

NARCOTICS: Probate court, upon adjudication of veteran  
PROBATE COURT: as narcotic addict, may commit said veteran  
VETERANS: to United States Public Health Service for  
required care and treatment.

July 18, 1951

7/18/51



Mr. George M. Reed  
State Service Officer  
P. O. Drawer 147  
Jefferson City, Missouri

Dear Sir:

Your letter at hand requesting an opinion of this department, which, in part, reads:

"This office was created by an Act of the General Assembly to assist veterans and their dependents in obtaining benefits to which they may be due from the Federal Government. Among these benefits is hospitalization for all types of diseases, illnesses and injuries.

"Apparently there is an upswing in the use of narcotics by Missouri veterans which is posing a rather large problem for this office, since very few hospitals are equipped to treat and assist narcotic addicts; therefore, we respectfully request an opinion on the following:

"Under Chapter 459, Uniform Veterans' Guardianship Law, Paragraph 459.170, Commitment to Veterans Administration or other United States agency, we impose the following question:

"Does the Probate Judge in a County of Missouri have the authority to commit a veteran who is a resident of the State of Missouri and who has been proven to be a narcotic addict to the United States narcotic hospitals at Lexington, Kentucky,

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and Fort Worth, Texas, as he has authority to commit a veteran who is a resident of the State of Missouri and who has been proven of unsound mind to a Veterans Administration facility outside the State of Missouri?"

Under Section 459.170, RSMo 1949, which is a part of the Uniform Veterans' Guardianship Law, a person who is found to be eligible and who is of unsound mind or otherwise in need of confinement in a hospital or institution for proper care may be committed by a court to the Veterans Administration or other agency of the United States government for such care. Thus that section, in part, provides:

"Whenever, in any proceeding under the laws of this state for the commitment of a person alleged to be of unsound mind or otherwise in need of confinement in a hospital or other institution for his proper care, it is determined after such adjudication of the status of such person as may be required by law that commitment to a hospital for mental disease or other institution is necessary for safe-keeping or treatment and it appears that such person is eligible for care or treatment by the Veterans Administration or other agency of the United States government, the court, upon receipt of a certificate from the Veterans Administration or such other agency showing that facilities are available and that such person is eligible for care or treatment therein, may commit such person to said Veterans Administration or other agency. The person whose commitment is sought shall be personally served with notice of the pending commitment proceeding in the manner as provided by the law of this state; and nothing in this chapter shall affect his right to appear and be heard in the proceedings. Upon commitment, such person, when admitted to any facility operated by any such agency within or without this state shall be subject to the rules and regulations of the Veterans Administration or other agency. \* \* \*"  
(Emphasis ours.)

However, the above statute requires that a proper proceeding under the laws of the State of Missouri must first be had before the court in which such proceeding is instituted can order the commitment of a particular person.

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Unquestionably, a narcotic addict requires the necessary treatment and, in most cases, confinement in an institution where such treatment can be properly administered. Such has been recognized by the Legislature of the State of Missouri, which has provided that "dope fiends" and "addicts" shall be subject to confinement in state hospitals for the cure of their particular drug habit. The law further provides for the necessary proceeding in order to commit such persons to a hospital and vests the probate court of any county in this state with authority, after the necessary proceeding has been had, to order such commitment. Thus Section 202.380, RSMo 1949, provides:

"Any such dope fiend or addict, upon written information charging him or her so to be, signed by any resident of the county of such person's residence and filed with the probate court thereof, shall be cited by said court upon five days' notice served in the same manner as personal summons is required to be served in civil actions, to show cause why he or she shall not be adjudged to be confined for the cure of such habit. Upon the return day of such notice said probate court shall, without the aid of a jury, inquire into and shall declare of record its finding whether or not the person so charged be in fact a dope fiend or addict in the use of any such drug or drugs, and if it so finds such person to be as charged, said court shall further proceed as in section 202.370 in the matter of the appointment of a curator."

Section 202.390, RSMo 1949, in part, provides:

"Whenever the probate court of any county in this state shall find upon citation and trial, or upon confession as the case may be, that any person so coming under its jurisdiction as herein provided, as a habitual user of any such drug or drugs, it shall at once issue its certificate in duplicate to that effect under the hand and seal of said court directed to any hospital for insane patients in the state of Missouri, to be selected by said court, and shall deliver the same to the sheriff of the county, who shall thereupon and by authority thereof deliver such person into the custody of the

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superintendent of such hospital, leaving one copy of such certificate with such superintendent as his authority for such custody, and making return to said court upon the other copy. \* \* \*"

It is therefore our thought that when a proceeding such as outlined in the above sections is had in the probate court of any county in the state for a resident of the state who is then adjudicated to be a habitual user of drugs or narcotic addict requiring hospitalization, said court would have authority under the provisions of Section 459.170, supra, to commit such person to an agency of the United States government having the necessary facilities for care and treatment, providing, of course, that said person is in other respects eligible. Such would constitute a compliance with said Section 459.170 which first requires that a proceeding be held under the laws of the State of Missouri for the commitment of a person alleged to be in need of confinement in the hospital or other institution for his proper care.

At our request for additional information you have stated that the agency of the United States government which has the management, supervision and control of the narcotic hospitals mentioned in your letter is the United States Public Health Service. In other words, it is our understanding that the United States Public Health Service operates said narcotic hospitals in the same manner as the Veterans Administration operates the various veteran's hospitals throughout the country. Such being the case, we believe that the United States Public Health Service would be included within the term "other agency of the United States government," as used in Section 459.170, supra, and that the probate court of any county within the state, after the required proceeding as above set out had been complied with, could commit a person adjudicated a narcotic addict, who was in need of necessary treatment and whose eligibility had been established, to the United States Public Health Service in the same manner as the court could commit a person of unsound mind to the Veterans Administration. It would then be within the authority of the United States Public Health Service to admit a person requiring treatment to a narcotic hospital wherein the facilities were available.

#### CONCLUSION

It is therefore the opinion of this department that the probate court of any county within the State of Missouri, after




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a proceeding had been had as required by law, could commit a person adjudicated a narcotic addict, who required treatment, to the United States Public Health Service, provided that such person was in other respects found eligible to receive the necessary care and treatment from said federal agency.

Respectfully submitted,

RICHARD F. THOMPSON  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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