

February 3, 1966



Honorable James G. Lauderdale  
Lafayette County Prosecuting Attorney  
Lexington, Missouri

Dear Mr. Lauderdale:

Your letter of January 25, 1966, requests an opinion from this office on the following question:

"Is there any legal reason why a Deputy Probate Clerk, who has been appointed by an elected Probate Judge, to do clerical work in the Probate Court, cannot, if elected, also serve in the office of Public Administrator."

Section 473.117 RSMo 1959, is as follows:

"1. No judge or clerk of any probate court, in his own county, or his deputy, no person under twenty-one years of age, or of unsound mind, no habitual drunkard, and, except as otherwise provided by law, no person who is a nonresident of this state, shall be executor or administrator. No executor of an executor, in consequence thereof, shall be executor of the first testator."

It is to be seen that this section states that, "no clerk of any Probate Court in his county, or his deputy, \* \* \* shall be executor or administrator." Hence, we believe that this answers your question in the negative, and that a deputy probate clerk cannot also serve in the office of public administrator. We trust that this answers your question.

Yours very truly,

NORMAN H. ANDERSON  
Attorney General