

SUPREME COURT RULES:
CITIES, TOWNS & VILLAGES:
CONCEALED WEAPONS:
FIREARMS:
POLICE:
BONDS:

A professional criminal bondsman has no authority to carry concealed weapons. Further, under Supreme Court Rule 32.14, a peace officer cannot be accepted as a surety on any bail bond. An individual cannot be appointed as a peace officer for the purpose of carrying a concealed weapon.

OPINION NO. 169

June 11, 1973



Honorable Zane White
Prosecuting Attorney
Phelps County, Courthouse
Rolla, Missouri 65401

Dear Mr. White:

This official opinion is written in response to your request for same in which you addressed the following questions to the Office of the Attorney General:

"Is a professional criminal bondsman who is a special policeman in a city of the 4th Class exempt from the provisions of Section 564.610 as a person whose bona fide duty is to make arrests, or aid in conserving of the peace?

"Is a professional criminal bondsman who is not a peace officer of any kind exempt from the provision."

Section 564.610, RSMo 1969, provides that:

"If any person shall carry concealed upon or about his person a dangerous or deadly weapon of any kind or description, or shall go into any church or place where people have assembled for religious worship, or into any school room or place where people are assembled for educational, political, literary or social purposes, or to any election precinct on any election day, or into any courtroom during the sitting of court, or into any

other public assemblage of persons met for any lawful purpose other than for militia drill, or meetings called under militia law of this state, having upon or about his person, concealed or exposed, any kind of firearms, bowie knife, springback knife, razor, metal knucks, billy, sword cane, dirk, dagger, slungshot or other similar deadly weapons or shall, in the presence of one or more persons, exhibit any such weapons in a rude, angry or threatening manner, or shall have any such weapon in his possession when intoxicated, or, directly or indirectly, sell or deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished by imprisonment by the department of corrections for not more than five years, or by imprisonment in the county jail not less than fifty days nor more than one year, but nothing contained in this section shall apply to legally qualified sheriffs, police officers and other persons whose bona fide duty is to execute process, civil or criminal, make arrests, or aid in conserving the public peace, nor to persons traveling in a continuous journey peaceably through this state." (Emphasis added)

We shall take up your inquiries in reverse order. We find nothing in the law relating to bail and bail bondsmen which would make it the "bona fide duty" of a criminal bondsmen to "execute process, civil or criminal, make arrests, or aid in conserving the public peace. . . ." Section 544.610, RSMo, provides that a bailor may discharge his liability under a bond or recognizance by surrendering his principal in open court or to the sheriff, together with a certified copy of the recognizance (Section 544.620), and by paying all costs pertaining to a forfeiture if done prior to any final judgment on said forfeiture. A bondsmen has no bona fide duty to do so, however, but may do so to escape liability on the bond. We find nothing in the statutes of the State of Missouri which would confer any duty upon a criminal bail bondsman, including any duty to make arrests or conserve the public peace, such as would invoke the exemption of Section 564.610, RSMo, and therefore, we must conclude that the fact of being a bail bondsman does not exempt an individual from the statutory prohibition against carrying concealed weapons. Please note that Section 564.610 does not prohibit any citizen from carrying unconcealed weapons except in certain circumstances.

Honorable Zane White

Your other inquiry relating to Section 564.610, RSMo, asks whether a criminal bail bondsman who is also a special policeman in a fourth class city may legally carry a weapon concealed upon his person. We find it unnecessary to respond to this question in an affirmative or negative manner because we have concluded that a criminal bail bondsman cannot be, at the same time, a police officer in a fourth class city. Supreme Court Rule 32.14, V.A.M.R., which sets forth the qualifications of bail bond sureties in the State of Missouri, expressly precludes a surety on a bail bond from being "a peace officer" or from being an "appointed official . . . of Missouri or any county or other political subdivision thereof." Therefore, we must conclude that an individual cannot serve as a criminal bail bondsman while at the same time having an appointment as a policeman in a city of the fourth class.

Further, appointment as a police officer cannot be used as a subterfuge to authorize one without police duties to carry a concealed weapon. State v. Jamerson, 252 S.W. 682, 686 (Mo. 1923).

CONCLUSION

It is the opinion of this office that a professional criminal bondsman has no authority to carry concealed weapons. Further, under Supreme Court Rule 32.14, a peace officer cannot be accepted as a surety on any bail bond. An individual cannot be appointed as a peace officer for the purpose of carrying a concealed weapon.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Michael L. Boicourt.

Very truly yours,



JOHN C. DANFORTH
Attorney General