

SHERIFF--COSTS--TRAVELING EXPENSES:

State is liable to Sheriff and guard for traveling expenses of themselves and prisoners when delivering boys convicted of a felony and committed to the Missouri Training School for Boys.

May 27, 1935.

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Honorable Forrest Smith
State Auditor
Jefferson City, Missouri:



Dear Sir:

We acknowledge your request for an opinion dated May 18, 1935, which reads as follows:

"This office, upon a receipt issued to Joe Anderson, Sheriff of Scott County, Missouri, by H. G. Gray, Superintendent of the Missouri Training School for Boys at Boonville, Missouri, for the delivery of certain boys to that institution for confinement, requested said sheriff to furnish this office with a certified copy of the information, together with a certified copy of the judgment in the above cases to determine the liability of the costs for the transportation of said boys to said institution. I am enclosing the certified copy of the information, together with the certified copy of the judgment in the cases and desire an opinion from your office as to whether or not the State of Missouri is liable for the costs of said transportation or whether said transportation is a proper charge against Scott County."

We also acknowledge the exhibits referred to in your request, which we are returning with our opinion.

Section 8357 R. S. Mo. 1929, provides when the State shall pay the costs of delivery of prisoners to the Missouri Training School for Boys and reads:

"In all cases of conviction of felony, wherein the punishment is commitment to the reformatory, the cost of the

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proceedings and of the delivery of such person to the reformatory shall be paid by the state; and in all cases of misdemeanor, wherein the punishment is commitment to the reformatory, the cost of the proceedings and of the delivery of such person to the reformatory shall be paid by the county in which the conviction is had. The sheriff, marshal or other person charged with the delivery of any person to the reformatory shall be allowed the necessary traveling expenses of himself and such person, and a per diem of two dollars for the time actually occupied in taking such person to said reformatory and in returning therefrom, to be paid by the state or county, as the case may be."

CONCLUSION.

The attached certified copies of informations, judgments, and sentences show that Warren Rowlet was found guilty of a felony, the crime of burglary and larceny, that he was sentenced to two years in the State Penitentiary, from April 27, 1935, which sentence was commuted to imprisonment to the Missouri Training School for Boys at Boonville, Missouri.

The attached certified copies of informations, judgments, and sentences show that Truman Gregory and Charles Betts were found guilty of a felony, grand larceny, and that they were sentenced separately to three years in the Penitentiary, which sentence was commuted to three years in the Missouri Training School for Boys.

We are of the opinion that under the provisions of Section 8357, supra, the State of Missouri is liable to Joe Anderson, the Sheriff of Scott County, and guard Glen Lumpkins, for their necessary traveling expenses and the expenses of their three prisoners, and that the sheriff and guard are entitled to a per diem of two dollars for the time actually occupied in taking the boys to the reformatory and returning therefrom.

Respectfully submitted

APPROVED:

WM. ORR SAWYERS
Assistant Attorney General.

ROY MCKITTRICK
Attorney General.