



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

March 11, 1977

ATTORNEY GENERAL OPINION NO. 77- 87

Mr. Terry J. Malone
Ford County Attorney
Box 995
Dodge City, Kansas 67801

Re: Courts--Fees--Criminal Cases

Synopsis: Under the 1976 amendment to K.S.A. 20-904, the court reporter's fee of one dollar and fifty cents provided by that statute is to be assessed against the docket fee which is paid for the filing of actions under the Kansas Code of Civil Procedure, i.e., civil actions, and is not required to be assessed against docket fees which are assessed and collected in criminal actions pursuant to K.S.A. 1976 Supp. 28-172a.

* * *

Dear Mr. Malone:

K.S.A. 1976 Supp. 20-904 provides in pertinent part thus:

"Out of the fee for the district clerk's costs for each case filed pursuant to chapter 60 of the Kansas Statutes Annotated in the clerk's office the sum of one dollar and fifty cents (\$1.50) shall be for reporter's fees; which reporter's fee shall, when collected as costs by the district clerk, be paid into the state treasury by said clerk. . . ."
[Emphasis supplied.]

The underscored language was added in 1976. See ch. 146, § 38, L. 1976.

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The question which is posed is whether the district court clerk is correct in withholding the \$1.50 reporter's fee in criminal cases pursuant to K.S.A. 1976 Supp. 28-172a. Subsection (a) of the latter statute prescribes docket fees which shall be taxed whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding.

The language which was added to K.S.A. 1975 Supp. 20-904, as indicated above, makes express reference only to cases filed pursuant to chapter 60, K.S.A., which is the Kansas Code of Civil Procedure. Apparently, the language was added to assure that the reporter's fee was assessed only in civil cases, i.e., those filed under the code of civil procedure, rather than all cases. In my judgment, the 1976 amendment was added to exempt the docket fee assessed in criminal cases pursuant to K.S.A. 1976 Supp. 28-172a from the assessment of court reporter's fees prescribed by K.S.A. 1976 Supp. 20-904. Thus, in my judgment, the docket fee which is assessed in criminal cases pursuant to the latter statute is not subject to payment of the court reporter's fee as provided by K.S.A. 1976 Supp. 20-904.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj