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RQNM Mr. Wayne L. Parker

SUBJ FIREARMS

SBCD 79

TEXT Mr. Wayne L. Parker Training Officer Police Department City of McComb City P. O.  
Drawer H McComb, Mississippi 39648

Re: Concealed Weapons

Dear Mr. Parker:

Attorney General Bill Allain has received your letter of July 8, 1982; and has assigned it to me for reply. In your letter you state:

"Recently we have had some questions arise about the concealed weapons laws. We would like some information and your opinion on the following questions:

"1. Is pocket knife with a blade of 3 inches or more ever considered a concealed weapon?

"2. Is a lock knife considered a pocket knife or a work knife if it is closed?

"3. Would a knife carried in a holster ever be considered concealed?

"4. What constitutes a deadly weapon?

"5. Do you know of any US Supreme Court Decisions on the carrying of a pocket knife, lock blade, or hunting knife by a felon?"

Most of your questions concerning weapons are ones concerning questions of fact and not law. Any weapon can be concealed, but it is a crime to conceal it only if it is a deadly weapon within the prohibition of 97-37-1 of the Mississippi Code, Annotated, 1972.

Whether a weapon is deadly is a question of fact and the fact that a weapon is not specifically mentioned in the statute does not automatically exclude it as a deadly weapon. *Skate v. Sims*, 80 Miss. 381, 31 So. 907 (1902). Thus, the deadliness for a

weapon is determined by the facts of each case. On weapons not specifically mentioned in the statute, we cannot rule if carrying it concealed would be a crime. For example: A razor has been held not to be a deadly weapon within Section 97371; *Brown v.*

*State*, 105 Miss. 367, 62 So. 353 (1913) It does not matter under our statute if a knife is a fixed blade or capable of being folded or unfolded and locked; it is whether it falls within the description of deadly weapons in Section 97-37-1 that matters.

There is no one definition of "deadly weapon." Common sense would tell most of us that a straight razor is deadly, yet our courts have ruled it is not. Because of this case by case approach, we cannot render a definition of deadly weapons.

It is a violation for a deadly weapon to be carried concealed In whole or in part and a partially concealed weapon is concealed for the purposes of Section 97-37-1 *Reed v. state* 199 So. 2d 803 (Miss. 1967):

We are not aware of any United States Supreme Court decision on a felon carrying a pocket knife, lock blade or hunting knife.

Wishing we could have been of more service to you, I am

Very truly yours,

BILL ALLAIN, ATTORNEY GENERAL

By:

Larry J. Stroud Special Assistant Attorney General  
LJS:cm