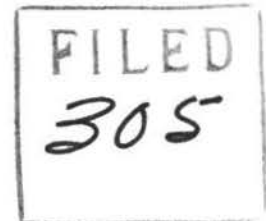


JUDGES: A magistrate judge over the age of
PENSIONS: sixty-five who has served as a mag-
MAGISTRATES: istrate judge or as a justice of
RETIREMENT: the peace in the state of Missouri
for a period of time totaling an
aggregate of twelve years and who after September 28, 1971 ceases
to hold his office as magistrate judge by voluntary resignation
is entitled to retirement pay equal to fifty percent of the com-
pensation provided by law at the time of his retirement for the
judges of the highest court the retired judge served as a full-
time judge, to be paid monthly during the remainder of his life,
said compensation to begin from the date of his resignation as
magistrate judge.

OPINION NO. 305
AMENDED January 28, 1975

September 17, 1974

Honorable Omar Schnatmeier
State Representative, District 52
1901 Elm Street
St. Charles, Missouri 63301



Dear Representative Schnatmeier:

This is in response to your request for an opinion from this office as follows:

"Is a magistrate judge over the age of 65 years, who has served as Magistrate Judge for less than twelve years but has served the State of Missouri as a judge for more than twelve years when including his prior service as Justice of the Peace, entitled to retirement compensation under Section 476.530 RSMo, equal to 50 percent of his compensation at the time of resignation if he resigns before completing his present term of office? If so, when does his right to said compensation begin?"

Sections 476.515 to 476.570, RSMo Supp. 1973, provides for the retirement of judges under certain conditions as provided for therein.

Section 476.515, provides in part, as follows:

Honorable Omar Schnatmeier

"(4) 'Judge', any person who has served or is serving as a judge or commissioner of the supreme court or of the court of appeals, or as a judge of any circuit court, probate court, magistrate court, court of common pleas or court of criminal corrections of this state or as a justice of the peace;"

Under the above statutory provision, the judge under these statutory provisions includes a person who has served as a magistrate judge or as a justice of the peace in the state of Missouri.

Section 476.520, RSMo Supp. 1973, provides as follows:

"Any person, sixty-five years of age or older, who has served in this state an aggregate of twelve years, continuously or otherwise, as a judge, and who, after September 3, 1970, ceased or ceases to hold office by reason of the expiration of his term, voluntary resignation, or retirement under the provisions of subsection 2 of section 27 of article V of the Constitution of Missouri may receive benefits as provided in sections 476.515 to 476.570. All judges required by the provisions of section 30 of article V of the constitution to retire at the age of seventy years shall retire upon reaching that age, and if they have served in this state an aggregate of twelve years, continuously or otherwise, as a judge, shall receive benefits as provided in sections 476.515 to 476.570. The twelve years requirement of this section may be fulfilled by service as judge in any of the courts covered, or by service in any combination as judge of such courts, totaling an aggregate of twelve years."
(Emphasis supplied).

The reference in such section to judges who ceased or cease to hold office after September 3, 1970 was held in Opinion No. 419-1974, copy enclosed, to be invalid. The section is applicable to judges who ceased or cease to hold office after September 28, 1971, the effective date of Section 476.520, RSMo Supp. 1973.

Under the above statute, the twelve years requirement is fulfilled by service as a judge of the magistrate court or as a justice of the peace for a period totaling an aggregate of twelve years.

Honorable Omar Schnatmeier

Section 476.530, RSMo Supp. 1973, provides as follows:

"The retirement compensation shall be equal to fifty percent of the compensation provided by law at the time of retirement for the judges of the highest court on which the retired judge served as a full-time judge. Retirement compensation shall be paid to the retired judge monthly during the remainder of his life."

Under the above statutory provisions, a magistrate judge who is otherwise eligible to retire under these statutory provisions and resigns during his term is entitled to retirement compensation equal to fifty percent of the compensation provided by law at the time of retirement to be paid monthly during the remainder of his life.

CONCLUSION

It is the opinion of this office that a magistrate judge over the age of sixty-five who has served as a magistrate judge or as a justice of the peace in the state of Missouri for a period of time totaling an aggregate of twelve years and who after September 28, 1971 ceases to hold his office as magistrate judge by voluntary resignation is entitled to retirement pay equal to fifty percent of the compensation provided by law at the time of his retirement for the judges of the highest court the retired judge served as a full-time judge, to be paid monthly during the remainder of his life, said compensation to begin from the date of his resignation as magistrate judge.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Very truly yours,



JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 419
10/28/71, Vaughn