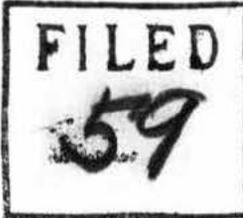


FEEES OF: CORONERS:
STENOGRAPHERS IN MAGISTRATE
COURT, HOMICIDE CASES:

Coroner can only be allowed and paid fees provided by Sec. 58.540 RSMo 1949 for writing down witnesses testimony at inquest; to be paid by county when estate of deceased person insufficient and no one liable or able to pay costs. Examining magistrate in homicide case may appoint stenographer to take down and certify testimony under Sec. 485.150 RSMo 1949. Stenographer to be allowed and paid only fees provided by section; fees taxed as costs and paid as other costs.

April 22, 1952



4-23-52

Honorable Roy W. McGhee, Jr.,
Prosecuting Attorney of
Wayne County
Greenville, Missouri

Dear Sir:

This is to acknowledge receipt of your recent request for a legal opinion of this department, which reads in part as follows:

"There has been some difficulty experienced by the County in determining what fees to allow (properly) to the stenographer employed from time to time on inquests and homicide preliminary examinations.

"Accordingly, I have searched the statutes and found the following:

- (1) Section 58.540. Inquests: 10¢ @ 100 words.
- (2) Section 485.150. Court Reports and Stenographers. When called by the magistrate in homicide cases: 15¢ @ 100 words and figures.
- (3) Section 486.090. Notaries Public. For copies of records and papers; 15¢ @ 100 words.
- (4) Section 492.590. Depositions: (a) Attendance fee up to \$3.00 per hour. (b) Transcription fee: 60¢ per 25-line page, 25¢ per 25-line

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page for carbon copy.

"Question: May the fees allowed by Section 590 by paid stenographers by the county for work at inquests and preliminary hearings, or do the provisions of Sections 58.540 and 485.150 remain in effect?"

Section 58.330, RSMo 1949, gives every coroner the power to issue his summons for witnesses, commanding them to appear before him at the inquests and to give testimony within their knowledge concerning the matter of inquiry.

Section 58.350, RSMo 1949, provides that the testimony of such witnesses shall be written down and subscribed by them and reads as follows:

"The evidence of such witnesses shall be taken down in writing and subscribed by them, and if it relate to the trial of any person concerned in the death, then the coroner shall bind such witnesses, by recognizance, in a reasonable sum for their appearance before the court having criminal jurisdiction of the county where the felony appears to have been committed, at the next term thereof, there to give evidence; and he shall return to the same court the inquisition, written evidence and recognizance by him taken."

Section 58.540, RSMo 1949, provides the fee that shall be allowed the coroner for taking down the witnesses' testimony, and reads as follows:

"For taking down the testimony at an inquest, the coroner shall be allowed ten cents for every hundred words, and twenty-five cents for certifying the same."

We have given careful consideration to the provisions of Sections 486.090, RSMo 1949, and 492.590, RSMo 1949, referred to in your letter, and since we are of the opinion that neither of said sections have any application or bearing upon the subject matter of inquiry, we find it unnecessary to discuss them further herein.

Honorable Roy H. McGhee, Jr.

Section 544.370, RSMo 1949, requires the testimony given by witnesses before an examining magistrate in a homicide case to be reduced to writing by him or under his direction, and reads as follows:

"In all cases of homicide, but in no other, the evidence given by the several witnesses shall be reduced to writing by the magistrate, or under his direction, and shall be signed by the witnesses respectively."

Section 485.150, RSMo 1949, authorizes the examining magistrate in homicide cases to appoint a competent stenographer to take down such testimony in writing, and reads as follows:

"Each magistrate may appoint a competent stenographer or reporter to write and certify evidence of witnesses in cases of homicide and such stenographer shall be allowed a fee of fifteen cents for every one hundred words and figures. Such fee shall be taxed as costs and paid as other costs in the case."

In answer to your inquiry, it is our thought that section 58.540, supra, is the only one which allows the coroner a fee for taking down the testimony of witnesses at an inquest, and that the coroner is limited to the fee provided by that section, and is not entitled to receive any other additional fee for his services. In those cases in which the county is liable for the payment of the costs of a coroner's inquest, the county court cannot legally allow, or order paid out of the county treasury, any other fees for the coroner's services in taking down the testimony of the witnesses at said inquests, than those provided by Section 58.540, supra.

In answer to your inquiry regarding the amount of fees which might be allowed and paid to a stenographer or reporter appointed by the examining magistrate in a homicide case for writing the testimony of the witnesses, it is our further thought that the appointment of such reporter is to be governed by the provisions of Section 485.150, supra. The fees are also fixed by this section, and the reporter cannot be allowed or paid any other, or different fees for his services than those provided therein, and such fees shall be taxed as costs, and paid as other costs in the case.

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CONCLUSION

It is therefore the opinion of this department that for taking down the testimony of witnesses in writing given at a coroner's inquest, the coroner can only be allowed and paid the fees provided by Section 58.540, RSMo 1949, and that the county shall be liable for the payment of said fees and other costs when the deceased person over whose body the inquest was held left no estate sufficient to pay said costs, or no person is liable or financially able to pay the costs of said inquest.

It is the further opinion of this department that when a magistrate appoints a stenographer to write and certify the testimony of witnesses given before such magistrate in a homicide case under the provisions of Section 485.150, RSMo 1949, said stenographer shall be allowed and paid only those fees for his services provided by said section, which fees shall be taxed as costs and paid as other costs in the case.

Respectfully submitted,

PAUL N. CHITWOOD
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

PNC:hr