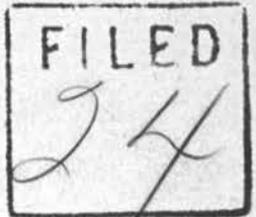


JURIES:
PAYMENT OF BOARD BILL
OF JURIES:

Board bills of juries in cases in which state is liable for costs should be submitted with the criminal cost bill and county court should not be billed for such expense.

September 22, 1948



9-23
Honorable William Lee Dodd
Prosecuting Attorney
Ripley County
Donniphan, Missouri

Dear Sir:

This is in reply to yours of recent date wherein you submit a request for an opinion on the following question.

"When the sheriff has a board bill for the jury should he file it each month with the county court for payment or should he wait until the state allows the cost bill in the case and pays the board of the jury?"

The statute which is applicable now to paying the board of juries in criminal cases is found in Section 4221, as amended, Laws Missouri, 1945, page 844:

"In all capital cases in which the defendant shall be convicted, and in all cases in which the defendant shall be sentenced to imprisonment in the penitentiary, and in cases where such person is convicted of an offense punishable solely by imprisonment in the penitentiary and is sentenced to imprisonment in the county jail, workhouse or reform school because such person is under the age of eighteen years, the state shall pay the costs, if the defendant shall be unable to pay them, except costs incurred on behalf of defendant. And in all cases of felony, when the jury are not permitted to separate, it shall be the duty of the sheriff in charge of the jury, unless otherwise ordered by the court, to supply them with board and lodging during the time they are required by the court to be kept together, for which a reasonable compensation may be allowed, not to exceed three dollars and fifty cents per day for each member of the jury and the officer

in charge; and the same shall be taxed as other costs in the case, and the state shall pay such costs, unless in the event of conviction, the same can be made out of the defendant."

It will be noted that this section provides that the costs for boarding a jury are to be taxed as other costs in the case and that the state pays the costs. There is no provision in this section for the sheriff to submit this board bill to the county court and the county court be reimbursed when the state pays the criminal costs in the case.

Since county courts are only authorized to expend money when directed by statute, and since there is no provision under the statutes for the county court to pay for board of jurors in felony cases then it would seem that the sheriff would have to follow the provision of said Section 4221 and obtain payment for the board of the jury from the state through the criminal fee bill.

CONCLUSION

It is, therefore, the opinion of this department that the county court would not be authorized to pay the board bill of juries in felony cases and that the sheriff should include this item in the fee bill in the case which is presented to the state for payment.

APPROVED:

J. E. TAYLOR
Attorney General

TWB:mw

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General