1983 WL 181700 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
January 4, 1983

*1 The Honorable Robert J. Harte
Solicitor
Second Judicial Circuit
Post Office Box 2327
Aiken, South Carolina 29801

Dear Bob:

I initially want to apologize for not having responded earlier to your request for research concerning whether or not a conviction for prostitution in Georgia would be considered as a prior offense and a subsequent prostitution charge in South Carolina. However, as you might imagine, there is no law in South Carolina directly on point. My research does reveal that it appears that the majority of jurisdictions hold that if the crime in the forum state is substantively the same as the crime in the foreign state (i.e. the elements are the same), the conviction in the foreign state can be considered as a prior offense for sentencing purposes in the forum state. I am enclosing copies of a part of an A.L.R. annotation (with supplement) and a section from C.J.S. dealing with this issue. Although many of the cases I read concern specific statutes addressed to this issue, it does appear that in those states without statutes on point, the modern trend is to allow substantively similar convictions in other states to be considered as prior offenses.

I have enclosed a copy of the Georgia prostitution statute for your review. I would think that a good argument could be made that prostitution is prostitution, and that the crimes are substantively the same. Of course, there may need to be some consideration given to the specific facts of the cases.

I again apologize for the delay in responding to you, and I hope that this letter has been of some assistance to you. If you have any questions or if you are in need of any additional information, please do not hesitate to give me a call.

With best personal regards, I am
 Yours very truly,

John M. Barton
Assistant Attorney General

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