



STATE OF KANSAS

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Attorney General

January 10, 1977

ATTORNEY GENERAL OPINION NO. 77- 12

The Honorable Pascal A. Roniger
State Representative
3rd Floor - State Capitol Building
Topeka, Kansas 66612

Re: Courts--Judges--Assignment

Synopsis: District judges, associate district judges and district magistrate judges may be assigned to hear and try any case within such assigned judge's jurisdiction by the appropriate departmental justice. The administrative judge may make such assignments when and as authorized to do so by the departmental justice.

* * *

Dear Representative Roniger:

Ch. 146, § 16, L. 1976, provides in pertinent part thus:

"(1) On January 10, 1977, district magistrate judge positions and associate district judge positions shall be established as provided in subsection (b).

(b) . . .

(5) In the fifth judicial district, there shall be one district magistrate judge position established in Chase County and one associate district judge position in Lyon County."

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You inquire whether the administrative judge of the Fifth Judicial District has the authority to assign the district magistrate judge of Chase County to court duties in Lyon County, thus depriving Chase County of the full-time services of the district magistrate judge of that county.

Section 28 of ch. 146, L. 1976, provides thus:

"In every judicial district the supreme court shall designate a district judge as administrative judge who shall have general control over the assignment of cases within said district, subject to supervision by the supreme court. Within guidelines established by statute, rule of the supreme court or the district court, the administrative judge of each district court, the administrative judge of each district court shall be responsible for and have general supervisory authority over the clerical and administrative functions of such court."

Thus, the assignment of cases rests with the administrative judge, as well as administrative supervision of the clerical and administrative personnel of the court.

Under K.S.A. 20-318, the state is divided into not more than six separate sections, to be known as judicial departments. A justice of the Supreme Court is assigned to each judicial department as departmental justice thereof. K.S.A. 20-319 was amended by section 6, ch. 146, L. 1977, to authorize departmental justices to act in certain respects regarding the respective judicial departments. Subparagraph (b) thereof states thus:

"Departmental justices shall have authority within their said department to assign any district judge, associate district judge or district magistrate judge to hear any proceeding or try any cause, within such judge's jurisdiction, in other district courts."

Thus, under this provision, departmental justices may assign any judge to sit in any other county within the judicial district to hear any cases within the jurisdiction of such assigned judge.

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On the face of the statute, the assignment of judges does not lie within the authority of the administrative judge. However, subparagraph (d) of the last mentioned section provides that the "departmental justice shall assign to each administrative judge in his department such duties as are necessary to carry out the intent of just, speedy and inexpensive litigation for the litigants of the state." It may be that the departmental justice for the fifth judicial district has delegated to the administrative judge thereof the power to assign judges of that district as the administrative judge deems necessary for the most expeditious disposition of the business of the courts of that district.

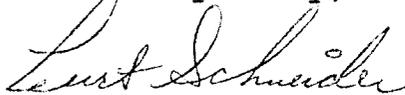
Thus, there does exist authority for the assignment of the district magistrate judge of Chase County to duties in Lyon County.

Secondly, you inquire who pays the mileage for the travel of the district magistrate judge for travel to and from Lyon County to perform duties assigned there. Ch. 146, § 44, L. 1976, provides in pertinent part thus:

"When an employee of the district court is assigned to work in more than one county within the district, the compensation and expenses of such employee shall be paid by the board of county commissioners of the county having the greatest population in such district and such board of county commissioners shall send a statement to the board of county commissioners of each of the other counties in the district for a proportional amount of such compensation and expenses with such proportion to be based upon the respective populations of each county within such judicial district."

Although this provision applies to employees of the court, presumptively the expenses of judges of the court will be paid accordingly, and similar proportionate billing distributed among the counties of the district for reimbursement to the paying county.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj