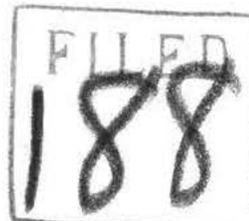


June 7, 1962

Honorable Stephen E. Strom
Prosecuting Attorney
Cape Girardeau County
Cape Girardeau, Missouri



Dear Mr. Strom:

We have your opinion request of April 23, 1962 which reads as follows:

"A charge of leaving the scene of an accident is pending in Cape Girardeau County arising out of a situation where the defendant lost control of his automobile while rounding a curve, skidded into a filling station driveway, there struck a truck, and departed without leaving his name and address.

"I request your opinion concerning whether Section 564.450 RSMo 1959 applies where the damage and accident occur off the public highways.

"I find no Missouri authorities on the above question, but there are a number of cases cited in 77 A.L.R.2d 1167 wherein courts have held that other similar charges in other states have been held not to apply to the above described situation."

As you are aware, our office does not render official opinions on matters which are the subject of pending litigation. This long-standing policy evolved years ago when, so it seems, the Attorney General was opinionating on various matters at the same time when various judges were about to rule on the same questions and said judges felt that they were being unduly pressured by reason of such opinions.

With the foregoing in mind, we make the following general observations which are not in the nature of an official opinion.

Honorable Stephen E. Strom - 2.

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I am inclined to believe that, under the facts stated in your opinion request, a case could be made under the "hit-and-run" statute, Section 564.450. That statute is applicable only to a person "operating or driving a vehicle on the highway," but it is not specific with respect to the point where the injury to person or damage to property must occur. It is my thought that where the injury to person or damage to property arises out of and results from the operation of a vehicle on a highway, the statute is applicable, and that it is immaterial that, because the vehicle has skidded or accidentally run off the highway, the point of impact is off the highway. To me, there could be no doubt as to the answer if the vehicle was still partly on the highway when impact occurred; and I would reach the same answer even though the vehicle was wholly past the right-of-way line.

I have been unable to find any case which I consider in point. In *State v. Smith*, 189 P.2d 205 (Arizona), the statute required a collision upon the highways and there was no allegation in the information that the collision was in anywise related to use of highways. Even under my view, such an information would likewise be insufficient under Missouri law. The other cases discussed in the annotation in 77 ALR 2d 1171 also, in my view, are not in point because they involve accidents which did not occur (or it was not alleged and proved that they occurred) in connection with the use of the highways.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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