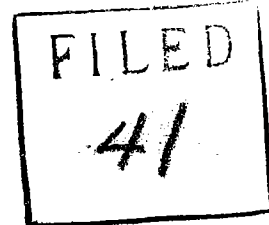


MUNICIPAL COURTS:  
COSTS:  
POLICE JUDGE:

Rent for providing a suitable courtroom may not be assessed as a part of court costs in a municipal police court and paid to the police judge, by action of a city of the fourth class.

November 11, 1959



Honorable Haskell Holman  
State Auditor  
Capitol Building  
Jefferson City, Missouri

Dear Mr. Holman:

This is in response to your letter of August 3, 1959, which we quote:

"In an audit of the records of the City of St. Robert, Missouri, it was found that the cost assessed in police court for a violation of a city ordinance included a fee to the Police Judge, which has given rise to a question upon which the opinion of your office is desired.

"The question is as follows:

May room rent be assessed and paid to the Police Judge, by action of a city of the fourth class, as a part of court costs in a municipal police court?"

It is the opinion of this office that rent for providing a suitable courtroom may not be assessed as a part of court costs in a municipal police court and paid to the police judge, by action of a city of the fourth class.

In reaching our conclusion we would agree that it is a general statement of the law to say that costs are to be taxed in accordance with the provisions of the statutory law of a state. However, we do not feel that anything may be made the

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subject of costs when it would be beyond the point of reason as well as statutory authority.

In the case of City of Carterville v. Cardwell, 152 Mo. App. Reports 32, at page 37 the Springfield Court of Appeals states that:

"\* \* \* The word costs when used in relation to the expenses of legal proceedings, means the sum prescribed by law as charges for the services enumerated in the fee bill."

The court also, at page 37, states:

"\* \* \* Costs in criminal proceedings are those charges fixed by law which have been necessarily incurred in the prosecution of one charged with a public offense, as compensation to the officers for their services."

With the Carterville case, supra, in mind, it is our belief that rent for a suitable courtroom may not correctly be termed a service.

In the case of Gleckman v. United States, 80 F.2d 394, the Eighth Circuit Court of Appeals said, in referring to costs, l.c. 403:

"\* \* \* It does not include the general expense of maintaining the system of courts and the administration of justice, all of which is an ordinary burden of government.  
\* \* \*"

Section 98.520, RSMo 1949, is as follows:

"The board of aldermen shall provide at the expense of the city a suitable room or office for the mayor or police judge, and he shall hold his court in such room, and his court shall be open every day except Sunday."

We feel that the phrase "expense of the city" means at the expense of all of the taxpayers of such a city. We believe that a provision for a courtroom as required by Section 98.520, supra, particularly considered with the statement of the Gleckman case, supra, is a provision for the maintenance of the

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system of courts and the administration of justice, all of which are to be considered an ordinary burden of the government.

CONCLUSION

It is the opinion of this office that rent for providing a suitable courtroom may not be assessed as a part of court costs in a municipal police court and paid to the police judge, by action of a city of the fourth class.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, James B. Slusher.

Yours very truly,

JOHN M. DALTON  
Attorney General

JBS:mc