



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

August 10, 2022

c/o [REDACTED]
[REDACTED]
[REDACTED]

Re: Response to Request for Advisory Opinion – F-22-2

Dear Mr. [REDACTED],

We received on May 4, 2022, your attached request for an advisory opinion. You indicate that you have more than one felony conviction and that your request is on whether you have any outstanding legal financial obligations under section 98.0751, Florida Statutes, which would otherwise make you ineligible to vote and if so, a statement of the amount that must be paid to make you eligible to vote, and an explanation of how the amount was calculated.

The Division hereby responds to your request pursuant to its legal authority under section 106.23(2), Florida Statutes, and Florida Administrative Code Rule 1S-2.010, to provide an advisory opinion to you as an individual seeking to be involved in a political activity (voting) and the particular activity in your inquiry (eligibility to vote).

Per Rule 1S-2.010(4)(f), the requestor must provide the precise factual circumstances giving rise to the request. You reference two separate cases in which you were adjudicated guilty of committing at least one felony ([REDACTED]-CF-[REDACTED] and [REDACTED]-CF-[REDACTED]). However, you did not provide any information about whether you believe you have satisfied any part or all of your financial obligations.

Division of Elections
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The Division of Elections staff located the following cases you provided and the attendant legal financial obligations with each case:

██████████-CF-██████████
Amount ordered at sentencing: \$1168.00
Amount paid: \$0
Amount of restitution ordered: \$1300.00
Amount paid: \$0

██████████-CF-██████████ (re-sentenced December 2, 2002)
Amount ordered at sentencing: \$343.00
Amount paid: \$0
Amount of restitution ordered: \$4500.00
Amount paid: \$0

Please see the attached Judgments and orders assessing costs, as well as the ██████████ County Clerk's records with financial payment detail.

Please note that the Division applies a "first dollar" policy to give effect to the requirements of section 4, Article VI of the Florida Constitution and section 98.0751(2), Florida Statutes. The financial obligations required to be paid for restoration of voting rights include only the amount specifically ordered by the court as part of the sentence and do not include any fines, fees, or costs that accrue after the date the obligation is ordered as a part of the sentence. More specifically, automatic restoration is effective when an individual pays an amount towards fines, fees, costs, or restitution in a felony case that exceeds the amount ordered in the felony judgment and sentence.

The Division of Elections finds that the amount of legal financial obligations related to your felony convictions in the above-referenced cases that must be paid to make you eligible to vote is **\$5165.00**. See Article VI, Fla. Const. § 98.0751, Fla. Stat. (articulating restoration of voting rights upon completion of a felony sentence). We conclude based upon the information we located that you are ineligible to vote. An explanation of this conclusion follows below:

- **Case number ██████████-CF-██████████.**
Credible and reliable evidence in this case indicates that you have not paid any amount toward fines, fees, and costs towards the amount ordered at sentencing (\$1168.00). If this was only a felony conviction case, upon payment of the entire amount, you would have paid the total amount ordered at sentencing for purposes of restoring voting rights. However, this case not only includes a felony conviction, but also three misdemeanor convictions. With respect to the \$1,300.00 restitution ordered in this case, the Judgement and Restitution Order lists two victims. Based on the charging documents and arrest report it appears the first victim relates to Counts II and III of the Information (both misdemeanors). As for the second victim listed on the Restitution Order, it is unclear what count that victim is associated

with. Therefore, having no credible and reliable evidence showing restitution was ordered or specifically allocated or attributed to the felony conviction, the Division errs in favor of you, the voter, and finds \$0.00 restitution is required to be paid in this case for the purposes of restoring voting rights.

As to the May 26, 2016, Order assessing Costs, Fines and Fees or Order Entering Judgment in this same case, neither the Order assessing Costs, Fines, Fees or the Order Entering Judgment delineates between those costs, fines, and fees assessed for the felony conviction and those assessed for the misdemeanor convictions (with the exception of the \$500.00 fine directly attributable to Count III – a first degree misdemeanor). Voting rights are only restored upon satisfying the terms of a felony sentence or sentences (not of a misdemeanor sentence). However, having no credible and reliable evidence as to which fees, fines, and costs were specifically allocated or attributable to the felony conviction, the Division errs in favor of you, the voter, and finds that only **\$375.00** for court ordered costs/fines/fees in case [REDACTED]-CF-[REDACTED] is required to be paid for purposes of restoring voting rights (detail breakout below):

- o \$225.00 levied pursuant to section 938.05, Florida Statutes,
- o \$100.00 levied pursuant to section 938.29, Florida Statutes, and
- o \$50.00 levied pursuant to section 775.083(2), Florida Statutes.

All of these amounts are statutorily authorized to be imposed only when a defendant has been convicted of a felony offense.

Therefore, the Division of Elections has determined that you must pay **\$375.00** to satisfy your legal financial obligations in case [REDACTED]-CF-[REDACTED].

- **Case number [REDACTED]-CF-[REDACTED].**

In this case, you were initially convicted of three felony counts and one misdemeanor count in November of 1999. For the three felony counts you were placed on probation (the misdemeanor appears to have been closed out with a jail sentence) but you subsequently violated that probation and were re-sentenced on December 2, 2002. Therefore, the December 2, 2002, sentencing documents are the operative documents for purposes of analyzing your eligibility to vote.

In this case, credible and reliable evidence indicates that you have not paid any amount towards the two restitution orders totaling \$4,500.00, rendered December 2, 2002. Credible and reliable evidence also indicates that you have not paid any amount toward fines, fees, and costs ordered at sentencing (\$343.00). If this was only a felony conviction case, upon payment of the entire amount, you would have paid the total amount ordered at sentencing for purposes of restoring voting rights. However, as stated above, case number [REDACTED]-CF-[REDACTED] not only included three felony convictions, but also a misdemeanor conviction. Neither the November 22, 1999, Order assessing Costs, Fines, Fees or the Order Entering Judgment

delineates between those costs, fines, and fees assessed for the felony convictions and those assessed for the misdemeanor conviction. Voting rights are only restored satisfying the terms of a felony sentence or sentences (not of a misdemeanor sentence). However, having no credible and reliable evidence as to which fees, fines, and costs were specifically allocated or attributable to the felony conviction, the Division errs in favor of you, the voter, and finds that only **\$290.00** of the \$343.00 in case ██████-CF-█████ is required to be paid for purposes of restoring voting rights (detail break out below):

- \$200.00 levied pursuant to section 938.05, Florida Statutes,
- \$90.00 levied pursuant to section 938.29, Florida Statutes.

These amounts are statutorily authorized to be imposed only when a defendant has been convicted of a felony offense. Additionally, there are two Judgement and Restitution Orders in this case, both entered on December 2, 2002, which clearly refer to the felony convictions. Accordingly, those orders, totaling \$4500.00, must also be satisfied before your voting rights are restored. Therefore, the Division of Elections has determined that you must pay **\$4790.00** to satisfy your legal financial obligations in case ██████-CF-█████.

Please note that the finding in this opinion is based solely upon the two cases located from the personal identifying information you provided in your request for an advisory opinion. You have not indicated any specific convictions in any statewide or national jurisdictions and the Division does not opine as to whether any other convictions exist nor whether any such other convictions would interfere with eligibility. The Division has noted that it appears you may have other felony convictions that it was not asked to analyze. If that is correct, and you want the Division to analyze those cases, please submit an amended advisory opinion request and we will research those (and any other) cases included in the amended request.

Thank you for submitting your request. Should you have any questions, please don't hesitate to contact us.

Sincerely,

Florida Division of Elections