

SHERIFF: Is entitled only to ten cents a mile as mileage when he takes two patients to a State Hospital.

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Mr. Leo A. Politte  
Prosecuting Attorney, Franklin County  
Union, Missouri

Dear Sir:

This department is in receipt of your request for an opinion which reads as follows:

"The sheriff of Franklin County has asked me to obtain from you an opinion as to the amount of mileage he is entitled to collect under Section 8662, Laws of Missouri, 1933, for taking insane persons to a State Hospital.

Recently he took two insane persons in the same automobile and at the same time to the State Hospital under commitments issued by the County Court, and presented a bill to the County Court for mileage on both persons committed, and the County Court allowed him no extra compensation for mileage.

The sheriff believes that he is entitled to mileage for each person."

Laws of Missouri, 1933, page 408, provide as follows:

"To the sheriff or other person, for taking a patient to a state hospital or removing one therefrom, upon warrant of the Clerk, mileage going and returning, at the rate of ten cents per mile, and \$1.00 per day for the support of each patient on his way to or from the hospital shall be allowed: to each assistant allowed by the clerk and accompanying the Sheriff, or other person acting

under the warrant of the clerk, \$4.00 per day for the time actually consumed in making said trip said sum, to include all expenses of such assistant. The computation of mileage in each case is to be made from the place of arrest to hospital by the nearest route usually traveled. Provided, that the said Sheriff shall furnish all necessary means of transportation without charge other than as above allowed. The cost specified in this Section shall be paid out of the County Treasury of the proper county."

Mileage is defined in Bouvier's Law Dictionary as "a compensation allowed by law to officers for their trouble and expenses in traveling for public business." This definition has been used and approved in *Howe vs. Abbott*, 78 Cal. 270, 20 Pac. 572; *Weston County vs. Blakely*, 20 Wyo. 259, 123 Pac. 72; *Reed vs. Gallet*, 50 Idaho 638, 299 Pac. 337. It will be noted in the above definitions that mileage is allowed to officers in order to pay him for his trouble and for his expenses and is personal to him. This fact is recognized in *Richardson vs. State*, 63 N.E. 593, in which the Supreme Court of Ohio said:

"And the 'mileage' allowed him is intended to compensate him for expenses of his travel on official business. That is the legal meaning and import of the term. It is defined in the Century Dictionary as 'payment allowed to a public functionary for the expenses of travel in the discharge of his duties, according to the number of miles passed over'. The same definition substantially is found in Bouvier's and other law dictionaries. The commissioner is at liberty, under our statute, to adopt and pursue his own method and means of travel. He may, if he chooses, travel by railway when accessible, or by vehicle hired by him, or use his own conveyance. But, whatever the mode adopted, he must pay all the expenses incurred, and his only source of reimbursement is the amount of the mileage allowed him."

Therefore, the mileage given him by the statute is to compensate him for the trip and if he took more than one patient, the expenses incurred by him would probably be the same. The intentions of the Legislature may be gleaned from the wording of the statute itself. Because it allows \$1.00 per day "to the support of each patient", the Legislature must have taken into consideration those instances when the sheriff would take more than one patient, and while they allowed him only ten cents per mile for mileage, still they allow a dollar per day for each patient.

CONCLUSION

It is, therefore, the opinion of this department that when a sheriff takes two patients to a State Hospital, he is entitled only to ten cents a mile as mileage.

Respectfully submitted,

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OLLIVER W. NOLEN  
Assistant Attorney-General

APPROVED By:

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J.E. TAYLOR  
(Acting) Attorney-General

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