

May 24, 1965



Honorable Gerald Kiser
Prosecuting Attorney of Clay County
Clay County Court House
Liberty, Missouri

Dear Mr. Kiser:

We are in receipt of your letter of March 8, 1965, requesting an opinion regarding the division of the county into two districts under Section 49.010 RSMo, 1959. Your letter is as follows:

"I have been requested to ask an opinion regarding Section 49.010 which provides for the composition of the County Court and the division of the county into districts.

"The Section provides in part as follows: 'and each county shall be districted by the county court thereof into two districts, of contiguous territory, as near equal in population as practicable, without dividing municipal townships.'

"Many years ago when the County Court was first constituted Clay County was divided into two districts which complied with the population provisions of this statute. However, at the present time, the Western County Court District exceeds in population many times that of the Eastern District. This results from the extension of Kansas City into the Western part of our County.

"The questions are as follows:

"1. Does the County Court have the power to re-district the county so that the population of the two districts will be more equal?

"2. If the County Court does have the power to re-district, is it the duty of the County Court to re-district under this statute?"

Section 49.010 RSMo, 1959, provides that the County Court shall divide the county into "* * * two districts of contiguous territory, as near equal in population as practicable.* * *"

This office recently passed on this question in a letter written to Clifford A. Falzone under date of March 30, 1965, relating to County Judge Districts and we are enclosing a copy of that opinion herewith.

We are also enclosing a copy of an opinion written to Charles V. Barker, dated June 19, 1952, which opinion is referred to in the Falzone letter. We believe that these will supply the answer to your first question.

In regard to your second question as to whether or not it is the duty of the County Court to redistrict under this statute, we refer you to the language of the statute which states that "Each county shall be dis-tricted by the County Court into two districts." (Emphasis supplied).

Therefore, since Section 49.010 is couched in mandatory terms, the county court must redistrict the county so as to equalize the population of the two districts when there has been such a great shift of population or influx of new residents that there is a substantial disparity in population between the two districts.

Therefore, it is the opinion of this office that
(1) the County Court has a right to divide a county into

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two equal districts, according to their population, for the purpose of electing judges of the County Court, and (2) it is the duty of the court to do so as soon as conveniently possible.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

Enclosures (2)

OHS/sj