



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

February 12, 1996

The Honorable Lloyd B. Ward
Coroner, Barnwell County
Post Office Box 207
Williston, South Carolina 29853-0207

Re: Informal Opinion

Dear Coroner Ward:

You have asked whether "state statute 23-1-40, Code of Laws of South Carolina [applies] to Coroners and Deputy Coroners."

S.C. Code Ann. Sec. 23-1-40 provides:

[o]f the amounts appropriated as salaries for municipal law-enforcement officers and county law enforcement officers the sum of five dollars per day for each such officer is hereby designated as subsistence for each day of active duty.

Since a coroner is a county officer, the question becomes whether a coroner is a "law-enforcement officer" for purposes of the statute.

Of course, in interpreting any statute, the primary purpose is to ascertain the intent of the legislature. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). The words used in a statute should be given their ordinary and popular significance. Hay v. South Carolina Tax Commission, 273 S.C. 269, 255 S.E.2d 837 (1979). Section 23-1-40 does not define the term "law enforcement officer" nor is there a definition contained in Chapter 1 of Title 23.

However, we have previously commented on the nature of the office of coroner. For example, in an opinion dated April 20, 1960, citing the South Carolina case of Giles v. Brown, Mills Constitution 230 (1817), it was stated:

... at common law the powers and duties of a coroner are both judicial and ministerial. His judicial authority relates to inquiries into cases of certain deaths. In his ministerial capacity, a coroner is merely a substitute for the sheriff.

The 1960 opinion pointed out that in certain contingencies, the coroner performs the duties of the Sheriff. See Section 23-11-50 [in case of vacancy, the coroner is required to assume the office of Sheriff until the office is filled]. We also indicated in the opinion that while a coroner "is not primarily a law enforcement officer", the relationship of the coroner's office to law enforcement is further indicated by "the fact that in this State an inquest is essentially a criminal proceeding, although it is not a trial involving the merits, but rather a preliminary investigation." Acker v. Anderson County, 77 S.C. 478, 58 S.E. 337 (1907).

In Op. No. 2105 (July 15, 1966), we interpreted Section 16-145, the authority to carry a pistol. There, we concluded that a coroner was neither a "law enforcement officer" nor a "peace officer" for purposes of that statute which permits marshals, sheriffs, police officers or other law enforcement officers or peace officers to carry a weapon while performing their duties of office. We stated:

A coroner per se is not a 'peace officer', but under certain circumstances, may perform the functions of a displaced sheriff. Millwood v. State, 23 So.2d 496, 497, 198 Miss. 485. Also, 'peace officers' [have] been held to be synonymous with 'officers of the law'. Bartels Northern Oil Co. v. Jackman, 150 N.W. 576, 578, 29 N.D. 236.

Inasmuch as coroners are not considered 'officers of the law' or 'peace officers', they would not fall within the exemption statute.

This conclusion was reiterated in an opinion dated August 18, 1971 where we stated:

[t]he constitutional office of coroner is quasi-judicial in nature and, although some investigative duties are attached, the duties are closer to the judicial branch than that of the executive.

Our laws relating to the carrying of pistols do not exempt a coroner, nor does the law of the State bestow upon the coroner authority as a peace officer.

Another opinion, dated June 27, 1991, found that in certain limited respects, a coroner possessed law enforcement authority. The opinion referenced Section 17-5-110 of the Code, enacted in 1975, which authorizes a coroner "while engaged in official duties of his office," to carry a handgun or pistol. The opinion recognized that in going to and returning from his actual duties as coroner, he could also use a blue light in that vehicle. Moreover, in an opinion, dated January 10, 1991, we concluded that, for the limited purpose of the Law Enforcement Training Act, a coroner was not a "law enforcement officer" as that term was defined in the Act. We further noted that such conclusion could be altered by legislative amendment.

Authority elsewhere generally concludes that a coroner is not a law enforcement officer. It is generally stated that

[t]he view that a coroner's office is principally judicial in nature is in accord with the ancient common law and the provisions of an ancient English statute said to declaratory of the common law.

18 C.J.S. Coroners, § 10. U.S. v. Rosen, 11 F.3d 315 (2d Cir. 1993) concluded that employees of a medical examiner's office were not "law enforcement personnel" because they were not required to have training and their duties were more in the nature of investigative rather than enforcement.

Our own Supreme Court has tended to view the duties of a coroner as primarily quasi-judicial as well. In Giles v. Brown, the Court stated that the ministerial duties of the coroner were "only as the sheriff's substitute." Moreover, in State v. Griffin, the Court stated that, for purposes of the Constitutional requirement that "all courts shall be public", a coroner's inquest "comes within the spirit of that provision." In that same regard, we stated in an opinion dated June 5, 1972,

[t]he Code is silent as to the power of a coroner to issue an arrest warrant before a finding of foul play at an inquest. Since the purpose of a coroner's inquest is to discover how the decedent died, there can be no suspect before the inquest is completed.

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In interpreting Section 23-1-40, which provides a subsistence allowance for law enforcement officers, we have looked to such criteria in determining whether the person possesses arrest powers, Op. No. 86-21 (February 11, 1986), and was required to receive training, Op. No. 91-22 (April 1, 1991). Clearly, many of the duties of a coroner closely resemble those of law enforcement officers. However, based upon the foregoing, it is my opinion that a court would conclude that coroners and deputy coroners do not fall within the scope of Section 23-1-40 because they are not "law enforcement officers" as that term was intended. Of course, the General Assembly could amend such statute to include coroners just as it authorized coroners to carry a pistol in Section 17-5-110.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook

Assistant Deputy Attorney General

RDC/an