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The State of South Carolina



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July 11, 1986

Henry Ray Wengrow, Esquire
Legal Counsel and Director of Finance
South Carolina Criminal Justice Academy
5400 Broad River Road
Columbia, South Carolina 29210-4088

Dear Henry:

In a letter to this Office you questioned whether an individual whose driving privilege has been suspended within the past five (5) years in a state other than South Carolina can be denied admission to the State Criminal Justice Academy pursuant to the requirements of Section 23-23-50(B)(4)(b) of the Code. Such provision states that the State Law Enforcement Training Council must be furnished on behalf of a law enforcement candidate for certification by the Council:

(4) (e)vidence of the candidate's good moral character, as shown by a statement from the head of his department or supervisory official indicating that:

(b) That the candidate holds a valid current South Carolina driver's license with no record during the previous five years for suspension of driver's license as a result of driving under the influence of alcoholic beverages or dangerous drugs, or leaving the scene of an accident

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You indicated in your letter that the individual referenced in your situation had pled guilty in New York to driving while impaired and, as a result, had his driving privilege suspended for ninety days by that State.

As referenced by you, Section 1192 of the New York State Traffic Law states:

(n)o person shall operate a motor vehicle
while his ability to operate such motor
vehicle is impaired....

Such section provides enhanced penalties for the offense based upon the level of blood alcohol or where a substance, such as drugs, is involved. Also, as indicated by you, such offense provides for the suspension of a driver's license for such offense.

While only a court could conclusively resolve the question raised by you, I concur with your conclusion as outlined in your memorandum, a copy of which you forwarded to this Office, that a suspension of driving privileges by New York authorities as the result of a conviction in that State for driving while impaired is equivalent to a suspension as provided in Section 23-23-50(B)(4)(b). As indicated, such provision requires that a candidate for admission to the Criminal Justice Academy hold a valid State driver's license with no record during the previous five years of suspension of his license as the result of driving under the influence of alcoholic beverages or dangerous drugs. In reaching this conclusion, I am unable to agree to any assertions that in enacting Section 23-23-40(B)(4)(b), the General Assembly was requiring only that an individual's driving record in this State be considered.

It has generally been stated that in keeping with the principle that statutes are to be given a sensible construction, a literal application of statutory language which leads to absurd consequences should be avoided. U. S. v. Rippetoe et al., 178 F.2d 735 (4th Cir. 1949). Moreover, it is also a rule of statutory construction that a statute "... must be construed in the light of its intended purpose; and if such purpose can be reasonably discovered in its language, the purpose will prevail over the literal import of the statute" Abell et al. v. Bell et al., 229 S.C. 1 at 4, 91 S.E.2d 548 (1956). I am unaware of any intention of the General Assembly that to be certified by the Training Council as a law enforcement officer in this State, an individual must have possessed a South Carolina driver's license for five years. Therefore, a similar

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conclusion that only a candidate's driving record in this State can be considered in these circumstances cannot be reached.

Moreover, the construction that an individual's total driving record must be considered pursuant to Section 23-23-50(B)(4)(b) is consistent with the practice in this State of not issuing a South Carolina driver's license to any individual whose driving privileges at that time are under suspension in another state. See: Opinion of the Attorney General dated April 16, 1986. Section 56-1-40 of the Code mandates that the State Highway Department:

... shall not issue any motor vehicle driver's license under this article to: ... (2) (a)ny person whose license has been suspended during such suspension or any person whose license has been revoked....

Such provision has been interpreted to prohibit the issuance of a driver's license in this State to an individual whose license has been suspended by another state.

Also, this Office recognized in a prior opinion dated August 9, 1985 that the moral character of an applicant is the overriding legislative concern with respect to the eligibility of an applicant for admission to the Criminal Justice Academy. To construe the provision in Section 23-23-50(B)(4)(b) dealing with a candidate's driving record as being applicable solely to the record generated in this State by a driver would be inconsistent with the legislative conclusion that evidence of a candidate's good moral character must be furnished to the Law Enforcement Training Council on behalf of a candidate for certification.

As stated, I agree with your conclusion that a suspension of driving privileges by New York authorities as the result of a conviction in that State for driving while impaired is equivalent to a suspension as provided in Section 23-23-50(B)(4)(b). Therefore, an individual whose driving privileges have been suspended in such circumstances within the past five years could be denied admission to the State Criminal Justice Academy. However, of course, to avoid any questions relating to the interpretation of Section 23-23-50(B)(4)(b) in this regard in the future, I suggest that consideration be given to amending such provision so as to specifically provide that an individual's driving record would include convictions, and any subsequent

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actions affecting an individual's driver's license which may result from such conviction, which occur in any state. If there are any questions, please advise.

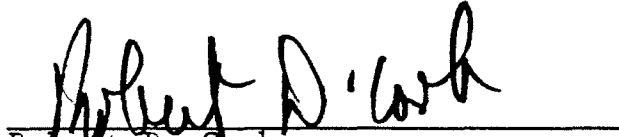
Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:


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