



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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October 19, 1979

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ATTORNEY GENERAL OPINION NO. 79- 239

Mr. Frank L. Korte  
County Attorney, Sumner County  
Sumner County Courthouse  
Wellington, Kansas 67152

Re: Cities and Municipalities--Code of Procedure for  
Municipal Courts--Qualifications of Municipal  
Judge

Synopsis: A municipal judge in a city of the second or third  
class is not required by statute to be a lawyer.

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Dear Mr. Korte:

In your letter of September 26, 1979, you request the opinion  
of this office upon the question of whether a municipal judge  
in a second or third class city is required to be a lawyer.

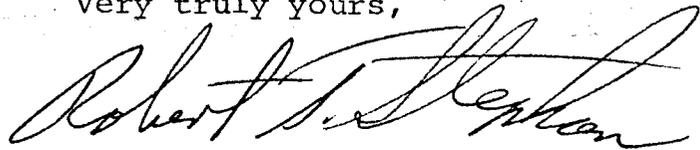
After reviewing the statutes, we would conclude that the answer  
to your question is provided by K.S.A. 12-4105, which states,  
in pertinent part:

"The municipal court shall be presided over  
by a municipal judge. The judge shall be  
selected in the manner provided by statute.  
The person so selected shall be a citizen of  
the United States and at least eighteen (18)  
years of age. In cities of the first class,  
the person selected shall be an attorney  
admitted to the practice of law in the state  
of Kansas." (Emphasis added.)

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It would appear from the underscored language above that second and third class cities are exempt from the requirement that the municipal judge be a lawyer. This statute appears to be a good example of inclusio unius est exclusio alterius (the inclusion of one is the exclusion of another), a well-recognized principle of statutory construction. We have also examined K.S.A. 14-201 et seq., relating to the appointment of municipal judges in second class cities, and K.S.A. 15-204 and 15-1601 et seq., relating to the appointment and qualifications for municipal judges in third class cities, and find nothing there which would alter the above conclusion.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Jeffrey S. Southard  
Assistant Attorney General

RTS:BJS:JSS:gk