



STATE OF KANSAS

*Office of the Attorney General*

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

CURT T. SCHNEIDER  
Attorney General

March 7, 1975

Opinion No. 75- 103

Mr. Robert W. Manske  
Woodson County Attorney  
Post Office Box 100  
Yates Center, Kansas 66783

Dear Mr. Manske:

You advise that the clerk of the District Court of Woodson County, Kansas, is employed on a part-time basis as dispatcher by the Woodson County Sheriff. The duties as dispatcher in no way conflict with the hours which the office of Clerk of the District Court are required to be open. You inquire whether the clerk may lawfully accept this part-time employment.

The applicable criterion is set forth in Dyche v. Davis, 92 Kan. 977 (1914):

"Offices are incompatible when the performance of the duties of one in some way interferes with the performance of the duties of the other. This is something more than a physical impossibility to discharge the duties of both offices at the same time. It is an inconsistency in the functions of the two offices."  
92 Kan. at 977.

There is no inconsistency whatever between the duties of the clerk of the District Court and those of a dispatcher serving the county sheriff. Indeed, not only is there no inconsistency between the duties, there appears to be no relationship, consistent or inconsistent, between the duties of the two positions whatever.

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In Abry v. Gray, 58 Kan. 149 (1897), the question was presented whether the clerk of the District Court of Leavenworth County could also serve as city clerk. The court found that "[t]here is no connection whatever between the registration of voters and the duties of a district clerk," and concluded that it was unable to find "any such incompatibility in the functions of the offices of clerk of the district court and clerk of a city as prohibits one person from holding both at the same time." 58 Kan. at 151.

The same applies here. There is no connection whatever between the duties of the two positions, and they are not legally incompatible, so as to prohibit the holder of one from holding the other simultaneously. We agree fully with your opinion.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj