

AIR CONDITIONING: The county court cannot be compelled to pay  
MAGISTRATE COURTS: for air conditioning in the courtroom, clerk's  
COURTS: office, and judge's chambers of a Magistrate Court.

June 28, 1961



Honorable James T. Riley  
Prosecuting Attorney  
Cole County  
Jefferson City, Missouri

Dear Mr. Riley:

This department is in receipt of your recent opinion request which reads as follows:

"The County Court has requested me to ask for an opinion on the following question:

"Section 57.090, R.S. Mo., 1959, requires the Sheriff to attend court and to furnish stationery, fuel and other things necessary for the use of the court whenever ordered by the court; and Section 476.270, R.S. Mo., 1959, requires that all expenditures shall be payable out of the treasury of the county.

"Our Magistrate Court has ordered that air conditioning units be installed in (1) the Magistrate Court Room, (2) the Magistrate Clerk's office, and (3) the Magistrate Judge's office.

"Will you please give me your opinion as to whether or not the Magistrate Court is authorized to order such air conditioning equipment installed and require the County Court to pay for same.

"Thanking you in advance, I remain,"

Honorable James T. Riley

We construe the question before us to be whether the county court of Cole County could be compelled to pay for the purchase and installation of air conditioning in the courtroom, clerk's office, and judge's chambers of the Magistrate Court of Cole County.

The applicable statutes read as follows:

Section 57.090-

"To attend courts -- when -- The several sheriffs shall attend each court held in their counties, when so directed by the court; and it shall be the duty of the officer attending any court to furnish stationery, fuel, and other things necessary for the use of the court whenever ordered by the court."

Section 476.270 -

"Expenditures of court to be paid out of county treasury -- exception in case of salaries. -- All expenditures accruing in the circuit courts, county courts, magistrate courts, and probate courts, except salaries and clerk hire which is payable by the state, shall be paid out of the treasury of the county in which the court is held in the same manner as other demands."

Under these statutes, the only possible authority for the purchase and installation of air conditioning would be the following phrase of Section 57.090, RSMo 1959:

"\* \* \*it shall be the duty of the officer attending any court to furnish . . . other things necessary for the use of the court whenever ordered by the court."

No Missouri case has construed this phrase; we turn, therefore, to a consideration of the general law dealing with the inherent powers of courts to provide themselves with necessaries. The Supreme Court of Missouri discussed this power in the case of *State ex rel Gentry v. Becker*, 351 Mo. 769, 174 SW2d 181 (1943). The question in that case was whether a circuit court of the City of St. Louis had the inherent power to order the city (there in the position of a county) to pay attorney's fees to lawyers appointed by the court to represent the interest of the state in contempt proceedings. The court defined this inherent power as follows (i.e. 351 Mo. 778, 174 SW2d 183):

Honorable James T. Riley

"The courts have the inherent power and authority to incur and order paid all such expenses as are (reasonably) necessary for the holding of court and the administration of the duties of courts of justice.' Schmelzel v. Board of County Commrs. 16 Idaho 32, 35, 100 P. 106, 107, 21 L. R. A., N.S., 199, 133 Am. St. Rep. 89, 17 Ann. Cas. 1226. The limitation on the courts' inherent power is that the expense incurred or the thing done must be reasonably necessary to preserve the courts' existence and protect it in the orderly administration of its business. Annotation Ann. Cas. 1914 A. p. 100."

Following the reasoning of this case, it is our opinion that a Magistrate Court cannot require that the County Court pay for air conditioning in the various offices specified in your opinion request.

#### CONCLUSION

A county court cannot be compelled to pay for air conditioning in the courtroom, clerk's office, and judge's chambers of a Magistrate Court.

The foregoing opinion, which I hereby approve was prepared by my assistant Ben Ely, Jr.

Yours very truly,

THOMAS F. EAGLETON  
Attorney General

EE:ms