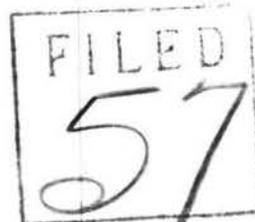


COUNTY COURT: In order to render the county liable for blood hound harness and red lenses purchased by the sheriff, the sheriff must be a lawfully authorized agent of the county.

November 9, 1939

Hon. G. Logan Marr
Prosecuting Attorney
Morgan County
Versailles, Missouri



Dear Sir:

We are in receipt of your request for an opinion, dated November 2, 1939, which reads as follows:

"Just equipment for the office of the sheriff is the County liable for through the county court? The sheriff has informed the county court that he is authorized by an opinion of the attorney general to purchase all necessary equipment and the county must pay for the same. That includes guns, tear gas guns, submachine guns, hand-cuffs, etc. Now the sheriff bought a set of six red lenses to put in spot lights on the car of the sheriff and his deputies. These lenses to be used in case of wrecks and other warning signs on highways, and the lenses are to remain the property of Morgan County. The State Penitentiary gave a blood hound to the office of the sheriff. A collar, muzzle and dog harness were bought for this blood hound and charged up to Morgan County by the sheriff.

"The county court of Morgan County, Missouri, has turned down these last two mentioned bills and as a reason said county was liable for these expenditures because the same were not necessary equipments to the office of the sheriff.

Section 12109 R. S. Mo. 1929 reads as follows:

"If a claim against a county be for work and labor done, or material furnished in good faith by the claimant, under contract with the county authorities, or with any agent of the county lawfully authorized, the claimant, if he shall have fulfilled his contract, shall be entitled to recover the just value of such work, labor and material, though such authorities or agent may not, in making such contract, have pursued the form of proceedings prescribed by law."

It is plain, from a fair and simple construction of the words of Section 12109, supra, that in order to render the county liable for materials furnished, those materials must be bought either (1) under contract with the county court, or (2) under contract with a lawfully authorized agent of the county. According to your statement of the case, as set forth in your request, the sheriff of your county, without a semblance of authorization from the county court, purchased the articles mentioned and charged them to the county. The sheriff, not being the authorized agent of the county, could not render the county liable on a contract such as that. Indeed, in *Kansas City Sanitary Co. v. Laclede County*, 269 S. W. 395, l.c. 398, it is said:

"Section 9507 requires that the agent purchasing supplies for the county be lawfully authorized, and this requirement is not done away with, even though the claim may not be defeated, because the prescribed legal steps have not been followed."

(Section 9507 is now Section 12109, supra)

November 9, 1939

CONCLUSION

Our opinion, in view of the clear manner in which the legislature has spoken in Section 12109, supra, is that Morgan County (absent a subsequent ratification of the contract) is not liable for the purchase price of these red lenses and bloodhound equipment purchased by the sheriff, he having no authority to act as agent for the county in making such purchase.

We are enclosing two other opinions written by this department which deal with related matters, and which may be of interest to you.

Respectfully submitted,

M. J. BURKE
Assistant Attorney General

APPROVED:

TYRE W. BURTON
(Acting) Attorney General

RPCW:RT
Enc.