

CRIMINAL PROCEDURE:  
CERTIFICATION AND RETURN OF  
FEE BILLS BY MAGISTRATE IN  
CERTAIN MISDEMEANOR CASES?

Under Section 550.240, RSMo 1949,  
trial magistrate in every mis-  
demeanor case where county liable  
for costs, must make out complete  
fee bill and return same and all  
papers in case to circuit or  
criminal court clerk of county  
as promptly as circumstances permit.

APRIL 24, 1951

4-25-51

Honorable Hugh D. Davis  
Judge of the Magistrate Court  
Howard County  
Fayette, Missouri



Dear Sir:

This is to acknowledge receipt of your recent request for  
a legal opinion of this department, which request reads as follows:

"Please explain Section 555.240, Page 3994,  
in the Missouri Revised Statutes, 1949, as  
to when the State or County is liable for  
costs in a misdemeanor before Magistrates.

"Does this mean in each case that all papers  
in the file, i.e.: Information, Warrants and  
Sheriff's Returns, Bonds, etc., together with  
the Fee Bill for Costs in the case?

"Is this always filed with the Circuit Clerk.  
If it must be, when is it done? The Magistrate  
Court has no regular term. Must this be done  
at the close of each month or at the end of the  
year?"

First, we would like to call your attention to an error in  
the printing of the 1949 Statutes. Section 555.240 at page 3994,  
should read Section 550.240. Fee bill from magistrate's court. -  
and we will refer to the correct section number in the course of  
our opinion.

The specific inquiries contained in your letter might be  
summarized in the following questions:

1. When the state or county has become liable for the payment  
of court costs incurred in the trial of a misdemeanor case before

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a magistrate court, and it becomes the duty of the magistrate (under provisions of Section 550.240, RSMo 1949) to certify a fee bill of such costs to the clerk of the circuit court of the county; in making such certification, is the magistrate required to include the information, warrants and sheriff's returns, bonds, and all other papers and docket entries which have been filed in such case?

2. (a) Is this (the fee bill and papers attached) always filed with the circuit clerk?
- (b) When is it done?
- (c) Since the magistrate court has no regular term, when must the fee bill and all attached papers be certified to the circuit clerk? At the close of each month or at the end of the year?

Section 550.240, RSMo 1949, reads as follows:

"Whenever the state or county shall be liable under the provisions of this chapter, or any other law, for costs incurred in any examination of any felony, or in the trial of any misdemeanor before any magistrate, it shall be the duty of such magistrate to make out, certify and return to the clerk of the circuit or criminal court of the county a complete fee bill, specifying each item of service and the fee therefor, together with all the papers and docket entries in the case; and it shall thereupon be the duty of such clerk to make out a proper fee bill of such costs, which shall be properly and legally chargeable against the state or county, which shall be examined by the prosecuting attorney, and proceeded with in all respects as a fee bill made out for costs incurred in such court of record."

Assuming that the county has become liable for the payment of court costs which have accrued in the trial of a misdemeanor case before a magistrate court, as provided by Section 550.240, supra, it then becomes the duty of the magistrate before whom the proceedings were had to make out a complete fee bill of the costs in the case, specifying each item of service and the fee charged therefor. The fee bill, together with "all the papers and docket entries in the case," shall be certified to by the magistrate and returned to the clerk of the circuit or criminal court of the county.

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While the word "all" is usually one of simple meaning and of relatively small importance, yet because it is mentioned in the above quoted statute, and for the further reason that reference is made to it in your letter as to what its actual meaning might be in the statute, we find it necessary to define this seemingly simple word.

According to Webster's New International Dictionary, the word "all" means the whole number or sum of. "All" has been given the meaning of every one, or the whole number of particulars. Words and Phrases, Vol. 3, page 134.

Another definition is "all means the entire thing, everything included or concerned, the aggregate, the whole, totality \* \* \*". Words and Phrases, Vol. 3, page 135.

Section 1.090 of Chapter 1, RSMo 1949, relating to the construction of statutes, particularly with reference to the construction of words and phrases used therein reads as follows:

"Words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import."

Applying these definitions and the statutory rule of construction noticed above, in order to determine or explain the meaning of Section 550.240, supra, as requested, and particularly that portion of the section in which the word "all" appears, it is our thought that the literal interpretation of this section is that in those instances in which the magistrate is required to make out a complete fee bill of costs in a misdemeanor case and where the county is liable for the costs, the magistrate shall certify to the correctness of the fee bill and shall return it, together with every paper of any description and every docket entry that has been filed or made in the case, to the clerk of the circuit or criminal court of the county.

Our answer to your first inquiry is in the affirmative, and it is our thought that the magistrate must return the information, warrants and sheriff's returns, bonds and every other paper that has ever been filed in the case together with the fee bill.

Your second inquiry really consists of three questions instead of one, and which for convenience we have above designated as 2.(a), (b) and (c), and which we shall endeavor to discuss separately, in the order given.

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Question 2.(a) reads as follows:

"Is this always (meaning fee bill and attached papers) filed with the circuit clerk?"

The meaning of your second question is not clear to us and we are in doubt as to the nature of the exact meaning intended, and the exact nature of the answer expected.

Upon first thought inquiry seems to be made as to whether the fee bill and attached papers are to be certified and returned to the circuit clerk in every misdemeanor case in which the county is liable for the costs.

Again it appears that the inquiry might be interpreted to be whether the fee bill and papers are to be certified and returned to the circuit or criminal court clerk, or whether they might legally be certified and returned to some other officer than the one referred to in the statute.

We interpret the above quoted section to mean that it is the duty of the trial magistrate in every misdemeanor case in which the county is liable for the costs to certify the fee bill and to return it and papers attached to the circuit or criminal court clerk of the county.

If we have correctly interpreted your second inquiry, our answer is that the magistrate must perform his duties with reference to the fee bill in every misdemeanor case tried in his court, where the county is liable for the costs.

With reference to the implication which may have been intended, to be given to your second question as to whether the fee bill and papers might be filed with some other officer than the circuit clerk, we call attention again to the above quoted statutory provisions. The statute specifically provides to what officer the magistrate is required to make return and it is his duty to strictly comply with this section of the statute and to file the fee bill and attached papers with the clerk of the circuit or criminal court of his county, as the case may be. He has no legal authority to make the return to any other officer than the one named in the statute.

The answer to your second inquiry, if it was intended to have been framed in the manner suggested in the preceding paragraph, is that the magistrate, in certifying a fee bill of a misdemeanor case in which the county is liable for the costs has no authority to return the fee bill and attached papers to any other officer than to the clerk of the circuit or criminal court clerk of his county.

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We understand your last question to inquire as to what period, or length of time has been allowed a magistrate in making out, certifying and returning the fee bill to the circuit clerk of the county.

In answer to your question we cannot state that the magistrate has been limited to any certain period of time in certifying and returning a fee bill in a case of this kind, since no statutes prescribe any period of time for the performance of the magistrates duties in this respect. However, if we cannot state that a certain period of time is allowed the magistrate in performing his duties, we can definitely state the time when he may begin the performance of such duties.

As we interpret the meaning of Section 550.240, supra, it appears that whenever, or as soon as the liability of the county for costs in a misdemeanor case before a magistrate has become fixed, and as soon after the trial of such case as the magistrate can obtain and assemble all the necessary information to enable him to make out the complete fee bill required by this section, he is authorized to do this, to certify and return same with attached papers in the case at the earliest possible date.

It is our thought that a reasonable length of time is afforded the magistrate in the preparation, certification and return of fee bills under this section. As to what period might or might not be considered a reasonable length of time for the performance of such duties, no hard and fact rule can be laid down, since the circumstances of each case will determine the amount of time to be spent in performing such duties. However, it appears that the intention of the legislature in the enactment of this section must have been that only sufficient time as is necessary for the magistrate to make out a complete fee bill, certify and return the same to the circuit clerk is to be consumed by the magistrate in the performance of these duties.

In answer to your last question, we are of the opinion that the duties of the magistrate mentioned above should be done as promptly as time and the circumstances of each case will permit.

As stated above, the magistrate is authorized to make out, certify and return the fee bill (although not required to do so by statute) as soon after the trial of the case as the information is available, and we believe this is the better practice to follow in all cases of this kind. By so doing the magistrate would greatly facilitate the performance of his duties, and might serve the public in a greater way, without added expense or trouble to himself, and particularly to those of the public to whom witness, or

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other fees are due, but who cannot be paid until some future date, and not then, until the magistrate in whose court the fees were earned, has returned the fee bill to the circuit clerk and the clerk has followed the subsequent procedure required by law. No one to whom fees are due in a case of this kind should ever be forced to wait for the payment of his fees because of the failure of the magistrate to perform his duties in returning a fee bill to the circuit clerk, as promptly as he should. It is our further thought that the magistrate should return all fee bills to the clerk of the circuit or criminal court of his county just as promptly after the trial of the case as it is possible for him to do.

CONCLUSION

It is therefore the opinion of this department that in the trial of every misdemeanor case before a magistrate court in which the county is liable for the payment of the costs under the provisions of Section 550.240, RSMo 1949, it shall be the duty of the magistrate as soon after the trial of the case as time and the circumstances will permit, to make out, certify and return a complete fee bill of the costs of the case, together with all papers and docket entries in the case to the clerk of the circuit or criminal court of the county. The statute provides that such fee bill and attached papers are to be filed with the circuit or criminal court clerk, and the magistrate may not make the return to any other officer.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

  
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Attorney General

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