

JURIES) Jurors in Probate Courts entitled to receive \$1.00
PROBATE) per day for their services.
COURTS)

April 6, 1950

4/7/50

Honorable E. W. Collinson
Prosecuting Attorney
Greene County
Springfield, Missouri



Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"The question has arisen as to whether or not there is any possible way that a juror in Probate Court may obtain \$3.00 a day for services?"

"Compensation for service as a juror is not a common law right, but is purely statutory, and in the absence of statute compensation cannot be recovered; and it is competent for the legislature to require such services and to provide expressly that no compensation shall be allowed." (50 C.J.S. Juries, Sec. 207, p. 943.)

We find no provision expressly providing that probate court jurors shall receive \$3.00 per day for their services.

Article 1, Chapter 5, R. S. Missouri, 1939, provides for the compensation of grand and petit jurors. Section 714 of said article provides:

"Each grand and petit juror on the regular panel shall receive three dollars per day for every day he may actually serve as such, and five cents for every mile he may necessarily travel going from his place of residence to the courthouse and returning to the same, to be paid out of the county treasury."

Section 724 of said article provides a per diem of \$3.00 for petit jurors not on the regular panel.

There is no provision in Article 1 of Chapter 5 making the compensation therein provided payable to jurors in the probate courts. We find no provision in either Chapter 1, R. S. Missouri, 1939,

Honorable E. W. Collinson

dealing with the administration of estates, or Article 11 of Chapter 10, dealing with organization of the probate courts, which makes the provisions of Article 1, Chapter 5, applicable in the matter of compensation of probate court jurors.

The only provision which we find and which is applicable in determining the compensation of probate court jurors is Section 13419, R. S. Missouri, 1939. That section provides, in part, as follows:

"Jurors shall be allowed fees for their services as follows:

* * * * *

"For each person summoned, attending and reporting to any court of record, per day, except as otherwise provided by law. . . . 1.00
For each mile traveled in going to and returning from the place of trial, in attending any trial before a court of record, per mile05

"All fees allowed jurors as above shall be taxed as costs in the cases, respectively, in which they were summoned; but juries serving in more than one case on the same day, at the same place, shall only be allowed fees in one case; and any juror, who shall claim fees for attending in two or more cases, on the same day, at the same place, shall not be allowed fees for that day."

Probate courts are courts of record. Section 17, Article V, Constitution of 1945. There being no provision otherwise for the compensation of jurors in such courts, section 13419 governs.

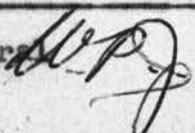
CONCLUSION

Therefore, this department is of the opinion that jurors in probate courts are not entitled to receive the sum of three dollars per day for their services, but may receive only one dollar per day and five cents per mile, in accordance with Section 13419, R. S. Missouri, 1939.

Respectfully submitted,

ROBERT R. WELBORN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General 

RRW/feh