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A CITIZEN OF THIS STATE WHO IS CONVICTED OF A FELONY CANNOT BE AN ELECTOR, OR JUROR OR HOLD AN OFFICE OF HONOR, TRUST, OR PROFIT BUT NOT HIS CITIZENS RIGHTS GENERALLY—A PERSON CONVICTED OF FELONY DOES NOT LOSE HIS CITIZENSHIP AND IS REQUIRED TO ENTER THE OHIO SOLDIERS' AND SAILORS' HOME PROVIDED HE HAS BEEN A CITIZEN OF OHIO FIVE CONSECUTIVE YEARS—§§5907.04, R.C., 2961.01, R.C.

SYLLABUS:

1. Under Section 2961.01, Revised Code, a person who is a citizen of this state with all rights of a citizen is upon conviction of a felony, incompetent to be an elector or juror, or to hold an office of honor, trust, or profit, but does not lose his citizen rights generally.

2. A person who is convicted of a felony does not lose his citizenship within the purview of Section 5907.04, Revised Code, which requires that to be admitted to the Ohio Soldiers' and Sailors' Home the applicant must have been a citizen of Ohio five consecutive years or more at the date of making application for admission.

Columbus, Ohio, August 28, 1962

Major John W. Parker, Commandant Ohio Soldiers' and Sailors' Home
Sandusky, Ohio

Dear Sir:

Your request for my opinion reads:

"Enclosed is a copy of correspondence received from Mr. C. who is an inmate of the London Correctional Institution. As you will see he seeks admission to the Ohio Soldiers' and Sailors' Home. Under Ohio Law one must be a citizen of Ohio for at least five (5) years before admission.

"We would like your ruling as to whether a man who is on parole from one Ohio Institution can be admitted to the Ohio Soldiers' and Sailors' Home. Also, does he have to be released from parole, and have his Civil Rights restored and then be a citizen for five years before he is eligible for admission to this Home, or can he be admitted after serving his one year as a parolee?"

The correspondence enclosed by you discloses that the applicant, age 65, has been a lifelong resident of Ohio and is presently serving a sentence issued in 1960 for felonious assault. Previous to his conviction he was a citizen of this state with all rights of a citizen. He enlisted in the Marine Corps in 1918, and received an honorable discharge with a special good conduct citation, in 1919. He expects to be released from the correctional institution on parole and would like to be admitted to the Soldiers' and Sailors' Home on such release. I assume these statements to be true.

The conditions of eligibility for admission to the Soldiers' and Sailors' Home are set forth in Section 5907.04, Revised Code, reading:

“All male members of the armed forces, who served in the regular or volunteer forces of the United States or the Ohio national guard or male members of the naval militia during the war with Spain, the Philippine insurrection, the China relief expedition, the Indian war, the Mexican expedition, World War I, World War II, or during the period beginning June 25, 1950, and ending July 19, 1953, said period being known as the Korean conflict, who have been honorably discharged or separated under honorable conditions therefrom, and who have been *citizens of Ohio five consecutive years or more* at the date of making application for admission, who are disabled by disease, wounds, or otherwise, and who are by reason of such disability incapable of earning their living, and all male soldiers of the Ohio national guard, or male members of the naval militia who have lost an arm or leg, or their sight, or become permanently disabled from any cause, while in the line and discharge of duty, and are not able to support themselves, may be admitted to the Ohio soldiers’ and sailors’ home under such rules and regulations as its board of trustees adopts.”

(Emphasis added)

Thus, persons may be admitted to the Home under such rules and regulations as the trustees adopt if such persons are:

A. Male members of the armed forces who:

1. served in the regular or volunteer forces of the United State or the Ohio national guard or the naval militia during the war with Spain, the Philippine insurrection, the China relief expedition, World War I, World War II, or the Korean conflict;
2. were honorably discharged or separated under honorable conditions;
3. *have been citizens of Ohio five consecutive years at the date of application;*
4. are disabled by disease, wounds, or otherwise, and are incapable of earning a living by reason of such disability; and

B. Male soldiers of the Ohio national guard or male members of the naval militia who:

1. have lost an arm, leg, sight, or become permanently disabled from any cause while in the line and discharge of duty, and
2. are not able to support themselves.

First, it should be noted that the citizenship requirement applies only to the first of the two main categories of soldiers and sailors—those who served in the various wars.

Secondly, under the plain words of the statute, the citizenship must have been for five consecutive years.

Your question then is whether the conviction of a person for the commission of a felony works such a forfeiture of citizenship as to deprive an otherwise eligible person of the right to admission into the Ohio Soldiers' and Sailors' Home.

In this regard, I know of no constitutional or statutory provision providing that the conviction of a person for a crime results in his loss of citizenship rights generally. The statute on the point is Section 2961.01, Revised Code, under which a person convicted of a felony forfeits his rights to specifically enumerated positions only; it reads:

“A person convicted of a felony in this state, unless his conviction is reversed or annulled, is incompetent to be an *elector or juror, or to hold an office of honor, trust, or profit*. The pardon of a convict restores the rights and privileges so forfeited, but a pardon shall not release a convict from the costs of his conviction, unless so specified.”

While a felon thus loses certain rights, he may still be considered a citizen for other purposes. In this regard, it is stated in 14 *Corpus Juris Secundum*, 1128, Section 1:

“The particular meaning of the word ‘citizen’ is frequently dependent on the context in which it is found, and the word must always be taken in the sense which best harmonizes with the subject matter in which it is used. One may be considered a citizen for some purposes, as, for instance, for commercial purposes, and not for political purposes. So, a person may be a citizen in the sense that as such he is entitled to the protection of his life, liberty, and property, even though he is not vested with the suffrage or other political rights.”

The applicant here seeks admission as an inmate to the Soldiers' and Sailors' Home, and Section 2961.01, *supra*, does not bar his admission to said home.

Accordingly, it follows that the only rights of citizenship which Mr. C. lost on his conviction of a felony are those mentioned in Section 2961.01,

supra, and Mr. C. has been a citizen of Ohio for five consecutive years or more within the purview of Section 5907.04, *supra*.

Concluding, it is my opinion and you are advised:

1. Under Section 2961.01, Revised Code, a person who is a citizen of this state with all rights of a citizen is upon conviction of a felony, incompetent to be an elector or juror, or to hold an office of honor, trust, or profit, but does not lose his citizen rights generally.

2. A person who is convicted of a felony does not lose his citizenship within the purview of Section 5907.04, Revised Code, which requires that to be admitted to the Ohio Soldiers' and Sailors' Home the applicant must have been a citizen of Ohio five consecutive years or more at the date of making application for admission.

Respectfully,
MARK McELROY
Attorney General