



STATE OF KANSAS

*Office of the Attorney General*

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER  
*Attorney General*

July 21, 1975

ATTORNEY GENERAL OPINION NO. 75- 303

Mr. Matthew J. Dowd  
County Counselor  
Shawnee County Board of  
County Commissioners  
Shawnee County Courthouse  
Topeka, Kansas 66603

Re: Courts--Jurisdiction--County Offenses

Synopsis: The Magistrate Court of Shawnee County has no jurisdiction of prosecuting for violation of offenses prescribed by county resolutions; presumptively, as a court of general jurisdiction, the Shawnee County District Court has jurisdiction over such cases.

\* \* \*

Dear Mr. Dowd:

K.S.A. 19-2230 authorizes the board of county commissioners to adopt certain resolutions concerning the regulation, licensing and vaccination of dogs harbored or kept in areas located outside any incorporated city in the county. It provides in pertinent part thus:

"Said board is further authorized to prescribe and enforce penalties for violations of the resolutions adopted providing for the regulation, licensing and vaccination of dogs."

In addition, the board of county commissioners has had occasion to adopt resolutions concerning such matters as parking on courthouse grounds, boating and camping at the Shawnee County

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Lake, and the sale and use of fireworks within the county. You inquire whether the Shawnee County Magistrate Court has jurisdiction to entertain prosecutions for violation of such regulations.

K.S.A. 20-1902 prescribes the jurisdiction of the Magistrate Court of Shawnee County:

"The court hereby established shall have the powers and jurisdiction in civil actions which are prescribed in chapter 61 of the Kansas Statutes Annotated, and any acts amendatory thereof or supplemental thereto, and said court shall have, within the county where it is located, the jurisdiction, power and duty, in cases in which a violation of the laws of the state is charged, to conduct the trial of misdemeanor charges and the preliminary examination of felony charges."

A resolution or regulation adopted by the board of county commissioners pursuant to law, whether K.S.A. 19-2230, or in the exercise of the general legislative authority granted by K.S.A. 19-101a, is not a law of the state. It may have the force and effect of law within the county, but it is not a law of the state. K.S.A. 21-3102(1) states thus:

"No conduct constitutes a crime against the state of Kansas unless it is made criminal in this code or in another statute of this state . . . ."

Thus, there being no "violation of the laws of the state" charged in the case of an offense prescribed by county resolution, the Magistrate Court of Shawnee County has no jurisdiction over such offenses.

You inquire what other court might have jurisdiction. We understand that the suggestion has been broached that a county might create by county resolution a court for the prosecution of such offenses. K.S.A. 19-101a provides that the powers of local

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legislation and administration granted to counties thereunder shall not include the "power . . . to affect the courts located therein." Article 3, § 1 of the Kansas Constitution states thus:

"The judicial power of this state shall be vested exclusively in one court of justice, which shall be divided into one supreme court, district courts, and such other courts as are provided by law. . . ."

The judicial power of the state is thus vested constitutionally in one court, with such divisions as are prescribed by law. The creation of an additional court, which is necessarily a division of the constitutionally unified state judicial system, is not merely a matter of local legislation, and is thus beyond the power of the county in the exercise of its powers of local self-government granted under K.S.A. 19-101a.

District courts "have general jurisdiction of all matters, both civil and criminal, not otherwise provided by law." K.S.A. 20-301. As a court of general jurisdiction, presumptively the Shawnee County District Court enjoys jurisdiction to hear prosecutions for violation of county resolutions prescribing offenses.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj

cc: The Honorable Allan Hazlett  
Judge, Magistrate Court of  
Shawnee County  
Shawnee County Courthouse  
Topeka, Kansas 66603

Mr. Gene Olander  
District Attorney  
Shawnee County Courthouse  
Topeka, Kansas 66603

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cc: Mr. Joe Zima  
Legal Advisor  
Shawnee County Sheriff's Department  
Shawnee County Courthouse  
Topeka, Kansas 66603