

COURTS:
MAGISTRATE COURTS:
CIRCUIT COURTS:
CRIMINAL LAW:
MISDEMEANORS:
JURISDICTION:
TRAFFIC REGULATION:

The Prosecuting Attorney **may** at his discretion file misdemeanor charges for traffic offenses in the circuit court, and may file a traffic ticket as the information, provided the traffic ticket complies with the requirements of law for informations.

OPINION NO. 78 (1966)
OPINION NO. 449 (1965)

May 4, 1966

Honorable Sharon J. Pate
Prosecuting Attorney
Pemiscot County
Caruthersville, Missouri



Dear Mr. Pate:

You have requested an official opinion of this office concerning the authority of a prosecuting attorney in a third class county to prosecute traffic violations that are misdemeanors in the circuit court, and, if so, whether he may file traffic tickets to serve as informations in the circuit court. The traffic regulations of the state are set forth in Chapter 304 of the Revised Statutes of Missouri. This chapter provides that violations of the various traffic regulations shall be misdemeanors.

Section 541.020 provides as follows:

"Except as otherwise provided by law, the circuit courts shall have exclusive original jurisdiction in all cases of felony, and concurrent original jurisdiction with and appellate jurisdiction from magistrates and police courts of towns and cities in all cases of misdemeanor."

Reported decisions of the Missouri courts hold that misdemeanor prosecutions are properly brought in the circuit court. State vs. Cartee, 48 Mo. 481; State vs. Alsup, Mo. App. 123 S.W. 1011; State vs. Saxauer, 48 Mo. 454; Clay vs. State, 6 Mo. 600, State vs. Bradley 31 Mo. App. 308.

In harmony with the above authorities, misdemeanor prosecutions may be brought either in the magistrate court or in the circuit court Supreme Court Rules 37.46 to 37.50, governing traffic cases in municipal courts, magistrate courts and the St. Louis Court of Criminal Correction, contain nothing restrictive of the jurisdiction of circuit courts in traffic cases.

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The prosecuting attorney, whose duty it is to prosecute for crimes in his county, may file informations in case of traffic violations as well as in other misdemeanor cases in the circuit court or the magistrate court, in his discretion.

The question remains whether the Uniform Traffic Ticket will serve as an information in the circuit court. The same standards would have to be met in magistrate court informations as are met in circuit court informations since the magistrate court is a court of record, Section 476.010 and Section 517.050 RSMo. The Supreme Court of Missouri has in effect by promulgation of its rules held that the Uniform Traffic Ticket although not in the usual form of informations is as a matter of law sufficient in any court of record since the Supreme Court is presumed to follow the law in promulgating its rules, and to have been aware that the magistrate court is a court of record.

All that is necessary in a circuit court information is that it state the essential facts which allegedly constitute the offense so that defendant will be informed with reasonable certainty whereof he is charged, so that admissibility of evidence can be determined, and so that, when the case is decided it will bar another prosecution for the same offense. State vs. Graham, Mo. App. 322 S.W. 2d 188. It should consist of a plain, concise and definite written statement of the essential facts constituting the offense charged. Article 1, Section 18 (a) Missouri Constitution 1945, Supreme Court Rules 24.01, 24.11. Mere conclusions of law are insufficient. State vs. McCloud, Mo. App. 313 S.W. 2d 177.

The Uniform Traffic Ticket set out in suggested form 37.1162 of the Supreme Court Rules, when the applicable blank spaces therein are filled in with the facts obviously called for and necessarily required, sufficiently passes the test set out in the cited cases, statutes and rules with respect to all traffic violations except violations of such rules of the road set out in Chapter 304 RSMo that are not included in the printed part of the Uniform Traffic Ticket, leaving the scene of an accident, and driving under the influence of liquor or drugs. Allegations with respect to these latter offenses should be set out with particularity in the blank space provided in the ticket under "other violations".

We enclose a copy of a letter issued by this office, addressed to Honorable Lawrence F. Gepford, pointing out the necessity of definiteness and particularity in filling out the Uniform Traffic Ticket. We think it is the safer course to file the usual information in circuit court, rather than using the traffic ticket in place of such information.

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CONCLUSION

It is the opinion of this department that the prosecuting attorney may at his discretion file misdemeanor charges for traffic offenses in the circuit court, and may file a traffic ticket as the information, provided the traffic ticket complies with the requirements of law for informations.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Donald L. Randolph.

Yours very truly,

A handwritten signature in black ink, appearing to read "Norman H. Anderson", written in a cursive style.

NORMAN H. ANDERSON
Attorney General