

OPINION REQUEST NO. 119  
answered by letter.

March 15, 1962

Honorable Charles A. Weber  
Prosecuting Attorney  
Ste. Genevieve County  
Ste. Genevieve, Missouri

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Dear Mr. Weber:

This is in reply to your opinion request of February 14, 1962, in which you state:

"I would like an opinion on the following circumstances:

"In october of 1961 a defendant was convicted of a misdemeanor in the Magistrate Court of Ste. Genevieve County, Missouri. Within the allotted time the defendant appealed this conviction to the Circuit Court and the case was set down for trial in November of 1961. On the day set for trial the defendant did not appear and his appeal was dismissed by the Circuit Court. The defendant did not perfect an appeal to a higher court.

"My question is this: Since the conviction in the Magistrate Court the defendant has not paid the fine and costs assessed by the magistrate, and since the appeal was dismissed by the Circuit Court, would a committment be issued from the Magistrate Court which had original jurisdiction, or should it be issued by the Circuit Court."

I have enclosed an opinion of this office, dated March 25, 1954, to Honorable Stephen Pratt, Prosecuting Attorney of Clay County, which holds that when a magistrate court's conviction is dismissed on appeal by the Circuit Court, said judgment and conviction of the magistrate court is reinstated and becomes of full force and effect.

The following cases are also in support of this holding: *Barns v. Holland*, 3 Mo. 47; *Runkle v. Hagan*, 3 Mo. 234; *Manion v. State*, 11 Mo. 578.

On the basis of the enclosed opinion, the misdemeanor conviction in the Magistrate Court of Ste. Genevieve County would be reinstated and become of full force and effect as a result of the appeal dismissal by the circuit court.

Therefore, the commitment of this defendant would issue from the Magistrate Court of Ste. Genevieve County and not from the circuit court which dismissed defendant's appeal.

Very truly yours,

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THOMAS F. EAGLETON  
Attorney General

GWD lc

1 enclosure