



STATE OF KANSAS

Office of the Attorney General

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

Curt T. Schneider
Attorney General

December 9, 1975

ATTORNEY GENERAL OPINION NO. 75-452

Mr. John Shirley
Assistant City Attorney
325 Main Street
Scott City, Kansas 67871

Re: Counties--Officers--County Attorney

Synopsis: A county attorney is not prohibited by K.S.A. 19-705 from holding office as a municipal judge of a municipality which is not located in the county which he or she serves as county attorney.

* * *

Dear Mr. Shirley:

You inquire concerning K.S.A. 19-705, which states that no "county attorney while in office [shall] be eligible to or hold any judicial or other county office whatsoever." You advise that the City of Scott City wishes to appoint as its municipal judge an attorney who is the county attorney of a different county. The City of Scott City is located in Scott County, a part of the 25th Judicial District, while the attorney who is proposed to be appointed serves as county attorney of a county within the 16th Judicial District.

We earlier considered this question in Opinion No. 75-61, in which we stated the question thus:

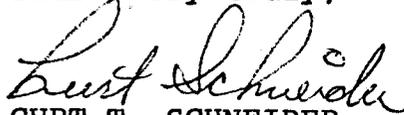
"The language of the statutory disqualification may be construed to forbid only the holding of any judicial office which is a county office or any other county office, or it may be construed

Mr. John Shirley
Page Two
December 9, 1975

more broadly to forbid the holding of any judicial office whatever, as well as any county office other than that of county attorney. 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."

Upon reconsideration, we think the better construction of this statute is to read together the offices which are stated disjunctively, "any judicial or other county office," and to construe the judicial offices to which the disqualification attaches to be those judicial offices located in the county in which the county attorney serves. Accordingly, construed in this manner, a county attorney is disqualified from holding, during his or her tenure as county attorney, any judicial office within the county in which he or she serves, and is not disqualified by operation of this statute from serving as municipal judge in a city located outside the jurisdiction of the county which he serves as county attorney. Opinion No. 75-61 is, accordingly, withdrawn.

Yours very truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

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