

November 18, 2014
OPINION 13-0157

The Honorable Michael A. Couvillon
Sheriff
Vermilion Parish
P.O. Box 307
101 S. State Street
Abbeville, Louisiana 70511-0307

107 SHERIFFS

LSA- C.Cr.P. Art. 319
LSA-R.S. 13:5539
LA Const. Art. V, § 27

The Parish Sheriff, as the administrator and keeper of the parish jail and chief law enforcement officer of the parish, determines the sufficiency and acceptability of immovable property that is offered as security to support a bail bond in his jurisdiction.

Dear Sheriff Couvillon:

You submitted the following questions regarding bonds for persons arrested or incarcerated in the Vermilion Parish Correctional Center:

1. Can an offender, once arrested or incarcerated, use property that he/she owns personally to post bond?
2. Is it permissible to use property located in another parish to post bond for an arrestee?

Your request states that you have refused to permit both scenarios in the past. You have relied on La. C.Cr.P. art. 319 in denying an offender to use property he or she personally owns, and you have denied the use of property located in another parish to post bond on the advice of your attorneys, who have expressed concerns about your office seizing property pursuant to a property bond in another parish if the offender fails to appear in court.

Louisiana's Constitution Art. V, Sec. 27 gives sheriffs in this state the title of chief law enforcement officer in the parish, noting that the sheriff "shall execute court orders and process." La. R.S. 13:5539 further dictates that each sheriff shall be keeper of the public jail of his parish and shall preserve the peace and apprehend public offenders. Finally, the parish sheriff has responsibility in the entire parish for enforcement of all state, parish, local laws and ordinances. La. Atty. Gen. Op. No. 94-105.

This authority and responsibility of the sheriff would also pertain to the determination of the sufficiency of bail bonds. Each parish sets its own procedures for persons under arrest to be released from custody by posting bail. Because the sheriff is the administrator and keeper of the local correctional facility, he or she determines the sufficiency and acceptable parameters for posting bail bonds in his or her jurisdiction. For example, in some parishes in Louisiana, it is acceptable practice to utilize one's own property as security for a bail bond. It is also common practice in some parishes to have someone, such as a family member, bring the paperwork required under La. C.Cr.P. art 319 (C) as proof of the unencumbered value of the property as well as the recorded statement establishing the bail bond security interest in the property. However the local Sheriff has the legal authority to make the determination that a property bond is a sufficient bail bond and has the discretion to reject the security if he deems the bond insufficient or unacceptable.

The same answer applies to your second question. Again, as you are aware, some parishes in the State will accept immovable property located outside the parish lines as security for a bail bond. It is the policy in those parishes that the required paperwork be executed in the parish where the property is located. However, the procedures and policies of each Parish Sheriff dictate whether out-of-parish property would be sufficient security for a bail bond.

Therefore, it is the opinion of this office that the Parish Sheriff has the legal authority to determine the sufficiency and acceptability of immovable property that is offered as security to support a bail bond in his jurisdiction.

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

Very truly yours,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY: _____
MOLLY LANCASTER
ASSISTANT ATTORNEY GENERAL

SYLLABUS

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107 SHERIFFS

The Parish Sheriff, as the administrator and keeper of the parish jail, and chief law enforcement officer of the parish, has the legal authority to determine the sufficiency and acceptability for accepting immovable property that is offered as security to support a bail bond in his jurisdiction.

Sheriff Michael A. Couvillon
P. O. Box 307
101 S. State Street
Abbeville, Louisiana 70511-0307

Date Received:

Date Released: November 18, 2014

MOLLY LANCASTER
ASSISTANT ATTORNEY GENERAL