

DEFINITIONS:
OLD AGE ASSISTANCE:
PUBLIC HEALTH AND WELFARE:
PUBLIC ASSISTANCE:

Mausoleum not "cash or negotiable security" in determining eligibility for public assistance, under Section 208.010, RSMo 1949.



March 25, 1953

Honorable Wesley McMurry
Representative
House of Representatives
Capitol Building
Jefferson City, Missouri

Dear Mr. McMurry:

Your letter of March 19, 1953, requesting an official opinion of this office, was phrased as follows:

"Will you kindly render an opinion on whether a mausoleum costing approximately \$275.00 could possibly be construed to be cash under Subsection 2, Section 208.010, RSMo., 1949, of the Social Security Act?"

Section 208.010, RSMo 1949, limits the amount of cash or negotiable security that a person applying for public assistance may own, as follows:

"In determining the eligibility of an applicant for public assistance under this law, it shall be the duty of the division of welfare to consider and take into account all facts and circumstances surrounding the applicant, including his earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the applicant is not found to be in need, assistance shall be denied. The amount of benefits when added to all other income, resources, support and maintenance shall provide such

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persons with reasonable subsistence compatible with decency and health. Irregular, casual, and unpredictable income received by a claimant from performing odd jobs shall be excluded in calculating income. Benefits shall not be payable to any person who:

* * * * *

"(2) Owns or possesses cash or negotiable security in the sum of five hundred dollars or more; * * *."

* * * * *

In determining what words in a particular statute mean, we are guided by Section 1.090, RSMo 1949, which states "Words and phrases shall be taken in their plain or ordinary and usual sense. * * *"

Webster's New International Dictionary, Second Edition, Unabridged, defines "cash" as follows:

"2. Com. (a) Money, especially ready money; strictly, coin or specie, but also, less strictly, bank notes, sight drafts, or demand deposits at a bank. * * *"

The Kansas City Court of Appeals in Miller v. State Social Security Commission, 151 S.W. (2d) 457, 235 Mo. App. 968, in deciding that life insurance policies are not included in the exclusion clause (2) of Section 208.010, supra, discussed "cash and negotiable security" as follows, l. c. 458, (S.W.):

"In construing the language 'cash or negotiable' we conclude it to mean, that if the claimant has either cash in a sum of \$500 or more, or has negotiable paper of the value of \$500 or more, or if applicant's cash and negotiable paper when added together amounts to \$500 or more, then the applicant is ineligible. In other words, currency, whether in United States legal tender or negotiable paper, suffices."

Webster's New International Dictionary, Second Edition, Unabridged, defines "mausoleum" as follows:

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"1. A magnificent tomb; - so called from the tomb of Mausolus at Halicarnassus."

Thus it is clear that a mausoleum cannot be considered as cash or negotiable security under Section 208.010, subsection (2).

CONCLUSION

It is, therefore, the opinion of this office that mausoleums are not "cash or negotiable security" within the meaning of Section 208.010 (2), RSMo 1949, in determining eligibility for public assistance.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Very truly yours,

JOHN M. DALTON
Attorney General

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