



STATE OF KANSAS

*Office of the Attorney General*

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CURT T. SCHNEIDER  
Attorney General

February 13, 1975

Opinion No. 75-61

*Note: This opinion  
Withdrawn by AGO 75-452*

Mr. Jay Don Reynolds  
Gray County Attorney  
105 Main  
Cimarron, Kansas 67835

Dear Mr. Reynolds:

You advise that you are presently county attorney of Gray County, Kansas. In addition, you are also the appointed municipal judge in the City of Scott City, Kansas, located in Scott County, and the municipal judge of the City of Bucklin, Kansas, located in Ford County. Although Ford and Gray counties are in the same judicial district, the 16th, Scott County is in the 25th judicial district. The Municipal Court of Scott City convenes four times a month on Wednesday night, disposing of approximately 500 cases per year, while the Municipal Court of Bucklin, which convenes only once a month, disposes of approximately 50 to 100 annually.

K.S.A. 19-705 provides that no "county attorney while in office [shall] be eligible to or hold any judicial or other county office whatsoever." You inquire whether this provision prohibits you from serving as municipal judge in a county other than Gray, which you serve as county attorney. All judicial offices are not, of course county offices. District judges and municipal judges are, for example, not county offices, although county judges, probate and juvenile judges in many counties may be so construed.

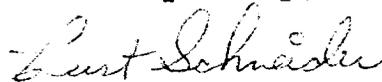
The language of the statutory disqualification may be construed to forbid only the holding of any judicial office which is a county office or any other county office, or it may be construed more broadly to forbid the holding of any judicial office whatever, as well as any county office other than that of county attorney.

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Stated otherwise, in view of the phrase "other county office," the question is whether those judicial offices to which the section applies are only those other judicial offices which are county offices, or any judicial office whatever.

In our view, the phrase "judicial office" must be deemed to include not only those judicial offices which are county offices, but any judicial office whatever. This provision was originally enacted in ch. 25, L. 1868. Even at that early date, district judges, e.g., were not deemed county offices. It was surely the intent of the Legislature, in accordance with the express language adopted, however, to prohibit the county attorney from serving in any judicial post, including that of district judge as well as any other judicial office whether located within or without the county in which the county attorney served. Accordingly, it is our opinion that K.S.A. 19-705 prohibits the county attorney while in office from serving in any judicial office whatever, whether located in or out of the county which he serves as county attorney.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj