



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 91- 54

Thomas R. Powell
Director of Law and
City Attorney
City of Wichita
City Hall, Thirteenth Floor
455 North Main Street
Wichita, Kansas 67202-1635

Re: Procedure, Civil--Executions and Orders of
Sale--Writ of Execution

Synopsis: K.S.A. 1990 Supp. 60-303 does not authorize a special process server to execute. However, the district court may appoint a civilian to execute an order issued by it pursuant to K.S.A. 60-2401. Execution must be performed within the parameters of the statute and the court's order. Cited herein: K.S.A. 1990 Supp. 60-303; K.S.A. 60-2401.

* * *

Dear Mr. Powell:

You request our opinion regarding the authority of private detectives to serve writs of execution.

K.S.A. 1990 Supp. 60-303(c)(3) provides that service of process may be made by any "person appointed as a process server by a judge or clerk of the district court." "Process" is generally defined to include writs. See e.g. Black's Law Dictionary 1085, 1227 (5th ed. 1979). This statute does not, however, speak to actual execution. Thus, pursuant

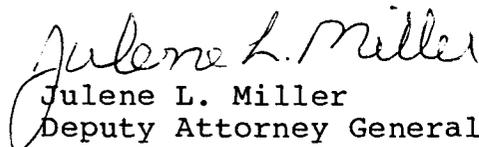
to this statute a properly appointed civilian may serve a writ of execution, but may not execute.

K.S.A. 60-2401(b) provides that the clerk of the district court may issue executions and orders and direct them to "appropriate officers of the counties where they are to be levied." General executions are to be levied "in the manner provided for the service and execution of orders of attachment under K.S.A. 60-706 through 60-710. . . . Special executions or orders of sale shall be levied and executed as the court determines." K.S.A. 60-2401(d). In Attorney General Opinion No. 76-199, General Schneider opined that "[a] person appointed by the court to execute an order issued by it is, obviously, an 'appropriate officer.'" We concur with that opinion. Thus, pursuant to K.S.A. 60-2401 a civilian properly appointed by the court to execute on a writ may do so within the parameters of that statute and the specific order of the court.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

RTS:JLM:jm