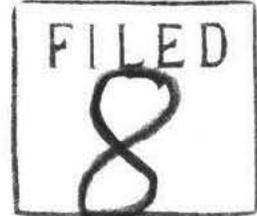


JURORS: Regular jurors who are required to and who actually
JURY FEES: travel each day for which such mileage is claimed
MILEAGE: from their place of residence to the courthouse are
entitled to mileage as well as per diem for each day
of service as such jurors.

January 4, 1963

Op. No. 151
No. 8 (1963)

Mr. Robert Devoy
Prosecuting Attorney
Linn County
Brookfield, Missouri



Dear Mr. Devoy:

Reference is made to your request for an official opinion of this office, which reads as follows:

"As Prosecuting Attorney in and for Linn County, Missouri, I wish to request the Attorney General's opinion construing Section 494.100, Missouri Revised Statutes, 1959.

"The question has arisen as to whether the Circuit Clerk is authorized to pay members of the regular petit jury panel mileage in travelling from the juror's place of residence to the courthouse and return for each day that a trial may last."

Section 494.100 RSMo 1959 states as follows:

"Each grand and petit juror on the regular panel shall receive six dollars per day, for every day he may actually serve as such, and seven cents for every mile he may necessarily travel going from his place of residence to the courthouse and returning to the same, to be paid out of the county treasury."

The foregoing statute fixes the compensation of regular jurors at a fixed rate per day, plus mileage. Mileage is

Mr. Robert Devoy

paid only for the number of miles "necessarily traveled." The word "necessarily" in this context has reference to the number of miles it is necessary to travel by the most practicable and usually traveled route. Ferguson C. McDaris Lumber Co. v. John Tiede & Co., 130 Mo.App. 269, 109 SW 850. As so understood, however, mileage constitutes a portion of the juror's compensation.

It is a familiar rule of statutory construction that all words in a statute be given effect, where possible, in order to effectuate the legislative intent. The language of Section 494.100 evidences the legislative intent to compensate regular jurors for every day they "actually serve as such." For each such day, a juror is to receive compensation at the fixed rate of six dollars per day and mileage. The statute plainly provides that both elements of the juror's compensation shall be paid "for every day he may actually serve as such." These words clearly apply to mileage as well as to per diem. Otherwise, the words "per day" would serve no purpose and would constitute surplusage.

CONCLUSION.

It is our opinion that regular jurors who are required to and who actually travel each day for which such mileage is claimed from their place of residence to the courthouse are entitled to mileage as well as per diem for each day of service as such jurors.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Joseph Nessenfeld.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

JN:sr