

MAGISTRATE COURT JURORS:

A clerk of a magistrate court is required by law to issue a scrip to a magistrate court juror for his services. The county treasurer is required to pay such scrip out of any money in the treasury appropriated for county expenses as in the case of payment of county warrants.



December 4, 1951

12-4-51

Honorable W. A. Despain
Judge of the Probate and Magistrate Court
Shannon County
Eminence, Missouri

Dear Judge Despain:

This will be the opinion you requested from this Department in reply to your question whether the clerk of a magistrate court may legally draw jury scrips against the county treasurer for payment of jurors in magistrate courts. Your letter requesting an opinion on the subject reads as follows:

"I would like an opinion of your office as to the payment of Jurors in the Magistrate Court, where Jurors are drawn as provided under Chapter 499, Sections 499.010 and 499.020 and 499.120.

"Question: Can the Clerk of the Magistrate Court draw Jury Scripts against County Treasurer? (legally so) for the payment of Jurors:

"I take the position that the Clerk of the Magistrate Court is a State Officer, (by appointment) and since all Magistrate Clerk fees are paid over to the State Treasurer, that the Magistrate Clerk has no authority, to draw a script against the County, neither has the County Treasurer any authority to honor said script.

"I take the position that the Juror should claim his attendance before the Magistrate Clerk, then that attendance claim should be transferred to the Clerk of the Circuit Court, and the Clerk of the Circuit Court issue the script, please advise."

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Your letter indicates that you believe the clerk of the magistrate court has no authority to draw a scrip against the county treasurer in favor of a magistrate juror, and, that the county treasurer has no authority to honor such scrip.

Section 499.120, RSMo 1949, which you mentioned in your letter, reads as follows:

"Upon the demand of such juror, the clerk shall give him a scrip, verified by his official signature, showing the amount which such juror is entitled to receive out of the county treasury."

Section 499.130, RSMo 1949, respecting the honoring of such scrip by the county treasurer and the payment of the magistrate court juror upon the presentation of such scrip by the juror to the county treasurer reads as follows:

"The treasurer of the county is hereby required, upon the presentation to him of any scrips given by the clerk aforesaid, to pay the same out of any money in the treasury appropriated for county expenses, in the same manner and subject to the same rules as county warrants; and said scrip shall be received by the sheriff, collector or other proper officer in the payment of any debt due the county."

It will be noted that said Section 499.130, requires the county treasurer to pay such magistrate jury scrip in the same manner and subject to the same rules as county warrants. Chapter 50, RSMo 1949, under the subject of "County Finances and Budget" provides in Sections 50.120, 50.220 and 50.230 for the presentation and method of payment of county warrants. These sections are quite too lengthy to quote here, but we note such sections, since the method of paying county warrants is made the pattern for the payment of magistrate jury scrips under said Section 499.130, RSMo 1949. We respectfully refer the reader to the county warrants sections numbered above.

These sections providing for the payment of jurors in magistrate courts are direct and positive. There is no

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alternative, exception, or other method or plan for the payment of such jurors provided in any other section of Chapter 499, RSMo 1949, dealing with the payment of jurors in magistrate courts. We believe the required performance of such duties as are imposed upon the clerk of the magistrate courts to give jurors serving in magistrate courts the scrip required by the statute and the duty of honoring and paying such scrip when presented by the juror to him, or her, by the county treasurer in the method and manner provided for the payment of county warrants is the expression of the public policy of this State respecting the payment of magistrate court jurors. It is, therefore, we believe, mandatory. Such officers have no discretion in the matter, but must perform such duties in obedience to the statute.

CONCLUSION.

It is, therefore, considering the above-numbered sections of our statutes, the opinion of this Department that:

1) A clerk of a magistrate court under Section 499.120, RSMo 1949, shall give a magistrate court juror a scrip, verified by the juror's official signature showing the amount which such juror is entitled to receive out of the county treasury as his compensation for jury service in such court.


2) That by the terms of Section 499.130, RSMo 1949, upon presentation of such scrip by such juror to the county treasurer, the county treasurer is required to pay the same out of any money in the county treasury appropriated for county expenses, in the same manner and subject to the same rules as county warrants.

3) That the terms of both of said last-numbered sections are mandatory, and such officers have no authority to disregard the terms of said statutes, but must perform such duties in obedience thereto.

Respectfully submitted,

APPROVED:

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