



# Sons of Union Veterans of The Civil War

Office of the Commander-in-Chief

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General Order #7

SERIES 2013-2014

11 November 2013

- 1. Background:** A prospective member enquired into his eligibility of becoming a member as he had been convicted of issuing checks of which there were non-sufficient funds (NSF) to cover the amounts for which the checks were written. He has since received a gubernatorial pardon for said crimes. According to the regulations of the Sons of Veterans of the Civil War a person convicted of “infamous Crimes” cannot be considered for membership. **The question asked is twofold:**

  - 1) does a gubernatorial pardon “erase” the conviction and**
  - 2) is a conviction of NSF an “infamous crime” as stated in the SUVCW Regulations?**
- 2. Opinion:** Pardon, gubernatorial or for the matter presidential, Do NOT erase the conviction or the criminal record. The U.S. Court of Appeals for the Ninth Circuit (an circuit which covers Alaska, Arizona, most of California, Hawaii, Idaho, Montana, Nevada, Washington State, Guam and the North Mariana Islands) has ruled in support the pardon does not expunge the criminal offense. As late as 22 October 2013, the Ohio Supreme Court, in a 6-1 decision, upheld the ruling of the Ninth District Court of Appeals. Judge Judith Lanzinger decision states “Although a pardon grants the recipient relief from any ongoing punishment for the offense and prevents any future legal disability based on that offense, it does not erase past conduct,” Justice Lanzinger wrote. “What is done is done.” Based on this ruling by the Ninth Circuit Court of Appeals, the ruling of the Ohio Supreme Court and after consulting with various State Pardon and Parole Boards, all state that a pardon does NOT expunge or erase a criminal conviction. The second portion of the question addresses the term “Infamous Crimes” and whether a conviction of NSF is considered as such. In reading “Barron’s Law Dictionary” it states “A crime which works infamy in the person who commits it. (189 S.E. 441) At common law, any infamous crime was one that rendered the person convicted thereof incompetent as a witness. (4 N.Y. Cr. R. 545, 546). This was based on the theory of untrustworthiness whereby a testimonial disqualification was imposed to prevent the introduction of evidence thought not entitled to credence. In this sense, infamous crimes comprehend treason, felonies, and any crime involving the element of deceit (crimen falsi). 23 F. 136, 137) and examined the nature of the crime, rather than the nature of the punishment inflicted. The modern view of infamous crimes, which under Art. V of the Constitution (this is the U.S. Constitution not SUVCW) must be prosecuted by indictment, and is a crime that is punishable by death or imprisonment in a State penal institution, with or without hard labor for more than one year. See 604 F, 2d, 569, 572. Under this view, it is determined by

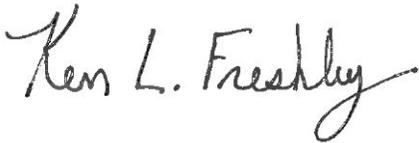
the nature of the punishment, which a court is authorized to impose, and not by the character of the crime. The common law procedure of excluding witnesses because of prior infamous convictions is no longer followed, although such convictions may affect the credibility of the witness. (See 182. A. 2d 15, 16).

3. Based on all the above it is my official opinion that the prospective member is NOT eligible for membership in the Sons of Union Veterans of the Civil War in as much he was convicted of an infamous crime (NSF), and that the Pardon did not expunge that conviction.

Note: When addressing “disabilities” these would include the loss by the felon to 1) own or possess firearms, 2) right to enter the Armed Forces 3) right to vote, as a few, these also vary from State to State.

4. **So with the above Official Opinion #4, I am also in agreement, so therefore this General Order #7 affirms that a prospective member is NOT eligible for membership in the Sons of Union Veterans of the Civil War in which he was convicted of infamous crime (NSF), and that the pardon did not expunge that conviction and is still part of one’s record.**

Ordered this 11th Day of November, 2013.



**Ken L. Freshley**  
Commander-In-Chief  
Sons of Union Veterans of the Civil War

Attest:

**Alan Russ**  
Secretary, National Order,  
Sons of Union Veterans of the Civil War