunters or fisherman while engaged in hunting or fishing or going to or from their places of hunting or fishing, and any prison guard engaged in his official duties. Subsection (9) also provides for a limited exception for carrying a pistol in an automobile, providing that [a]ny person in a vehicle where the pistol is secured in a closed compartment, closed console, or closed trunk . . . is exempt from the pistol law prohibitions. In addition, subsection (12) exempts any person who is granted a permit under provision of law by the South Carolina Law Enforcement Division to carry a pistol about his person (defined for purposes of this exemption as the concealed weapons permit authorized pursuant to §23-31-210 *et seq.*).

specifically with a certain phase of it, the specific legislation controls in a proper case”]; see also Op. S.C. Atty. Gen., February 16, 2007 [advising that the more specific §16-23-420, which authorized the possession of firearms in a school setting with the express permission of the relevant authorities, permitted a technical college to offer a course in gunsmithing, as opposed to §16-23-20 that prohibited the carrying of handguns generally].

In addition to §16-23-20, other laws regulating the possession of a pistol may or may not be pertinent in this situation. See, e.g., §§16-23-420 [carrying a firearm in publicly owned buildings or on university property]; -430 [carrying weapons on elementary or secondary school property]; -465 [carrying a firearm onto the premises of an establishment that sells alcohol for consumption on the premises]; 10-11-320 [possession of firearms on capitol grounds].

We note that included in the §16-23-20 exceptions is the authorization for a concealed weapons permit pursuant to §23-31-210 *et seq.* However, there are certain areas, such as courthouses, churches, law enforcement facilities and other locations which are off-limits to the carrying of a concealable weapon, even with a valid concealed weapons permit. See §21-23-215(M); see also Op. S.C. Atty. Gen., April 2, 2012 [an elected official with a concealed weapons permit may not carry a concealable weapon during meetings of city council]; but see Op. S.C. Atty. Gen., January 16, 2007 [a county council member, who was also a constable appointed by the Governor, could carry a handgun anywhere in this State, including county council meetings]. We have previously noted that Chapter 31 of Title 23 does not apply to those individuals carrying a weapon in a manner otherwise allowed by §16-23-20. See Ops. S.C. Atty. Gen., January 5, 2000, April 19, 1999. Significantly, we have advised that, pursuant to §23-31-215(M), the prohibitions against possession of firearms on the capitol grounds, school property, premises of establishments selling alcohol for consumption, public buildings, etc., remain preserved for individuals with concealed weapons permits. See Op. S.C. Atty. Gen., April 2, 2012.

Conclusion

Pursuant to §17-5-110, a deputy coroner is authorized, “while engaged in official duties of his office,” to carry a pistol or other handgun. A deputy coroner “is considered so engaged [in official duties of his office] when going to and returning from the actual performance of his duties.” The authority to carry a weapon is contingent upon the deputy coroner receiving training and certification from the South Carolina Law Enforcement Division in the proper use of handguns. However, because the authority of the deputy coroner is defined by the territorial limits of the county, the deputy coroner who is otherwise outside his territorial jurisdiction, and not engaged in “official duties of his office” or going to and returning from the actual performance of his duties, would generally not be authorized to carry a pistol or handgun pursuant to §17-5-110. We further note that, pursuant to §17-5-115, a deputy coroner may, at the discretion of the coroner, be trained and certified as a Class III officer. In addition, a law enforcement officer who is certified by the South Carolina Law Enforcement Training Council and appointed by the coroner to serve as deputy coroner, may, at the discretion of the coroner, retain law enforcement status as a Class III officer. However, §17-5-155(C) expressly limits the authority of a deputy coroner by conditioning his authority as a Class III officer to the performance of his “official duties” as deputy coroner. Thus, a deputy coroner must be engaged in his “official duties” as deputy coroner to lawfully carry a firearm, consistent with §17-5-110, regardless of his law enforcement status as a Class III officer.

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Of course, whether or not a particular situation complies with §§17-5-110 and -115, respectively, involves numerous questions of fact which must be determined by a court and not in an opinion this office.

When a deputy coroner falls outside the scope of §17-5-110 or §17-5-115, then the laws regulating the possession or carrying of a pistol or handgun may be pertinent. See, e.g., §§16-23-20 [unlawful carrying of handguns]; 16-23-420 [carrying a firearm in publicly owned buildings or on university property]; -430 [carrying weapons on elementary or secondary school property]; -465 [carrying a firearm onto the premises of an establishment that sells alcohol for consumption on the premises]; 10-11-320 [possession of firearms on capitol grounds]. Moreover, although §23-31-210 *et seq.* authorizes concealed weapons permits for individuals, there remain certain areas, such as courthouses, churches, law enforcement facilities and other locations which are off-limits to the carrying of a concealable weapon, even with a valid concealed weapons permit. In addition, the above prohibitions against possession of firearms remain preserved for individuals with concealed weapons permits

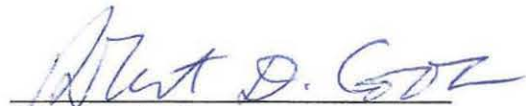
If you have any further questions, please advise.

Very truly yours,



N. Mark Rapoport
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General