

INSANE PATIENTS: COUNTY COURT'S LIABILITY: The liability of the County Court for insane patients must be determined by Section 9358, R. S. Mo. 1939.

January 30, 1942

Hon. Thomas G. Woolsey
Prosecuting Attorney
Boonville, Missouri



Dear Mr. Woolsey:

This is to acknowledge receipt of your letter of recent date wherein you request an opinion from this office. Your request is as follows:

"This question has arisen in our County and I shall appreciate the benefit of your knowledge with reference thereto.

"Mr. A. who had lived in Pettis County for many years came to Cooper County to live with his sister and within 90 days or at least a comparatively short time after coming to Cooper County he became insane. A hearing was had before the County Court and the patient was committed to the State Hospital as a County patient. Information now comes to this office that he has a small bank deposit in the aggregate sum of \$200.00 in the Sedalia Bank.

"Query: What should we do with the money? Do you recommend that the case be reopened and a hearing had in the Probate Court with the appointment of guardian and curator and use the funds, as far as they will go, toward caring for this patient? If you do recommend that the patient be committed privately, do you know of any authorization in law for the Probate Judge to accept the findings of the County Court as to his sanity and thereby save the additional expense of the second hearing?

"If we are obliged to have the second hearing and get service on the patient

who is now in Fulton the \$200.00 would be exhausted before the patient could be recommended as a private patient."

We assume that the patient in question was legally committed to the State Hospital at Fulton, Missouri, under the provisions of Article 12, Chapter 51, R. S. Mo. 1939, which provides for the commitment of an indigent insane patient to the State Hospital as a county patient. Upon such commitment the county court of the county so sending the patient becomes liable for his maintenance in said hospital.

Your first question is whether the two hundred dollars which you state is in a bank, and belonging to the patient, may be used by the county court of Cooper County to defray the expenses of the patient in the state hospital.

Section 9347, R. S. Mo. 1939, under the article providing for the commitment of indigent insane persons, provides as follows:

"If the county court of the proper county shall so order, the clerk thereof shall transmit to the superintendent a certificate, under his official seal, setting forth that any county patient in the state hospital from his county has sufficient estate to support and maintain him at the hospital. After the receipt of this certificate, the patient shall be a pay patient; and in such cases, charges shall be made out and paid and a bond shall be required and executed as in all other cases of pay patients; and upon a failure thereof, after reasonable delay, the superintendent shall discharge such patient in the manner as provided in this article in case of poor persons."

It will be noted that under this section, if the facts justify it, the county court, through its clerk, may transmit to the Superintendent of the State Hospital, a certificate setting forth that the county patient in the

State Hospital has sufficient estate to support and maintain him in said hospital, which certificate shall be based on an order made by the county court.

In your letter of request you did not state whether or not the patient so committed was married or single, or the head of a family, or had debts or other liabilities.

We refer you to Section 9358, R. S. Mo. 1939, for the reason that we are unable to answer the question until we know the status of the individual and to determine whether the \$200.00 could be applied to the payment of the expenses of the patient in the State Hospital.

Section 9358, R. S. Mo. 1939, provides:

"The words 'insane' and 'lunatic,' as used in this chapter, shall be construed as including every species of insanity or mental derangement. The terms 'insane poor' or 'indigent insane,' when applied to a person without a family, shall mean one whose property of all kinds does not exceed, after payment of his debts and liabilities, that which is exempted by the laws of this state from attachment and execution when owned by any person other than the head of a family; and the same words, when applied to a person having a family, shall mean one whose property of all kinds does not exceed, after payment of his debts and liabilities, that which is exempted by the laws of this state from attachment and execution when owned by the head of a family: Provided, that when the said words are applied to a married woman, her separate estate, if any, and that of her husband shall be estimated as aforesaid, and the total amount of both estates shall determine the question aforesaid, whether she be a 'poor' person or not, within the meaning of this chapter. A person with a family is one who has a wife and child, or either; county patients are those supported in a state hospital at the expense of the counties sending them; pay or private patients are those supported in the hospital by their family or friends, or from the proceeds of their own property. Every word in this chapter importing the masculine gender shall extend and

be applied to females as well as males;
and any word importing the singular
number only, or the plural number only,
may be applied to one person or thing
as well as to several persons or things."

If, after the county court determines the status of the individual, as fixed under the terms of Section 9358, supra, and the facts justify it, it may make such an order as the facts warrant.

Under Article 18, Chapter 1, R. S. Mo. 1939, a procedure is set forth to inquire into the sanity of a person having property, and the appointment of a guardian and curator. The primary purpose of the provisions under this article is to take charge of the insane person's property and administer same under the jurisdiction of the probate court. In any event, a hearing as to the sanity of the patient must be held in the probate court before the appointment of a guardian and curator. The fact that the patient was adjudged insane by the county court would not give the probate court any jurisdiction in the matter.

We cannot definitely answer your question without knowing the status of the individual in question, as provided in Section 9358, supra, however, we think that when you apply the facts of your case to the provisions of Section 9358, supra, your county court will be able to determine what action should be taken by it.

Respectfully submitted,

COVELL R. HEWITT
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General

CRH:NS