

January 22, 1963



Honorable John A. Honssinger
Prosecuting Attorney
Laclede County
Lebanon, Missouri

Dear Mr. Honssinger:

This is in reply to your opinion request of June 16, 1962, in which you ask:

"Does a Magistrate Judge where a criminal charge is pending awaiting preliminary hearing have criminal jurisdiction to appoint an attorney to replace the Prosecuting Attorney under the provisions of Section 56.110 when the charge filed is a mixed felony?"

It is our opinion that in the event you are disqualified under Section 56.110, RSMo 1959, the Circuit Court of Laclede County, not the Magistrate Court, would be the proper Court to appoint a Special Prosecuting Attorney in this particular cause.

In support thereof, we have enclosed this office's opinion of April 24, 1953, to Patrick O. Freeman, Jr., Thayer, Missouri. Said opinion covers the subject of your inquiry, and the reasoning therein is applicable to your situation.

We sincerely appreciate your understanding and patience in the delay of this opinion, which unfortunately was sidetracked under our heavy workload.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

Enc.

GD:BJ