

1980 WL 120768 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 14, 1980

***1 RE: Lt. Elbert Pope**

Melvin B. McKeown, Jr., Esquire
York County Attorney
Spratt, McKeown & Spratt
26 West Liberty Street
York, South Carolina 29745

Dear Mr. McKeown:

You have recently addressed several questions to this Office concerning the statutes of Lt. Elbert Pope's employment by Sheriff W. E. Sutton. According to your letter Lt. Pope was granted a leave of absence from the date that he announced his candidacy for the office of sheriff, through June 24, 1980, the date on which he defeated Sheriff Sutton in the primary run-off election. Lt. Pope wants to return to work as a deputy sheriff. Sheriff Sutton has placed him on leave without pay through January 1, 1981.

According to state law, a deputy sheriff serve at the pleasure of the sheriff. [Section 23-13-10, 1976 Code of Laws of South Carolina](#) and [Rhodes v. Smith, 273 S.C. 13, 254 S.E.2d 49, 50 \(1979\)](#). See also, [Ramey v. Harber, 589 F.2d 753 \(4th Cir. 1978\)](#) (copy enclosed). A sheriff has virtually unfettered discretion in making a hiring or firing decision with regard to a deputy sheriff. See [Sections 23-13-10, 4-9-870, 4-9-30\(7\), 1976 Code of Laws of the South Carolina](#). If a hiring or firing issue is not involved in an employment matter, the county personnel ordinance would apply to that matter. [Section 4-9-30\(7\), 1976 Code of Laws of South Carolina](#).

Until November, 1980, Lt. Pope will be a candidate for the office of sheriff. The York County ordinance referred to in your letter allows a county employee to participate in a county election only in the capacity of a voter. Thus according to this ordinance, Lt. Pope is ineligible for county employment as long as he is a candidate for county office.

Sincerely,

Barbara J. Hamilton
Assistant Attorney General

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