



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 9, 1976

ATTORNEY GENERAL OPINION NO. 76- 214

Mr. Robert Daniels, MD
District Coroner
Office of the Coroner
929 N. St. Francis
Wichita, Kansas 67214

RE: County Officers -- District Coroner -- Coroner's
Jury Verdict

SYNOPSIS: The verdict of a coroner's jury requires unanimity
among the jurors on the verdict.

* * *

Dear Dr. Daniels:

You inquire whether the verdict of a coroner's jury requires a unanimous or simply a majority vote of the jurors. The statutes governing coroner's inquests are found in K.S.A. 19-1004 through 19-1035 and these statutes do not expressly state whether the verdict of a coroner's jury must be unanimous or otherwise. Few decisions in the Kansas Reports discuss the conduct of coroner's inquests and none address the question of whether the verdict of the coroner's jury must be unanimous.

A coroner's inquest has been defined as,

"a tribunal charged with the duty of investigating crimes, and more specifically, as an investigation into the cause of death by a coroner with the aid of a jury. Its

object is to ascertain the nature of the cause of the death, and, in cases of death by violence or other undue means, to obtain and secure evidence for the use of those charged with the detection and prosecution of crime. The inquiry is not limited to the physical nature of the violence, if any, causing the death, but extends to the ascertainment of other circumstances tending to disclose the moral quality of the act."

18 C.J.S. 287, Coroners, §14.

It is considered a criminal proceeding, a type of probable cause hearing where the coroner's jury takes the place of the judge.

A verdict of the coroner's jury authorizes arrest if a person accused by the verdict be present, to be followed by a warrant to take the accused before a judge of a court of competent jurisdiction. (K.S.A. 19-1010), or a coroner's warrant of arrest if he be not present (K.S.A. 19-1011). The coroner's warrant for the arrest of a person found guilty by a coroner's jury takes the place of a complaint, and is sufficient authority for the holding of a preliminary examination before an examining magistrate to determine whether the accused shall be held for prosecution. State v. Brecount, 82 Kan. 195, 107 P. 763 (1910); Hogg v. Whitham, 120 Kan. 341, 242 P. 1021 (1926); Uhock v. Hand, 182 Kan. 419, 320 P.2d 794 (1958).

K.S.A. 19-1008 prescribes the return and form of the jury's verdict to the coroner and states that the "juror's . . . shall return to the coroner their inquisition in writing, under their hands," in the form suggested. A unanimous verdict is not expressly dictated by K.S.A. 19-1008, but the form suggested makes no provision for the findings of dissenting jury members.

In determining the meaning of "verdict", its use in other areas of the criminal code must be considered. It is an axiom of statutory construction that terms possessing a meaning in law, in the absence of a manifested legislative intent to the contrary or other evidence of a different meaning, are presumed to have been used in their legal sense. Sutherland Statutory Construction, 4th Edition, Intrinsic Aids, §47.30 (1973).

K.S.A. 1975 Supp. 77-201 provides:

"In the construction of the statutes of this state, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the legislature or repugnant to the context of the statute:

* * *

Second. Words and phrases shall be construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, shall be construed according to such peculiar and appropriate meaning."

In the Code of Criminal Procedure, K.S.A. 22-3421, "verdict" is described thus:

"The verdict shall be written, signed by the foreman, and read by the clerk to the jury, and the inquiry made whether it is their verdict. If any juror disagrees, the jury must be sent out again; but if no disagreement be expressed, and neither party requires the jury to be polled, the verdict is complete, and the jury discharged from the case."

[Emphasis added.]

When the jury is unable to agree upon a verdict, a mistrial is ordered. K.S.A. 22-3423. Thus, in criminal proceedings, the verdict of a trial jury must be unanimous. Inasmuch as a coroner's inquest can initiate a criminal proceeding, the term "verdict", may be considered to have acquired an appropriate meaning in law. Certainly there is no statutory, constitutional, or case authority in Kansas which allows a valid jury verdict in a criminal or civil trial by less than a unanimous vote of the jurors.

"Verdict" is defined in Black's Law Dictionary, Revised Fourth Edition, 1968, thus:

"From the Latin word "verdictum" meaning a true declaration The formal and unanimous decision or finding made by a jury

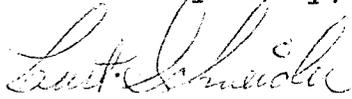
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impaneled and sworn for the trial of a cause, and reported to the court, upon the matters or questions duly submitted to them upon the trial. Sitterson v. Sitterson, 191 N.C. 319, 131 S.E. 641, 51 A.L.R. 760; Roth v. East Ennellsville Coke Co., 242 P. 23, 88 A. 781.

While there are decisions of the United States Supreme Court which allow a jury verdict by a less than unanimous vote, these cases have involved state constitutional or statutory provisions which allow such verdicts. Apodaca et al., v. Oregon, 406 U.S. 404, 43 L.Ed 2d 184, 92 S.Ct. 1628; Johnson v. Louisiana, 406 U.S. 356, 32 L.Ed 2d, 92 S.Ct. 1620.

In Kansas, there are no such statutory or constitutional provisions allowing a verdict by less than a unanimous vote in jury trials, and in the absence of evidence of a different meaning, it is my opinion that "verdict" in the instance of a coroner's jury verdict means a unanimous verdict. Therefore, a coroner's verdict requires unanimity among the jurors on the verdict.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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