

1982 WL 189507 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 14, 1982

***1 Re: Applicability of § 24-1-200, 24-21-920, Code of Laws (1976) to 90 day Sentence Reduction**

Honorable Grady A. Wallace
Director
S. C. Department of Parole & Community Corrections
P. O. Box 50666
Columbia, S. C. 29250

Dear Mr. Wallace:

I am in receipt of your request of this Office for an opinion concerning use of the 'clemency' powers of the Parole Board to reduce sentences. It is the opinion of this Office that such use of the clemency power to reduce sentences by ninety days would be improper unless each specific inmate fit within the guidelines of § 24-21-950 (where the inmate can produce evidence comprising the most extraordinary circumstances) and § 24-21-970 (where the inmate is afflicted with a terminal illness where life expectancy is one year or less).

The clemency provisions that you referred to were interpreted by this Office in 1972 as not providing carte blanche authority for the granting of parole to individuals recommended for clemency without regard to actual eligibility dates. 1971-72 Opinion of Attorney General, No. 3362, p. 210 (copy attached). The 1981 Parole and Community Corrections Act has limited the use of clemency in the form of pardons to specific guidelines set out in § 24-21-950, Code of Laws (1976) providing for four specific eligibility groups. § 24-21-950(D) would be the only applicable provision, notwithstanding § 24-21-920. It is clear that the Legislature intended review of each individual request on a case by case basis in which the individual's own 'most extraordinary circumstances' can be reviewed with the burden of proving those circumstances on the petitioner.

If you have any questions in this matter, please contact me.

Sincerely,

Donald J. Zelenka
Assistant Attorney General

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