

PROBATE COURT: The Probate Court of Scott County must
MENTAL ILLNESS: grant a reexamination on a petition for
release from commitment from the State
Hospital in Fulton when the petition is filed by one found
to be mentally ill by the Probate Court of Scott County
under Section 202.807, RSMo 1959.

OPINION NO. 88
(411 - 1967)

June 25, 1968

Honorable Fielding Potashnick
Prosecuting Attorney
Scott County
P. O. Box 459
Sikeston, Missouri



Dear Mr. Potashnick:

This is in reply to your request for an official opinion asking essentially whether the Probate Court of Scott County is required to take any action on a petition for release of a patient from commitment from the State Hospital at Fulton when filed by one declared incompetent by the Probate Court of Scott County under Section 202.807, RSMo 1959.

In reply thereto, Section 202.837, RSMo 1959, is thought to be directly in point and is set out below:

"Any patient hospitalized pursuant to section 202.807 shall be entitled to a reexamination of the order for his hospitalization on his own petition, or that of his legal guardian, parent, spouse, relative, or friend, to the probate court ordering his hospitalization. Upon receipt of the petition, the court shall conduct or cause to be conducted by a special commissioner proceedings in accordance with such section 202.807."

Honorable Fielding Potashnick

The above section states essentially that any patient hospitalized under Section 202.807, as the facts indicate was the case here, shall be entitled to a reexamination of the order of hospitalization on his own petition, and the hearing shall be conducted in the manner prescribed in Section 202.807.

Clearly then, Section 202.837 requires that the individual in question be reexamined and the Probate Court of Scott County is required to provide him with a hearing as prescribed in Section 202.807 forthwith.

CONCLUSION

Therefore, it is the opinion of this office that the Probate Court of Scott County must grant a reexamination on a petition for release from commitment from the State Hospital in Fulton when the petition is filed by one found to be mentally ill by the Probate Court of Scott County under Section 202.807, RSMo 1959.

This opinion, which I hereby approve, was prepared by my assistant, L. Michael Lorch.

Very truly yours,



NORMAN H. ANDERSON
Attorney General