

7695 February



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

January 29, 2004

Jeffrey B. Moore, Executive Director  
South Carolina Sheriffs' Association  
P. O. Box 21428  
Columbia, South Carolina 29210

Dear Jeff:

In a letter to this office you questioned whether a state constable employed by a county clerk of court for the purpose of providing service of process in certain cases can drive a vehicle equipped with a blue light. Enclosed please find a recent opinion of this office dealing with the same issue which is responsive to your question. That opinion stated that in order to use a blue light, the vehicle must be one used primarily for law enforcement purposes. If the vehicle is not so used a majority of the time, a blue light may not be used. The opinion concluded that the vehicle of the referenced individual employed by the clerk of court's office could not be equipped with a blue light.

In your next question you referenced S.C. Code Ann. Section 23-11-110(A)(5) (2003) which requires that a candidate for sheriff have a designated number of years of experience as a "certified law enforcement officer" along with a designated number of years of secondary education. That provision states that "(f)or purposes of this section, a 'certified law enforcement officer' is a person who has been issued a certificate as a law enforcement officer pursuant to Section 23-6-400(D)(1)." You asked whether an individual running for the office of sheriff must possess a current, valid certification as a law enforcement officer and be currently employed as a law enforcement officer or can that individual be retired from and no longer be employed as a law enforcement officer, having at one time been issued a certificate as a law enforcement officer.

It is a cardinal rule of statutory construction that the primary purpose in interpreting statutes is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). A statute must receive a practical, reasonable and fair interpretation consonant with the purpose, design and policy of the lawmakers. Caughman v. Columbia Y.M.C.A., 212 S.C. 337, 47 S.E.2d 788 (1948). Words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1990). Additionally, a statute will be construed to avoid an absurd result. Any statute must be interpreted with common sense to avoid unreasonable consequences. United States v. Rippetoe, 178 F.2d 735 (4<sup>th</sup> Cir. 1949). A sensible construction rather than one which leads to irrational results, is always warranted. McLeod v. Montgomery, 244 S.C. 308, 136 S.E.2d 778 (1964).

*Rembert C. Dennis*

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Consistent with such, it appears that Section 23-11-110 (A)(5) should be read to conclude that an individual running for sheriff must have at one time been issued a certificate as a law enforcement officer and therefore have acquired the necessary years of experience as a certified law enforcement officer. Therefore, an individual may currently be retired and no longer employed as a law enforcement officer and offer for sheriff if that individual otherwise has been issued a certificate as a law enforcement officer and gained the necessary years of experience in the past. To construe such provision otherwise would be to limit candidates for sheriff to only those individuals currently serving as a law enforcement officer. Such would arguably be an absurd result, inconsistent with the intent of the General Assembly in enacting such legislation.

You next asked whether an individual may qualify in another State under the provisions of Section 23-11-110 in order to run for sheriff. Again, Section 23-11-110(A)(5) requires that a candidate for sheriff have a designated number of years of experience as a "certified law enforcement officer" along with a designated number of years of secondary education. That provision states that "(f) or purposes of this section, a 'certified law enforcement officer' is a person who has been issued a certificate as a law enforcement officer pursuant to Section 23-6-400(D)(1)." Section 23-6-400(D)(1) defines "law enforcement officer" as

...an appointed officer or employee hired by and regularly on the payroll of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State and who possesses, with respect to those laws, the power to effect arrests for offenses committed or alleged to have been committed.

The term "of the State" must be construed as applying only to South Carolina with the result that an individual may not qualify as a law enforcement officer in another State in order to run for sheriff.

If there are any questions, please advise.

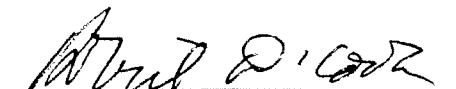
Sincerely,



Charles H. Richardson  
Senior Assistant Attorney General

Enclosure

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General