

1978 S.C. Op. Atty. Gen. 80 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-55, 1978 WL 22537

Office of the Attorney General

State of South Carolina

Opinion No. 78-55

March 22, 1978

*1 Mr. Harold E. Trask, Jr.
Executive Assistant
Office of the Governor
Columbia, South Carolina 29211

Dear Mr. Trask:

Your letter of March 16 requests an opinion on whether the Mayor of Heath Springs may be reinstated in the office from which he was previously suspended following his indictment upon a charge of conspiracy to accept a bribe. In the alternative, you ask whether the Mayor may seek the office of Mayor in the upcoming election.

The Mayor was suspended by the Governor following his indictment, and subsequently the office was declared vacant after he had entered a plea of guilty to a charge of conspiracy to accept a bribe. Following his plea, the office was declared vacant.

The fact that the offense may be a misdemeanor is not controlling. The only consideration involved is whether a public officer of the State or any of its political subdivisions has been indicted for a crime involving moral turpitude and, in such cases, the Governor may suspend such an officer until he shall have been acquitted or until he shall have been convicted, in which latter event the office is declared vacant. The offense for which the Mayor was indicted involved moral turpitude, thus warranting the declaration that the office was vacant following his plea thereto. A plea of guilty or nolo contendere has the same legal effect as a conviction.

Removal from office bars the removed officer from an election or appointment to fill the vacancy for the unexpired term but it does not disqualify him to take some other office or to be elected or appointed to the new term of the same office. I do not know whether the forthcoming election is or is not for the unexpired term. While the Mayor is ineligible to seek election for the unexpired term, he may, in my opinion, seek election for a new term.

Very truly yours,

Daniel R. McLeod
Attorney General

A mayor suspended from public office upon indictment for a crime involving moral turpitude and subsequently convicted thereof, following which the office was declared vacant, may not become a candidate in an election for the unexpired term. He may, however, seek re-election following the expiration of the term which was interrupted by his suspension and conviction.

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