

CORONERS: When the act of violence occurs in one county and the victim dies in another, the coroner of the county in which the victim dies should have jurisdiction and the county court of that county is liable for the legal expense incurred in connection with such inquest.

August 25, 1941

Mr. N. Burton Short, Coroner
Cape Girardeau County
Jackson, Missouri



Dear Sir:

This is in reply to yours wherein you request an opinion on the following statement of facts:

"As you know the City of Cape Girardeau located within the boundaries of the County of Cape Girardeau has within it two Hospitals patronized by nearly all of the residents of Southeastern Missouri. Since I have been Coroner of this county several deaths have occurred in these hospitals from accident, homicide and other acts of violence. To illustrate-- On Sunday, March 9, 1941, a boy was brought to St. Francis Hospital, Cape Girardeau, Missouri, suffering from gunshot wound of which he died a few minutes after arrival. The hospital called me. I took the depositions of the boy's father and the attending medical doctor, and notified the coroner of New Madrid County where the alleged shooting transpired.

"I desire a ruling by your office on this question. To Wit -- Is it my duty to respond and investigate deaths of this nature where the alleged act of violence or accident is outside the legal boundaries of the County of Cape Girardeau and death occurs within the legal boundaries of the County of Cape Girardeau? Or should I refuse to answer such calls and inform the summoning parties to call the Coroner of the

county in which the act of violence occurred? On the call illustrated above, am I entitled to fee for viewing the body and taking depositions from the treasurer of Cape Girardeau County after the approval of the Cape Girardeau County Court?"

Section 13227, R. S. Missouri 1939, which pertains to this question, reads as follows:

"A coroner shall be a conservator of the peace throughout his county, and shall take inquests of violent and casual deaths happening in the same, or where the body of any person coming to his death shall be discovered in his county, and shall be exempt from serving on juries and working on roads."

The answer to your question will be determined upon the construction to be placed on the language of this statute reading, "* or where the body of any person coming to his death shall be discovered in his county, * "

If the coroner has jurisdiction to hold the inquest, then under the provisions of Section 13251, R. S. Missouri 1939, the county court of his county is required to audit and allow the claim. This section reads as follows:

"The coroner or other officer holding an inquest, as provided for by this chapter, shall present to the county court a certified statement of all the costs and expenses of said inquest, including his own fees, the fees of jurors, witnesses, constables and others entitled to fees for which the county is liable; and the county court shall audit and allow the same, and shall make a certified copy of the same, without delay, and deliver such copy to the county treasurer, which copy shall be deemed a sufficient warrant or order on the treasurer for the payment of the fees there-

in specified to each person entitled to such fees. The county treasurer shall pay to each person on demand, or to his legal representatives, the fees to which he is thus entitled, and shall take the proper receipt therefor, and produce the same in his settlements with the county court as vouchers for the money so paid out by him."

The exception to this section is in Section 13252, R. S. Missouri 1939, and Section 13253, R. S. Missouri 1939.

The fact that the coroner might be required to summons witnesses from a territory outside his jurisdiction would not affect the conclusion herein reached, because under Section 13261, R. S. Missouri 1939, the coroner can attach witnesses outside his jurisdiction. We do not find any Missouri cases on this particular question. However, the history of the coroners' act seems to be stated in Volume 4, American & English Annotated Cases at page 1161, 1162. We find the following statement:

"* * * Originally, in England, the office of coroner was one of great dignity and authority, and coroner's juries had the power, like grand juries, to present indictments for murder. The power and authority of the coroner from usage and statute have been much curtailed, * * * * *

"* * * Under the old system, where the coroner's jury performed the functions of a grand jury, this might require the removal of the body back to the jurisdiction where the crime was committed; but under the system in this state the inquest is to speedily inquire into the cause of death for the purpose of apprehending the guilty parties, and the testimony then taken to be an aid to the grand jury. * * *

"In England, under the common law,

prior to the statute of 6 & 7 Victoria, chapter 12, the jurisdiction over an inquest, as regards place where the same might be held, was conferred upon the coroner only within whose jurisdiction the injury which caused the death had been received. * * * * *

This statement is borne out by the Missouri Statutes as they apply to coroners. It seems that under the earlier authorities where the coroner's jury was acting in the capacity of a grand jury that the body had to be moved back to the jurisdiction where the crime was committed, but it seems under the later statutes which authorized the inquest to be held in the county in which the body is found, the result is that the inquest is more speedily made and in some cases with less expense. It seems that the rule of construction of the statutes similar to the Missouri Statutes was announced in Volume 4, American & English Annotated Cases, page 1163, as follows:

"But the common-law rule was suspended by the statute of 6 and 7 Victoria, chapter 12, which provided 'that the coroner only within whose jurisdiction the body of any person upon whose death an inquest ought to be holden shall be lying dead, shall hold the inquest, notwithstanding that the cause of death did not arise within the jurisdiction of such coroner.'

"In a case construing this statute, where the injury was inflicted and death occurred outside the city of London, but afterward the body was removed into the city, it was held that the inquisition was properly held by the coroner of London, although the cause of death arose without his jurisdiction. Reg. v. Ellis, 2 C. & K. 470, 61 E. C. L. 470. But it was held that the coroner of a county wherein a dead body was found could take an inquisition only in that county* * * * *

"In the United States statutory provisions in most of the states determine the proper place for the holding of inquests, and decisions construing these statutes are not numerous.

"Where a person died in one county and was buried in another county, and after burial it became necessary to exhume the body in order to hold an inquest to determine the manner and cause of death, it was held that if there were conflicting claims between the coroner of the county wherein the person died and the coroner of the county wherein the body was buried, the former would have the better right; but in the absence of such conflicting claims, the coroner of the county wherein the body was buried had jurisdiction to hold a valid inquest. In its opinion the court said: 'An inquest must always be super visum corporis, and could not have been held in the other county without taking the body back there, thus involving useless expense and delays, and in some cases that may easily be imagined, such removal from the place of interment back to the place where the death occurred would be impracticable, and if the position taken by counsel for defendant is correct, defeating the ends of justice, or at least hindering them greatly by preventing the holding of any inquest at all. * * * On the whole, it would seem to be in accord with reason and convenience to say that under such circumstances as appear in the case now under consideration, the inquest could be lawfully held, as it was, in Erie county (the county wherein the body was buried).' Pickett v. Erie County, 19 W. N. C. (Pa.) 60, 3 Pa. Co. Ct. 23. See also Jameson v. Bartholomew County, 64 Ind. 524, 86 Ind. 154. But see Rentschler v. County, 1 Leg. Rec. (Pa.) 289, where the contrary was held.

"Under a statute providing that the coroner shall take inquisition over dead bodies 'found within the county,' it has been held that a body is found within the county within the meaning of the statute whenever it is ascertained by any means that it is within the county. State v. Bellows, 62 Ohio St. 307."

In the case of Moore, Coroner, v. Box Butte County, 111 N. W. 469, the Supreme Court of Nebraska had under consideration a question similar to yours. In that state the statute read as follows:

"The coroner shall hold an inquest upon the dead bodies of such persons only as are supposed to have died by unlawful means. When he has notice of the dead body of a person, supposed to have died by unlawful means, found or being in his county, he is required to issue his warrant to a constable of his county, requiring him to summon forthwith six lawful men of the county to appear before the coroner, at a time and place named in the warrant."

The Missouri Statutes are somewhat similar to the Nebraska Statutes on the question of the body being found or being in his county. The Missouri statute provides that the body be discovered in the county, while the Nebraska statute provides that if the body be found or being in his county he may hold the inquest. At l. c. 470 the court, in speaking of the duties of the coroner with respect to holding inquests similar to those narrated in your request, said:

"* * * when a coroner finds in his county the body of a person who has evidently come to his death by violent means, although he may have reason to suspect, or even may know, that the violence was inflicted outside his own county, he has a very wide discretion in determining whether the circumstances are such as

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to require an official investigation at his hands, and that, at least so far as jurors and witnesses are concerned, his determination of that question is final. * * * * *

The duties of the coroner, with respect to holding inquests, are further provided for in Section 13231, R. S. Missouri 1939, which reads as follows:

"Every coroner, so soon as he shall be notified of the dead body of any person, supposed to have come to his death by violence or casualty, being found within his county, shall make out his warrant, directed to the constable of the township where the dead body is found, requiring him forthwith to summon a jury of six good and lawful men, householders of the same township, to appear before such coroner, at the time and place in his warrant expressed, and to inquire, upon a view of the body of the person there lying dead, how and by whom he came to his death."

Under said Section 13227 the coroner shall hold the inquest where the body is discovered in his county, meaning the county where the coroner is elected and where the body is found.

Section 13231, R. S. Missouri 1939, provides that the coroner, when notified of a dead body supposed to have come to his death by violence or casualty, being found within his county, shall issue a warrant for a jury and proceed with the inquest and the warrant shall be directed to the constable of the township where the dead body is found.

Under the foregoing sections we think the coroner of the county where it is known death occurs and the body is found, that is to say, where the body is upon death occurring from violence or casualty should hold the inquest and where a body is found supposed to have come to his death by violence or casualty and there is no information as to where death actually occurred, the coroner of the county where the body

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is found should hold the inquest.

Under our criminal statutes the venue of a prosecution for a homicide is laid in the county where the assault was made or where the assaulted person died. So the place where the coroner's inquest is held would not affect a prosecution for a crime in connection with the case in which it was necessary to hold an inquest. It seems that the earlier cases would have required the inquest to have been held in the county in which the assault took place, but that was because of the fact that the coroner's jury acted in the capacity of a grand jury. Since the statutes have authorized the holding of the inquest in the county in which the body is discovered, the earlier decisions would not be controlling and the rule announced in Volume 4, American & English Annotated Cases, page 1163, would be controlling, that is, that the inquest is held in the county in which the dead body is found.

CONCLUSION

We are, therefore, of the opinion that in cases of assault committed on a person outside of your county and the person is later brought to your county and there dies, that under Section 13227, supra, it is your duty to hold an inquest over this body, and that under said Sections 13251 and 13252, your county court would be the body to which your fee bill should be presented for allowance and payment.

Respectfully submitted

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APPROVED:

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