

COUNTIES: The presiding judge of the county
OFFICERS: court of Ripley County cannot be
COUNTY JUDGES: employed and paid compensation for
COUNTY OFFICERS: his services to supervise the court-
CONFLICT OF INTEREST: house renovation project.

OPINION NO. 141

July 3, 1975

Honorable James R. Hall
Prosecuting Attorney
Ripley County
The Hunt Building
204 Washington
Doniphan, Missouri 63935

Dear Mr. Hall:

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

"May the presiding judge of the county court of a third class county be employed as 'job superintendent' of a courthouse renovation project, and receive compensation for his services in addition to his compensation as county judge?

"Ripley County, Missouri has applied for a grant of \$240,000.00 from the United States under Title 10 of the Economic Development Act, to be matched by \$60,000.00 in Ripley County revenues. The total of \$300,000.00 will be used to renovate the Ripley County Courthouse at Doniphan.

"By the terms of the grant, several conditions must be adhered to, including and necessitating the employment of a 'job superintendent' who will have overall on-site supervision of the project, and who will be responsible, through the architect, for compliance with federal requirements imposed by terms of the grant.

"The federal agencies involved have indicated a preference for the position of 'job

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superintendent' to be filled by the presiding judge of the county court. The time required by the position would require that the presiding judge be paid reasonable compensation for his services, over and above his compensation as county judge.

"It is anticipated that payments would be subject to approval by the Ripley County Court, and the Economic Development Agency."

It is our view that the answer to your question is found in Section 49.140, RSMo, which provides as follows:

"No judge of any county court shall, directly or indirectly, become a party to any contract to which the county is a party, or act as a road or bridge commissioner, either general or special, or keeper of any poor person."

This statutory provision was considered in the case of Nodaway County v. Kidder, 129 S.W.2d 857 (Mo. 1939), in an action by Nodaway County to recover moneys paid by Nodaway County to the presiding judge of the county court for services he had rendered as an employee of the county under an agreement with the county court in part to save the county from hiring a highway engineer.

The court stated the alleged agreement between the presiding judge of the county court and the county court was void under the express terms of the statute. As an additional grounds for holding the contract void, the court stated as follows, l.c. 861:

"Appellant's alleged contract was also void as against public policy regardless of the statute. A member of an official board cannot contract with the body of which he is a member. The election by a Board of Commissioners of one of its own members to the office of clerk and agreement to pay him a salary was held void as against public policy. Town of Carolina Beach v. Mintz, 212 N.C. 578, 194 S.E. 309; 46 C.J. 1037 Sec. 308."

Under the express provision of Section 49.140, RSMo, a member of the county court is prohibited from entering into any contract with the county in which he is interested, directly or indirectly, and this would include any employment for compensation.

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CONCLUSION

It is the opinion of this office that the presiding judge of the county court of Ripley County cannot be employed and paid compensation for his services to supervise the courthouse renovation project.

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

Yours very truly,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General