

The State of South Carolina

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July 16, 1992

Lt. Patricia N. Murphy  
Supervisor, Regulatory Services  
South Carolina Law Enforcement  
Division  
4400 Broad River Road  
Columbia, South Carolina 29221

Re: Section 16-11-170, Wilfully  
Burning Lands of Another

Dear Lt. Murphy:

I have before me your letter of July 2, 1992, with attachments, wherein you have requested an Opinion from this Office whether or not a conviction for wilfully burning the lands of another, S.C. Code Ann. §16-11-170 (1976) would be a crime of moral turpitude. That section provides as follows:

Whoever shall wilfully and maliciously set fire to or burn any grass, brush or other combustible matter, so as thereby any woods, fields, fences or marshes of any other person or persons be set on fire or cause such burning to be done, or cause or allow fire to spread to or to be transmitted to the lands of another, or be thereunto aiding or assisting, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one thousand dollars nor more than five thousand dollars, or imprisoned for not less than one year nor more than five years, and shall, moreover, be liable to the action of any person who have sustained damage thereby.

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The Supreme Court of South Carolina has defined moral turpitude 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 10 (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. Drakeford, 290 S.C. 338, 250 S.E.2d 391 (1986) See also Ops. Atty. Gen. March 6, 1990, June 13, 1989 and March 22, 2988. In determining 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, 3, 354 S.E.2d (1987), as

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

Id. at 292 S.C. 74.

In finding that arson is a crime of moral turpitude, the South Carolina Supreme Court in State v. Yates, 280 S.C. 29 310 S.E.2d 805 (1982) relied upon the fact that the offense involved

the destruction of property of another with not only intent to deprive the true owner of its use but also to deprive any other person of its use and benefits. 310 S.E.2d at 810.

The Court relied on the malicious willful, and unlawful nature of the destruction of property involved in concluding that the offense of malicious destruction of property is also a crime of moral turpitude. State v. Perry, 294 S.C. 311, 364 S.E.2d 201 (1988).

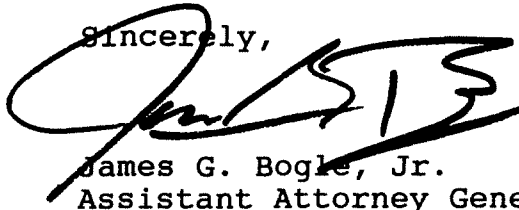
By definition, the burning of lands, which could include destruction of woods, fields or fences, involves the malicious, unlawful, or willful destruction of the property of another. Using the same reasoning as the Court did in State v. Yates, supra, and State v. Perry, supra, and because such a crime involves a secretive act contrary to justice, honesty, and good morals, State v. Horton, supra, which may cause harm to fire fighters, the owner,

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or neighbors, this Office concludes that the offense of burning the lands of another is a crime of moral turpitude. Recently we issued an Opinion to Chief Stewart dated January 23, 1991, concluding that a conviction of S.C. Code Ann. §16-11-560, the burning of an untenanted or unoccupied building, is a crime of moral turpitude. We believe the identical logic supports the conclusion herein about §16-11-170.

However, as indicated earlier, since the issue has not been addressed by the Supreme Court of South Carolina, we would caution that this Opinion is not free from doubt.

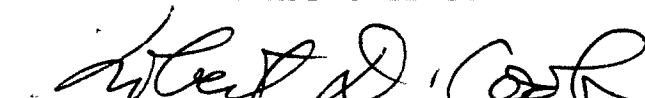
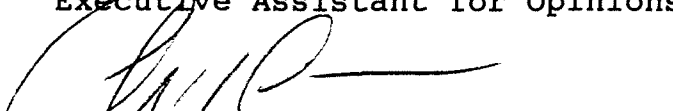
Sincerely,



James G. Bogle, Jr.  
Assistant Attorney General

JGBjr:ypj

REVIEWED AND APPROVED BY:

  
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