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February 9, 1995

Timothy D. Harbeson, Esquire  
General Counsel  
Division of Foster Care Review  
Office of the Governor  
2221 Devine Street, Suite 500  
Columbia, South Carolina 29205-2471

Dear Mr. Harbeson:

You have sought the opinion of this Office as to whether the offense of kidnapping would constitute a crime of moral turpitude.

Moral turpitude is traditionally defined as

an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man. ... Moral turpitude implies something immoral in itself, regardless of whether it is punishable by law as a crime. ...

An act in which fraud is an ingredient involves moral turpitude.

State v. Horton, 271 S.C. 413, 414, 248 S.E.2d 263 (1978).

This Office has apparently never considered previously whether kidnapping would constitute a crime of moral turpitude, nor have we located judicial decisions within this State deciding the issue. Cases from other jurisdictions have determined kidnapping to be a crime of moral turpitude, however.

Request Letter

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In People v. Zataray, 173 Cal.App.3d 390, 219 Cal.Rptr. 33 (1985), kidnapping was said to involve bad character and the readiness to do evil. The defendant's prior conviction for simple kidnapping was deemed to be a crime of moral turpitude for the purpose of impeaching the defendant's testimony. Similarly, in State v. Tatreau, 176 Neb. 381, 126 N.W.2d 157 (1964), kidnapping is described to be "a crime which involves great moral turpitude. The potential of harm to the victim as well as to the relatives is so great that the severest of penalties is warranted." 176 Neb. at 392, 126 N.W.2d at 163. That moral turpitude is involved in kidnapping was also stated in Webster v. State, 513 N.E.2d 173 (Ind. 1987). We believe the courts of this State would follow the reasoning of these courts if faced with the issue.

It is therefore the opinion of this Office that the offense of kidnapping would be considered a crime of moral turpitude.

With kindest regards, I am

Sincerely,



Charles Molony Condon  
Attorney General

CMC/an