

STATE OF KANSAS

Office of the Attorney General

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

Curt T. Schneider
Attorney General

February 11, 1976

ATTORNEY GENERAL OPINION NO. 76- 53

The Honorable Richard J. Rome
Magistrate Judge
206 West First Street
Hutchinson, Kansas 67501

Re: Courts--Judges--Term of Office

Synopsis: The Judge of the Magistrate Court of Reno County, Kansas, elected in November, 1974, was elected to a term of four years, and there exists no position to be filled by election at the general election in November, 1976.

* * *

Dear Judge Rome:

You advise that you were elected Magistrate Judge of Reno County at the general election in November, 1974, pursuant to K.S.A. 20-2543, which provides in pertinent part thus:

"At the regular election of county officers in 1966 and every four years thereafter, a judge of the magistrate court shall be elected by the voters qualified to vote for county officers at said elections. Said judge shall hold his respective office for a term of four years and until his successor is elected and qualified."

This question arises based upon former article 4, § 2 of the Kansas Constitution, which provided in pertinent part that "[a]ll county and township officers shall hold their offices for a term of two

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years and until their successors are qualified" This provision was omitted from article 4 by an amendment approved by the electors of the state at the general election on November 5, 1974, the same election at which you were elected.

As a judge of the Magistrate Court of Reno County, however, you are not a "county officer." Article 3, § 1, of the Kansas Constitution, approved by the electors of the state at the November 7, 1972, general election, states thus:

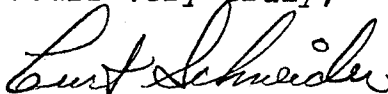
"The judicial power of this state shall be vested exclusively in one court of justice, which shall be divided into one supreme court, district courts, and such other courts as are provided by law; and all courts of record shall have a seal. The supreme court shall have general administrative authority over all courts in this state."

Thus, judges of the district courts, and such other courts as are provided by law, including the Magistrate Court of Reno County, are constitutionally judges of one court of justice, a unified statewide judicial system. You are not a "county officer" within the meaning of former article 4, § 2, and there is thus no constitutional inhibition against the statutory four-year term to which you were elected in November, 1974.

Independently of the foregoing, I might add, under *Russell State Bank v. Steinle*, 159 Kan. 293, 153 P.2d 906 (1944), as judge of the Magistrate Court of Reno County, you are not a "county officer" within former article 4, § 2.

Accordingly, I conclude that the term to which you were elected in November, 1974, extends for four years, and that there exists no vacancy to be filled by election at the coming November, 1976, general election.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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