

MAGISTRATE COURT JURORS: The compensation of magistrate court jurors is fixed by Section 499.090 and 499.100, RSMo 1949, and this compensation fixed by said sections is to be paid in both civil and misdemeanor cases.

October 4, 1951



Honorable Sam Hess  
Judge of the Magistrate Court  
Rolla, Missouri

Dear Sir:

This department is in receipt of your recent request for an official opinion. You thus state your request:

"Jurors in the Magistrate Court of Phelps County are selected under Sections 499.010 to 499.130 inclusive. The question is: Should jurors in misdemeanor cases be paid as provided in Section 499.140? or does this section refer to civil cases only?"

Section 499.140, RSMo 1949, to which you refer, reads:

"Whenever any jury provided for in sections 499.010 to 499.160 shall serve in the trial of any case, there shall be taxed against the unsuccessful party and collected as costs the sum of one dollar for each juror who sits in the case as jury fees, which, when collected, shall be paid into the county treasury to the credit of the county revenue fund; and the person paying the same into the county treasury shall take duplicate receipts therefor, one of which shall be filed with the county clerk, and such clerk shall charge the treasurer therewith."

Section 499.090, RSMo 1949, reads:

"Each juror on the regular panel, summoned under sections 499.010 to 499.160 shall receive three dollars per day for every day he may actually serve as such, and five cents for every mile he may necessarily travel going from his place of

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residence to the courthouse, or other place of service on the jury where the trial may be held at a place other than the courthouse, and returning to the same, to be paid out of the county treasury."

Section 499.100, RSMo 1949, reads:

"Each juror summoned for service in a specific case and who actually serves in such case shall receive the same compensation as a juror on the regular panel and each juror summoned for a specific case but who does not actually serve in such case shall receive one dollar except that jurors summoned or serving in more than one case at the same place on the same day shall only be allowed fees in one case."

It will be observed that Sections 499.090 and 499.100, supra, are the sections which fix the compensation of magistrate court jurors, and not Section 499.140, the latter section providing for the assessment of costs against the unsuccessful party in a magistrate court trial. This being true, it would appear that the only question to be answered by us is whether Sections 499.090 and 499.100, supra, fix the compensation to be paid magistrate court jurors in both civil and misdemeanor cases.

In our opinion, the answer to this question is in the affirmative. Sections 499.090 and 499.100 are found in Chapter 499, entitled "Magistrate Court Juries," RSMo 1949. This chapter provides the manner of selecting jurors, summoning them, their compensation, their manner of payment, etc. Nowhere in this chapter are the words "civil cases" or "misdemeanor cases" used. There is nothing whatever in the chapter to indicate that the magistrate court juries for which it provides are not to be used in both civil and misdemeanor cases. On the contrary, everything in the chapter indicates that the juries for which it provides are to be used in all magistrate court cases in which a jury is used, and, as we said above, Sections 499.090 and 499.100 of that chapter are the juror compensation sections of Chapter 499, supra. Furthermore, we are unable to find elsewhere in the statutes of Missouri any specific provision for the payment of magistrate court jurors in misdemeanor cases.

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Section 494.120, RSMo 1949, reads:

"Each juror not on the regular panel and summoned to sit as a juror in any criminal case wherein the offense charged is punishable with death, or by imprisonment in the penitentiary for life or for not less than a specified number of years and no limit to the time, whether he shall have been selected on the panel or not; provided, he shall have traveled at least one mile and attended upon the court in obedience to such summons, shall be allowed the sum of two dollars per day for each day that he may be in attendance on said court, and five cents per mile for each mile traveled in going to and returning from said court, whether he sits in the trial of the cause or is challenged off."

It will be observed that the above section, in view of the penalties provided for, relate solely to felonies and not to misdemeanors.

Section 494.170, RSMo 1949, part one, reads:

"1. Except as otherwise provided by law jurors shall be allowed fees for their services as follows:

(1) For each juror attending a view, inquest or execution of a writ of ad quod damnum, per day ..... \$1.00

(2) For each person summoned, attending and reporting to any court of record, per day ..... \$1.00

(3) For each mile traveled in going to and returning from the place of trial, in attending any trial before a court of record, per mile ..... \$ .05"

However, Sections 499.090 and 499.100, quoted above, are exceptions to Section 494.170, supra, inasmuch as they "otherwise provide" for compensation of magistrate court jurors.

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CONCLUSION

It is the opinion of this department that the compensation of magistrate court jurors is fixed by Sections 499.090 and 499.100, RSMo 1949, and that the compensation fixed by said sections is to be paid in both civil and misdemeanor cases.

Respectfully submitted,

HUGH P. WILLIAMSON  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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