

The State of South Carolina



Office of the Attorney General

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March 6, 1990

Robert M. Stewart, Chief
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Dear Chief Stewart:

You have asked whether the offense of making a false statement to obtain unemployment benefits in violation of S.C. Code §41-41-10 is a crime of moral turpitude. S.C. Code §41-41-10 provides that

(w)hoever makes a false statement or representation knowing it to be false or who knowingly fails to disclose a material fact to obtain or to increase any benefits or other payment under Chapters 27 through 41 of this Title or under an employment security or unemployment compensation law of any other state, the Federal Government, or of a foreign government, either for himself or for any other person, shall be punished by a fine of not less than twenty nor more than one hundred dollars or by imprisonment for not longer than thirty days and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

Moral turpitude has been defined as:

...an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man...

State v. Yates, 280 S.C. 29, 310 S.E.2d 805, 810 (1982), citing State v. Horton, 271 S.C. 413, 248 S.E.2d 263 (1978). See also State v. Morris, 289 S.C. 294, 345 S.E.2d 477 (1986); State v.

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Drakeford, 290 S.C. 338, 350 S.E.2d 391 (1986); Ops. Atty. Gen. June 13, 1989 and March 11, 1988.

In order to make a determination of whether a crime involves moral turpitude one must focus

on the duty to society and fellow man which is breached by the commission of the crime...

State v. Ball, 292 S.C. 71, 73, 354 S.E.2d 908 (1987), as

crimes which involve primarily self-destructive behavior generally do not involve moral turpitude.

Id. at 292 S.C. 74.


While the question you pose has not been addressed in any appellate court decision in South Carolina, it has been recognized that the offenses of obtaining money under false pretenses and attempting to carry out a conspiracy by making a knowing misstatement of facts are crimes of moral turpitude, Daniel v. Hazel, 242 S.C. 443, 131 S.E.2d 260 (1963); Krasner v. Hester, 130 Ga. App. 234, 202 S.E.2d 693 (1973). Also, this office has previously characterized the crimes of making a false statement or concealing material facts on an application for certification of title or registration for a motor vehicle and making a false statement to the United States Department of Agriculture or to a federally insured financial institution, as crimes involving moral turpitude. Ops. Atty. Gen., June 13, 1987, March 11, 1988, April 30, 1982, and December 18, 1975. See also, State v. Ball, supra; Hackman v. Commonwealth, 220 Va. 710, 261 S.E.2d 555, (1980). 58 C.J.S. Moral Turpitude, p. 1206-1207.

This specific question was addressed in Virginia and it was determined that knowingly making a false statement in support of a claim for unemployment benefits involved a crime of moral turpitude. Chesapeake and Ohio Ry. Co. v. Hanes, 196 Va. 806, 86 S.E.2d 122 (1955). The offense described in S.C. Code §41-41-10

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involves intentional dishonesty for personal gain and it is the opinion of this office that it is one which would involve moral turpitude.

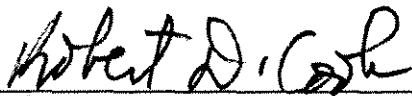
Sincerely,



Salley W. Elliott
Assistant Attorney General

SWE/nnw

REVIEWED AND APPROVED BY:



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