

Are Police Officers entitled to reward for the capture of criminals.

4.25
April 25, 1935



Honorable Guy B. Park
Governor
Jefferson City, Mo.

Dear Sir:

This department is in receipt of your request for an opinion relative to the application of certain police officers of the city of St. Louis for the reward of \$200 for the arrest and conviction of the person or persons guilty of murdering John W. Whitted and Edwin C. Shane.

It appears from the papers attached to your request that Lieutenant Ira L. Cooper and detectives Charles E. Johnson, Frank Crook and Arlanda Ryan of the Department of Police of the city of St. Louis, apprehended one William Roland for the murder of John W. Whitted and Edwin C. Shane, and that Roland was subsequently tried and convicted of this crime and was later hanged on April 12, 1935 in conformity with the sentence of the court.

The precise question involved is whether these police officers are entitled to the reward of \$200 offered by you as Governor of the State of Missouri.

In the early case of *Kick v. Merry*, 23 Mo. 72, Judge Scott in holding that an agreement to reward a public officer, a policeman, for doing that which is his duty by law to do, is void against public policy, said:

"Under the circumstances, the officer has no right to insist that he acted as an individual in his private capacity. The case falls within the mischief of the rule of the common law which prohibits an officer from taking a reward as an inducement to do

his duty. He received a stated salary for his services. The services rendered were within the duties of his office. All his energies had been devoted to the service of the city. Under such circumstances, to permit an officer to stipulate for extra compensation for services to which the public was entitled, would lead to great corruption and oppression in office. It would follow that whenever a crime was committed, instead of speedy efforts for the arrest of the offender, there would be a holding back, in the hope that there would be a reward given for his apprehension. If once a habit of taking a reward is introduced, nothing will be done unless the service is previously purchased by extra pay. The other judges concurring, the judgment will be reversed."

A recent case on this subject has been decided by the St. Louis Court of Appeals in the case of Bennett v. Gerke, 61 S. W. 2d 241, decided June 20, 1933. In that case the sheriff of Lincoln County and two deputy sheriffs sought to collect a reward in the sum of Two Thousand Dollars for the arrest and delivery of two men wanted for kidnapping. Judge Kane in holding that officers may not receive a reward for services required of them as a part of their official duties, said:

"However, these claimants (Groshong, sheriff, Bennett and McGregor, deputy sheriffs), being public officials, it is against public policy to allow them to receive a reward for the performance of their sworn official duty and for which they received fixed fees and salaries, and we must rule that the delivery to the police officers of the city of St. Louis was not such an act or extraordinary service alike

beyond and outside the limits of their official duty which would entitle them to claim the reward. * * * * *

The principle that at common law it was against public policy for a public officer to take any additional sum in the way of a reward for extra services has been dealt with in strong language by our courts. Hatch v. Mann, 15 Wend. (N.Y.) 49-50: 'That a public officer, whose fees are prescribed by law, may maintain an action to recover an additional sum promised him by a party for doing his official duty, is a monstrous proposition, fraught with every kind of mischief.' "

CONCLUSION

In view of the foregoing it is the opinion of this department that it is against the public policy of the State of Missouri for public officials to receive a reward for the performance of their official duties and for which they receive fixed fees and salaries. For this reason it is our further opinion that the applicants herein seeking the reward, being police officers of the City of St. Louis, Missouri, are not entitled to receive said reward.

Respectfully submitted,

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APPROVED:

ROY McKITTRICK
Attorney General

JWH:SW