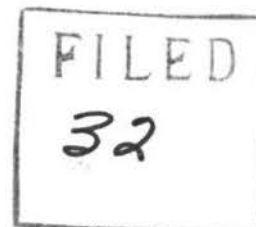


COURT RECORDS: Circuit clerks are authorized to
CIRCUIT COURTS: microfilm closed case files more
PUBLIC RECORDS: than five years old when autho-
rized to do so by the circuit
judge or judges. Circuit court files in all cases which have
been closed and no action taken for more than ten years, and
which have been reproduced in accordance with Section 109.120,
RSMo, may be destroyed under the authority and direction of the
judge or judges of the circuit court.

OPINION NO. 32

May 16, 1973

Honorable William S. Brandom
Prosecuting Attorney, Clay County
Clay County Courthouse
Liberty, Missouri 64048



Dear Mr. Brandom:

This is in reply to your request for an opinion of this office concerning the question of the circumstances under which a circuit clerk is authorized to microfilm records of the circuit court and destroy the originals.

Section 109.120, RSMo, reads in part as follows:

"1. . . . the judges and justices of the several courts of record within this state may cause all closed case files more than five years old to be photographed, microphotographed, photostated, or reproduced on film. Such film or reproducing material shall be of durable material and the device used to reproduce the records on film or material shall be such as to accurately reproduce and perpetuate the original records in all details."

Accordingly, it is our opinion that the circuit court, at its discretion, may have closed case files more than five years old microfilmed.

Then Section 109.140, V.A.M.S. provides in part as follows:

"2. The supreme court may authorize the disposal, archival storage or destruction of its own closed court files more than five years old and such files of the several courts of records when the photostatic copies, photographs, microphotographs or

Honorable William S. Brandom

reproductions on film are placed in conveniently accessible files and provisions made for preserving, examining and using them."

On March 10, 1956, the Supreme Court pursuant to Section 109.140(2) issued the following order:

"The disposal, archival storage or destruction of court files of the Circuit Courts in all cases which have been closed and no action taken for more than ten years is hereby authorized, provided:

1. Such files are reproduced in accordance with Section 109.120, RSMo 1959, V.A.M.S.

2. The reproductions are placed in conveniently accessible files, and provisions are made for preserving, examining and using them.

3. All action taken with respect thereto shall be under the authority and direction of the Judge or Judges of the Circuit Court, and any rules, or methods of preservation, and examination and use, or fees charged for reproducing shall be fixed by such Circuit Court."

CONCLUSION

Accordingly, it is our opinion that circuit clerks are authorized to microfilm closed case files more than five years old when authorized to do so by the circuit judge or judges. Circuit court files in all cases which have been closed and no action taken for more than ten years, and which have been reproduced in accordance with Section 109.120, RSMo, may be destroyed under the authority and direction of the judge or judges of the circuit court.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Walter W. Nowotny, Jr.

Very truly yours,



JOHN C. DANFORTH
Attorney General