

April 19, 1965

FILED

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Honorable Cloy E. Whitney
State Representative
Room 201
Capitol Building
Jefferson City, Missouri

Dear Mr. Whitney:

We have your opinion request of March 19, 1965, which reads as follows:

"Section 43.060 states, 'Patrolmen and radio personnel shall not be less than twenty-one years of age and shall not have reached their thirty-third birthday at the time of their appointment.' I request your opinion as to whether or not this section applies to the rehiring of a former member of the State Patrol as well as the employment of a new man."

From the facts stated in your letter, it appears that the men in question have at one time served in the Highway Patrol but have resigned from that position and retain no ties whatsoever with the Patrol. The question then becomes what is meant by the phrase "time of their appointment" as stated in Section 43.060, RSMo 1959.

It is our view that one who seeks to be rehired by the State Highway Patrol is in the same position as one making application for the first time. Thus, employment of such an individual would be an "appointment" within the meaning of Section 43.060 and, therefore, no such appointment could be made of an individual who has reached his thirty-third birthday.

We have inquired to ascertain the practices of the Highway Patrol regarding individuals who have previously served on the

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Patrol, resigned, and later joined the Patrol again. It appears that such an individual is treated in exactly the same manner as is one who has never served before. His seniority commences on the date of the second appointment. He is obliged to undergo the same training as all other appointees and is no way treated differently than one who is serving under his first appointment. This, we believe, supports our conclusion that a second appointment to the Highway Patrol is an appointment within the meaning of Section 43.060 and the age qualification therein applies to such second appointment.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

JJM:mje