



May 13, 1968

OPINION NO. 81  
395 (1967)  
Answered by letter-Mansur

Honorable Joe J. Taylor  
Prosecuting Attorney  
Pemiscot County  
Caruthersville, Missouri 63830

Dear Mr. Taylor:

This is in reply to your request for an opinion from this office on whether Supreme Court Rule 51.06, which requires an application for a change of venue and disqualification of the judge to be joined together in a civil case after the case is set for trial, also applies to criminal cases.

Supreme Court Rules 30.01 to 30.16 inclusive, defines the procedure to follow for a change of venue and disqualification of a judge in a criminal case. Supreme Court Rule 36.01 provides that the rules of criminal procedure governs in all criminal cases.

You state that you have been unable to find any rule in the rules of criminal procedure comparable to Rule 51.06 governing civil cases. Likewise, we have been unable to find any Supreme Court rule requiring the application for a change of venue and disqualification of the judge in a criminal case to be joined in one application.

It is the opinion of this office that Supreme Court Rule 51.06 does not apply to criminal cases; and in the absence of a Supreme Court rule, separate applications may be made for a change of venue and for the disqualification of the judge. *State v. Myers*, 14 S. W. 2d 447.

Yours very truly,

NORMAN H. ANDERSON  
Attorney General

NH:maw