# Judges -- Special Masters -- Firearms

**Number:** AGO 2016-17

**Date:** October 06, 2016

**Subject:**
Judges -- Special Masters -- Firearms

Mr. Charles D. Johnson
Sellar, Sewell, Russ, Saylor & Johnson, P.A.
907 Webster Street
Leesburg, Florida 34748

RE: JUDGES – SPECIAL MASTERS – FIREARMS – whether a special master is a "judge" for purposes of carrying a firearm into his or her courtroom pursuant to s. 790.06(12)(a)5., Fla. Stat.

Dear Mr. Johnson:

You have asked for my opinion on substantially the following question:

Is a special master considered a "judge" as that term is used in section 790.06(12)(a)5., Florida Statutes, for purposes of carrying a concealed firearm into his or her courtroom?

In sum:

A special master is not a "judge" for purposes of carrying a concealed firearm into his or her courtroom pursuant to section 790.06(12)(a)5., Florida Statutes.

You have advised this office that you are the appointed Special Master for Lake County, Florida, and preside over quasi-judicial hearings involving matters related to violations of the Lake County Code and Land Use Development. You are requesting my opinion on whether you, as a special master, fall within the exception to the prohibition against carrying a concealed weapon in a courtroom which is extended to judges under section 790.06(12)(a)5., Florida Statutes.

The Department of Agriculture and Consumer Services is authorized by section 790.06, Florida Statutes, to issue licenses to carry concealed weapons or concealed firearms.[1] Any person in compliance with the licensure requirements may carry a concealed weapon, but must carry the license, and valid identification, at all times while in possession of the concealed weapon.[2]

However, section 790.06(12)(a), Florida Statutes, contains the following general prohibition and exception:

"(12)(a) A license issued under this section does not authorize any person to openly carry a handgun or carry a concealed weapon or firearm into:

* * *

4. Any courthouse;
5. *Any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his or her courtroom*[.]" (e.s.)

Thus, the statute contains a specific, limited exception from the prohibition for a judge to carry a concealed weapon into his or her own courtroom.

Section 790.001, Florida Statutes, providing definitions to be used in construing Chapter 790, Florida Statutes, contains no definition of the term "judge." However, other provisions of the chapter also refer to judges and may be helpful in addressing your question.

Section 790.061, Florida Statutes, states that:

"Judges and justices; exceptions from licensure provisions.–A county court judge, circuit court judge, district court of appeal judge, justice of the supreme court, federal district court judge, or federal court of appeals judge serving in this state is not required to comply with the provisions of s. 790.06 in order to receive a license to carry a concealed weapon or firearm, except that any such justice or judge must comply with the provisions of s. 790.06(2)(h). The Department of Agriculture and Consumer Services shall issue a license to carry a concealed weapon or firearm to any such justice or judge upon demonstration of competence of the justice or judge pursuant to s. 790.06(2)(h)."

This office, in Attorney General Opinion 93-29, concluded that the language of section 790.061, Florida Statutes (1992 Supp.), which contains a limited exception from the licensure requirements of section 790.06, Florida Statutes, for certain judges, applied to state court judges only. The requestor of that opinion, a federal district court judge serving in this state, had asked whether he was exempt from the licensure provisions of the statute. While the statue was amended in 1995 to include both federal district court judges and federal court of appeals judges, Attorney General Opinion 93-29 relies on the legislative history for the original statute to determine that the exception was intended to apply strictly to state court judges and justices and did not encompass federal judges or otherwise reach outside the clear terms of the statute.

Likewise, it is my opinion that the term "judges" as it is used in section 790.06(12)(a)5., Florida Statutes, is intended to apply to those officers vested by the Florida Constitution with the judicial power of the state.[3] I read the term "judges" as used in section 790.06, Florida Statutes, providing for a license to carry concealed weapons or firearms, in *pari materia* with section 790.061, Florida Statutes, which excepts such judges from the requirement to comply with a number of those licensure requirements.[4] That is, a judge or justice as described in section 790.061, Florida Statutes, is not required to comply with the provisions of section 790.06 in order to receive a license to carry a concealed weapon or firearm [except to demonstrate competence with a firearm pursuant to the provisions of section 790.06(2)(h)] and is authorized to carry that concealed firearm into his or her courtroom while others may not.

The intent of section 790.06(12)(a)5., Florida Statutes, is clear. Where the language of a statue is unambiguous, the clearly expressed intent must be given effect and there is no room for construction.[5] Where the statute's language is plain, definite in meaning without ambiguity, it

fixes the legislative intention so that interpretation and construction are not needed.[6]

Finally, I note that statutory exceptions to general prohibitions must be construed strictly against the one who attempts to take advantage of the exception[7] and that exceptions to statutes are to be strictly construed and limited to their intended purpose.[8] Thus, the statutory exception to the general prohibition against carrying concealed firearms into a courtroom which would allow a judge to do so, must be construed strictly and will not be read to extend to others such as special magistrates.

In sum, it is my opinion that a special master may not be considered a "judge" within the scope of section 790.06(12)(a)5., Florida Statutes, for purposes of carrying a concealed firearm into his or her courtroom.

Sincerely,

Pam Bondi
Attorney General

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[1] Section 790.06(1), Fla. Stat.

[2] *Id.*

[3] *See* s. 1, Art. V, Fla. Const. *And see* ss. 3, 4, 5, and 6, Art. V, Fla. Const., providing for the organization and jurisdiction of such courts.

[4] Related statutes should be read together so that they illuminate one another and are harmonized. *See Ideal Farms Drainage Dist. v. Certain Lands*, 19 So. 2d 234 (Fla 1944); *State v. Haddock*, 140 So. 2d 631 (Fla. 1st DCA 1962).

[5] *Fine v. Moran*, 77 So. 533, 536 (Fla. 1917); *M.W. v. Davis*, 756 So. 2d 90 (Fla. 2000).

[6] *Osborne v. Simpson*, 114 So. 543, 544 (Fla. 1927); *Holly v. Auld*, 450 So. 2d 217 (Fla. 1984).

[7] *State v. Nourse*, 340 So. 2d 966, 969 (Fla. 3d DCA 1976); Op. Att'y Gen. Fla. 99-11 (1999).

[8] *See Samara Dev. Corp. v. Marlow*, 556 So. 2d 1097 (Fla. 1990); *Farrey v. Bettendorf*, 96 So. 2d 889 (Fla. 1957); *Coe v. Broward County*, 327 So. 2d 69 (Fla. 4th DCA 1976), *aff'd*, 341 So. 2d 762 (Fla. 1976).