

1984 S.C. Op. Atty. Gen. 190 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-75, 1984 WL 159882

Office of the Attorney General

State of South Carolina

Opinion No. 84-75

July 6, 1984

***1 Re: Defendant Sentenced Under Youthful Offender Act for Burglary (Opinion ## 1039)**

The Honorable James O. Dunn
Solicitor
Fifteenth Judicial Circuit
Georgetown County Office
Post Office Box 1688
Georgetown, South Carolina 29440

Dear Jim:

Attorney General Medlock has referred your letter, dated June 8, 1984, to me for research and reply.

You presented the following question. Could a nineteen (19) year-old defendant be sentenced for the crime of burglary under the Youthful Offender Act, [§§ 24-19-10 et seq., Code of Laws of South Carolina](#)?

My research indicates that your defendant could not be sentenced for burglary under that Act. While he fits the definition of “youthful offender” found at [§ 24-19-10\(d\)](#), in that he is over seventeen (17) years of age but less than twenty-five (25), the crime of burglary is specifically excluded by the language in [§ 24-19-10\(f\)](#):

“Conviction” means a judgment in a verdict or finding of guilty plea of guilty or plea of nolo contendere to a criminal charge where the imprisonment may be at least one year, but excluding all offenses in which the maximum punishment provided by law is death or life imprisonment. (Emphasis added).

Burglary is found at [§ 16-11-310 of the Code](#) of Laws, and it is stated therein that one convicted of burglary shall be sentenced to a term of life imprisonment, provided, that if a jury finds a special verdict, recommending the defendant to the mercy of the Court, then he shall be given a sentence in the discretion of the Court, of not less than five (5) years. The fact remains, though, that the maximum sentence provided for in the statute is life imprisonment, and that would exclude burglary from the applicability of the Youthful Offender Act.

To conclude then, it appears that burglary, since it carries a punishment provided for by law of life imprisonment, is specifically excluded from the Youthful Offender Act.

If further information is needed, please do not hesitate to contact me.

Sincerely yours,

James G. Bogle
Assistant Attorney General

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