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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

BILL PRYOR
ATTORNEY GENERAL

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ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

Honorable Donald L. Parker
Executive Director
Board of Pardons and Paroles
Post Office Box 302405
Montgomery, Alabama 36130-2405

Community Notification Act –
Pardon and Paroles Board – Parole

A criminal sex offender establishes a new residence for purposes of the Community Notification Act when the offender is reinstated to parole.

It is of no consequence that the offender was previously released on parole to the same residence, because the offender resumed serving his original sentence when his parole was revoked.

Dear Mr. Parker:

This opinion of the Attorney General is issued in response to your request on behalf of the Board of Pardons and Paroles.

QUESTION

If a parolee is reinstated to parole and submits his home plan to the home where he lived while on parole, is he establishing a residence within the meaning of the Community Notification Act?

FACTS, ANALYSIS, AND CONCLUSION

In responding to your question, it is assumed the parolee to which you refer has been convicted of a "criminal sex offense" enumerated in section 15-20-21(4) of the Code of Alabama. It is also assumed that to be "reinstated to parole" means that the parolee was initially serving a sentence imposed as a result of a conviction for a criminal sex offense, was paroled, then had his parole revoked, continued to serve his original sentence, and was later paroled a second time.

The Community Notification Act ("the Act") (codified at sections 15-20-20 through -37 of the Code of Alabama) provides:

Notwithstanding other provisions of law regarding establishment of residence, an adult criminal sex offender shall be deemed to have established a new residence . . . [w]henver that adult criminal sex offender is domiciled following his or her release from a period of incarceration imposed as a result of a conviction for a criminal sex offense, regardless of whether that criminal sex offender has been domiciled at the same location prior to the time of conviction.

ALA. CODE § 15-20-23(b)(2) (Supp. 2000).

Under the circumstances set forth in your opinion request, it is evident the parolee in question will be establishing a residence anew when he is reinstated to parole. Regardless of whether the parolee had lived at that same location before his conviction, or even if he had resided there when paroled the first time, the Act makes clear, as a matter of law, that a criminal sex offender establishes a residence whenever that offender is domiciled following his release from incarceration. The only caveat to this is that the offender, when released, must have been serving a sentence imposed as a result of a conviction for a criminal sex offense. In the situation now posed, that appears to be the case. That the offender was paroled on a previous occasion is of no consequence, because the offender resumed serving his original sentence after his parole was revoked.

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Because the parolee will be establishing a new residence, he will be subject to all of the Act's residency restrictions set out in section 15-20-26 of the Code of Alabama. Moreover, if the offender knowingly violates any of these restrictions, such is punishable as a Class C felony. See ALA. CODE § 15-20-26(f) (Supp. 2000).

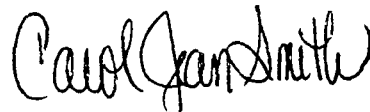
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I hope this sufficiently answers your question. If this Office can be of further assistance, please contact Scott L. Rouse of my staff.

Sincerely,

BILL PRYOR
Attorney General

By:

A handwritten signature in cursive script, appearing to read "Carol Jean Smith".

CAROL JEAN SMITH
Chief, Opinions Division

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