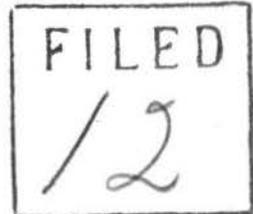


MAGISTRATE:
OFFICERS:

Qualifications for office of Magistrate under
Section 25, Article V, of the Constitution of
Missouri, 1945.

September 11, 1945



Honorable Joseph N. Brown
Prosecuting Attorney
Greene County
Springfield, Missouri

Dear Sir:

This will acknowledge receipt of your letter requesting
an official opinion from this department, which reads:

"I have been asked to write you
requesting an opinion as to whet-
her or not a person who at the
present time occupies the office
of county judge is eligible as a
candidate for the office of mag-
istrate provided in Sec. 25, Art.
5 of the New Constitution, con-
sidered in connection with Sec.
2482, R. S. Mo. 1939.

"It is my opinion that the answer
to this question is in the negative,
however, the person in question de-
sires an opinion from your office."

We are assuming in answering this request that same is made
for the reason that the County Judge in question is not now
licensed to practice law in the State of Missouri. Under Sec-
tion 25, Article V of the Constitution of Missouri 1945, if
said County Judge is a qualified voter of the state, resident of
the County, twenty-two years of age and licensed to practice law
in this state, or had heretofore at any time served as a Justice
of the Peace in this state for at least four years, he could
qualify for the office of magistrate under the 1945 Constitution.

Section 25, supra, reads in part as follows:

"* * *Judges of probate and magistrate
courts shall be qualified voters of this
state, and residents of the county. Pro-
bate judges shall be at least twenty five
and magistrates at least twenty two years
of age. Every judge and magistrate shall

be licensed to practice law in this state, except that probate judges now in office may succeed themselves as probate judges without being so licensed, and except that persons who are now justices of the peace, or who have heretofore been justices of the peace in this state for at least four years, shall be eligible to the office of magistrate without being so licensed."

The writer is unable to understand why you refer to section 2482, R. S. Mo. 1939, which provision merely provides that each judge of the County Court shall be a conservator of the peace throughout his County. The mere fact that he is made a conservator of the peace does not qualify him as a justice of the peace and because the County Court has, under the law, a concurrent duty with that of the justice of the peace will not of itself qualify him for the office of magistrate under section 25, supra.

CONCLUSION

It is, therefore, the opinion of this department that if the County Judge in question is not licensed to practice law in this state or has not heretofore been a justice of the peace at least four years and cannot meet the other qualifications contained in section 25, Article V, Constitution of Missouri 1945, said County Court is not eligible for the office of magistrate under section 25, Article V, Constitution of Missouri, 1945.

Respectfully submitted,

AUBREY R. HAMMETT, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

ARH:mw