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Opinion No. 09-99

Issuance of Handgun Carry Permit to Persons Committed or Hospitalized in a Mental Institution

QUESTIONS

1. Is a person who has been voluntarily committed to or hospitalized in a mental institution eligible to obtain a handgun carry permit?

2. Can a person, who has been voluntarily committed to or hospitalized in a mental institution, ever again become eligible to obtain a handgun carry permit?

OPINIONS

1. No. Under Tenn. Code Ann. § 39-17-1351(c)(12), a person who has been committed to or hospitalized in a mental institution after being diagnosed as suffering from a mental illness or defect is not eligible to obtain a handgun carry permit.

2. No. A person, who has been voluntarily committed to or hospitalized in a mental institution, can never again become eligible to obtain a handgun carry permit.

ANALYSIS

1. Tenn. Code Ann. § 39-17-1351(c) sets forth the eligibility requirements for obtaining a handgun carry permit. Subsection (c)(12) addresses mental health issues. An applicant for a permit must confirm under oath, *inter alia:*

> [t]hat the applicant has not been adjudicated as a mental defective; has not been committed to or hospitalized in a mental institution; has not had a court appoint a conservator for the applicant by reason of a mental defect; has not been judicially determined to be disabled by reason of mental illness, developmental disability or other mental incapacity; and has not, within seven (7) years from the date of application, been found by a court to pose an immediate substantial likelihood of serious harm, as defined in title 33, chapter 6, part 5, because of mental illness.

Tenn. Code Ann. § 39-17-1351(c)(12).

The primary objective of statutory construction is to ascertain and give effect to the intention of the legislature. *Auto Credit of Nashville v. Wimmer*, 231 S.W.3d 896, 900 (Tenn.

2007). If a statute is clear and unambiguous, courts will find the intent in the plain and ordinary meaning of its language. *Brown v. Erachem Comilog, Inc.*, 231 S.W.3d 918 (Tenn. 2007). In interpreting statutory language, courts construe the statute in its entirety and presume that each word in a statute has meaning. *Auto Credit of Nashville*, 231 S.W.3d at 900.

The unambiguous language of Tenn. Code Ann. § 39-17-1351(c)(12) indicates that the legislature intended to render persons who were voluntarily committed to mental institutions ineligible to obtain handgun carry permits. The use of the term "hospitalized" along with the term "committed" indicates that the legislature intended to render ineligible for handgun carry permits all persons who have been hospitalized for treatment for mental illness, regardless of whether their admission for treatment was voluntary or involuntary.

2. Under rules of statutory construction, the express mention of one subject in a statute means the exclusion of subjects that are not mentioned. *State v. Edmondson*, 231 S.W.3d 925 (Tenn. 2007). Tenn. Code Ann. § 39-17-1351 sets forth various types of matters that will render a person ineligible to obtain a handgun carry permit. Such matters include two or more DUI convictions within the last ten years and with one of the convictions having occurred within five years of the date of the application, Tenn. Code Ann. § 39-17-1351(c)(11), addiction to alcohol or controlled substances, Tenn. Code Ann. § 39-17-1351(c)(10), a dishonorable discharge from the military, Tenn. Code Ann. § 39-17-1351(c)(14) and receiving social security disability benefits because of drug or alcohol dependency or a mental disability, Tenn. Code Ann. § 39-17-1351(c)(17). For some matters, such as treatment for alcohol or drug addiction, the statute expressly provides that a person can become eligible for a permit after the passage of a specified period of time.[1] Others, such as institutional commitment or hospitalization for mental illness, provide no such time periods.[2] Expressly allowing an applicant to regain eligibility after a specified period of time for some matters but not for others indicates that the legislature intended that a person would remain permanently ineligible for a handgun carry permit unless the particular subsection of Tenn. Code Ann. § 39-17-1351(c) or some other statute expressly provides otherwise. Because no statute provides a mechanism for persons to regain eligibility after hospitalization for mental illness, we conclude that a person who is ineligible to obtain a handgun carry permit by operation of Tenn. Code Ann. §39-17-1351(c)(12) may not later regain eligibility to obtain such a permit.

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[1] Under Tenn. Code Ann. § 39-17-1351(c)(10), for example, an applicant may apply for a permit ten years after release from treatment.

[2] Other matters, such as dishonorable discharge from the military, do not allow an applicant to become eligible for a handgun carry permit after the passage of a specified period of time. Tenn. Code Ann. § 39-17-1351(c)(14).

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