

1975 WL 29456 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 3, 1975

*1 Mr. George B. McMillan
R. F. D. No. 1
Inman, South Carolina 29349

Dear Mr. McMillan:

After a thorough inquiry into your qualifying for the South Carolina National Guard Pension, I must adhere to my earlier opinion and find that because you did not serve the last ten years with the South Carolina National Guard you are not eligible for the pension.

It is my opinion that if a National Guard member completes the required number of years for retirement in the National Guard, and requests assignment to the U.S.A.R. Control Group in a stand-by status, that he cannot thereafter, without the completion of another ten year service in the South Carolina National Guard, qualify for the pension.

I am well aware of your contention that the Department has assured you that after the completion of three years with the National Guard that you could qualify for the pension. The statutory law of South Carolina seems to be clear that when an officer joins the U.S.A.R. Control Group in a stand-by status, he must thereafter complete ten years service with the South Carolina National Guard in order to qualify for the pension. The statutory law of South Carolina does not permit an administrative decision by the Department that would allow them to alter the ten-year requirement.

I am fully aware of your position, but feel that the statutory law of South Carolina leaves me no alternative.
Sincerely,

A. Camden Lewis
Assistant Attorney General

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