

INSANE PERSONS: Under the facts in this case patient in question belongs to the State of Missouri and not the State of Illinois.

---

February 5, 1943

Mr. Ira A. Jones, President  
Board of Managers  
State Eleemosynary Institutions  
Jefferson City, Missouri

2-11  
FILED  
46

Dear Sir:

This is in reply to your letter of January 25th, wherein you request an opinion from this department, as follows:

"On January 2, 1931, James W. Perrin was admitted to State Hospital #2 as a county patient from Macon County, having been committed by his brother, C. P. Perrin of Calleo, Missouri. The patient was born and raised in Missouri. He was diagnosed as an epileptic with deterioration. He was hospitalized continuously until June 6, 1942, when he was discharged from State Hospital #2 to the care of his son, Mr. Floyd Perrin, 218 Grand, East Alton, Illinois.

"We now have a letter from the State Deportation Agent of Illinois saying that James W. Perrin has been hospitalized in the Alton State Hospital, and he wishes authorization for his return to State Hospital #2.

"As this patient has been discharged from State Hospital #2, and it is a question as to whether he could have established a residence in Illinois, we are asking your opinion about taking him back to State Hospital #2."

From your statement we understand that the patient was legally admitted to State Hospital #2 on January 2, 1931, from Macon County, Missouri, as a county patient, and was discharged from State Hospital #2 to the care of his son in East Alton, Illinois. The gist of your question is whether the patient, now in the State Hospital of Illinois at Alton, Illinois, belongs to that state or should he be returned to Missouri for hospitalization in one of our state institutions.

We have had the benefit of various letters from your files relative to this patient and the history of the case. We assume that the patient was legally committed to State Hospital #2 at St. Joseph, Missouri, by Macon County on January 2, 1931, as a county patient. Your letter states that the patient was born and reared in Missouri and that his case was diagnosed as an epileptic with deterioration. We note the language of your letter wherein it states that the patient was "discharged from State Hospital #2 to the care of his son, Mr. Floyd Perrin, 218 Grand, East Alton, Illinois." It is significant that he had been in State Hospital #2 at St. Joseph, Missouri, for ten and one-half years before his discharge. The record does not show how long the patient has been in the Illinois institution. However, under the facts as gathered from the letter, he has not been a patient there for more than six or seven months, at the most.

Section 9321, R. S. Mo. 1939, provides in part as follows:

"Persons afflicted with any form of insanity shall be admitted into the hospitals for the care and treatment of same. Any patient so admitted may be discharged or paroled whenever in the judgment of the Superintendent and his staff such person should be dis-  
charged or paroled. \* \* \* \* \*

(Underscoring ours.)

We will take the word "discharged" as used in your letter as meaning that the patient was released or set free from the institution, and, if such was the case, it was unnecessary to

state that he was discharged to the care of some other person. The word "parole" as used in the statute means, as we understand it, a conditional and revocable release, upon his own recognizance or subject to supervision provided by statute. If the patient was discharged as completely cured he could establish his residence wherever he saw fit. But, since in your letter you state that he was discharged to the care of someone else, we would understand that the patient had not entirely recovered from his affliction and could not establish his residence somewhere else of his own volition.

In the case of State ex rel. Taylor v. Wurdeman, 129 Mo. App. 263, 1. c. 273, the court, in quoting from an old English case, said:

"\* \* \* In disposing of the petition, LORD ELDEN said the old and settled law was not to grant a commission of lunacy to be executed at any other place than the residence of the supposed lunatic; citing Ex parte Hall, 7 Ves. 261; that if a resident of London were conveyed into Essex, he still would be a resident of the city, and no man could be said to reside in a place where he had been carried while he had not mind enough to make a change of residence. \* \* \* \* \*"

Section 9356, R. S. Mo. 1939, provides as follows:

"No person shall be entitled to the benefit of the provisions of this article as a county patient, except persons whose insanity has occurred during the time such person may have resided in the state, and except the insane poor under sentence as criminals, as provided in sections 9348 to 9352, inclusive, of this article. Every patient in a state hospital

shall be deemed to be the county patient of the county first sending him till one year after his regular discharge from the hospital."

It will be observed from this section that where a patient has been regularly committed to a state hospital and has been regularly discharged therefrom, that he shall be deemed a county patient of the county first sending him until one year after his regular discharge from the hospital. So, upon the facts as we have them, the patient, under our own statute, is a county patient of Macon County. No doubt Illinois has a statute, which most states have, which provides that a person under these circumstances cannot become a charge of that state until he has been a resident for at least a year.

CONCLUSION

It is, therefore, our opinion, based upon the facts in your letter, and the statement of facts in the letters accompanying your request, that the patient in question is a Missouri patient and not an Illinois patient.

Respectfully submitted,

COVELL R. HEWITT  
Assistant Attorney-General

APPROVED:

---

ROY MCKITTRICK  
Attorney-General

CRH:CP