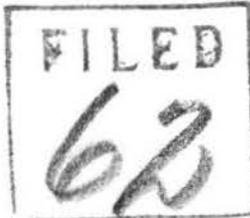


COURT REPORTERS:
REPORTERS:

The County Court of Marion County cannot legally pay the circuit court reporters travel expense incurred in traveling from his place of residence in the county to the place of holding circuit court.



January 11, 1957.

Honorable Harry J. Mitchell
Prosecuting Attorney
Marion County
Palmyra, Missouri

Dear Mr. Mitchell:

This opinion is in reply to your inquiry reading as follows:

"I will appreciate your opinion in regard to the following matter.

"Section 485.090 Mo. R.S. 1949 provides for payment by the County of all sums of money actually expended by the official court reporter in necessary hotel and traveling expenses, while engaged in attending any regular, special, or adjourned term of court at any place in the judicial circuit in which he is appointed, other than the county of his residence, or while engaged in going to and from any such place for the purpose of attending terms of Court.

"It will be noted that the statute provides, 'other than the County of his residence.' The County of Marion has a peculiar situation in that under the statutes the Hannibal Court of Common Pleas has exclusive jurisdiction in Mason and Miller Townships, and the Circuit Court of Marion County has exclusive jurisdiction in all other townships of the County. Our Court Reporter is a resident of Hannibal, Missouri, a city within Mason and Miller Townships, Marion County, Missouri. Under the Statutes, the two Courts in this County are as separate and distinct as if they were for different counties. It seems to us that the Court Reporter should be paid for the expenses enumerated for attendance

Honorable Harry J. Mitchell

at the Circuit Court of Marion County, Missouri, at Palmyra.

"Will you please inform us as to whether or not the County Court can legally pay the Court Reporter's expenses incurred in attendance at the Marion County Circuit Court?"

Section 485.090 RSMo Cum. Supp. 1955, to which you refer, provides as follows:

"Every official court reporter of a circuit court of a judicial circuit comprised of two or more counties, in addition to his salary, shall be reimbursed for all sums of money actually expended by him in necessary hotel and traveling expenses while engaged in attending any regular, special or adjourned term of court at any place in the judicial circuit in which he is appointed, other than the county of his residence, or while engaged in going to and from any such place for the purpose of attending terms of court. Three-fourths of the actual expenses of the official court reporter, as herein provided, shall be paid out of the county treasury and one-fourth out of the state treasury. Where a judicial circuit is composed of more than one county, the county part of the expenses shall be divided among the counties in the manner provided in section 485.065; provided however that the actual expenses of the official court reporter upon transfer from the judicial circuit to which assigned shall be paid out of the state treasury."

It is to be noted that said section authorizes reimbursement for necessary hotel and traveling expenses while attending any regular, special or adjourned term of court at any place in the judicial circuit other than the county of his (court reporter) residence.

Under date of May 15, 1947, this office issued an official opinion to Honorable Louis H. Schult, Judge of the 38th Judicial Circuit, holding that the court reporter is not entitled to reimbursement for travel expenses incurred while traveling from his place of residence in the county to the place of holding court.

For the purpose of the question at hand, Section 13347 RSMo 1939, referred to in said opinion, is substantially similar to Section 485.090 noted supra. A copy of said opinion is enclosed herewith.

Honorable Harry J. Mitchell

Section 485.090 does not purport to allow reimbursement for expenses incurred in traveling from place to place within the county of the circuit court reporter's residence, and it is a fundamental rule of construction that the right of a public official to compensation must be founded on statute, and such statutes must be strictly construed against the officer. *Smith v. Pettis County*, 136 SW2d 282, 345 Mo. 839. We have examined the statutes relating to official court reporters and are unable to find any provision which would allow the circuit court reporter of Marion County travel expense for travel from his place of residence in said county to the place of holding circuit court.

CONCLUSION

Therefore, it is the opinion of this office that the County Court of Marion County cannot legally pay the circuit court reporter's travel expense incurred in traveling from his place of residence in the county to the place of holding circuit court.

The foregoing opinion, which I hereby approve, was prepared by my assistant Donal D. Guffey.

Very truly yours,

John M. Dalton
Attorney General

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