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INSANE PERSONS: Cole County is liable for the expenses of a patient originally declared insane by said county and becomes insane again, even though the patient has been residing in another county for several months. The county may, in its discretion, bear the expense of a person found insane when the residence is not known and cannot be determined.

July 1, 1939

Hon. Carl F. Wymore  
Prosecuting Attorney  
Cole County  
Jefferson City, Missouri



Dear Sir:

This department is in receipt of your recent letter wherein you present two questions relative to the status of insane persons. Your first question is as follows:

"Where a woman was a resident of this County and had been declared insane in this County, but had been fully discharged from the State Hospital, and then changed her residence to another County, and after arriving there and residing there for several months, became insane and was then sent to the State Hospital from that County, which County would be liable for her support in the State Hospital."

Formerly, the statutes contained a section to the effect that every patient "in the asylum shall be deemed to be the county patient of the county first sending him, till one year after his regular discharge from the asylum". This statute was evidently repealed a number of years ago. The intention of the Legislature with respect to the support of the insane poor is clearly and simply stated in the case of State ex rel. Yarnell v. Cole County Court, 80 Mo., l.c. 84, where it is said:

"We think it apparent from the above statutory provisions and the general law regulating asylums, (2 R.S., p. 818,) that it was the intention of the

legislature to cast the burden of supporting the insane poor upon each county where such insane poor have acquired a residence or settlement, and that where an insane poor person is sent from a county and is discharged from the asylum, he shall be deemed to be the county patient of such county for the period of twelve months after such discharge, the language of the statute being that every patient in the asylum shall be deemed to be the county patient of the county first sending him till one year after his regular discharge. It seems to have been the purpose of the legislature to provide that before the support of an insane poor person of one county can be shifted to or cast upon another county, such insane person must have ceased to reside in the former county for the period of one year. The same policy has been indicated in the law regulating the support of the poor, (2. R.S., p. 1289, Sects. 6579, 6581,) where it is provided that poor persons shall be received, maintained and supported by the county of which they are inhabitants; and that no person shall be deemed an inhabitant, within the meaning of the chapter, who has not resided in the county for the space of twelve months next preceding the time of any order being made respecting such person, or who shall have removed from another county for the purpose of imposing the burden of keeping such poor person on the county where he or she last resided for the time aforesaid."

The question of residence of an insane person is discussed in the case of Thomas v. Macon County, 175 Mo., l.c. 76, where it is said:

"Of the four classes provided for by the statutes quoted, three are placed within the jurisdiction of the county court to find the facts essential to the reception and maintenance of the insane person in the asylum at the county's expense and one of those essential facts is residence of the person in the county. The fourth class requires no adjudication of the facts by the county court but authorizes the Governor to 'by his warrant to the sheriff of the proper county, or warden of the penitentiary, order such lunatic to be conveyed to the asylum and there kept until restored to reason. . . and the expense of conveying such lunatic to the asylum shall be audited and paid out of the fund appropriated for the payment of criminal costs, but the expenses at the asylum for his board and clothing shall be paid as now provided by law in cases of the insane poor. Provided, if such person shall have property, the costs shall be paid out of his property, by his guardian.' The plaintiff relies on that part of the clause just quoted which provides that the expenses 'shall be paid as now provided by law in cases of the insane poor,' for his right to recover in this case. As we have seen, the only provision made by law for charging such expense to a county, is in case the insane person is a resident of the county. The residence of the insane person in Macon county, therefore, becomes an essential fact for the plaintiff in this case to prove before he can recover."

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In the case of Shields v. Johnson County, 144 Mo. 76, the question arose as to what county was liable for the maintenance of a person who escaped from a lunatic asylum, and while in the county, committed a homicide, and defended himself successfully on the grounds that he was insane at the time. It was necessary for the county liable to show the patient was a resident of that county.

Section 655, R.S. Missouri, 1929, defining "residence", is in part as follows:

"\* \* \* the place where the family of any person shall permanently reside in this state, and the place where any person having no family shall generally lodge, shall be deemed the place of residence of such person or persons respectively; \* \* \* ."

Section 12952, R.S. Missouri, 1929, defines who is deemed a resident of a county.

Applying the above decisions and the statutes to the facts which you have submitted, we think the liability of a county for the maintenance of a patient should be based on the fact that the patient is a resident or a citizen of the county which is to be deemed liable.

You state that the woman in question was a resident of Cole County and duly declared insane by said county. After her discharge from the hospital, she took up her abode in another county, "residing there for several months". She may have had an intention to become a resident and citizen of the other county. However, she had not been a resident of such county for the required statutory length of time and we think that insofar as the laws and decisions relating to insane patients make this mandatory, she was still a resident and citizen of Cole County and that Cole County would be liable for her support in the State Hospital.

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Your second question is as follows:

"Where a man is found in this County and apparently is insane, does this County have the power to send him to the State Hospital, if the County Court finds him insane, where his residence is not known and cannot be determined."

The above decisions bearing on your first question can also be made applicable to the second question insofar as the question of the county court is concerned.

The statute mentions "poor patients" and "pay patients". If a person has no estate and is found in the county, the county is liable for the expenses of such person in the State Hospital.

Under Section 12950, R.S. Missouri, 1929, it is the duty of the county court to relieve, maintain and support poor persons who are inhabitants of said county.

Section 12954, R.S. Missouri, 1929, is as follows:

"The county court shall at all times use its discretion and grant relief to all persons, without regard to residence, who may require its assistance."

In the case of Scotland County v. McKee, 168 Mo. 282, it was held to the effect that a county is not bound to provide for a poor person who is not a resident of the county, but in its discretion, may do so.

We are, therefore, of the opinion that the county court has the power and discretion to send to a State Hospital a patient when said patient's residence is not known and cannot be determined.

Respectfully submitted,

APPROVED By:

OLLIVER W. NOLEN  
Assistant Attorney General

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(Acting) Attorney General