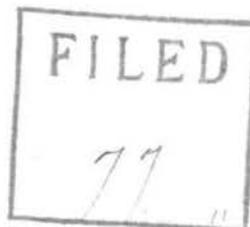


CORONER: Duty to hold inquest, When.

March 8, 1933



Honorable L. D. Rice  
Prosecuting Attorney  
Neosho, Missouri

Dear Mr. Rice:

We acknowledge receipt of your letter dated March 6, 1933, in which you state in part and inquire as follows:

"I. In case a person is killed in this county in an automobile accident where it is very apparent that it is caused by negligence of the person killed and there is no criminal liability whatever, is it necessary that the Coroner hold a Coroner's inquest? Or where the accident is caused by negligence of a person other than the person killed, but it is apparent that there is no criminal liability, is it necessary that the Coroner hold an inquest? In the above instances, if you hold there is no Coroner's inquest necessary, would a certificate from the attending physician be sufficient?

On account of the numerous violent deaths caused by automobile wrecks, if it is legally necessary to hold an inquest in every case, it would impose great financial obligation on the county which we cannot afford at this time. So we would like to get your opinion on these questions.

II. In case injury occurs to a party in Newton County and the party is taken to the hospital in Jasper County and later dies of said injury and it is a case in which it is necessary that a Coroner's inquest be held, where is the proper place to hold said inquest, in the county in which the injury occurs or where the person dies?

I have construed Section 11612 as giving jurisdiction to the Coroner of the county in which the dead body was found. This, of course, would

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be in the county where the person died unless the body was transported back into Newton County and report given to the Coroner of this county. The Coroner of this county seems to want to claim jurisdiction in every case in which injury occurs in this county although the death occurs in the adjoining county. Please give me your opinion on this question, also".

Section 11608 Revised Statutes Missouri, 1929, provides as follows:

"A coroner shall be a conservator of the peace throughout his county, and shall take inquests of violent and casual deaths happening in the same, or where the body of any person coming to his death shall be discovered in his county, and shall be exempt from serving on juries and working on roads."

By the words "take inquests" is meant the holding of an inquisition or examination on account of the death or deaths referred to.

Section 11613, Revised Statutes Missouri, 1929, provides in part as follows:

"Every Coroner so soon as he shall be notified of the dead body of any person, supposed to have come to his death by violence or casualty, being found within his county, shall make out his warrant \* \* \*".

With reference to the liability for costs of an inquest and after making certain other provisions with reference to the payment of same, Section 11630 Revised Statutes 1929, in conclusion says:

" But where there is no person liable and able to pay such expenses, they shall be allowed by the county court out of the county treasury".

These are the sections of the statutes having direct bearing on the questions you desire answered.

Taking up first paragraph one of your letter.

Section 11608 says in substance and effect that the Coroner shall hold an inquest or take testimony about and concerning deaths in the county where such Coroner is an official, where a death has been occasioned by violence or by casualty.

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There is no restriction or reservation in the section as to what particular character of violence or casualty must have caused the death before an inquest should be held, but the section says the Coroner shall take inquests of violent and casual deaths.

The word violence is defined in *Agee v. Employer's Liability Assurance Corporation*, 213 Mo. App. 693, 698, to be:

"Violence is defined as force, "physical force; force unlawfully exercised". *Anderson's Law Dict.*"

In *Morris and Company v. Industrial Board*, 119 N. E. 949, involving a case under the Workmen's Compensation Act of Illinois, the Supreme Court of that state, at page 946 of the opinion, and in referring to the word casualty as used in the Workmen's Compensation Act, said:

"It is made the duty of the coroner to inquire into the cause of death where it is supposed to have resulted from "casualty" as well as where it is supposed to have resulted from "violence" or "any undue means". Webster's New International Dictionary defines "casualty" to mean "chance, accident, contingency; also that which comes without design or without being foreseen; an accident". "Mishap", "misfortune," "disaster", are given as synonyms. The Standard Dictionary defines "casualty" to mean "a fatal or serious accident; disaster; accidental death or disablement; that which occurs by chance". We must assume the word "casualty" was understandingly used by the Legislature, and was intended to be given its usual and ordinary meaning".

Answering the first paragraph of the inquiry in your letter we are of the opinion that in every case where death has been occasioned by violence or casualty, as those terms are above defined, the Coroner is required to hold an inquest and that without regard to any criminality or negligence that might be involved in or grow out of the death.

We do not think the cases of *State ex rel v. Marshall, et al*, 82 Mo. 484, or *Houts v. McCuney*, 103 Mo. 13, in anywise effect the result we have reached as to Section 11608, as those cases dealt with matters of costs to be audited and allowed by the county court. Of course if a man dropped dead in the street from heart failure, with no one within a hundred yards of him, it could not be said he died from violence or casualty and it would be such a gross abuse of the discretion of the Coroner that the county court would be warranted in refusing to audit the paying

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of the costs in such a case.

Answering the second paragraph of your letter and your second inquiry, Section 11608 referred to provides that a Coroner shall take inquests where the body shall be discovered in his county, meaning the county where the Coroner is elected and where the body is found. Section 11612 provides that the Coroner when notified of a dead body supposed to have come to his death by violence or casualty being found within his county, shall issue a warrant for a jury and proceed with the inquest and the warrant shall be directed to the Constable of the township where the dead body is found.

Under the foregoing sections we think the Coroner of the county where it is known death occurs and the body is found, that is to say where the body is upon death occurring from violence or casualty should hold the inquest and where a body is found supposed to have come to his death by violence or casualty and there is no information as to where death actually occurred, the Coroner of the county where the body is found should hold the inquest.

Very truly yours,

GILBERT LAMB  
Assistant Attorney General.

APPROVED:

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Attorney General.

GL:LC