

SANITY PROCEEDINGS:

PROSECUTING ATTORNEY: It is not the duty of prosecuting attorney to prepare legal papers for sanity hearings for indigent insane person.

JUDGE AND CLERK OF PROBATE COURT:

Neither the probate judge or clerk should prepare legal papers in sanity hearings.



August 11, 1954

Honorable Harold L. Miller
Prosecuting Attorney
DeKalb County
Maysville, Missouri

Dear Sir:

This is in reply to your recent request for an opinion of this office, which request is as follows:

"Will you kindly advise me in an opinion whether or not it is the duty of the Prosecuting Attorney to prepare legal papers leading to the adjudication of an indigent insane person, and if not whether or not this is the duty of the Judge and Clerk of the Probate Court."

The preparation of "papers leading to the adjudication of an indigent insane person" is unquestionably a representation of the informant or the alleged insane person.

We are enclosing herewith a copy of an opinion rendered by this office to Honorable Roy W. McGhee, Jr., Prosecuting Attorney of Wayne County, on January 7, 1952. This opinion holds it is improper for a prosecuting attorney in his county to represent the informant or the alleged insane person at a sanity hearing. Such representation is improper because it is his duty to represent the county in all sanity hearings in his county.

Your further inquiry is whether or not it is the duty of the judge or clerk of the probate court to prepare legal papers necessary for a sanity hearing before the probate court. Our answer to this query is "No." The answer is so apparent we do not deem it

Honorable Harold L. Miller

necessary to cite authorities holding that a court or its clerk should not prepare such legal papers, the sufficiency or legality of which the court may necessarily have to pass upon.

CONCLUSION

It is the opinion of this office that it is not the duty of the prosecuting attorney to prepare legal papers leading to the adjudication of an indigent insane person.

Neither the probate judge or the clerk of the probate court should prepare legal papers necessary for a sanity hearing.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Grover C. Huston.

Very truly yours,

JOHN M. DALTON
Attorney General

GCH:sm

Enc. (1): Opinion to
Hon. Roy W. McGhee, Jr.
Jan. 7, 1952