

RECORDER OF DEEDS
and
CIRCUIT CLERKS

) Recorder of deeds shall receive the sum of
) 50¢ for affixing seal and certificate in
) every instance. Copies of petitions furnished
) by the Circuit Clerk shall entitle said Circuit
) Clerk to his fees despite the fact copies are
) furnished by plaintiff.

November 15, 1935

11-15



Honorable A. H. Lock
Circuit Clerk and Recorder
Osage County
Linn, Missouri

Dear Sir:

This will acknowledge receipt of your request for an opinion which reads as follows:

"Kindly inform us of the proper charge for the Circuit Clerk and Recorder of Osage County, Missouri, to make for certified copies of appointment of Special Deputy Finance Commissioner, which appointment is recorded in the County, when 10 such certified copies are ordered at one time and are prepared by carbon copy with certificate and seal on each one, the clerk preparing the copies and executing the certificate and attaching seal.

"Also the proper charge for certified copies of petition in civil suits when the plaintiff at the time of filing the suit furnishes the clerk with a carbon copy of the petition and the clerk merely compares same, executes certificate and affixes seal.

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"Also in cases where a sentence has been imposed in a criminal case and parole granted and later parole terminated and defendant sent to penitentiary, how should the clerk go about collecting the fees incident to the revoking of the parole and who is liable for the payment of such fees.

"Also when certified copies of pleading or judgment are requested by the State Auditor for use in checking fee bills, who should pay for these certified copies and how collected.

"These matters are before us at this time and we will appreciate your assistance as promptly as possible."

Your attention is directed to Section 11804, R. S. Mo. 1929, relating to fees of recorders, which provides in part as follows:

***** For every certificate and seal..... .50."

From the wording of the above part of the statute the Recorder of Deeds shall receive for his services, the sum of fifty cents (50¢) for affixing certificate and seal in every instance.

In the instant case, the Circuit Clerk, when acting as Recorder of Deeds would receive Five Dollars (\$5.00) for placing the certificate and seal upon ten copies of the appointment

Your further attention is directed to Section 11785, R. S. Mo. 1929, relating to fees of Clerks of Circuit Court, which provides in part as follows:

***** For copies of records and papers, for every hundred words.. .10

***** For certificate and seal... .50"

In light of the above section of the statute, it is our opinion that the Circuit Clerk is entitled to fees for copies of petitions with certificate and seal despite the fact the copies were furnished by plaintiff, as above set forth in Section 11785, supra, (State vs. Board of Police Commissioners, 108 Mo. App. 98).

In consideration of the third paragraph of your letter, you are directed to Section 11787, R. S. Mo. 1929, relating to fees of clerks of criminal courts. It provides in part as follows:

***** For every order in a case not herein provided for..... .15

"No fee shall be charged by any clerk in any criminal case against the state or any county, unless it is expressly allowed in this section: *****"

In the case of State vs. Board, the Court, at page 104, said:

***** an officer of the court claiming fees for services must be able to put his finger on some statute expressly allowing the fee he claims, and if he is unable to do so he is not entitled to the fees. *****"

In the case of State ex rel. v. Brown, 146 Mo. loc. cit. 406, the Court in discussing the matter of fees due a public officer said:

"The right of a public officer to fees is derived from the statute. He is entitled to no fees for services he may perform, as such officer, unless the statute gives it.

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When the statute fails to provide a fee for services he is required to perform as a public officer, he has no claim upon the state for compensation for such services."

We are of the opinion that since the statute does not expressly provide any fee respecting your third inquiry, that you are limited to the amount provided in making an order showing a revocation of the parole wherein the defendant is committed to the penitentiary, namely fifteen cents (15¢).

We conclude, in answer to your fourth inquiry in light of the above, that inasmuch as there is no provision for the payments of fees to the Circuit Clerk by the State Auditor for furnishing certified copies of pleadings or judgments that the Circuit Clerk is not entitled to any fees.

Respectfully submitted,

RUSSELL C. STONE
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General

RCS:afj