

SHERIFFS:  
FEES:  
THIRD CLASS COUNTIES:

The sheriff of a third class county is not required to make a verified report to the county court of his fees received in civil cases.



March 12, 1954

Honorable Robert A. Dempster  
Prosecuting Attorney of  
Scott County  
Sikeston, Missouri

Dear Sir:

We render herewith our opinion based upon your request of February 17, 1954, which request reads as follows:

"I would appreciate it if you would give me your opinion of the following question: Is the Sheriff required to make an itemized statement each month to the County Court pertaining to civil fees collected and retained by him, as well as those uncollected? Scott County is a third class county."

We look first at Section 11 of Article VI of the 1945 Missouri Constitution, to determine whether it requires the sheriff of a third class county to make a verified report of his civil fees. That section reads thus:

"Except in counties which frame, adopt and amend a charter for their own government, the compensation of all county officers shall be prescribed by law uniform in operation in each class of counties. Every such officer shall file a sworn statement in detail, of fees collected and salaries paid to his necessary deputies or assistants, as provided by law."

(Emphasis ours.)

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If it is self-executing, then by its terms it would require such a report. The rules respecting the interpretation of a constitutional provision, with reference to whether it is self-executing, is thus stated in 16 C.J.S., Constitutional Law, page 100:

"Constitutional provisions are not self-executing if they merely indicate a line of policy or principles, without supplying the means by which such policy or principles are to be carried into effect, or if the language of the constitution is directed to the legislature, or it appears from the language used and the circumstances of its adoption that subsequent legislation was contemplated to carry it into effect.  
\* \* \*"

Tested by these rules, the foregoing constitutional provision is not self-executing. We must look then for supplemental legislation to determine whether the sheriff is required to make a verified report of his civil fees to the county court.

If such report is required, it is required by Section 50.370, RSMo 1949, reading as follows:

"In all counties of classes three and four, every county officer who receives any fees or other remuneration for official services which is payable to the county, except recorders of deeds whose offices are separate from that of circuit clerks, shall at the end of each month file a verified report with the county court of his county showing all fees charged and accruing to his office and the act or service for which each such fee was charged, together with the names of persons paying or liable for same. Upon the filing of such report, each said county officer shall forthwith pay over to the county treasurer all fees and other moneys collected by him which belong to the county and shall take two receipts therefor, one of which shall be filed with the county court and the other shall be kept on file in his office. Every such officer shall be liable personally and on

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his official bond for all fees collected by him and not accounted for and paid into the county treasury as herein provided."

Are the sheriff's fees "fees or other remuneration for official services which is payable to the county" within the meaning of this section? We think not, for all fees received by sheriffs of counties of the third class are permitted to be retained by the sheriff, by the provisions of Section 57.410 RSMo 1949. That section reads in part as follows:

"\* \* \*The sheriff may retain all fees collected by him in civil matters."

Being required to report only those fees "payable to the county," the sheriff of a third class county is not required to report fees received in civil cases. This applies both to civil fees collected and those "charged and accruing".

#### CONCLUSION

The sheriff of a third class county is not required to make a verified report to the county court of his fees received in civil cases, nor those civil fees accrued and uncollected.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. W. Don Kennedy.

Very truly yours,

JOHN M. DALTON  
Attorney General

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