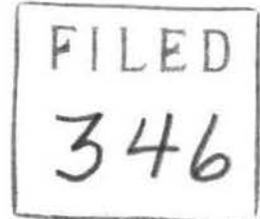


December 21, 1965

Opinion No. 346
Answered By Letter
(Mansur)



Honorable Dan Bollow
Prosecuting Attorney
Shelby County
Shelbyville, Missouri

Dear Mr. Bollow:

In your letter of September 1, 1965, you requested an opinion from this office as follows:

"I am requesting an official opinion in regard to the following matter. A court reporter was on assignment in a civil case, accompanying the judge who had been assigned to hear said cause out of his circuit. When the adoption matter was completed the attorney for one of the interested parties requested permission for said party to appeal as a poor person. The circuit judge granted said request and thereupon the court reporter entered on her duties of preparing the transcript for appeal. Thereafter the appellant applied for an extension of time in which to file a transcript and such application was denied and appellant's appeal dismissed. At the time of the ruling the transcript had been prepared, the court reporter having prepared the transcript in this civil cause without receiving any compensation therefore.

"My question is whether or not it is the duty of the county court of that county in which the trial was held to compensate the court reporter for the preparation of this transcript. I am informed that Paul Hess of

Honorable Dan Bollow

Macon County received an official opinion last year on a question that might have been similar, and if you think that opinion covers the above case then please forward it to me. If, however, the fact that the appeal was dismissed in any way changes that opinion please send me an official opinion."

I am enclosing herewith an opinion issued by this office July 31, 1964, to Honorable Paul D. Hess, Prosecuting Attorney, Macon County, Macon, Missouri, holding that a circuit court judge may allow a defendant in a civil suit to appeal as a poor person and have the cost of the transcript for appeal paid by the county.

Supreme Court Rule 11.02, regarding powers of circuit judges that are transferred, states:

"A judge so transferred, during the period designated shall possess the same powers and be liable to the same responsibilities as a judge of the court to which he is transferred."

Section 485.055, RSMo 1959, provides in part that official court reporters that are transferred shall perform the same duties, make the same charges for their services, and be subject to the same laws and rules while acting as such transferred reporter as though they were the regularly appointed official reporters of the court to which they were temporarily appointed.

It is our opinion that a Circuit judge on assignment to another circuit has the same powers and authority as the regular judge, including the authority to order a transcript of the record to be prepared and the cost thereof to be paid by the county where the trial is held, upon proper voucher approved by the Circuit judge. The fact that the appeal was dismissed in no way affects the power of the Circuit judge to order the transcript or to order the reporter to be compensated therefor.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

By
Moody Mansur
Assistant Attorney General

Encl. Opinion #226 (1964)