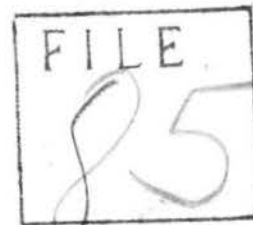


SHERIFFS: May only charge from place of arrest for  
FEES: transporting insane person to State Hospital.

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4-12  
April 16, 1942

Hon. Alex Stephenson, Sheriff  
Lewis County  
Monticello, Missouri



Dear Sir:

Under date of April 15, 1942, you wrote this office requesting an opinion as follows:

"Referring to Section 9355 of the Revised Statutes of Missouri 1939 would like a written opinion or decision as to where a Sheriff is entitled to charge mileage from under the wording of this Section.

"Is not the Sheriff entitled to the actual number of miles traveled from the said County Seat of the County. Or is it construed to mean that the Sheriff can only charge mileage from where the arrest is made after he starts for the hospital. The mileage lost between said county seat and the place where said patient is picked up is accountable for where and when.

"Would appreciate a written opinion as to the exact location where mileage is chargeable from by said Sheriff in these cases."

Section 9355, Revised Statutes of Missouri, 1939, referred to in your letter, is as follows:

"To the Sheriff or other person, for taking a patient to a state hospital or removing one therefrom, upon the 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."

It is desired to first call your attention to Section 655, R. S. Mo., 1939, from which the following extract is taken:

"The construction of all statutes of this state shall be by the following additional rules, unless such construction be plainly repugnant to the intent of the legislature, or of the context of the same statute: First, words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import; \* \* \* \*"

The words used in Section 9355, supra, are all words in ordinary use, none of them having a technical meaning.

Attention is directed to the following brief quotation from the case of Cummins v. Kansas City Public Service Co., 66 S. W. (2d) 920, l. c. 925:

"\* \* \* The primary rule of construction of statutes is to ascertain the lawmakers' intent, from the words used if possible; and to put upon the language of the Legislature, honestly and faithfully, its plain and rational meaning and to promote its object, \* \* \* \* \*"

Also, to the following quotation from the case of State ex rel Wabash Ry. Co. v. Shain, 106 S. W. (2d) 898, l. c. 899:

"\* \* \* The cardinal rule to be followed in the construction of statutes is to arrive at the legislative intent. 'Rules for the interpretation of statutes are only intended to aid in ascertaining the legislative intent, "and not for the purpose of controlling the intention or of confining the operation of the statute within narrower limits than was intended by the lawmaker.'" Sutherland on Statutory Const. Sec. 279. If the intention is clearly expressed, and the language used is without ambiguity, all technical rules of interpretation should be rejected.'"

The words are those in ordinary use, the intention seems clearly to be expressed, to fix the point from which the compensation of the Sheriff or other person shall be paid for transporting insane persons to or from state hospitals and the amount of compensation and expense allowable. No other intention could be given to the Statute by construction. In this instance the lawmakers left nothing to be construed with reference to your question.

Hon. Alex Stephenson

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April 16, 1942

CONCLUSION

It is the conclusion that the mileage of a sheriff or other person for transporting an insane person to a state hospital under warrant of the county clerk properly issued is to be paid from the point where the arrest is made under the warrant.

Respectfully submitted,

W. O. JACKSON  
Assistant Attorney-General

APPROVED:

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ROY MCKITTRICK  
Attorney-General

WOJ:CP