



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WAGGONER CARR
ATTORNEY GENERAL**

July 28, 1965

Mr. A. C. Turner, Chairman
Board of Pardons & Paroles
Austin, Texas

Opinion No. C-471

Re: Whether the Board of Pardons and Paroles has the authority to recommend and the Governor the power to grant a posthumous full pardon to a deceased convicted felon on application of a relative or other interested party.

Dear Mr. Turner:

Your recent letter requests our opinion as to the above matter. This question has been foreclosed by Hunnicuttt v. State, 18 Tex.Ct.App. 498 (1885), in which it was held that:

" . . . '1st. A pardon, in order to be complete, must, in contemplation of law, be delivered and accepted.' 2d. 'The principles applicable to the delivery of a pardon and an ordinary deed must be considered analogous, and in either case its delivery is complete when the grantor has parted with his entire control or dominion over the instrument, with the intention that it shall pass to the grantee or obligee, and the latter assents to it either by himself or agent; . . .'"

Language to the effect that a pardon must be accepted is also found in Ex Parte Rice, 72 Tex.Crim. 587, 162 S.W. 891 (1914); Ex Parte Redwine, 91 Tex.Crim. 83, 236 S.W. 96 (1922); and Ex Parte Frazier, 91 Tex.Crim. 475, 239 S.W. 972 (1922). See also Attorney General's Opinion No. O-2413 (1940).

Thus, the pardon not being delivered to the convict during his lifetime, it could not be accepted by him. Even had he appointed an agent to accept the pardon during his lifetime, his death would have the effect of terminating such relationship. Primm v. Stewart, 7 Tex. 178 (1851).

SUMMARY

The Board of Pardons and Paroles has no authority to recommend and the Governor no power to grant a posthumous full pardon to a deceased convicted felon on application of a relative or other interested party.

Yours very truly,

WAGGONER CARR
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By: 
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CBS/lbh

APPROVED:
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