

The State of South Carolina



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October 3, 1989

Dr. Robert E. David
Executive Director
South Carolina Employment
Security Commission
1550 Gadsden Street
Columbia, South Carolina 29202

Dear Dr. David:

You have asked for the opinion of this Office as to whether employed persons whose jobs have been displaced as a result of Hurricane Hugo must be required to seek other employment for a period of one week prior to establishing their eligibility for unemployment compensation.

Section 41-35-110, Code of Laws of South Carolina (1976, as revised), contains the conditions of eligibility for unemployment compensation. The Employment Security Commission must make findings that an individual has made a claim for such benefits for a given week; that he has registered for work and has continued to report to the Employment Security Commission as required; that he is able to work and available to work as specified by statute; that he has been separated from employment through no fault of his own; and that he has been unemployed for a waiting period of one week.

It is our understanding that under ordinary circumstances, the waiting period of one week would permit a claimant to seek and perhaps locate other employment, thus removing the necessity of reliance on unemployment compensation. In the aftermath of Hurricane Hugo, where much of the economy has been displaced in at least nineteen of the State's counties, there are few jobs for the unemployed

workforce to pursue and the usual and ordinary economic situation is nonexistent.

In interpreting a statute such as Section 41-35-110, the primary objective is to ascertain and effectuate legislative intent whenever possible. State v. Harris, 268 S.C. 117, 232 S.E.2d 231 (1977). An interpretation which would reach absurd consequences should be avoided. Bruner v. Smith, 188 S.C. 75, 198 S.E. 184 (1938). Too, the courts will construe a statute in light of the evil it seeks to remedy, in light of the circumstances existing at the time of its enactment. Judson Mills v. S. C. Unemployment Compensation Commission, 204 S.C. 37, 28 S.E.2d 535 (1944). In Judson Mills, the court stated that the unemployment benefits statutes were

passed in 1936, at a time when this State, in common with the entire nation, was suffering from a prolonged depression which had resulted in industry laying off many workers, many of whom were left without the means of obtaining even the barest necessities of life. This unquestionably was the evil which the Legislature was seeking to remedy.

Id., 204 S.C. at 41. In the wake of Hurricane Hugo, the economic condition existing in 1936 is as pronounced today in those counties affected by the hurricane.

Applying the foregoing rules of statutory construction, it is our opinion that the intention of the General Assembly would be best carried out by permitting the Employment Security Commission to make its finding, pursuant to Section 41-35-110 (4), that those claimants in those counties affected by Hurricane Hugo cannot pursue other employment for the usual one week's waiting period and that the terms of the statute cannot be met in such an unusual and limited circumstance. To conclude otherwise would, in our opinion, lead to absurd results and render the statute a futile piece of legislation. Fulghum v. Bleakley, 177 S.C. 286, 181 S.E. 30 (1935).

In so opining, this Office takes note that the economy in at least nineteen counties has been severely disrupted. It will be difficult if not impossible to pursue employment not just this week but for several weeks or even months yet to come. We believe that the General Assembly did not contemplate one's seeking employment where none exists. In so concluding, we limit the interpretation of

Dr. David

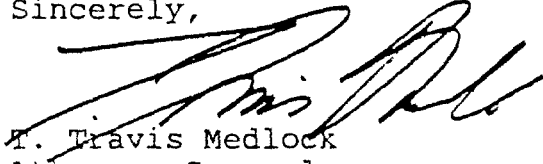
Page 3

October 3, 1989

Section 41-35-110 of the Code and the authority of the Employment Security Commission to make the aforementioned finding to the limited and exigent circumstances occasioned by the devastation of Hurricane Hugo. 1/

With kindest regards, I am

Sincerely,



T. Travis Medlock
Attorney General

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1/ We have not attempted to interpret any possibly applicable federal statutes or regulations. Further, we presume that the federal government would not challenge such a finding by the Employment Security Commission due to the unfortunate circumstances faced by such a large segment of this State's workforce and their employers.