



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

April 28, 1977

ATTORNEY GENERAL OPINION NO. 77- 148

Mr. Dennis W. Moore
District Attorney
Johnson County Courthouse
Post Office Box 728
Olathe, Kansas 66061

Re: Crimes--Wage Garnishment--Discharge of Employee

Synopsis: Under K.S.A. 60-2311(a), an employee may not be discharged due to multiple garnishments received by the employer for not more than three debts. Venue for prosecution under that section lies in the county where the discharge was effected, and personnel of the employer residing in other jurisdictions who initiated the decision may be prosecuted in any county in which venue is proper under K.S.A. 22-2607.

* * *

Dear Mr. Moore:

You inquire concerning the discharge of an employee for wage garnishments. In particular, you advise that an individual who was employed at a supermarket in Kansas City, Kansas, encountered several financial problems in July, 1975, and from that time until January, 1977, his wages were garnished a total of 20 times by two separate judgment creditors. After being discharged, he applied for unemployment compensation. The referee found that the employer had disregarded the restrictions of K.S.A. 60-2311, and concluded that the claimant was not disqualified from the receipt of benefits under the Kansas Employment Security Law.

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K.S.A. 60-2311(a) states thus:

"No employer may discharge any employee by reason of the fact that the employee's earnings have been subjected to wage garnishment for any three (3) debts, but nothing herein shall be construed as prohibiting the discharge of any employee by reason of the fact that his or her earnings have been subjected to wage garnishment for more than three (3) debts."

You inquire whether this section prohibits discharge for more than three garnishments for a single indebtedness, or whether it prohibits discharge for multiple garnishments based on a single debt. In my judgment, the statute is explicit, that an employee is protected against discharge for wage garnishment "for any three debts." Multiple garnishments for not more than three debts, or, as in this instance, twenty garnishments for two debts, does not entitle the employer to discharge an employee because of wage garnishment.

Secondly, you ask where venue would lie for prosecution of the employer under these factual circumstances. You indicate that the decision to discharge the employee originated not with the management of the store in Wyandotte County, but from the company's offices in Johnson County. Subsection (b) of K.S.A. 60-2311 provides that "[a]ny person who violates the provisions of subsection (a) . . . shall be guilty of a class A misdemeanor."

K.S.A. 22-2602 provides that "[e]xcept as otherwise provided by law, the prosecution shall be in the county where the crime was committed." The discharge, although apparently decided upon in Johnson County, was effected in Wyandotte County, where the employee was given notice of the termination and thus removed from employment. Based upon these facts, it is my judgment that venue properly lies in Wyandotte County where the alleged prohibited act occurred, i.e., the discharge. Company personnel who initiated the decision may be liable to prosecution under K.S.A. 22-2607:

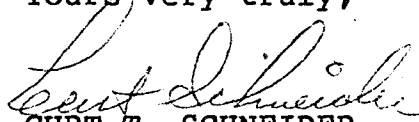
"A person who intentionally aids, abets, advises, counsels or procures another to commit a crime may be prosecuted in any county where

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any of such acts were performed or in the
county where the principal crime was committed."

If you should have further questions, please do not hesitate to
call upon us.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj