

March 28, 2007

Robert M. Stewart, Chief
South Carolina Law Enforcement Division
P. O. Box 21398
Columbia, South Carolina 29221-1398

Dear Chief Stewart:

In our telephone conversation you questioned the situation regarding an individual who is presently registered in Union County on this State's sex offense registry. You indicated that the individual presently owns property in Union County. The question has been raised as to whether that individual is required to re-register in Union County inasmuch as he received a pardon for his conviction.

S.C. Code Ann. § 23-3-460 states that

[a] person required to register pursuant to this article is required to register bi-annually for life...The person required to register shall register and must re-register at the sheriff's department in each county where he resides, owns real property, or attends any public or private school....

S.C. Code Ann. § 23-3-430(F) states that

[i]f an offender receives a pardon for the offense for which he was required to register, the offender may not be removed from the registry except:

- (1) as provided by the provisions of subsection (E); or
- (2) if the pardon is based on a finding of not guilty specifically stated in the pardon.

Subsection (E) as referenced above states that

SLED shall remove a person's name and any other information concerning that person from the sex offender registry immediately upon notification by the Attorney General that the person's adjudication, conviction, guilty plea, or plea of nolo

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contendere for an offense listed in subsection (C) was reversed, overturned, or vacated on appeal and a final judgment has been rendered.

Consistent with Section 23-3-430, the individual referenced by you having registered as a sex offender must continue to re-registry biannually for life. The fact that he received a pardon is of no consequence unless the pardon was associated with his conviction being reversed, overturned or vacated on appeal or the pardon was based upon a finding of not guilty stated in the pardon.

If there are any questions, please advise.

With kind regards, I am,

Sincerely,

Henry McMaster
Attorney General

By: Charles H. Richardson
Senior Assistant Attorney General

cc: Ms. Celeste Proffitt

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General