

Opinion No. 200 Ans. By Letter
(Randolph)



July 1, 1964

Mr. John E. Kelley
County Counselor
Jackson County Courthouse
Suite 209
Kansas City, Missouri

Dear Mr. Kelley:

This is in answer to your letter of recent date in which you request an opinion of this office on the question of whether Jackson County is liable for payment of the cost of maintenance as county patients of indigent persons who have been acquitted of a crime by reason of insanity in Jackson County and committed to a state mental hospital; or persons who were convicted in Jackson County but were transferred to state mental institutions, who were not residents of Jackson County at the time of their convictions or acquittals.

It is our understanding that no action has been taken by the courts of Jackson County to tax as costs, upon application, the expenses for the care and treatment in a state mental institution of an accused, or a defendant transferred to the mental institutions under Sections 552.040 or 552.050, RSMo Cum. Supp. 1963, as is provided for in Section 552.080, RSMo Cum. Supp. 1963, and this letter is therefore limited to those cases in which no such costs have been taxed under Section 552.080.

Section 202.415, RSMo, provides as follows:

"No patient shall become a charge upon any county or city, unless such person has been a bona fide resident of such city or county at least one year next previous to the time when such patient is confined in such hospital."

You have cited Section 202.100, RSMo, which makes reference to Section 546.530, RSMo, now repealed.

Section 202.100 provides as follows:

"No person shall be entitled to the benefit of the provisions of this law as a county patient, except persons whose insanity has occurred during the time such person may have resided in the state, and except the insane poor under sentence as criminals, as provided in sections 546.510 to 546.540, RSMo. Every patient in a state hospital shall be deemed to be the county patient of the county first sending him until one year after his regular discharge from the hospital."

The provisions of such section clearly provide that the benefits of the provision of the law as a county patient shall not be granted to any persons except those whose insanity occurred during their residence in the State of Missouri, with the exception that the insane poor under sentence as criminals may come under the law as county patients whether the insanity occurred during the residence in Missouri or not. In the case of *Thomas v. Macon County*, 175 Mo. 68, the Supreme Court held that a county was liable for payment of expenses of indigents acquitted because of insanity in such county and committed to a state mental institution and indigent persons transferred to such institutions from correctional institutions after conviction in such county only if such persons were residents of such county.

Section 202.100 does make a reference to Section 546.540, RSMo, and such section has been repealed; however, we deem it unnecessary to determine whether the repeal of Section 546.540 also repealed the provisions of such section insofar as Section 202.100 is concerned because Section 546.540 did not attempt to shift the burden of such support as a county patient to any other county than the county of residence.

Therefore, a county is liable for the cost of care and maintenance of an individual at a state mental institution as a county patient only if such individual was a resident of such county when so committed.

Mr. John E. Kelley

-3-

It is our view, therefore, that:

Jackson County is not liable for the payment for the cost of maintenance as county patients of indigent persons who have been acquitted of crimes by reason of insanity in Jackson County and committed to state mental hospitals, or who were convicted in Jackson County but transferred to state mental institutions - who were not residents of Jackson County at the time of their conviction or acquittal. As pointed out above, this letter is based upon the assumption that costs have not been taxed as provided in Section 552.080.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

(DLR:lt)