

The State of South Carolina



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October 5, 1988

Chief R. T. Swett
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Dear Chief Swett:

Your letter of August 17, 1988, to Bob Cook has been referred to me for a response. The first question you asked is whether § 52-17-90, Code of Laws of S. C., 1976, prohibits a person convicted of criminal offenses in other states from conducting bingo games in South Carolina.

As you are aware, § 52-17-90, Code of Laws of S. C., provides as follows:

No person may have a financial interest in, be employed by, or in any way participate in the operation of any bingo game if such person has been convicted of any crime or offense defined and regulated under Title 16 of the 1976 Code of Laws of S. C.

According to the record of convictions you enclosed, I agree that all the convictions of the individual in question have occurred in North Carolina and Virginia. I am assuming there are no South Carolina convictions of record. The question then is whether convictions from other states are included in the prohibition of § 52-17-90, Code of Laws of S. C., that no person shall have an interest in, be employed by or participate in the operation of any bingo game if he has been convicted of any crime or offense defined and regulated under Title 16 of the 1976 Code of Laws of S. C.

I must first advise you that I am taking the record you

Chief R. T. Swett
Page Two
October 5, 1988

provided at face value. I am assuming that the record is accurate and that all convictions described thereon are valid and have not been vacated or reversed.

An examination of the record you provided shows that the individual has been convicted in Virginia of (1) drunk in public and (2) drunk and disorderly. In North Carolina the individual apparently has been convicted of illegal possession of a gambling device. There are other arrests and convictions listed on the rap sheet, but I am not considering those other offenses for purposes of this response to your question.

As you are aware, South Carolina defines the crime of public disorderly conduct at § 16-17-530, Code of Laws of S. C. Under South Carolina law, public disorderly conduct includes being grossly intoxicated (drunk) in public. It appears to me then that the crimes of drunk in public and drunk and disorderly as defined and regulated by Virginia law are substantially defined and regulated by § 16-17-530, Code of Laws of S. C.

Additionally, § 16-19-50, Code of Laws of S. C., makes it unlawful to keep or possess gaming tables or devices for the purpose of gaming in the State of South Carolina. Therefore, it appears to me that the crime of illegal possession of a gambling device as defined and regulated under North Carolina is substantially defined and regulated by § 16-19-50, Code of Laws of S. C.

It is my opinion that convictions for crimes in other states which are substantially defined and regulated under Title 16 of the Code of Laws of S. C. prohibit the person so convicted from participating in, operating, or being employed in the operation of bingo games in South Carolina. Furthermore, I am of the opinion that the crimes of public drunk and drunk and disorderly under Virginia law are substantially defined and regulated under § 16-17-530, Code of Laws of S. C., and the crime of possession of an illegal gambling device under North Carolina law is substantially defined and regulated by § 16-19-50, Code of Laws of S. C.

In reaching this conclusion, we are mindful that statutes which involve the public welfare, as here the restriction of gambling by persons convicted of certain criminal offenses, are to be given broad or liberal interpretation with a view towards accomplishment of the

Chief R. T. Swett
Page Three
October 5, 1988

beneficent objectives of the enactment. Sutherland Statutory Construction, § 71-01 (4th Ed.). It seems clear that the objective of the Legislature was to prohibit persons convicted of certain criminal offenses from operating or participating in the operation of bingo games in this State, and the prohibition should be no less applicable simply because the convictions occurred in another state.

You should also be aware, however, that the general policy that public welfare statutes are given broad or liberal interpretation probably will not be applicable in a criminal prosecution since criminal or penal statutes are strictly construed against the State. Sutherland Statutory Construction, § 59.03 (4th Ed.).

Your second question was whether the individual who had been convicted in North Carolina and Virginia can draw a salary from the charity which holds the permit to operate bingo games. In view of the answer to your first question, it is my opinion that the individual is prohibited under § 52-17-90, Code of Laws of S. C., from being employed by the charity which holds the bingo permit.

I trust this response adequately answers your questions. If you need additional information, do not hesitate to contact me.

With kind regards, I am,

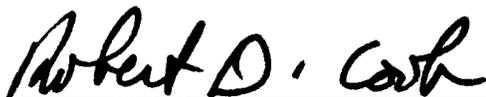
Very truly yours,



William K. Moore
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WKM/fc

REVIEWED AND APPROVED:



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