

MAGISTRATES: PROSECUTING ATTORNEYS:
INDICTMENTS AND INFORMATIONS:
INFORMATIONS: CRIMINAL LAW:
CRIMINAL PROCEDURE: MISDEMEANORS:

An information charging the commission of a misdemeanor may be filed upon the prosecuting attorney's knowledge, information and belief alone without being accompanied by complaint or other similar document.



April 11, 1958

Honorable Frazier Baker
Prosecuting Attorney
Callaway County
Fulton, Missouri

Dear Sir:

You recently requested an opinion from this office concerning the following:

"Does a Magistrate acquire full jurisdiction of a misdemeanor case when the Prosecuting Attorney files, in the Magistrate Court, information verified by the Prosecuting Attorney based upon the Prosecuting Attorney's knowledge, information or belief, and the information not being accompanied by a complaint, as described in Section 543.020, R. S. Mo., 1949, or any other document? Is the official oath of the Prosecuting Attorney, or verification, based on knowledge, information or belief, as set forth in Supreme Court Rule 24.16 or Sections 543.020 and 543.030, R. S. Mo., 1949, any different?"

Under the statutes to which you refer it has long been the holding of the Supreme Court of Missouri that an information filed by the prosecuting attorney upon his own knowledge, information and belief is sufficient and that there is no requirement that such be filed upon his own actual personal knowledge or that there be a verified complaint filed with him or with the court by some other person having actual knowledge. See, in this connection, State v. Ransberger, 106 Mo. 135, 17 S.W. 290, where this result was reached after an extended discussion and consideration of this problem.

Honorable Frazier Baker

The Supreme Court rules expressly and clearly provide that an information charging the commission of a misdemeanor may be filed either upon knowledge, information and belief of the prosecutor, or upon the basis of a verified complaint. This provision is found in Supreme Court Rule 21.03, which reads as follows:

"21.03--Misdemeanors--Information--Prosecuting Attorney. The prosecuting attorney of a county or city in which an offense may be prosecuted may make an information charging the commission of a misdemeanor either upon his own knowledge, information and belief or upon the basis of a verified complaint previously submitted to him. Such information shall be filed in any court having jurisdiction to try the offense charged."

When such information has been filed, the Magistrate Court thereby acquires complete jurisdiction of the subject matter of the case against the defendant. The jurisdiction of the court over the person of the defendant must, of course, be acquired as provided by law to give the court jurisdiction of both the subject matter and the person.

As to your second inquiry, the verification by the prosecuting attorney on his knowledge, information and belief referred to in Rules 21.03 and 24.16 is the same as that referred to in Sections 543.020 and 543.030 RSMo 1949.

CONCLUSION

It is, therefore, on the basis of the foregoing, the conclusion of this office that a prosecuting attorney may file an information charging the commission of a misdemeanor on his knowledge, information or belief alone, and that such need not be accompanied or supported by a verified complaint.

The filing of such information gives the court jurisdiction of the subject matter of the case against the defendant.

Honorable Frazier Baker

Jurisdiction of the person of the defendant must be acquired as provided by law and is not acquired merely by the filing of the information.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Fred L. Howard.

Very truly yours,

John M. Dalton
Attorney General

FLH:vlw