

1975 WL 28890 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 5, 1975

*1 Mr. J. P. Neal, Jr.
Deputy Director for Administrative Services
South Carolina Department of Youth Services
P. O. Box 21487
Columbia, South Carolina 29221

Dear Mr. Neal:

You have inquired as to the termination date of the appointment of Nicholas P. Mitchell, III, to the Board of the Department of Youth Services. You have further inquired as to whether or not Mr. Mitchell could be reappointed to the Board of the South Carolina Department of Youth Services.

From the records it appears that Mr. Mitchell was appointed on February 23, 1971, to fill the unexpired term of Board member William J. Goldsmith who was deceased. Mr. Goldsmith was a member of the initial Board of Juvenile Corrections, appointed in 1969 pursuant to the provisions of Act Number 386 of the 1969 Acts. He was appointed for a one year term commencing August 4, 1969, and as a member of the initial Board was eligible to succeed himself one time. On June 26, 1970, Mr. Goldsmith was reappointed by Governor McNair for a full five (5) year term which commenced of necessity at the expiration of the previous term that being August 4, 1970. The term for which Mr. Mitchell was appointed will expire midnight, August 3, 1975.

The provisions of Act Number 386, codified as Section 55-50 of the present Code, states that 'no member shall be reappointed to the Board until two years after the expiration of his term.' As previously pointed out Act Number 386 contained an exception for the initial Board. In view of the fact that Mr. Goldsmith was already serving his second term, and that is the term to which Mr. Mitchell was appointed, it is the opinion of this Office that Mr. Mitchell could take no better term than that of the individual whose position he filled. Mr. Mitchell is therefore not exempt from the restrictions which prohibit membership until two years after the expiration of his term. As I previously pointed out, that term will expire midnight, August 3, 1975.

I am taking the liberty of forwarding copies of this opinion to Mr. Mitchell and to Mr. Decell in view of the fact that he originated the request.

With best wishes,
Yours very truly,

Emmet H. Clair
Assistant Attorney General

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