

CONSERVATION COMMISSION: Authority of agent to require aid, or deputize, in execution of process.



March 14, 1958

Honorable David L. Colson
Prosecuting Attorney
St. Francois County
Farmington, Missouri

Dear Mr. Colson:

Your recent request for a legal opinion of this office has been received and such request reads as follows:

"The conservation agent assigned to St. Francois County has raised an important question concerning the power of a conservation agent to deputize men to aid him in making an arrest. Section 252.080, Mo. Rev. Statutes 1949, gives the same power to an authorized agent to serve criminal process as sheriffs and marshals and also have the same right as sheriffs and marshals to request aid in the execution of such process. This section taken in connection with Section 105.210, Mo. Rev. Statutes 1949, seems to give the conservation agent the authority to deputize citizens to aid him in making an arrest.

"In particular, the question arises as to whether he has the authority to summon aid to help him make an arrest of a person violating the fish and game laws of the State of Missouri."

Section 252.080, RSMo 1949, is as follows:

"Every authorized agent of the commission shall have the same power to serve criminal process as sheriffs and marshals, only in such cases as are violations of this law and rules and

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regulations of the commission, and have the same right as sheriffs and marshals to require aid in the execution of such process. Any such agent may arrest, without warrant, any person caught by him or in his view violating or who he has good reason to believe is violating, or has violated this law or any such rules and regulations, and take such person forthwith before a magistrate or any court having jurisdiction, who shall proceed without delay to hear, try and determine the matter as in other criminal cases."

It is our opinion that in accordance with the terms of the above statute every authorized commission agent of the Conservation Commission, as established by the Constitution of Missouri, has the same right as sheriffs to require aid in the execution of process. However, this right to require aid in the execution of process is limited to circumstances, situations, or cases, in which there are violations of Chapter 252, RSMo 1949, Fish and Game, and violations of the rules and regulations of the Conservation Commission of Missouri.

When it is determined that there is a violation of the fish and game laws, Sections 57.110 and 105.210, RSMo 1949, would also be applicable in determining additional qualifications and limitations to the right of the conservation agent to require aid in the execution of process.

CONCLUSION

It is our opinion that a Conservation Commission agent has the same right as sheriffs and marshals to require aid in the execution of process when there are violations of the fish and game statutes, and the rules and regulations of the Conservation Commission of Missouri.

Yours very truly,

John M. Dalton
Attorney General

JBS:mw