

1974 WL 27600 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 17, 1974

*1 General Robert L. McCrddy
The Adjutant General
Military Department
State of South Carolina
Office of the Adjutant General
National Guard Armory
1225 Bluff Road
Columbia, South Carolina 29201

Dear General McCrady:

Please excuse our delay in replying to your inquiry of November 8, 1973, concerning the effect of the National Guard Pension Act in certain situations.

You questioned whether an individual who retires from the National Guard fully eligible to receive the pension at age 60 disqualifies himself by subsequent service in the United States Army Reserve. It is our opinion that Section 44-230(b) does not disqualify an individual from pension eligibility under the circumstances you describe. The requirement that one 'have at least fifteen years of the aforementioned service as a member of the South Carolina National Guard and the final or last ten years of service immediately prior to retirement shall have been in the South Carolina National Guard' is a factor in establishing eligibility at the time one retires from the National Guard. Once an individual qualifies to receive the pension, at the point in time of his retirement from the National Guard, his eligibility is not destroyed by subsequent service in the United States Army Reserve.

With regard to your inquiry concerning individuals who retire while serving on active duty, it is the opinion of this office that these individuals remain eligible to receive the retirement pension. When a unit is called to federal service, it remains technically a unit of the South Carolina National Guard; such active duty does not disqualify a person for the pension.

If we can be of further assistance to you, please let us know.

Sincerely yours,

A. Camden Lewis
Assistant Attorney General

1974 WL 27600 (S.C.A.G.)

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.