

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

August 24, 1992

The Honorable I. A. Smoak, III
Municipal Judge
Walterboro City Hall
Post Office Box 709
Walterboro, South Carolina 29488

Dear Judge Smoak:

In a letter to this Office you questioned whether S.C. Code § 16-17-725 makes it illegal to misrepresent one's identity to a law enforcement officer if the investigation involves one's own actions. You stated that it is your construction that only a witness who is not the accused and who has been given notice of the pendency of an investigation regarding the alleged commission of an offense by another may be charged under the provision. Such provision states:

It is unlawful for any person to knowingly make a false complaint, or after notice of a criminal investigation to give false information to any law enforcement officer concerning the alleged commission of any crime by another (emphasis added.)

Such offense is a misdemeanor punishable by a fine not to exceed two hundred (\$200.00) dollars or a term of imprisonment not to exceed thirty days.

I am unaware of any decisions by the State Supreme Court construing such provision. In construing statutes, the intention of the legislature is the paramount consideration. Also, where the terms of a statute are clear and

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unambiguous, there is no room for construction and the literal meaning must be applied. S.C. Dept. of Highways and Public Transportation v. Dickenson, 288 S.C. 134, 341 S.E.2d 134 (1986). Moreover, courts have held that statutes which are criminal or penal in nature must be strictly construed. Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 (1970).

Referencing such, I am in agreement with your construction that Section 16-17-725 appears to be inapplicable to a situation where an individual misrepresents his own identity to a law enforcement officer if the investigation involves that same individual. As stated above, pursuant to such provision the prohibited actions appear to deal only with the alleged commission of an offense "by another." This advice should not be construed as applying to any particular set of facts or circumstances. Also, any decision with regard to what criminal charges may be applicable or the decision of whether or not to proceed with a particular charge is within the discretion of the local prosecutor.

With kind regards, I am

Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions