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INSANE PERSONS: Proper county to assume charge of county
PAUPERS: patient - Residence.

5-22

May 18, 1935.



Dr. E. F. Hoctor,
Supt., State Hospital No. 4,
Farmington, Missouri.

Dear Sir:

We wish to acknowledge your letter of May 7th, 1935, which is as follows:

"Mrs. Minnie Hill of East Prairie, Mo. was admitted as a patient to State Hospital No. 4, Farmington, Mo. 10-3-1917 on order of the County Court of Mississippi County. She remained as a patient in this hospital until April 27, 1922 when she was released to the custody of her daughter. She had not recovered her mental health at the time that she was released from the Institution. It is reported that since leaving Farmington State Hospital, for 17 months she made her home with her daughter in West Frankford, Ill. and from there was admitted as a patient to the Anna Ill. State Hospital. She remained confined in the Anna State Hospital until March 1935 when she was removed from the hospital by the Illinois Deportation Agent and took to Maries County, Mo. where her daughter lives and "dumped" there. March 18, 1935 she was brought to the Farmington State Hospital by the Presiding Judge of Maries County who stated that he felt she should be still considered as a charge of Mississippi County. At the present time she has no relatives in Mississippi County, as far as I know. I do not know that she owns any property there.

"May I have your opinion as to which County is liable for her support? Thanking you."

Section 8663, R. S. Mo. 1929, provides:

"No person shall be entitled to the benefit of the provisions of this article 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 8655 to 8659, inclusive, of this article. Every patient in a state hospital shall be deemed to be the county patient of the county first sending him till one year after his regular discharge from the hospital."

The above section specifies that no one is entitled to the benefits of this act as a county patient except persons whose insanity occurred during the time such person may have resided in this State, which is evidenced by the statement of facts made in your above letter, "This patient was admitted as a patient to State Hospital No. 4, Farmington, Mo. 10-3-1917 on order of the County Court of Mississippi County and remained as a patient until April 27, 1922."

Section 8636, R. S. Mo. 1929, provides in part:

"The several county courts shall have power to send to a state hospital such of their insane poor as may be entitled to admission thereto. * * *"

In reading the statutes you will note that the county courts of the 114 counties take care of their indigent insane people and such are committed to the State hospitals at the direction and expense of the county.

In the case of Thomas v. Macon County, 175 Mo. Sup. 68, l. c. 73, the court in writing his opinion held the following:

" * * * Plaintiff next points to section 4867 (8636 R. S. Mo. 1929) which provides that: 'The several county courts shall have power to send to the asylum such of their insane poor as may be entitled to

admission thereto.' And it specifies that the county shall pay for the support and maintenance of such insane poor persons as the county court may send to the asylum.

"Under that section, however, even the county court is not authorized by its arbitrary will or unlimited discretion to send any insane poor person it may select to the asylum at the expense of the county, but the court must hold due proceedings upon a petition filed showing that the insane poor person is 'a citizen residing in the county' and other essential facts as prescribed by the statute, and there must be a trial of the facts and a judgment of the court thereupon. (Statutes cited) The county court has no authority under those statutes to send a person to the asylum or maintain one there at the expense of the county who is not a resident thereof. * * * "

It is the opinion of this Department that such patient is still a resident of Mississippi County, that a resident becoming insane is not mentally capable of making a change of residence.

In State ex rel. v. Wurdeman, 129 Mo. App. 263, the court said:

"In disposing of the petition, Lord Elden said the old settled law was not to grant a commission of lunacy to be executed at any other place than the residence of the supposed lunatic; that if a resident of London were conveyed into Essex, he still would be a resident of the city, and no man could be said to reside in a place where he had been carried while he had not mind enough to make a change of residence." (Italics ours)

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We furthermore believe this patient has never officially been discharged, and if this is the case, such patient remains a charge on the county originally sending her to the hospital, as stated in Section 8663 in part:

"Every patient in a state hospital shall be deemed to be the county patient of the county first sending him till one year after his regular discharge."

By paroling such patient, as stated in your letter, to the custody of her daughter, such patient not having recovered at the time of making such custody, it is our opinion this patient has never been discharged.

Section 8629, R. S. Mo. 1929, provides:

"Persons afflicted with any form of insanity shall be admitted into the hospital for the care and treatment of the insane, and any patient may be discharged by the superintendent whenever, in his opinion, the reason of such person is fully restored: Provided, that nothing herein shall be so construed to prevent any superintendent from paroling any patient whenever he deems it best for such person confined in the hospital; and provided further, that county courts are hereby prohibited from removing from the hospital any indigent insane persons, except as herein provided."

The above section provides the method of discharging a patient, which is "only when, in the superintendent's opinion, the reason of such person is fully restored". However, it qualifies this by another provision, as follows: "Provided, that nothing herein shall be so construed to prevent any superintendent from paroling any patient whenever he deems it best for such person confined in the hospital". This last proviso automatically gave the superintendent the

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authority to parole this patient to the custody of her daughter in 1922. However, in construing together the above section relative to discharging a patient, and Section 8663, R. S. Mo. 1929, holding that every patient shall be deemed to be the county patient of the county first sending such patient till one year after his regular discharge, it is the opinion of this Department that the maintenance incurred in caring for the patient should be assumed by Mississippi County.

Respectfully submitted,

James L. HornBostel,
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK,
Attorney-General.

ARH:HR