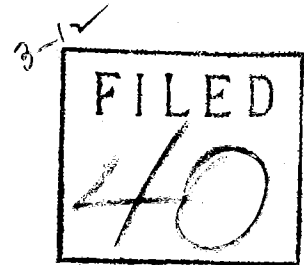


JUSTICE OF THE PEACE: Justice of the peace appointed upon petition may hold court any place in township.

March 10, 1941



Honorable Wilson D. Hill
Assistant Prosecuting Attorney
Richmond, Missouri

Dear Sir:

This Department is in receipt of your request for an official opinion, which request reads as follows:

"A justice of the peace was appointed by the county court under Section 2137, Revised Statutes 1929, for the town of Rayville, Ray County, Missouri, upon the petition of twelve householders of said town.

"Rayville is in Richmond township. It is about eight miles from the city of Richmond. Can this justice of the peace hold court in the city of Richmond?

"He is still within his township, but due to the fact that he was appointed under the section referred to, would he be limited to holding court in Rayville, Missouri, alone?"

The question presented by your request is whether a justice of the peace appointed by the County Court, upon a petition of twelve voters of any township setting forth that they live more than five miles from the nearest justice of the peace in their township, can hold court any place in the township. And it is to these facts that we limit this opinion.

Section 2524, R. S. Mo. 1939, which was Section 2137, R. S. Mo. 1929, provides in part as follows:

"Whenever a petition shall be presented to the county court of any county in this state, signed by twelve or more qualified voters of any township in said county, setting forth that they live more than five miles from the nearest justice of the peace in their township, the county court shall have power to appoint an additional justice of the peace for such township, and the justice so appointed shall live in the immediate neighborhood of the petitioners, and at least five miles from any other justice of the peace of such township: * * * * *"

The general rule is stated in Kelly's Justice Treatise, Section 5, page 7, as follows:

"A justice of the peace may in general * * * hold his court at any place within his township."

In *Altergot v. O'Connor*, 6 S. W. (2d) 1012, the following language is quoted with approval:

"He (meaning the justice) can perform his official duties only in his own township."

This rule is recognized in *State Bank v. Anderson*, 36 S. W. (2d) 138, in which the court holds that:

"The law is now well settled in this state that an appointive justice of the peace whose commission limits his acts to a certain territory may not perform any official acts outside of such territory."

In view of the above authorities it will be seen that a justice of the peace of a township may hold court any place within the township.

Conclusion

It is, therefore, the opinion of this Department that a justice of the peace, appointed by the County Court, upon a petition signed by twelve voters of any township in said county setting forth that they live more than five miles from the nearest justice of the peace in their township, may hold court at any place within the township.

Respectfully submitted,

ARTHUR O'KEEFE
Assistant Attorney-General

APPROVED:

VANE C. THURLO
(Acting) Attorney-General

AO'K:EG