Florida Veterans' Hall of Fame

Number: INFORMAL

Date: March 10, 2015

Colonel Mike Prendergast
Florida Department of Veterans' Affairs
11351 Ulmerton Road, Suite 311-K
Largo, Florida 33778-1630

Dear Colonel Prendergast:

At the meeting of the Governor and Cabinet on February 5, 2015, the Attorney General offered to review the process and criteria for the selection of nominees to the Florida Veterans' Hall of Fame.[1] The issue presented is whether, under the current statutory framework and criteria used by the Florida Veterans' Hall of Fame Council, Florida's pre-statehood veterans and Florida's veterans in the service of the Confederate States of America could qualify for inclusion in the Florida Veterans' Hall of Fame.

We have reviewed the material your office provided relating to the process for nomination to the Florida Veterans' Hall of Fame, and additionally met directly with the representatives of the Sons of Confederate Veterans. Based on our review, it appears that section 1.01, Florida Statutes, defining the term "veteran" and the nominee criteria expressly created by the Florida Veterans' Hall of Fame Council would not currently support inclusion of Florida's pre-statehood veterans or veterans in the service of the Confederate States of America into the Florida Veterans' Hall of Fame.

The Florida Legislature established the Florida Veterans' Hall of Fame to recognize and honor military veterans who have made a significant contribution to our state.[2] To effect this purpose, the Florida Veterans' Hall of Fame Council (Council) has established and adopted nomination guidelines requiring that a nominee meet the following criteria[3]:

"a. Meets the definition of "Veteran" as defined by section 1.01 of the Florida Statutes as determined by the Department of Defense documentation such as a DD Form 214.
b. Received an honorable discharge from the United States Armed Forces and provided official documentation verifying discharge status.
c. Has exhibited good moral character and has no felony convictions.[4]

* * *"

A general definition of the term "veteran" for use throughout the Florida Statutes is provided in section 1.01, Florida Statutes. As defined therein a "veteran" for purposes of Florida law is:

"a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans

Affairs on individuals discharged or released with other than honorable discharges."[5]

Thus, it appears that nominees must have been discharged under honorable conditions, have good character, and have served actively on behalf of the United States military. The language of section 1.01, Florida Statutes, and the criteria developed by the Council which require the honorable discharge of veterans from service in the United States Armed Forces would not appear to support the inclusion of pre-statehood veterans or veterans who served in the armed forces of the Confederate States of America for inclusion in the Florida Veterans' Hall of Fame.

It appears from testimony at the meeting of the Governor and Cabinet on February 5, 2015, that federal veterans' provisions were considered in evaluating qualifications of nominees to the Veterans' Hall of Fame. Title 38 United States Code Service (U.S.C.S.) section 101 defines a "veteran" for purposes of that title in terms similar to the Florida statutory definition:

"The term 'veteran' means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable."[6]

The Federal code provisions further define "active military, naval, or air service" to include "active duty"[7] which is defined to mean "full-time duty in the Armed Forces, other than active duty for training."[8] The Federal code provides that the term "Armed Forces" means "the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof."[9] Thus, Federal statutory language appears to be more restrictive than the State law as it limits recognized military service to "the United States Army, Navy, Marine Corps, Air Force, and Coast Guard . . ."

Additional Federal provisions do not appear to expand the meaning of the term "veteran" as they are limited in their scope and application. For example, Title 38 U.S.C.S. section 1501, recognizes that the term "active military or naval service" includes active service in the forces of the Confederate States of America during the Civil War. However, that provision is expressly limited in application and scope to Chapter 15 of the code providing for pensions for military service;[10] it does not, by its own terms, extend the definition contained therein outside of Chapter 15. Several additional sections of Title 38 U.S.C.S. make provision for pensions for surviving spouses and children of Civil War veterans.[11]

In sum, based on our review of these sources, it appears that section 1.01, Florida Statutes, defining the term "veteran" and the nominee criteria expressly created by the Florida Veterans' Hall of Fame Council would not currently support inclusion of Florida's pre-statehood veterans or veterans in the service of the Confederate States of America.

Sincerely,

Kent J. Perez
Deputy Attorney General
General Counsel

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[1] The Florida Veterans' Hall of Fame is administered by the Florida Department of Veterans' Affairs. *See* s. 265.003(2)(a), Fla. Stat.

[2] Section 265.003(1) and (2), Fla. Stat.

[3] *See* s. 265.003(5), Fla. Stat., authorizing the Council to establish criteria for nominations to the Florida Veterans' Hall of Fame.

[4] *See* Florida Veterans' Hall of Fame Nomination Guidelines 2015, available at /files/pdf/page/4FD3E8C29CDEF8DF85257E040068486C/2015%20Nominations%20Guidelines.pdf .

[5] Section 1.01(14), Fla. Stat.

[6] *See* 38 U.S.C.S. s. 101(2), *and compare* n.5 *supra*.

[7] *Id.* at (24).

[8] *Supra* n.6 at (21)(A).

[9] *Supra* n.6 at (10).

[10] 38 U.S.C.S. s. 1501, providing definitions states that these definitions are to be used "[f]or the purposes of this chapter [38 U.S.C.S. ss. 1501 et seq.]"; 38 U.S.C.S. Ch. 15 is entitled "Pension for Non-Service-Connected Disability or Death or For Service."

[11] *See* 38 U.S.C.S. s. 1532, providing pensions for surviving spouses of Civil War veterans and s. 1533, making provision for pension payments to the children of Civil War veterans.