

PROBATE COURTS:

A probate court of a fourth class county has no jurisdiction and authority over the case and cannot commit an indigent nervous person who is not insane to a state hospital for treatment.

January 16, 1950

1-25-V-0

Hon. W. L. Halbrook,  
Judge of Probate and Magistrate Courts,  
Dent County,  
Salem, Missouri



Dear Sir:

This is to acknowledge receipt of your recent request for a legal opinion of this department which reads as follows:

"I would appreciate an opinion on the following question: Has the Probate Court of a fourth class county the authority to admit a nervous person to a State Hospital for treatment as a County patient? If so what would be the procedure to commit such person?"

Receipt is also acknowledged of your letter of December 27, 1949, in which the statement is made that you wish to make it clear that the opinion request was for an interpretation of the meaning of Sections 1 and 2, page 913, Laws of 1945, with reference to whether it is the duty of the probate court or of the county court to commit nervous persons who are not insane to the state hospitals for treatment.

Said Sections 1 and 2, Laws of 1945, read as follows:

Section 1. "The state hospitals at St. Joseph, Fulton, Farmington and Nevada are hereby authorized to give treatments, or injections of serum to citizens of this state who may be suffering from nervous or mental diseases, but who do not need hospitalization."

Section 2. "All persons appearing for such treatments at the above mentioned hospitals, financially able to, shall pay a fee not to exceed the sum of five dollars for each treatment, or injection of serum, but if such person needing such treatment is an indigent resident of this state, upon the

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producing by said indigent person of a certificate of the county court, or proper authority of the City of St. Louis, said treatments and serums shall be given free of charge to such person."

In attempting to answer your inquiry it is necessary that we determine what the intention of the legislature was in the enactment of the statute. In the case of State vs. Schult, 143 SW (2d) 1.c. 489, the court laid down a very good rule for the interpretation of statutes and the intention the legislature must have had in their enactment, the court said:

"The rule is well settled in this state, in accordance with a long line of decisions, that the legislative intent must be determined from the statute as a whole, and all of its provisions harmonized if reasonably possible. \* \* \* An act of the legislature cannot be nullified for uncertainty if it is susceptible of any reasonable interpretation; \* \* \*"

Applying this rule to the interpretation of the provisions of Sections 1 and 2, supra, we find that it is the intention of the legislature, particularly in Section 1, to provide a means for treatment of certain nervous citizens of the state. Such treatments are for those persons suffering from nervous disorders who are not insane and who do not need to be confined in the state hospitals. However they do need to have treatment and injections of serums for their nervous conditions, and since the state hospitals were well staffed with physicians who were specialists on all kinds of nervous diseases and the state hospitals were well equipped for patients of this type, it seems that the legislature quite logically provided that such nervous citizens should receive the treatments and injections of serums at the state hospitals mentioned in Section 1.

Applying the rule of interpretation noted above further, Section 2 indicates that the legislature intended that those who were eligible to receive the treatments mentioned in Section 1 were to receive them voluntarily and that it was not the intention of the legislature by legal authority to require any person to take such treatment against his will. Said section specifically provides in part, "All persons appearing for such treatments at the above mentioned hospitals, \* \* \*"

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No reference is made in the act to the probate court having jurisdiction of a matter in which it is alleged that a named resident of the county is nervous, but not insane, is in need of treatment but not hospitalization at one of the state hospitals and that upon a proper hearing the court may commit such person to one of said hospitals for treatment.

In the case of *In re Moore's Guardianship*, 148 S.W. (2d) 116, the St. Louis Court of Appeals held that a probate court is a "court of limited jurisdiction," and possesses no greater powers than those conferred upon it by statute, and that the court can exercise its jurisdiction in the manner provided by statute.

The only statute we have been able to find that authorizes the probate court to commit any person to a state hospital at the expense of the county is Section 9328, page 907, Laws of 1945, which provides in part as follows:

"The probate courts of the several counties shall have power to send to a state hospital such of the insane poor of their respective counties as may be entitled to admission thereto.\* \* \*"

Section 9335 of the same Act also provides:

"For the admission of insane poor persons the following proceedings shall be had: \* \* \*"

This section sets forth the procedure in detail that must be followed in those cases where it is sought to have insane persons admitted to the state hospitals.

It has been previously noted that Sections 1 and 2 of the 1945 Laws make no provisions for the commitment of a nervous person who is not insane to a state hospital and that no procedure for such commitment is provided by said sections. We are also unable to find any other statutes authorizing such a procedure and since the jurisdiction of the probate court may only extend to those matters provided by statute and in the absence of such statutes we conclude that the probate court has no jurisdiction over this class of cases and has no legal authority to commit such a nervous person to a state hospital.

Your last letter makes inquiry as to whether or not it is the duty of the probate court or of the county court, under the provisions of Sections 1 and 2, Laws of 1945, supra, to commit nervous persons who are not insane to a state hospital for treatment.

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We have previously stated that it is not the duty of the probate court to commit such persons and we shall now consider whether or not this class of cases properly comes within the jurisdiction of the county court and under what circumstances, if any, it becomes the duty of the county court to commit such persons to the state hospitals.

Since the adoption of the Missouri Constitution of 1945 the general jurisdiction of a county court has become more limited than formerly. In the cases of Bradford vs. Phelps County, 210 SW (2d) 996 and ex rel Kowats vs. Arnold, 356 Mo. 661, it was held that county courts are no longer courts in a juridical sense but are ministerial bodies managing the county's business.

In the handling of the county's business, it has always been the duty of the county court to provide for the indigent persons residing within the territorial limits of the county. The duties of the county court in this respect have not been changed by the provisions of the new constitution, newly enacted statutes, or recent court decisions. Sections 9590 to 9607 Mo. R.S.A. 1939, inclusive, provide what the duties of the county court are with reference to the provision and maintenance of such poor persons.

We are unable to find any section of the statutes dealing with the duties of the county court with reference to the provision and maintenance of the poor persons of the county or of any other statutes that make it the duty of the county court to hear and determine cases of the class mentioned in your letter and under proper circumstances to commit such indigent nervous persons who are not insane to a state hospital for treatment. In the absence of such statutory authority the county court lacks the power to do this and our answer to your last inquiry is that it is not the duty of the county court and that the county court has no authority to commit a nervous person who is not insane and who does not need hospitalization to a state hospital where he may be given the proper medical treatment for his nervous condition.

It is our further opinion that while the county court has no jurisdiction of the matters noted above, it does have jurisdiction to conduct hearings in order to determine whether nervous persons seeking treatment, or injections of serums for their nervous conditions are indigent residents of the state. The jurisdiction of the court in conducting the hearings is limited to the determination of those facts only. If the court finds that a nervous person seeking admission to a state hospital is in fact an indigent resident of the state it shall issue a certificate evidencing such finding to such indigent nervous person. Upon the presentation of said certificate to those in charge of the

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state hospital to which such nervous person may appear, he shall be given the treatments or the injections of serums mentioned in Sections 1 and 2, supra, without charge to himself.

CONCLUSION

It is therefore the opinion of this department that neither a probate court or a county court has any jurisdiction over a matter wherein it is alleged that a nervous person who is not insane is in need of treatment or injections of serums at a state hospital and in which it is sought to have the court to commit such person to such hospital. That no procedure is provided and neither of said courts have authority to commit a nervous person to a state hospital for treatment under the provisions of Sections 1 and 2, page 913, Laws of 1945. That said sections authorize and the county court has jurisdiction and may determine whether a nervous person who is not insane and is not in need of hospitalization but is requesting treatment for his condition at a state hospital is an indigent resident of the state. Upon a finding that such person is an indigent resident of the state, the court shall issue its certificate of such findings to such nervous person. That upon a presentation of such certificate at one of the state hospitals mentioned in Section 1 to which such nervous indigent person may appear, he shall be given treatments or injections for his nervous condition without charge to himself.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

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J. E. TAYLOR,  
Attorney General



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