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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

August 3, 2000

Virginia Williamson, General Counsel
South Carolina Department of Social Services
P.O. Box 1520
Columbia, South Carolina 29202-1520

Re: Informal Opinion

Dear Ms. Williamson,

Thank you for your letter of June 6, 2000, requesting an opinion of this Office. You ask whether the Department of Social Services "should treat a pardon as precluding this agency from considering the acts that constituted the crime when making licensing and employment decisions."

As you are aware, this Office has consistently opined that although a pardon exempts the individual from any further punishment the law imposes for the crime committed, it does not deem the acts constituting the crime to be obliterated, nor does it wash away their moral stain. See Op. Atty. Gen. Apr. 23, 1996; Op. Atty. Gen. 88-8 (Jan. 25, 1988); Op. Atty. Gen. No. 80-68 (June 12, 1980). The Supreme Court of South Carolina recently addressed the issue of a pardon's effect on an enhanced sentencing statute for DUI convictions. See State v. Baucom, 2000 WL 576196, Slip. Op. 25118 (May 8, 2000). The Court ruled that Baucom's prior pardoned DUI conviction could not be considered in his sentencing for his present conviction because sentence enhancement is a "forbidden collateral legal consequence of a pardoned conviction." Id. However, this Office recently argued that Baucom should not be extended beyond the sentencing enhancement statute. See Brunson v. Stewart, No.98-CP-40-616 (March 13, 2000) *appeal filed* April 7, 2000 (concerning the possession of a firearm by a person with a prior pardoned conviction of a violent crime). Please be advised that Brunson is currently on appeal. Notwithstanding the decision of the lower court, until further ruling, this Office continues to construe the Court's holding in Baucom narrowly and advises that previous opinions of this Office on the effect of a pardon have not been superceded.

This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General not officially

Request Letter

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published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General