

Answered by Letter - Klaffenbach
OPINION LETTER NO. 559

FILED
559

Honorable Lawrence J. Lee
State Senator, Third District
State Capitol Building
Jefferson City, Missouri 65101

Dear Senator Lee:

This letter is in answer to your opinion request concerning the application of Section 483.530, RSMo 1969 and in particular what fees if any of the Circuit Clerk are to be taxed as costs when a court of criminal jurisdiction sets aside a bond forfeiture in a criminal case.

In our Opinion No. 33 dated February 11, 1970 to Lauderdale and in the addendum thereto we discussed numerous questions relating to the application of Section 483.530 and 483.540, RSMo 1969.

As you can see from that opinion, it is our view that the legislative intent clearly was that costs "for each criminal case" be set at a flat rate of \$7.50. We are enclosing a copy of that opinion and addendum.

We also note with respect to this question that the Supreme Court Rule 32.12 concerning bond forfeitures treats the action on the bond as one clearly within the jurisdiction of the court in which the defendant is required to appear under the condition of the bond and provides such liability may be enforced on motion without the necessity of an independent action. This all of course indicates that such a proceeding is part and parcel of the criminal proceeding.

Honorable Lawrence J. Lee

In view of these provisions of Section 483.530 we reach the same conclusion with respect to the court fees in criminal cases with respect to setting aside bonds forfeitures. That is we consider such an action by the court a part of the criminal case itself and therefore the clerk, in our view, is not entitled to any more than the flat \$7.50 for such criminal case and is therefore not entitled to any additional fee when the court sets aside a bond forfeiture in a criminal case.

Very truly yours,

JOHN C. DANFORTH
Attorney General