

TRAINING SCHOOLS:
CRIMINAL LAW:
DISCHARGE:

Any person lawfully committed to the Missouri Training School for Boys may be discharged from legal custody thereof by the State Board of Training Schools.

September 8, 1953



Mr. W. E. Sears, Director
Board of Training Schools
Jefferson City, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this office, and reading as follows:

"On March 20, 1944, a boy was sentenced in the Circuit Court of Cass County, to serve twenty (20) years in the Missouri State Penitentiary on a charge of Second Degree murder. Due to the fact that the boy was a minor, fourteen years of age, the sentence was commuted to the Missouri Training School for Boys at Boonville, Missouri.

"The commitment accompanying the boy, points out that certain procedure should be followed. The circumstances of this procedure is outlined in the following notation taken from the official commitment:

"The superintendent of said training school is required to receive and safely keep, the said defendant, in the training school aforesaid, until the said defendant becomes of age, at which time it is ordered that he then be committed to the penitentiary of the State of Missouri, there to be kept, confined, and treated in the manner directed by law, until the sentence of this Court be complied with,

Mr. W. E. Sears, Director

or until the said defendant shall be otherwise discharged by due course of law.'

"On or about September 12, 1946, the Attorney General's office issued an opinion in answer to a question as to whether or not the boy could be placed on parole. The conclusion as given in that opinion is as follows:

"'Therefore, it is the opinion of this department that a boy confined in the Missouri Training School for Boys at Boonville, Missouri, who has met the requirements of the institution for parole, is entitled to be considered for the same even though his sentence may be for such a term that he could be confined in the State Penitentiary.'

"On May 9, 1950, an inquiry was made of the Attorney General's office, which asked, in part, the following two questions:

"1. Is the boy in question entitled to discharge at the time he reaches the age of twenty-one or is the Board required to turn over the custody of the boy to officials of the Missouri State Penitentiary?

"2. May the Board of Probation and Parole, who supervises adults, if they see fit to do so, parole the boy and accept supervisory responsibility without the boy being delivered into actual custody and confinement?

"An opinion dated June 29, 1950, from the Attorney General's Office, gave the following conclusion:

"'It is, therefore, the opinion of this department that a boy under the age of seventeen years who in 1944 was convicted and sentenced to twenty years in the penitentiary and was committed by the court to the Missouri Training School for Boys remains subject to the control and jurisdiction of the Board of Training Schools until the expiration of his term or until otherwise discharged by due course of law, and said

Mr. W. C. Sears, Director

boy upon reaching his twenty-first birthday should not be transferred to the Missouri State Penitentiary.'

"The boy was released on placement July 30, 1947, and since that time has made excellent adjustment to community living. He has been steadily employed, has graduated from high school, and is married and maintaining a fine community relationship and attitude.

"The Board desires to be advised as to whether or not the boy may be discharged by board action due to his fine adjustment and the knowledge that the person is now twenty-four (24) years of age as of June 16, 1953.

"Another question pertains to interpretation of Section 219.250 RSMo, Volume I, Page 1901, as to whether or not the Board of Training Schools may discharge a boy or girl from legal custody even though this person might have been sentenced for a period of time which will not expire until after their twenty-first birthday (Section 219.160, page 1900)."

Section 219.250, RSMo 1949, provides, in part, as follows:

"The board of training schools is hereby authorized to release on parole juveniles committed to institutions under its control; to impose conditions upon which such paroles are granted; to revoke and terminate such parole; and to discharge from legal custody. * * *" (Emphasis ours.)

It is our view that the quoted portion of Section 219.250 authorizes the Board of Training Schools to discharge from legal custody any person committed to such school. It follows, therefore, that the person about whom you inquire, and who now is on parole at the State Training School may be discharged from legal custody by the Board of Training Schools.

CONCLUSION

It is the opinion of this office that any person lawfully

Mr. W. C. Sears, Director

committed to the Missouri Training School for Boys may be discharged from legal custody thereof by the State Board of Training Schools.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. C. B. Burns, Jr.

Yours very truly,

JOHN M. DALTON
Attorney General

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