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February 4, 1980

ATTORNEY GENERAL OPINION NO. 80-27

Mr. Edwin H. Bideau III
Neosho County Attorney
123 West Main
Chanute, Kansas 66720

Re: Courts -- District Courts -- Expenses Incurred for
Payment of Attorney Fees for Indigent Defendants

Synopsis: Pursuant to K.S.A. 1979 Supp. 20-349, the designated administrative district court judge retains control over the district court budget approved by the board of county commissioners. Accordingly, the board of county commissioners must pay claims submitted by the administrative judge, provided said claims are within the limits of the district court budget.

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Dear Mr. Bideau:

You request our opinion whether the board of county commissioners has the authority to reduce or adjust claims for services of appointed counsel when the claim has previously been approved by the administrative district court judge or the trial judge having jurisdiction of the case. From your letter it appears the services of appointed counsel include misdemeanor criminal cases, juvenile guardian ad litem cases and mental illness cases. Further, it is our understanding the services of appointed counsel are included in the district court budget as an operation expense of the district court.

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Pursuant to K.S.A. 1979 Supp. 20-349, preparation of the district court budget is the responsibility of the administrative judge in each judicial district, subject to approval by the board of county commissioners. K.S.A. 1979 Supp. 20-349 further provides in pertinent part:

"After the amount of said district court budget is established, the expenditures under said budget, other than expenditures for job positions contained in the budget, shall be under the control and supervision of the administrative judge, subject to supreme court rules relating thereto, and the board of county commissioners shall approve all claims submitted by the administrative judge within the limits of said district court budget.

"No board of county commissioners shall decrease such budget for district court operations to a level below the amount of the 1978 calendar year budget approved by the board of county commissioners less the amount of compensation and fringe benefits provided in such budget for judges and other personnel positions which are assumed by the state pursuant to this act."
[Emphasis supplied.]

Attorney General Opinion No. 77-180 considered and interpreted K.S.A. 1979 Supp. 20-349. The previous opinion states in pertinent part:

"The administrative judge has control and supervision of the expenditures from the budget thus approved: . . .

"The administrative judge has control only of expenditures made 'under said budget,' and the board of county commissioners must approve the payment of all claims submitted by the administrative judge which are 'within the limits of said district court judge [budget].'

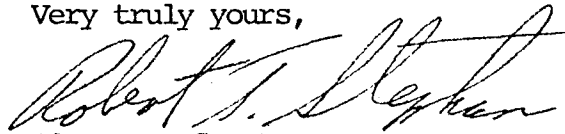
"The budget for district court operations which is approved by the board of county commissioners is subject to the Kansas budget law. K.S.A. 79-2925 et seq. Expenditures therefrom are subject to the cash-basis law. Although the cash-basis law does not apply to the State of Kansas and its agencies, departments and the like, including the district courts, it does apply to counties."

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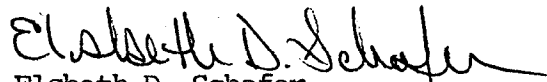
From the authority presented it appears clear that once the district court budget is approved and established by the board of county commissioners, the administrative judge has control of expenditures from said budget. Further, the board of county commissioners "shall approve all claims submitted by the administrative judge within the limits of said district court budget." (Emphasis supplied.) K.S.A. 1979 Supp. 20-349. Thus, the only discretion the county commissioners have in adjusting a claim submitted by the administrative judge occurs when the claim is outside the limits of the approved court budget. (See attached Attorney General Opinion No. 79-226 regarding claims not payable from District Court budgets.)

It is our opinion, based upon the foregoing, the county commissioners are without authority to reduce or refuse an otherwise valid claim previously submitted by the administrative judge. The county commissioners may take appropriate action where such claim is outside the limits of the court budget.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Elsbeth D. Schafer
Assistant Attorney General

RTS:TDH:EDS:may