

April 19, 1965



Dr. George A. Ulett, Director
Division of Mental Diseases
722 Jefferson Street
Jefferson City, Missouri

Dear Doctor Ulett:

This is in response to a recent inquiry initiated by Dr. Donald B. Peterson, Superintendent of the Fulton State Hospital. Dr. Peterson anticipates effecting the transfer of a federal prisoner from the federal institution at Springfield, Missouri, to the Fulton State Hospital for the reason that the patient is insane and would be best institutionalized at Fulton. It is my understanding that this federal prisoner is a resident of St. Louis County and, naturally, since Dr. Peterson recognizes that this person must go through the hospitalization commitment procedures under Section 202.807, referring to hospitalization by court order, the question is raised regarding the proper venue. I understand that it would be more feasible and expedient if the Callaway County Probate Court could properly handle the proceedings rather than initiate the matter in the probate court of the county of residence.

It appears that the question has already been answered for us in an Attorney General's Opinion, dated July 27, 1959, which was addressed to Dr. Addison M. Duval. As you will note from a copy of that Opinion which is enclosed, the pertinent question was as follows:

"What county has jurisdiction in the commitment of these cases we have here who were transferred from the Missouri State Prison, and whose sentences will expire when this law becomes effective, as well as future cases? Does the original county of residence have jurisdiction, or would the local county in which the hospital is located have jurisdiction?"

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You will note that the only dissimilarity between that question and the instant inquiry is that Dr. Duval's question referred to hospital inmates transferred from Missouri penal institutions whereas Dr. Peterson contemplates initiating hospitalization by court order of an inmate presently in a federal penal institution.

Comparing the two problems, I see no way of distinguishing the basic question and feel that the pertinent portion of the Conclusion of the Opinion that was sent to Dr. Duval in 1959 is applicable.

In either case, whether we contemplate that the prisoner is a federal prisoner and that his sentence will be commuted by the federal government or whether we hypothesize that the prisoner is receiving care and treatment as a patient in a Missouri state hospital and is to remain hospitalized at the termination of his sentence, the fact still remains that he can only be lawfully hospitalized at Fulton pursuant to specific requirements of Chapter 202. In this instance, of course, we are primarily concerned with hospitalization by court order and although the pertinent Section 202.807 does not specifically establish the venue, I note that Paragraph 1 of said Section uses the terminology "the court" and by comparison with the language of Section 202.805, RSMo 1959, Subsection 1, wherein it is stated that the head of the hospital shall notify "the probate court of the county of residence of such patient," it seems only logical that the legislative intent was to indicate that the proper proceedings be commenced at the probate court of the county of the patient's residence.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

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Enclosure