

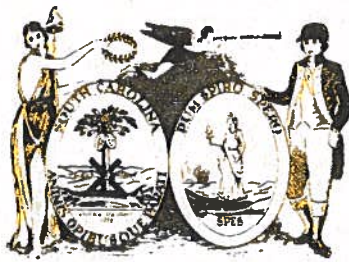
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Executive order no. 2021-42

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State of South Carolina

Executive Department



FILED

DEC 14 2021

Mark Hammond
SECRETARY OF STATE

Office of the Governor

EXECUTIVE ORDER NO. 2021-42

WHEREAS, on December 14, 2021, a Grand Jury convened in Marlboro County returned two Indictments charging Charles B. Lemon, Sheriff of Marlboro County, with one count of Assault and Battery of a High and Aggravated Nature, in violation of section 16-3-600(B)(1) of the South Carolina Code of Laws, as amended, and one count of Misconduct in Office, in violation of the Common Law of South Carolina; and

WHEREAS, article VI, section 8 of the South Carolina Constitution provides, in relevant part, that “[a]ny officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . may be suspended by the Governor until he shall have been acquitted” and “[i]n case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law”; and

WHEREAS, Charles B. Lemon, as Sheriff of Marlboro County, is an officer of the State or its political subdivisions; and

WHEREAS, under South Carolina law, moral turpitude “implies something immoral in itself, regardless of whether it is punishable by law as a crime,” involves “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,” or otherwise includes conduct “contrary to justice, honesty[,] and good morals,” *State v. Horton*, 271 S.C. 413, 414–15, 248 S.E.2d 263, 263–64 (1978); see also *Baddourah v. McMaster*, 433 S.C. 89, 112, 856 S.E.2d 561, 573 (2021) (“Under South Carolina’s moral turpitude framework, we focus ‘primarily on the duty to society and fellow man [that] is breached by the commission of the crime.’”); and

WHEREAS, upon consideration of the circumstances presented, to include the particularized facts alleged in the Indictments and the statutory definition and classification of the offenses, the undersigned has determined that one or both of the aforementioned Indictments

charge Charles B. Lemon with “a crime involving moral turpitude” for purposes of article VI, section 8 of the South Carolina Constitution, *see Baddourah*, 433 S.C. at 108, 113–14, 856 S.E.2d at 571, 574; *see also In re Lee*, 313 S.C. 142, 143–44, 437 S.E.2d 85, 86 (1993) (noting that “the crimes of misconduct in office . . . and assault and battery of a high and aggravated nature . . . may be [crimes of moral turpitude] depending on the facts as particularized in the indictment”); *State v. Bailey*, 275 S.C. 444, 446, 272 S.E.2d 439, 440 (1980) (observing that whether assault and battery of a high and aggravated nature is a crime of moral turpitude depends upon the facts of the particular case as set forth in the indictment); *Op. Att’y Gen.*, 2016 WL 7425912, at *1–2 (S.C.A.G. Dec. 2, 2016) (noting that “both the statutory and common law offences of misconduct in office may constitute a crime of moral turpitude” and concluding that “the unlawful use of deadly force sufficient to constitute misconduct in office would constitute a crime of moral turpitude” (citations omitted)); *Op. Att’y Gen.*, 1994 WL 199758, at *1 (S.C.A.G. Apr. 19, 1994) (opining that assault and battery of a high and aggravated nature was a crime of moral turpitude based on the facts alleged in the indictment); and

WHEREAS, for the foregoing reasons, and in accordance with article VI, section 8 of the South Carolina Constitution, the undersigned is authorized to suspend Charles B. Lemon from the office of Sheriff of Marlboro County until such time as he shall be acquitted or convicted; and

WHEREAS, section 8-1-100 of the South Carolina Code of Laws, as amended, provides that “any state or county officer who is indicted in any court for any crime may, in the discretion of the Governor, be suspended by the Governor, who in event of suspension shall appoint another in his stead until he shall be acquitted” and “[i]n case of conviction, the office shall be declared vacant by the Governor and the vacancy filled as provided by law”; and

WHEREAS, section 23-11-40(C) of the South Carolina Code of Laws, as amended, similarly provides that “[i]f any vacancy occurs in the office [of sheriff in any county of this State] at any time and is created by suspension by the Governor upon any sheriff’s indictment, the Governor shall appoint some suitable person . . . to hold the office until the suspended sheriff is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first”; and

WHEREAS, Larry McNeil, of Bennettsville, South Carolina, is a fit and proper person to serve as Sheriff of Marlboro County.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby suspend Charles B. Lemon from the office of Sheriff of Marlboro County until such time as he shall be formally acquitted or convicted. Accordingly, pursuant to article VI, section 8 of the South Carolina Constitution and section 23-11-40(C) of the South Carolina Code of Laws, I hereby appoint Larry McNeil to serve as Sheriff of Marlboro County until Charles B. Lemon is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first. This action

December 14, 2021

in no manner addresses the guilt or innocence of Charles B. Lemon and shall not be construed as an expression of any opinion on such question. This Order is effective immediately.



**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 14th DAY OF
DECEMBER, 2021.**

A handwritten signature in blue ink, reading "Henry McMaster", is written over a horizontal line.

HENRY MCMASTER
Governor

ATTEST:

A handwritten signature in blue ink, reading "Mark Hammond", is written over a horizontal line.

MARK HAMMOND
Secretary of State