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August 27, 2003

Honorable David T. Marshall
Montgomery County Sheriff
Montgomery County Sheriff's Office
115 South Perry Street
Montgomery, Alabama 36103-4219

Youthful Offender Status –
Concealed Weapon – Pistol Permits

A Sheriff violates section 15-19-7 of the Code of Alabama if he bases his decision on whether to grant or deny a pistol permit solely on the fact that a person was granted Youthful Offender Status. The Sheriff may deny a permit to a person he deems unsuitable and has wide discretion in determining who is and is not a suitable person to receive a pistol permit.

Dear Sheriff Marshall:

This opinion of the Attorney General is issued in response to your request on behalf of the Montgomery County Sheriff's Office.

QUESTIONS

Should the Montgomery County Sheriff's Office deny a permit to carry a concealed weapon if a person has been convicted of a crime of violence or domestic violence and has been granted Youthful Offender Status?

What proof, if any, may the Sheriff's Office demand to determine that the person has completed all of the requirements that the court imposed?

FACTS AND ANALYSIS

Section 15-19-7 of the Code of Alabama relating to youthful offender status states as follows:

- (a) No determination made under the provisions of this chapter shall disqualify any youth for public office or public employment, operate as a forfeiture of any right or privilege or make him ineligible to receive any license granted by public authority, and such determination shall not be deemed a conviction of a crime; provided, however, that if he is subsequently convicted of crime, the prior adjudication as youthful offender shall be considered.
- (b) The fingerprints and photographs and other records of a person adjudged a youthful offender shall not be open to public inspection; provided, however, that the court may, in its discretion, permit the inspection of papers or records.

ALA. CODE § 15-19-7 (Supp. 2002).

According to the statute, a person granted youthful offender status may not be denied any license granted by public authority based solely on the fact that the person is a youthful offender. ALA. CODE § 15-19-7 (Supp. 2002). The Sheriff, however, has been granted the authority to grant or deny a pistol permit at the Sheriff's discretion. Section 13A-11-75 states in pertinent part as follows:

The sheriff of a county may, upon application of any person residing in that county, issue a quali-

fied or unlimited license to such person to carry a pistol in a vehicle or concealed on or about his person within this state for not more than one year from date of issue, if it appears that the applicant has good reason to fear injury to his person or property or has any other proper reason for carrying a pistol, and that he is a suitable person to be so licensed.

ALA. CODE § 13A-11-75 (Supp.2002).

The Sheriff has the authority to determine whether the applicant for a license to carry a pistol is a suitable person. *See Hess v. Butler*, 379 So.2d 1259 (Ala. 1980) (refusal to issue a license to a person convicted of violating obscenity laws was not an arbitrary and capricious abuse of discretion). It is the opinion of this Office that the Sheriff has the authority to determine on a case by case basis whether an applicant for a pistol permit is suitable to be licensed. It is the opinion of this Office that a Sheriff violates section 15-19-7 of the Code of Alabama if he bases his decision on whether to grant or deny a pistol permit solely on the fact that the person was granted Youthful Offender Status. The Sheriff may, however, grant or deny a permit based on the suitability standard set forth in the section 13A-11-75 of the code of Alabama. The Sheriff has wide discretion in determining who is a suitable person to receive a pistol permit.

Because the Sheriff may not deny a pistol permit based solely on the fact that the person was granted Youthful Offender Status, he may not base his decision on any information concerning the completion of any court-imposed requirements under that statute.

CONCLUSION

A Sheriff would violate section 15-19-7 of the Code of Alabama if he bases his decision on whether to grant or deny a pistol permit solely on the fact that a person was granted Youthful Offender Status. The Sheriff may deny a permit to a person he deems unsuitable and has wide discretion in determining who is and is not a suitable person to receive a pistol permit. The Opinion of the Attorney General to the Honorable Melvin Bailey, Sheriff, Jefferson County, dated September 16, 1981, A.G. No. 81-00583, is overruled and modified to the extent it conflicts with this opinion.

Honorable
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I hope this opinion answers your question. If this Office can be of further assistance, please contact Rebecca Acken of my staff.

Sincerely,

BILL PRYOR
Attorney General

By:

A handwritten signature in cursive script that reads "Carol Jean Smith".

CAROL JEAN SMITH
Chief, Opinions Division

BP/CJS/RGA
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