

February 16, 2001
OPINION #00-406

Robert C. McCorquodale, Esq.
In-House Counsel to the Sheriff
Calcasieu Parish Sheriff's Office
5400 E. Broad Street
Post Office Box 3722
Lake Charles, Louisiana 70615

Dear Mr. McCorquodale:

Please be advised that the office of the Attorney General is in receipt of your opinion request regarding the following facts. You stated that on September 20, 1996 the Calcasieu Parish Sheriff's Office along with other local agencies seized a 1973 Harley Davidson motorcycle pursuant to La. R.S. 40:2616. On November 3, 1999, a judgment of forfeiture was rendered forfeiting the motorcycle and other property to the Calcasieu Parish Sheriff's office disposing of it pursuant to La. R.S. 40:2616. As a result of these facts you ask the following question:

(1) Considering that La. R.S. 40:2616 was amended in 1999, does the law at the time of seizure apply or does the law at the time of the rendering of the judgment apply?

I assume from the facts given that this matter was not appealed. Because a final judgment was entered in this particular case, discussion of which law will apply is moot.

In the instant case, the judgment dated November 3, 1999, orders that the forfeited motorcycle be disposed of pursuant to La. R.S. 40:2616. It is presumed that the law at the time of the rendering of judgment will apply. Due to the fact that a final judgment was entered and not appealed and because of the above mentioned principal of law, the judgment of the court is no longer open to question. Therefore it is the opinion of the Attorney General that the motorcycle was forfeited in accord with R.S. 40:2616, as it was in affect on November 3, 1999.

Mr. Robert C. McCorquodale, Esq.
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I hope this opinion adequately answers your question. If I may be of further assistance, please do not hesitate to call. I remain

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

BY: _____
TOBY J. AGUILLARD
ASSISTANT ATTORNEY GENERAL

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Louisiana Revised Statutes, Title 40 Section 2616

16 CRIMINAL LAW – Crimes and Offenses

The motorcycle was forfeited in accord with R.S. 40:2616 as it was in effect on November 3, 1999.

Mr. Robert C. McCorquodale, Esq.
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5400 East Broad Street
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Date Received:

Date Released: February 19, 2001

TOBY J. AGUILLARD
ASSISTANT ATTORNEY GENERAL