

SHERIFFS: Only entitled to ten cents per mile for the arrest of two defendants filed on jointly.

September 4, 1941

Honorable Frank W. Jenny
Prosecuting Attorney
Franklin County
Union, Missouri



Dear Sir:

We are in receipt of your request for an opinion under date of August 29, 1941, which reads as follows:

"Early in the morning of August 24, 1941 Fred Hulsey and Gladys Hulsey, husband and wife became engaged in an altercation with other persons at McCurdy's Tavern in New Haven.

"The local Constable arrested them for disturbing the peace and called the Sheriff who proceeded to New Haven and returned Fred Hulsey and Gladys Hulsey to the County Jail.

"On Monday morning, August 25th one Information, charging Fred Hulsey and Gladys Hulsey with disturbing the peace in New Haven Township was prepared and the Sheriff conveyed the defendants and the Information to the Justice of the Peace at New Haven.

"With one Information filed even though there were two defendants and although the Sheriff made but one trip with the two defendants from Union to New Haven he did convey two defendants and might have taken one defendant himself and had a deputy take the other defendant.

"Under these circumstances is the Sheriff entitled to 10¢ per mile for

conveying the two defendants or is he entitled to 20¢ per mile for conveying the two defendants. This question occurs very frequently.

"As I understand the law if two separate Informations charging two defendants with misdemeanors are filed but even though the Sheriff actually only makes one trip he is entitled to charge mileage for each defendant on each information.

"I am interested in knowing whether or not when two defendants are charged in one Information is he entitled to double compensation for his mileage?"

Section 13411, R. S. Missouri 1939, partially reads as follows:

"For each mile actually traveled in serving any venire summons, writ, subpoena or other order of court when served more than five miles from the place where the court is held, provided that such mileage shall not be charged for more than one witness subpoenaed or venire summons or other writ served in the same cause on the same trip \$0.10"

Section 13414, R. S. Missouri 1939, reads as follows:

"Sheriffs, county marshals or other officers shall be allowed for their services in criminal cases and in all proceedings for contempt or attachment as follows: Ten cents for each mile actually traveled in saving any venire summons, writ, subpoena or other order of court when served more than five miles from the place where the court is held: Provided, that such mileage shall not be charged

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for more than one witness subpoenaed
or venire summons or other writ served
in the same cause on the same trip."

Since your request states that Fred Hulsey and Gladys
Hulsey were jointly charged on the same information, under the
above authorities the sheriff is only allowed ten cents a
mile as mileage under the arrest in the same cause on the same
trip.

Respectfully submitted

W. J. BURKE
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General

WJB:DA