

Opinion request No. 355 answered by this letter.

November 30, 1961



Mr. Edward E. Haynes  
Personnel Officer  
Department of Corrections  
State Capitol, Room 115  
Jefferson City, Missouri

Dear Mr. Haynes:

This is in reply to your letter of recent date in which you inquire about the procedure to be used in satisfying a certain judgment rendered in Cause No. 13946 in the Circuit Court of Cole County, Missouri, against the Department of Corrections.

Since receiving this request you have informed us further that your inquiry concerns only those employees that were parties plaintiff and recovered judgment in the above cause.

In House Bill No. 758, enacted by the 71st General Assembly, an appropriation was made for the payment of the judgment rendered in Cause No. 13946 of the Circuit Court of Cole County, Missouri, amounting to \$48,593.54. Of course, the money provided by this appropriation can be used only for the satisfaction of the judgment for which it was appropriated.

You want to know whether payment may be made to plaintiffs who were former employees and who have resigned or been dismissed from state service. It is our opinion that any person who recovered judgment in the above entitled cause is entitled to be paid from this appropriation without regard to whether he resigned or was dismissed from state service.

Mr. Edward E. Haynes

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You also state that some twenty-six former employees who recovered judgment died before receiving payment. You inquire whether payment should be made to the heirs of the deceased and the method to be used in determining the proper heirs.

You have no authority to determine the heirs or who is entitled to receive payment of the judgment under such circumstances. Only the Probate Court has such authority.

Where the former employee has recovered judgment and died before the judgment was satisfied, payment of the judgment has to be made to the legal representative of his estate, who ordinarily would be an administrator or executor. If there is an administrator or executor of his estate, payment should be made to him. If there is no administrator or executor, then the Probate Court must determine who is entitled to collect the judgment. Payment should be made only to the person authorized to receive it under an order of a Probate Court, and a certified copy of such authority under the seal of the court should be presented, together with a receipt signed by the person receiving the money at the time payment is made.

If there is any question in your mind as to the validity of the papers presented or the authority of the person presenting it, please get in touch with us. If you have any other questions regarding this matter, we will be glad to answer them.

Very truly yours,

THOMAS F. EAGLETON  
Attorney General

MM:bj