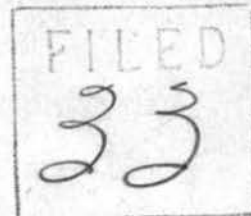


SHERIFFS: Sheriff transporting veteran to veterans' hospital pursuant to order of probate court and paid 5¢ per mile by Veterans' Administration is not entitled to additional 5¢ per mile from county.

November 30, 1948



Honorable Charles E. Ginn
Prosecuting Attorney
Lawrence County
Mt. Vernon, Missouri

12-9

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department and reading as follows:

"Under the above act, our Probate Court recently committed a veteran to a veterans' hospital at Little Rock, Arkansas, delivered copy of the commitment to our sheriff, and ordered him to transfer the veteran to such hospital which the sheriff did. The Veterans' Administration, or other like agency, allowed the sheriff the sum of five cents per mile for this trip. He billed the court for an additional five cents per mile as he is entitled to receive ten cents per mile in civil cases. So far the county court has withheld payment of the additional five cents per mile on the theory that the sheriff had been fully paid by the administration. We would like an opinion from your department as to whether or not the sheriff is entitled to the five cents per mile, so that if he is so entitled, the court may pay him for such mileage."

Section 17, Laws of Missouri, 1947, Vol. I, page 4, provides that in proceedings under the laws of Missouri for the commitment of a person alleged to be of unsound mind or otherwise in need of confinement in a hospital or other institution for proper care when such person is eligible for care or treatment by the Veterans' Administration or other agency of the United States government, the court may commit such person to the Veterans' Administration or other agency.

Section 9355, R. S. No. 1939, provides the mileage and fees to be paid the sheriff for taking a patient to a state hospital or removing one therefrom. It is to be noted that Section 9355 applies only when the patient is taken to or from a state hospital. The general rule, with regard to payment of

compensation to a public officer, is found in Nodaway County vs. Kidder, 129 S.W. (2d) 857, where our Supreme Court said, l.c. 860:

"It is well established that a public officer claiming compensation for official duties performed must point out the statute authorizing such payment. State ex rel. Buder v. Hackmann, 305 Mo. 342, 265 S.W. 532, 534; State ex rel. Linn County v. Adams, 172 Mo. 1, 7, 72 S.W. 655; Williams v. Chariton County, 85 Mo. 645."

Since there is no provision for the payment of mileage by the county to a sheriff for transporting a person to a veterans' hospital, it is our opinion that the sheriff, who has been paid 5¢ per mile by the Veterans' Administration, is not entitled to any additional payment by the county.

CONCLUSION

It is the opinion of this department that a sheriff who transports a person to a veterans' hospital pursuant to commitment by probate court is not entitled to mileage to be paid by the county in addition to the mileage paid by the Veterans' Administration for transporting such person.

Respectfully submitted,

C. B. BURNS, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General *JTB*

CBB:VLM