

JACKSON COUNTY SPORTS  
AUTHORITY:  
TERM OF OFFICE:

The term of Karl Rogers as a commissioner of the Jackson County Sports Complex Authority, expired July 15, 1968; a vacancy exists in such office which should be filled under the provisions of Section 64.930(4) RSMo Supp., 1967; he will continue to serve in such office until his successor has been appointed and qualified.

OPINION NO. 336 (1968)

August 1, 1968



Honorable William D. Cosgrove  
Assistant County Counselor  
Suite 202 Jackson County Courthouse  
Kansas City, Missouri 64106

Dear Mr. Cosgrove:

This office is in receipt of your request for a legal opinion reading as follows:

"On behalf of the County Court of Jackson County, Missouri, we hereby request an opinion as to the expiration date of Mr. Karl Rogers as a member of the Jackson County Sports Authority. There is an uncertainty as to whether his date of appointment is calculated from

- (1) Date of appointment by the Governor
- (2) Date of taking the oath of office
- (3) Date of confirmation by the Senate

The County Court must submit a panel of three persons to the Governor for his selection of a successor upon the expiration of Mr. Rogers' term, it is therefore necessary that we have your official opinion on this subject in order to correctly calculate the expiration of the term."

The Jackson County Sports Complex Authority was created by Section 64.920, RSMo Supp., 1967, which reads as follows:

"There is hereby created in counties of the first class not having a charter form of government a special authority to be known as the 'Jackson County Sports Complex Authority' hereinafter referred to as the 'authority,' which shall be a body corporate and politic and a political subdivision of the State of Missouri."

Section 64.930, RSMo Cum Supp., 1967, gives details concerning the organization of the Sports Authority and reads in part as follows:

"1. The authority shall consist of five commissioners who shall be qualified voters of the state of Missouri, and residents of such county. The judges of the county court by a majority vote thereof shall submit a panel of nine names to the Governor who shall select with the advice and consent of the senate five commissioners from such panel, no more than three of which shall be of any one political party, who shall constitute the members of such authority; provided, however, that no elective or appointed official of any political subdivision of the state of Missouri shall be a member of said authority.

\* \* \* \* \*

"3. Such commissioners shall serve in the following manner: one for two years, one for three years, one for four years, one for five years, and one for six years. Successors shall hold office for terms of five years, or for the unexpired terms of their predecessors. Each commissioner shall hold office until his successor has been appointed and qualified."

The inquiry of the opinion request is concerned with the expiration date of Commissioner Rogers' term of office, but obviously this inquiry cannot be answered until it has first been determined the date upon which the term began and for how long a term for which the appointment was made. This is particularly true when it is noted that each of the five original commissioners was to serve for a different term, with no date fixed in the statute when the terms should begin and end. Successor commissioners are to be appointed for a term of five years. In the absence of any beginning date of a commissioner's term in the statute, we must of necessity look elsewhere for information from which such beginning date can be determined.

In the Case of State ex rel vs. Williams, the Supreme Court of Missouri held that when an office is created by a statute prescribing the length of the term of office with no date fixed for the beginning or ending of such term, the appointing power has the right and authority to fix the commencement and end of such term.

The court said l.c. 66:

"By the commission the term of relator expired May 13, 1909, or as soon thereafter as his successor was appointed and qualified. This leads us to the inquiry of what is meant by the terms 'appointment' and 'qualified.' The contentions of relator and respondent upon this proposition may thus be briefly stated: Relator insists that without the confirmation and acquiescence of the Senate there can be no legal appointment made by the Governor to the office of factory inspector. On the other hand, the respondent contends that when the term of factory inspector is at an end there was a vacancy, and the Governor had the right to fill it by appointment until such time as the Senate saw fit to confirm or reject the appointment.

\* \* \* \* \*

"It will be observed that the act creating the office of factory inspector designates the length of the term, but does not undertake to fix the date of the beginning or ending thereof. It is important in the treatment of this question that we do not overlook that this is an appointive office, and not an elective one. This leads us to the inquiry as to when did the term of office of factory inspector begin, and when did it end?

\* \* \* \* \*

" \* \* \* When the General Assembly created the office of factory inspector, prescribing the length of the term, but failing to designate the commencement or ending of such term, and investing the Governor with the power of appointment to fill such office, that the Governor had the right to fix the commencement and ending of such term there certainly can be no dispute."

The court further said, l.c. 68:

"\* \* \* For the purposes of appointment, there was a vacancy in this office May 13, 1909. The law does not contemplate that there is a new beginning and ending of the term by each appointment; but the term becomes fixed by the first appointment under the act."

It is believed the principles of law discussed by the court in the above cited case are applicable to the factual situation

in the present opinion request. Here, as there, we have a statute creating a public office with a specified term but without any statement in the statute as to when the term shall begin and end, as such dates have been left to the appointing power. Consequently, in exercising the power conferred upon him by Section 64.930 supra, the Governor of Missouri did appoint Mr. Karl Rogers as a member of the Board of Commissioners of the Jackson County Sports Complex Authority.

From the records of the office of the Secretary of State of Missouri, in which official commissions of various officers are recorded, it appears that the commission of Mr. Rogers is recorded. Such records show Mr. Rogers was appointed on July 15, 1966, for a two-year term beginning on that date and ending July 15, 1968. The appointment was confirmed by the Senate on April 19, 1967.

Keeping in mind the rule stated in *State ex rel vs. Williams*, supra, it is clear that the term of office for which Mr. Rogers was appointed expired July 15, 1968, and that a vacancy now exists which should be filled under provisions of Section 64.930(4) RSMo Supp., 1967, which provides as follows:

"4. In the event a vacancy exists a new panel of three names shall be submitted by majority vote of the county court to the governor for appointment. All such vacancies shall be filled within thirty days from the date thereof."

Under the provisions of Section 64.930(3) RSMo Supp., 1967, Mr. Rogers will continue to hold office until such time as his successor has been appointed and qualified.

Such Section provides in part as follows:

"\* \* \* Each commissioner shall hold office until his successor has been appointed and qualified."

#### CONCLUSION

Therefore it is the opinion of this office that the term of Karl Rogers as a commissioner of the Jackson County Sports Complex Authority, expired July 15, 1968, and that a vacancy exists in such office which should be filled under the provisions of Section 64.930(4) RSMo Supp., 1967, and that he will continue to serve in such office until his successor has been appointed and qualified.

The foregoing opinion, which I hereby approve, was prepared by my assistant Paul N. Chitwood.

Very truly yours,

NORMAN H. ANDERSON  
Attorney General