A close-up photograph of a person's hands gripping vertical metal bars, likely in a prison cell. The lighting is dramatic, highlighting the texture of the skin and the metallic surface of the bars. The background is dark and out of focus.

South Carolina Criminal Arrest?

Useful Information That May Help You
Defend Your Charges

Cole Law Firm
www.ColeLawFirmSC.com

1303 Ella Street
Anderson, SC 29621
(864) 225-3617

126 Laurens Road
Greenville, SC 29607
(864) 233-4884

Written by:

Ronnie M. Cole, Esq.
Michael O. Hallman, Esq.
Helena L. Jedziniak, Esq.

SOUTH CAROLINA CRIMINAL ARREST?

**USEFUL INFORMATION THAT MAY HELP YOU
DEFEND YOUR CHARGES**

*By Ronnie M. Cole, Esq.
Michael O. Hallman, Esq.
Helena L. Jedziniak, Esq.*

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COLE LAW FIRM (TOLL FREE: 877-463-6384)
(Two locations to serve you)

1303 Ella Street
Anderson, SC 29621
(864) 225-3617

126 Laurens Road
Greenville, SC 29607
(864) 233-4884

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CLIENT TESTIMONIALS

“I was charged with several questionable charges in one incident. I am sure that without Cole Law Firm I would have been convicted with bad results for me going forward. Cole Law Firm did a great job and managed to get all charges dropped.”

- Tyler

.....

“I'm pleased to say Mr. Cole and his staff have exceeded my expectations every time I've had to call them for service, advice, or representation. While no one anticipates impending criminal charges, his staff has done as much to represent me in Anderson and as far as Spartanburg County. His receptionists are responsive, always keeping me informed of any changes in the case as well as retrieving information from prior counseling. Most importantly, this man is a winner! Out of my four Ronnie Cole representations, I have never walked away discouraged from the results of my case or feeling jaded as to money poorly spent....”

- Greg

.....

“Mr. Cole responded to my questions promptly and gave me information that I was unable to find anywhere else. I contacted many lawyers, and he was the only one to respond not demanding a payment before sharing any information. He even sent me links and step by step instruction as to how to do some research on my own. I was amazed at his kindness and willingness to help with matters that have been causing me tribulations for quite some time. When the time comes to use his services again I will not go to anyone else. I am happy to tell all my family and friends about Mr. Cole.”

- Amber

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ATTORNEY INTRODUCTIONS

Ronnie M. Cole received his BBA in 1973 from the University of Georgia and his Juris Doctorate in 1976 from the University of South Carolina School of Law. Mr. Cole is a Founding Member and Instructor for the National College of DUI Defense; Founding member of SCACDL, member of NACDL, IACT, and the South Carolina Bar.



He is an Instructor for the South Carolina Court Administration for DUI/DUS Training for Magistrates and Municipal Judges.

Mr. Cole's professional training includes: Coordinator of Breathalyzer School for Lawyers; Attending numerous schools on subject of Alcohol Testing; BAC Data Master Training – 1992; BAC Data Master Training – 1993; BAC Data Master Maintenance & Electrical Training – 1993; Indiana University Tests for BAC in Highway Safety Programs: Supervision and Expert Testing – 1994; NHTSA – Standardized Field Sobriety Testing – 1994; BAC Data

Master – Supervisor/Field Maintenance Training Course – 1995; BAC Data Master Maintenance and Repair – 1997; Instructor three day Data Master Certification Course – June, 1998; Speaker at Data Master User’s Meeting – 1998 IACT Conference; and Speaker or Moderator in more than 50 seminars dealing with Traffic Law. He has also taught Legal and Judicial Ethics and produced a training video for Judicial Ethics and for 20+ years has been an instructor in DUI law for the South Carolina Court Administration’s Magistrate and Municipal Judges Orientation.

His practice areas include Criminal Defense, Traffic Violations, Drug Charges, and other criminal violations. In addition, he has been interviewed by numerous television stations and newspapers, including USA Today and Lawyer’s Weekly.

Michael O. Hallman, Esquire

Michael O. Hallman is a graduate of Wofford College and received his J.D. from the University of South Carolina School of Law.

Mr. Hallman began his practice with the Office of the 13th Circuit Solicitor as an Assistant Solicitor for 3 years before opening his own general law practice as a sole practitioner handling civil and criminal



cases. Mr. Hallman also served as the Municipal Judge for the City of Greer, S.C. for 12 years. In addition to his private practice, Mr. Hallman was an Assistant Solicitor under contract with the Office of the 13th Circuit Solicitor from 2003 through 2008.

Mr. Hallman co-authored South Carolina Traffic Lawyers' Tool Kit 1st and 2nd Editions, and South Carolina Drug Case Tool Kit 1st and 2nd Editions. Mr. Hallman is now in private practice with Mr. Ronnie M. Cole at the Cole Law Firm in Anderson and Greenville, S.C. where he has

successfully negotiated and tried cases to favorable outcomes.

Helena Jedziniak, Esquire

Helena Jedziniak is a new associate with The Cole Law Firm. She graduated with honors from Washington and Lee University School of Law. After law school, Helena completed a clerkship with The Honorable Edward W. Miller in the Thirteenth Judicial Circuit. She then spent a year prosecuting DUIs and other traffic offenses with the Thirteenth Circuit Solicitor's Office



While at Washington and Lee, Helena worked with David Bruck in the Virginia Capital Case Clearinghouse, representing capital defendants at both the trial and the appellate level. She also worked with Professor Doug Rendleman, researching and editing his book, Complex Litigation: Injunctions, Structural Remedies, and Contempt and his article, “Measurement of Restitution: Coordinating

Restitution with Compensatory Damages and Punitive Damages.”

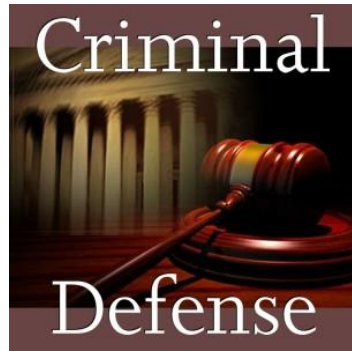
Helena grew up in Columbia, where she attended Hammond School. She then attended Mount Holyoke College. She graduated from Mount Holyoke *magna cum laude* and *phi beta kappa* with degrees in History and Art History. While at Mount Holyoke, Helena played varsity tennis and took part in a seminar in which she worked with Pulitzer-Prize winning historian Joseph Ellis as he researched and wrote First Family: Abigail and John Adams.

COMMON CRIMES

Interviewer: What are the most common types of crimes you represent people for?

Ronnie Cole: I don't know if there is a particular common type of them. We represent a lot of people in traffic cases.

We represent people in drug cases. I personally have done a couple of death penalty cases over the years. We also handle



cases involving thefts of various kinds, whether it is credit card fraud or some transaction fraud, briberies, burglaries, and more or less the whole gamut of things.

The only three types of people we do not represent: child molesters, people who abuse the elderly, and people who abuse animals.

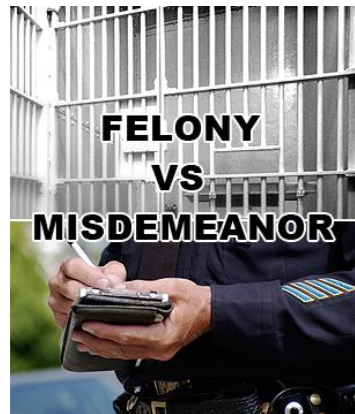
Interviewer: What crimes do you represent people for that most people would be surprised to hear about?

Ronnie Cole: You know, a lot of times it's some odd type of situation. Everybody hears about DUIs. They hear about the house break-in or carjacking or something like that. Nothing specific comes to mind but you do find cases that can be quite humorous. Believe it or not, although in my book any crime can be serious, there are some that are just different and unique.

MISDEMEANORS VS. FELONIES

Interviewer: What kinds of crimes tend to be misdemeanors that you see often? Which ones tend to be felonies?

Ronnie Cole: In South Carolina, we're different from a lot of jurisdictions. Some states will say any crime that is punishable, for example, by six months or a year or more will be categorized as felony. That's not the way it is at all in South Carolina. There are certain crimes that carry many years in jail that are still misdemeanors.



I know at one point, I had a common law misdemeanor that was up to a 10-year sentence. Then there may be a felony where it's substantially less than that. Ours is designated by the statute, rather than the crime.

STATUTE OF LIMITATIONS

Interviewer: Is there a statute of limitations in South Carolina?

Ronnie Cole: That's one of the most frequently asked questions I get from lawyers who practice outside of South Carolina. There is no statute of limitations on a crime in South Carolina.

Interviewer: On any crime?

Ronnie Cole: No crime.

Interviewer: Why even have misdemeanors versus felonies if the amount of punishment doesn't reflect that? What are you going to be charged with?

Ronnie Cole: It's just that our system is completely different from a lot of jurisdictions, as I said. I would

personally prefer a more simplified system, but that's going to be up to our legislators.

Interviewer: What's the point of distinguishing between a felony and a misdemeanor, and what are the different consequences to someone who is charged with one or the other?

Ronnie Cole: With a felony, obviously, you've lost your right to vote. You've lost your right to own a handgun. In theory, you could be convicted of a felony that carried a potentially short period of time in jail but then be



convicted of a 10-year jail sentence misdemeanor and still own a gun and keep your right to vote.

Interviewer: That's pretty much the only important difference?

Ronnie Cole: It just completely goes by the statute and how it's designated.

COLLATERAL DAMAGE

Interviewer: When people come to you, I'm sure they have a lot of misconceptions about the process of being arrested and charged. What would you say the top ones are?

Ronnie Cole: I think some misconceptions are due to television. For example, I have a lot of people who say, "This cop didn't Mirandize me," and it might be a situation where the cop did not have to Mirandize



that person. If he was not under arrest or in any custodial interrogation, for instance, then they wouldn't need to Mirandize him.

A lot of people have misconceptions about how serious the crime they're charged with is – not just the seriousness of the crime, but also the collateral consequences of it. Will this affect my job? What's going to happen down the road?

We just had a lady that pled guilty in 1983 to a traffic offense and 30 years later – last year – an employer ran a background check and denied her a very good job because of something that happened 30 years earlier. She simply had pled guilty and did not hire an attorney or talk to an attorney about it. She just went into court and pled guilty. Think about that – who would think that 30 years later that's going to come back to bite you?

Interviewer: Even if someone had the most minor run-in with the law years ago, they need to take care of it; they need to take it seriously.

Ronnie Cole: Take it very seriously. See if there's a way to get a pardon or an expungement through some process. I'm finding more and more today that the collateral effects of these convictions are just horrible.

Interviewer: What are some of the other collateral effects you mentioned?

Ronnie Cole: It can affect jobs, as I just said. It can affect insurance in a lot of situations. It can affect travel abroad. It can affect your right to vote. There are just more and

more of these things that pop up and, unfortunately, in most cases, people don't realize that until they have been convicted or pled guilty, and then it jumps out of the box and confronts them in the face.

Interviewer: Do you have a lot of folks that come to you and tell you, "Years ago I had this problem, but it's no big deal; I just pled guilty," and now, they're facing a lot more serious charges because of it?

Ronnie Cole: Yes. It goes back to what we call crimes of enhancement. For example, in South Carolina, shoplifting would be a good example. I steal something the first time that cost \$100 and I pay a fine. I steal something the second time that cost only one dollar, but the penalty is more because it's my second offense.



In the employment arena now, I've found, in dealing with human resource people, that there are basically four things they don't want to see on anybody's record. Number one is theft, because they don't want you stealing from them.

They also don't want to see a DUI, a drug conviction, or criminal domestic violence (CDV).

Interviewer: Those are the four big things that can really hurt some of their chances to get any job it sounds like.

Ronnie Cole: Yes. That's true based on my experience and it seems charges are affecting more things.

COMMON MISCONCEPTIONS REGARDING MIRANDA RIGHTS

Interviewer: What are a few misconceptions people have about Miranda? Do they think that if the police didn't Mirandize them, they can just get their case thrown out?

Ronnie Cole: South Carolina is unique in that, say, for example, in a DUI case, you have to be Mirandized after your arrest at the incident scene and on video. I don't know of any other state that requires that. It's very important when we look at video tapes in South Carolina to see that Miranda was done and was done properly.

I've seen countless instances over 38 years where the officer may leave out “if you can't afford an attorney, one will be appointed.” That's not a good Miranda warning. The argument is that you weren't Mirandized at all.

Interviewer: Is Miranda a solid defense or is it a pretty weak area that doesn't really help most people?

Ronnie Cole: I found that in South Carolina it helps the public a whole lot, especially when it's not done properly.



COMMON MISCONCEPTIONS: IMPORTANCE OF AN ATTORNEY

Interviewer: Are there any other common misconceptions that people have?

Ronnie Cole: I think one of the misconceptions that people have is they don't need a lawyer. When people who have gotten in trouble before come into this office, in a lot

of instances they consulted an attorney in the first case, so they may not be in such a bad situation. But they just sometimes think, “Well, I’ll save the money. I won’t hire a lawyer. I’ll take care of this.” Then, like the examples I gave earlier, it comes back to haunt them.

CLIENT MISTAKES

Interviewer: What kind of mistakes do people make intentionally or unintentionally that hurt their case once it's ongoing?

Ronnie Cole: There could be several. I think one is talking too much. We definitely say in my office that silence is golden and duct tape is silver. You really need to keep your mouth shut and not talk to people about your case.



Most of our clients here at our two offices cooperate with us as well as can be expected and sometimes even more than we expect. But when you have a client that doesn't cooperate – doesn't respond to your phone calls and letters,

doesn't fill out an intake sheet or questionnaire about what might have happened in his or her case – it puts you behind the eight ball somewhat because they are the only ones who can supply that information to you, at least from their perspective of what happened.

Interviewer: Do you see people try to talk their way out of an arrest or try to explain their situation and only make it worse?

Ronnie Cole: Not necessarily, but here's what I tell most of my clients: If the law enforcement agency had enough evidence to arrest you, they would do so. They are on a fishing trip and they want you as a fish to open your mouth so they can put the hook in. That's maybe a simplistic way of saying it, but that happens a lot. If you just simply keep quiet, you're much better off.

Interviewer: Do you see people posting things on social media like Facebook and other places about what happened in their case?

Ronnie Cole: I'm not a guru when it comes to social media. I have seen through the news instances where

people placed information or videos on, say, Facebook or some other media and it makes its way to the sheriff's department or to the police department or wherever, and guess what?



That person is arrested because of what they placed on their social media profile. In fact, I had a call just last week about a situation where that occurred.

Interviewer: Do you see that people want to talk to friends or family about their case? Is that a mistake?

Ronnie Cole: Not necessarily. I would caution anybody who's thinking about it, even if it's their parents or whoever, to just keep quiet.

Interviewer: What have you learned about people's behavior and their reactions to being arrested and charged with a crime? What kind of human insights have you gained in the process?

Ronnie Cole: It varies by person, of course. If it's the first time that they have ever been arrested, most people are in a

state of shock, somewhat. Folks that have a relatively long rap sheet are less stressed, depending on the seriousness of the crime, of course.

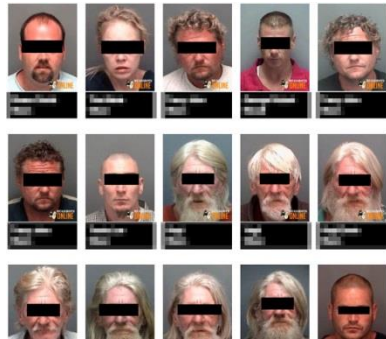
Many people are scared to death about what's going to happen with their job. I've had situations where people didn't get to make calls quick enough to notify work they wouldn't be there the next morning and were terminated.

PUBLIC DISCLOSURE

Interviewer: How public is someone's situation going to be when they're arrested? Will everyone find out? Will work find out? Friends and family? Or can people keep it pretty quiet?

Ronnie Cole: They say good news travels fast, but bad news travels faster. There's little way to hide it anymore. For example, a lot of newspapers print arrests if they involve a public figure or a teacher or somebody with some notoriety. Then it's probably going to be on the front page or close to it. It may be on television or the radio for that matter.

There are a number of publications, at least in South Carolina and over in Georgia, that post the mug shots of people arrested. I've had this happen to one of my clients where it was brought to the attention of a manager at work and the person was terminated just because of the arrest.



One other thing I tell people is that you might just as well assume in today's society

that unless you're in a bathroom or you're at home or on a piece of property that belongs to you, you're going to be videotaped by somebody.

There are too many cellphones out there that record these days.

Interviewer: Is there anything people can do to keep the situation quiet?

Ronnie Cole: Not really. If it's going to be posted somewhere, it's simply going to be posted to that particular form of media.

CLIENT MORALE & MERCY OF THE COURT

Interviewer: Do you have people that come to you and say, “I did it – I’m guilty. Maybe I should just quit and throw myself on the mercy of the court?” What do you say to those people?

Ronnie Cole: Even if the person indicates that they're guilty, the state still has the burden of proving that person's guilt beyond a reasonable doubt. A person may have very well



committed a crime and be charged, but, by the same token, for whatever reason, the prosecution just can't proceed with the case. The lie-down-and-play-dead philosophy has never been a philosophy of mine.

Interviewer: Do you think it's always better to have a balanced view of whether you should fight or give in?

Ronnie Cole: Absolutely. Even if you decide you're going to throw in the towel and enter a plea, again, there are collateral consequences of certain pleas. If I'm that defendant, I need to be cognizant of what's going to happen to me once that gavel comes down.

Interviewer: Have you seen that it matters in the eyes of the court that someone's a good person, they have family, and they have never been in trouble before, or is the court really not sympathetic to people?

Ronnie Cole: It depends upon the type of case. There are some cases where judges have very little discretion. Then, there are some where character comes into play.



For example, you may be a volunteer for some community programs. You may be a decorated war veteran. You may have a history of doing a lot of positive things for the community and, sure, in a lot of cases, those things are going to come into play favorably for the person charged.

Interviewer: What if they appeal and say, "Hey, I'm a good person. I have a family. Why are you wasting time coming after me for this? Why are they bothering me?"

Ronnie Cole: Most of the times when they're bothering you, they have a reason to bother you. They have received information, whether it be direct or indirect, that you may have had some involvement in a particular crime or incident.

CRIMINAL INVESTIGATION

Interviewer: How do people first come to find out they're under criminal investigation? Do they get a call from the detective or do they just get arrested?

Ronnie Cole: A lot of times, you'll get a call to come down to, say, the police station. "We need to talk to you about a particular incident." Most of the time, clients know what it's about. Whether that person is culpable or not may be another story. But, then again, they may not know what it's about.

I had this happen a couple of weeks ago where someone was told to go down to the police department. Sometimes they'll knock on your door and say, "We want to talk to you," or "Would you follow us down to the police department? We want to question you about" whatever.

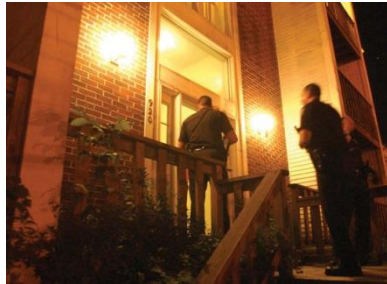
SPEAKING TO POLICE

Interviewer: If the police contact someone and they say, "We're not going to arrest you. We want you to come talk to us. We have some questions we want answered," what should you do?

Ronnie Cole: If I were the potential defendant and thinking that it might be a serious situation, I would certainly want to have an attorney present. They may tell you that they're not going to arrest you, but that may change 180 degrees based upon something that you tell them.

Interviewer: What happens in these situations when you go to talk to them? Will the police lie to you and try to lure you in to come to see them?

Ronnie Cole: There are times when officers will lie or be deceitful in order to attempt to get confessions. If, however, you lie to a police officer, you have violated a statute that prohibits giving false information to a police officer.



Interviewer: If the police ask you to come down and talk to them, what if they say, “If you don’t come down to talk to us, we’re going to arrest you?” How do you politely refuse the situation and get an attorney if you don’t have one yet?

Ronnie Cole: It's going to be up to each individual. I would immediately be on the phone to an attorney. If they came to my door, I would say, “If you have a warrant for my arrest, I'll cooperate and follow you. If you don’t have a warrant, I will wait to talk to you when my attorney can be present.”

Interviewer: Is that all you can do?

Ronnie Cole: That’s about it.

BAIL / BOND

Interviewer: How does bail work? What kind of clients will have bail? Do all offenses have bail? What are the ranges for it?

Ronnie Cole: Bail – or synonymously in South Carolina, bond – is set by a magistrate or city judge. However, there are some cases where bond can be set only by Circuit Court judges in South Carolina. One example would be murder.



Because of the overcrowding that we have in detention centers, if it's not a very severe crime, many magistrates and city judges allow defendants to sign their own bond, which is known as a personal recognizance bond. I've helped teach magistrates and city judges for the Court Administration for a number of years. Anytime the subject comes up, I tell them if it's a minor offense and this person doesn't have a bad record, let them sign their own

bond. So they can just walk on out, but they will be required to appear in court on a set date.

Some judges, depending on the seriousness of the case, will say, “All right, your

bond of \$10,000 to is to be a surety bond” where you

have a bonding company involved. Or the judge may say your bond is \$10,000

and you can pay 10% and they’ll let you out. Someone brings \$1,000 to pay at the jail

and then you’re released.



Interviewer: Do you have to pay the entire thing in cash, or can you pay a percentage of the bond?

Ronnie Cole: Judges normally will set it at 10% of the face value of the bond.

Interviewer: If you can't cover that, can you get a bail bondsman to possibly cover for you?

Ronnie Cole: Yes.

CRIMINAL DEFENSE PROCESS

Interviewer: What are the typical stages that a criminal case will go through? What are the names of the stages? The first is, I assume, arrest and then arraignment. Can you speak to that?

Ronnie Cole: Your arrest is obviously the catalyst that sets everything in motion. You can go through arraignment. An indictment is where the charges are presented to a grand jury. A certain number of people in that grand jury will have to vote for a true bill, which means you're bound over for trial or no bill, which means you're not going to be prosecuted.



The thing about grand juries is very few people are ever no billed by a grand jury. I've seen a few instances over the years where the prosecution literally didn't want to proceed with the cases and they true billed them anyway and later they were dismissed.

Interviewer: A grand jury indictment is for felonies, right?

Ronnie Cole: No. It can be for felonies or misdemeanors, but it's just for circuit court cases. For example, it could be an indictment for a DUI second, which can carry one to three years, depending upon whether the person submitted to a breath, blood, or urine test. It's not a felony.

Interviewer: What are the criteria for being indicted versus being arrested and charged?

Ronnie Cole: To convince a grand jury, there's evidence that you have actually committed the crime. I have thought for years that as far as the State of South Carolina's concerned, a grand jury system is antiquated.

Interviewer: If you're not indicted, what is the process of being charged called?

Ronnie Cole: There's no charge if you're not indicted.

Interviewer: Every time you're charged with a crime, you're indicted?

Ronnie Cole: Not every crime. In South Carolina, it's got to be a circuit court case. In other words, if you were

charged with petty larceny in city court, you wouldn't be indicted.

Interviewer: Because there's no formal name for being charged for that. It's just that you're just being charged with something.

Ronnie Cole: That's correct.

Interviewer: Once you're charged or indicted, what's the process from there for a typical case?

Ronnie Cole: Normally at some point after the indictment comes down, you will have an opportunity to plead guilty or to go to trial just like you would at any other court. That's the time where your defense attorney and the prosecutor will negotiate to see if they can work something out before the trial. Obviously, the defense attorney would love to have the case dismissed or at least pled down to something more palatable to the defendant.

Interviewer: Then you'll either reach a plea agreement or you'll go to trial?

Ronnie Cole: That's correct.

One other thing: even if you don't reach a plea agreement, you can still plead what we call straight up. That means you're pleading before the circuit judge with no recommendation from the state. So there are really three things that can happen: you could have a plea agreement, you could plead straight up, or you could go to trial.



Interviewer: Do most cases go to trial?

Ronnie Cole: Very few.

Interviewer: What happens with most? They reach a plea agreement?

Ronnie Cole: Most of the time there's a plea agreement reached and then there are a few times that I alluded to earlier where you plead straight up or where the case is dismissed.

CASE TIMEFRAME

Interviewer: How long do criminal cases generally take to resolve?

Ronnie Cole: It depends, of course, on which jurisdiction you're in. It depends on the prosecutor and the judge. It depends on a lot of factors.

You see these days what I did not see when I started



practicing law: in some cases there is an urgency for a defendant's case to be resolved. Normally, that's because the defendant is applying to a military college, going into the military, or is in a profession where his superiors have told him that he has "x" amount of time to resolve this favorably or he will lose his job.

I have seen that more in the last few years than probably in all of my other years combined.

ATTORNEY'S ROLE, LOOK-BACK PERIOD, & ALTERNATIVES TO JAIL

Interviewer: What are some of the things that you're able to do for people? As someone's attorney, what are some of the things that you may be able to do to mitigate a case and to secure a more favorable outcome?

Ronnie Cole: First of all, an attorney should be prepared and investigate the case thoroughly. There are alternatives to going to jail. More and more we see home incarceration as a possibility, as well as electronic monitoring with an ankle bracelet. We're beginning to see in South Carolina now where people, on driving under the influence cases, can put an ignition interlock device on their car and still drive and try to keep a job and support a family.

Interviewer: If someone has a previous conviction for something, how long is the look-back period in South Carolina? Let's say you were convicted of a DUI 20 years ago.

Ronnie Cole: In South Carolina, for a DUI, the look-back period is 10 years. For other cases, it can be much further back than that. I don't know of any limitation for a drug conviction to be used for enhancement at some later point.

Interviewer: So for some cases there is a certain period of time, but for others that period is forever?

Ronnie Cole: Correct.

Interviewer: Alternative punishments to jail – you can help them evaluate whether they can be eligible for that. What else are you able to do as an attorney? Are you able to maybe sometimes negotiate bail down?

Ronnie Cole: Yes, I can do that if it's so high that it's almost impossible for that particular defendant to get out. We ask for, what we call in South Carolina, a bond reduction hearing.

Interviewer: How about in the case itself? Because of your intervention, are you able to get more favorable plea agreements for people? What else can you do?

Ronnie Cole: As one part of an alternative sentence, if you want to call it that, there's a program we call pretrial intervention for first offenders. That gives people an opportunity to never have to worry about going into that courtroom to begin with, if they successfully complete that program.



Interviewer: That's something that you can help people determine if they qualify for?

Ronnie Cole: Yes.

Interviewer: What kind of crimes would tend to qualify for alternative punishments? What kind of crimes wouldn't?

Ronnie Cole: You're talking about pretrial intervention?

Interviewer: Yeah, and any other programs or alternative punishments like that.

Ronnie Cole: There are a lot of crimes that qualify, but we have a statute that basically lists crimes that are not eligible

for PTI. Obviously, some of the more serious crimes would not be eligible. Also in South Carolina, a DUI or a DUAC, even on the first offense, is not eligible for PTI under that statute. Of course, murder or something like that would not be eligible for PTI. The statute is pretty clear on what it is allowed and what is not allowed.

Interviewer: What are some of those common crimes that it is allowed for?

Ronnie Cole: A lot of drug possessions. Let's say someone is apprehended with having some Xanax or Valium or something that did not belong to them. That's especially true when there's not any evidence that the person is a big-time dealer. Those types of cases quite commonly will go into PTI.



Some people, because of jobs, can't have anything on their records. Let's assume you had a simple assault and battery. Normally the only punishment would be a fine and you wouldn't care that it was on your record, but if you were in

a job that didn't allow you to have that on your record, then PTI would be a definite benefit.

THE EXPUNGEMENT PROCESS

Interviewer: How about expungement? What kind of crimes could be expunged or sealed?

Ronnie Cole: In South Carolina, certain minor offenses can be expunged after a three-year period. A few years ago, a law was passed that says that only a charge with an arrest, fingerprints, and a jail record can be expunged.



Now in South Carolina, if you are acquitted and found not guilty, or if the charge is nolle prossed, dismissed, or pled down to something else, then that original offense can be expunged automatically.

In South Carolina, as far as a pardoned offense, if you receive a pardon, the charge will still be on your criminal history, unfortunately, but it will say “pardoned.”

Interviewer: Have you seen that a person can still be negatively impacted by a pardoned offense?

Ronnie Cole: Based on my experience, it still negatively impacts that person. There's a stigma, especially in the employment world. People assume that you did it, and they don't care that somebody forgave you for it. You still did it.

CHOOSING AN ATTORNEY & POST-CASE LIFE

Interviewer: If you were charged with a crime, what would you do? How would you find an attorney that was right for you? What advice do you have for someone who is talking to different attorneys?

Ronnie Cole: I've used other attorneys in the past for various things – in a domestic case and in a business setting. What I like is an attorney, first of all, that I'm comfortable with. I want to be comfortable with -- and confident in -- an attorney's personality, ability, and work. I think that's very important for any member of the public who's looking for an attorney to consider.

You have a right to ask that attorney questions. You have a right to go to their website and to find out things about them.

Interviewer: What have you seen people do, either during their case or after it ends, to start functioning normally and to make sure that they don't let their case consume their lives?

Ronnie Cole: I think the best thing for people to do when their cases are over, regardless of the outcome, is to develop a positive attitude and, in some way, to learn from and get past what they've been through. If someone is completely innocent and has been traumatized by the embarrassment of even being arrested or prosecuted, then that might be easier said than done, but it's important not to lie down after it's over. It's so important for people to move forward with the rest of their lives.



JURY VS. BENCH

Interviewer: When people go to trial in a case, they can have either a jury trial or a bench trial. What's the difference between the two?

Ronnie Cole: I think everyone knows what a jury trial is.

That's where a certain number of jurors are impaneled to hear the facts of the case. A bench trial is where a judge hears the case by himself or herself. Obviously, you're going to have a judge presiding at the jury trial.



I use a lot of bench trials, especially when I believe there are serious errors in the prosecution's case. It saves the court a lot of time and potentially saves the state money by not having it impanel a jury.

Interviewer: When you're in front of a jury, how important are your opening statements and closing arguments? How do you speak to the jury? How is that important?

Ronnie Cole: I'm not sure of the exact statistics, but at one point, I think I read something that said some jurors have their minds made up after opening statements. I find that a little disturbing, even if it is not completely accurate.



In South Carolina, a defendant can waive the opening statement until the start of his or her case. Another important tool is the closing statement. In South Carolina, if a defendant does not present any evidence during the trial, then he/she gets the last argument to the jury. I think that's very important, too, and I often use that strategy.

THE DISCOVERY PROCESS

Interviewer: How about the discovery process? That's when you try to unearth evidence for the defendant to help his case. What's important about that? Is there anything special that you do?



Ronnie Cole: The discovery process is so unique in today's times. When I started years ago, we would file a discovery motion. In response, the state might have given us everything they had, or part of it, or nothing. So much has changed today. In the last few years, I've retrieved video surveillance from convenience stores or gas stations, 911 calls, CAD reports, in-car videos from the police, and breath test room videos. A lot of police officers now have body cameras.

You can get surveillance footage from businesses, government buildings, and surrounding areas. As I say, you can pretty much bet in today's society, if you're out and in

the open, somebody is either videotaping you or has the means to videotape you.

INITIAL CONSULTATION

Interviewer: If someone's interested in talking to you about a free consultation, what's the best way for them to do so?

Ronnie Cole: If you're interested in talking to us about any charge that you may have, you can reach us by email, by telephone or through our website. All our initial consultations are free.

DISCLAIMER

This publication is intended to be informational only. No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material. If you are facing legal issues, whether criminal or civil, seek professional legal counsel to get your questions answered.

COLE LAW FIRM (TOLL FREE: 877-463-6384)
(Two locations to serve you)

1303 Ella Street
Anderson, SC 29621
(864) 225-3617

126 Laurens Road
Greenville, SC 29607
(864) 233-4884

www.ColeLawFirmSC.com