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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

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Honorable Blake L. Dorning
Madison County Sheriff's Office
100 Northside Square
Huntsville, Alabama 35801

Sheriffs – Sex Offenders Registration Act – Community Notification Act – Pardons and Paroles – Convictions

A convicted sex offender who receives a pardon restoring only those civil and political rights necessary for participation in elections must comply with the Sex Offender Registration and Community Notification Act.

Dear Sheriff Dorning:

This opinion of the Attorney General is issued in response to your request.

QUESTION

If a convicted sex offender receives a pardon restoring only those civil and political rights necessary for the offender's participation in elections, does that pardon relieve the offender of the requirements of the Sex Offender Registration and Community Notification Act?

FACTS AND ANALYSIS

Your request references the pardon of a sex offender who was convicted of rape in the first degree. A copy of the offender's certificate of pardon is attached to your letter. The pardon expressly restores "***only*** those civil and political rights necessary to [the sex offender's] participation in elections." Certificate of Pardon for William Eric Ellington, State of Alabama Board of Pardons and Paroles, dated June 8, 2009 (emphasis added).

Section 124 of the Recompiled Constitution of Alabama, as amended, mandates that "[n]o pardon shall relieve from civil and political disabilities unless specifically expressed in the pardon." ALA. CONST. art. V, § 124 (amend. 38). Subsection (c) of section 15-22-36 of the Code of Alabama echoes this language: "No pardon shall relieve one from civil and political disabilities unless specifically expressed in the pardon." ALA. CODE § 15-22-36(c) (Supp. 2015).

This Office has addressed the issue of a pardoned sex offender on two occasions under previous versions of the current sex offender registration law, the Alabama Sex Offender Registration and Community Notification Act, found in sections 15-20A-1 through 15-20A-48 of the Code of Alabama. ALA. CODE §§ 15-20A-1 to 15-20A-48 (2011 & Supp. 2015). This Office has stated that "[a] person who has received an ***unconditional*** pardon restoring ***all*** civil and political rights is not a convicted person for purposes of the" sex offender registration law. Opinion to Honorable Donald L. Parker, Acting Executive Director, Board of Pardons and Paroles, dated December 8, 1998, A.G. No. 99-00060, at 1 (emphasis added). Therefore, "[a] person who has received a pardon with restoration of civil and political rights which contains limiting language expressly requiring him to comply with the [sex offender registration law] remains subject to the requirements of" the law. *Id.* This opinion did not address whether a pardon that ***does not*** contain such limiting language or express requirements relieves the pardoned individual from such compliance.

In a later opinion also involving an unconditional pardon, however, this Office opined that "***the only way*** by which a pardoned sex offender may yet be required to comply with the [sex offender registration law] is if the pardon itself expressly requires such compliance." Opinion to Honorable Blake L. Dorning, Madison County Sheriff's Office, dated February 16, 2006, A.G. No. 2006-057, at 2 (emphasis added). In making that statement, that opinion was merely relating the *Parker* holding and must be read with the preceding statement that "a sex offender [who] has received ***an unconditional pardon*** . . . is no longer 'convicted' and has no duty to comply." *Id.* (emphasis added). Accordingly, a sex offender who has received an ***unconditional*** pardon ***expressly*** restoring ***all*** civil and political rights is not required to comply with the Sex Offender Registration and Community Notification Act unless the pardon requires him or her to do so.

In contrast, the pardon attached to your request contains limiting language that restores ***only*** the sex offender's civil and political rights ***to participate in elections***. Because the pardon restores ***only*** civil and political rights to participate in elections, it does not restore other civil and political rights. Although this pardon does not mention the sex offender registration law by name, it expressly restores only a specific civil and political right. Therefore,

this sex offender must comply with the Sex Offender Registration and Community Notification Act.

CONCLUSION

A convicted sex offender who receives a pardon restoring only those civil and political rights necessary for participation in elections must comply with the Sex Offender Registration and Community Notification Act.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Allen P. Mendenhall of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:

G. WARD BEESON, III
Chief, Opinions Section

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