



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

October 28, 2003

The Honorable Joyce McDonald
Clerk of Court, Kershaw County
Post Office Box 1557
Camden, South Carolina 29020

Dear Ms. McDonald:

In a letter to this office you indicated that a bondsman who has been convicted of a felony is seeking a pardon. If pardoned, you asked whether that bondsman could write bail bonds. You also indicated that the State Department of Insurance has not revoked that individual's bail bondsman license.

Bail bondsmen are licensed by the Department of Insurance pursuant to S.C. Code Ann. Section 38-53-90 (2002). Included in the qualifications of a bondsman is the requirement that the individual be "...a person of good moral character and has not been convicted of a felony or any crime involving moral turpitude within the last ten years..." As to the significance of a pardon, pursuant to S.C. Code Ann. Section 24-21-990 (Supp. 2002), "a pardon shall full restore all civil rights lost as a result of a conviction, which include the right to...(7) be licensed for any occupation requiring a license."

In State v. Baucom, 340 S.C. 339, 531 S.E.2d 922 (2000), the State Supreme Court dealt with the question as to whether a pardoned offense could be used to enhance a sentence for a subsequent offense. In holding that the pardoned conviction could not be used to enhance a subsequent sentence, the court ruled that the pardon statute provided a full pardon for all legal consequences of the crime and of the conviction. Therefore, according to the Court, a pardon relieves an offender of all the legal consequences of his crime and conviction, direct and collateral.

In Brunson v. Stewart, 345 S.C. 283, 547 S.E.2d 504 (Ct.App. 2001), the State Court of Appeals dealt with the question as to whether a pardoned offense could be used to deny an individual the authority to possess a pistol. S.C. Code Ann. Section 16-23-30 (2003) prohibits possession of a pistol by "(a)ny person who has been convicted of a crime of violence..." The Court of Appeals held that to deny a convicted individual the possession of a pistol pursuant to Section 16-23-20 "constituted an impermissible collateral legal consequence of his pardoned conviction for a violent crime, in contravention of the pardon statutes." 345 S.C. at 287.

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Consistent with the above, and noting the opinions in Baucom and Brunson, it seems unlikely that courts in this State would conclude that a pardoned offender could not serve as a bail bondsman, especially in light of the provisions of Section 24-21-990 which restores the right of a convicted individual to be licensed for any occupation requiring a license upon receiving a pardon. Moreover, inasmuch as you indicate that the Department of Insurance has not as yet revoked the individual's license as a bail bondsman, it appears that the individual may continue to write bonds in this State.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles H. Richardson".

Charles H. Richardson
Senior Assistant Attorney General