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August 26, 1935



Honorable G. Logan Marr  
Prosecuting Attorney  
Morgan County  
Versailles, Missouri

Dear Sir:

We have your request of August 22, 1935, for an opinion, which is as follows:

"Are these situations crimes under this section, and punishable as such:

"1- Can a merchant take a hand full of money in one hand, and a pistol or revolver in the other hand, and proceed down the street, from his store to the bank, in the daytime, and not be guilty of violating section 4029 - 1929?

"2- Can an individual of good reputation, whose life has been threatened, carry a pistol or revolver strapped around his waist, where the gun is on the outside of his clothes, and in plain view, so that the weapon is not concealed, and when he does not go into any of the public assemblages excepted to in the section? This individual would not be concealing a weapon, and so long as he was sober, and did not rudely exhibit his weapon tottwo or more persons, would any part of the statute apply to this act?"

#2 - Honorable G. Logan Marr

The gist of the offense under Section 4029, R. S. Mo. 1929 is the concealment of a dangerous and deadly weapon insofar as carrying it on the street is concerned. Concealment in any prosecution, under facts stated in paragraph one of your request, is an element which the State must prove. State v. Hale, 70 Mo. App. 143.

It is, therefore, the opinion of this office that a merchant may carry a pistol or revolver, not concealed, in his hand on trips to the bank to deposit money.

With reference to your second inquiry, we call your attention to the fact that no one has a right to carry a pistol because his life had been threatened a short time before. State v. Davis, 225 S. W. 707. The carrying of a deadly weapon exposed about the person is permitted under certain conditions, such as taking the weapon to court for the purpose of producing it at a trial, State v. Pollack, 49 Mo. App. 445; for the purpose of delivering it to owner, State v. Roberts, 39 Mo. App. 47.

You will note under Section 4029, R. S. Mo. 1929 that a person is not allowed to carry a pistol, even when exposed, to church, into a school room, political meeting, literary or social meetings, to any election precinct, or into a courtroom during court or into any other public assemblage of persons meeting for any lawful purpose other than military drill. Under this section, it is virtually impossible for a person to carry generally about them, exposed, a pistol without violating Section 4029.

It is, therefore, the opinion of this office that a person may not generally carry a pistol or revolver exposed about his person, except on special missions, such as are heretofore mentioned in this opinion.

Yours very truly,

FRANKLIN E. REAGAN  
Assistant Attorney General

APPROVED:

JOHN W. HOFFMAN, JR.  
Attorney General

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