



STATE OF KANSAS

Office of the Attorney General

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

Curt T. Schneider
Attorney General

September 15, 1977

ATTORNEY GENERAL OPINION NO. 77-299

Mr. Warden Noe
Jackson County Counselor
Jackson County Courthouse
Holton, Kansas 66436

Re: Counties--Courts--Eligibility for Grants

Synopsis: Because Jackson County had no district magistrate judge on July 1, 1977, the effective date of ch. 110, L. 1977, it is not eligible for a grant under section 12(a)(3) thereof.

* * *

Dear Mr. Noe:

You inquire concerning the eligibility of Jackson County, Kansas, to receive a grant of \$4,395.00, pursuant to ch. 110, § 12(a)(3), L. 1977. Section 12(a) provides in pertinent part thus:

"Grants shall be made on or before January 1, 1978, to each county in this state as provided in this act to assist in defraying the costs for the operation of the district courts. Such grants shall be made as follows:

(1) In a judicial district comprised of a single county, the grants shall be made at the rate of twenty thousand dollars (\$20,000) for each district judge in the judicial district on January 10, 1977; and

(2) in judicial districts comprised of more than one county, the grants shall be made at the rate of twenty thousand dollars (\$20,000) for each district judge in the judicial district on January 10, 1977, proportioned

Mr. Warden Noe
Page Two
September 15, 1977

among the counties in such district on the basis that each county's district court caseload for calendar year 1976 bears to the total caseload of the district court in such district for calendar year 1976.

(3) In addition to the grants provided for in paragraphs (1) and (2) of this subsection, grants shall be made to each county having a district magistrate judge, for the purpose of defraying the cost of salaries of such judges, at the rate of four thousand three hundred and ninety-five dollars (\$4,395) per district magistrate judge on January 10, 1977"

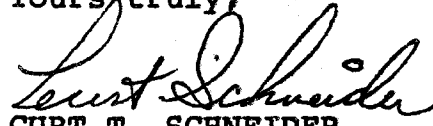
You advise that on January 10, 1977, Wesley Darrow was the duly elected, qualified and acting magistrate judge of Jackson County, Kansas. Judge Darrow was killed on February 23, 1977, in an automobile accident. Thereafter, Tracy D. Klinginsmith assumed the duties of the county magistrate judge, and subsequently was appointed as associate district judge, the position of district magistrate judge held by Judge Darrow having been converted to that of an associate district judgeship.

In behalf of the county, it is urged that because Jackson County had a district magistrate judge on January 10, 1977, it is entitled to a grant of \$4,395 therefor under section 12(a)(3), *supra*. In this view, the entitlement date, *i.e.*, the date on which the eligibility of the county for the grant, is to be determined as of January 10, 1977. In opposition, it may be argued that the entitlement date is not January 10, 1977, but the effective date of the bill, July 1, 1977, and that because Jackson County had no district magistrate judge at that time, it is not entitled to any award under § 12(a)(3). Taking this view, each county "having a district magistrate judge" on the effective date of the bill, July 1, 1977, is entitled to a grant under § 12(a)(3) in the amount, or as stated in the bill, "at the rate of . . . \$4,395 per district magistrate judge [which the county had] on January 10, 1977." In my view, the latter construction is more closely supported by the language of this provision. Under § 12(a)(3), grants are to be made to "each county having a district magistrate judge," at the rate of \$4,395 for each such judgeship which it had on January 10, 1977. The language "having a district magistrate judge" does not speak as of January 10, 1977, but as the effective date of the bill itself, July 1, 1977, and because

Mr. Warden Noe
Page Three
September 15, 1977

Jackson County had no district magistrate judge on that date, it is ineligible for a § 12(a)(3) grant. Stated otherwise, the grant is to be made at the rate of \$4,395 for each district magistrate judge which the county had on January 10, 1977, to each county having a district magistrate judge on July 1, 1978. Jackson County had no district magistrate judge on the latter date, and does not qualify for a § 12(a)(3) grant.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj