1972 S.C. Op. Atty. Gen. 85 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3281, 1972 WL 20425

Office of the Attorney General

State of South Carolina
Opinion No. 3281
March 13, 1972

*1 The Honorable Moultrie D. Douglas
Messrs. Douglas & Douglas
Attorneys at Law
Winnsboro, South Carolina

Dear Sir:

Thank you for your letter of March 6, 1972, requesting the opinion of this Office as to whether the Sheriff of Winnsboro County is entitled to compensation during the period of suspension from office from the time of his indictment and suspension until the termination thereof by the direction of a verdict of not guilty upon trial of his case.

As you point out, the opinion set forth in 67 Attorney General's Opinions 191 related to a suspension which was ultimately made permanent by reason of the subsequent conviction of the official involved. That opinion dealt with the question of whether the Clerk of Court was entitled to the salary of the office during the period he performed ex officio the duties of Probate Judge. The opinion also stated:

'The duties seem clear, under the circumstances of this case, that the former Probate Judge would not be entitled to his salary for the period of suspension.

The authority cited is 67 C.J.S. Officers § 86(b), which states the general rule to be that an officer who is suspended from office is not entitled to compensation during the period of suspension unless the suspension was illegally or unlawfully made. The suspension in this case was not illegally or unlawfully made but was imposed pursuant to statute, although the suspension was rescinded following his subsequent trial, in which he was found not guilty.

I am of opinion that the general rule is applicable and that the Sheriff, during the period of suspension, is not entitled to compensation therefor.

Very truly yours,

Daniel R. McLeod
Attorney General

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