

Note from the Attorney General's Office:

1993 Op. Att'y Gen. No. 93-059 was overruled
by 2005 Op. Att'y Gen. No. 2005-032.

OPINION NO. 93-059**Syllabus:**

The judge of a single-judge municipal court is not entitled to receive the additional compensation provided for in R.C. 1901.11(B)(3).

To: Thomas E. Ferguson, Auditor of State, Columbus, Ohio
By: Lee Fisher, Attorney General, December 20, 1993

You have requested an opinion on the following question: "Is a full-time municipal judge of a single-judge court, pursuant to [R.C. 1901.11(B)(3)], entitled to additional compensation of One Thousand Five Hundred Dollars (\$1,500.00) for duties performed as an administrative judge?" Your opinion request states that R.C. 1901.11(B)(3) is not being applied uniformly throughout the state. A particular judge of a single-judge municipal court claims that, based upon M.C. Sup. R. 12, he is entitled to receive the additional compensation prescribed by R.C. 1901.11(B)(3) for service as the presiding judge, as well as the administrative judge, of the court. The staff of the Supreme Court, however, has taken the position that, based upon R.C. 1901.09 and M.C. Sup. R. 2, a judge of a single-judge municipal court is not entitled to such additional compensation.

Compensation of Full-Time Municipal Court Judges

R.C. 1901.11 establishes compensation for municipal court judges, in part, as follows:

(B)(1)(a) Judges designated as full-time judges by [R.C. 1901.08], and all judges of territories having a population of more than fifty thousand regardless of designation, are subject to [R.C. 4705.01] and, pursuant to division (C) of this section, shall receive as compensation fifty-one thousand seven hundred fifty dollars per annum, plus an amount equal to eighteen cents per capita for the population of the territory in which they reside when elected or appointed.

(b) These judges also shall receive, in accordance with [R.C. 141.04], the compensation described in division (A)(5) of that section from the state treasury.

(2) The compensation of any municipal judge, other than a presiding judge who is also an administrative judge, that is received pursuant to division (C) of this section shall not be more than the lesser of three thousand dollars per annum less than the statutory compensation of a judge of the court of common pleas of the county in which the municipal court is situated, or sixty-one thousand seven hundred fifty dollars.

(3) The *presiding judge* of a municipal court *who is also the administrative judge* of the court, shall receive, pursuant to division (C) of this section, an additional one thousand five hundred dollars over and above the salaries paid, pursuant to that division, to any other judge of the same court. (Emphasis added.)

Thus, R.C. 1901.11(B)(3) prescribes additional compensation only for a full-time judge of a municipal court who is both the presiding judge and the administrative judge of that court.

The language of R.C. 1901.11(B)(3) indicates that the General Assembly did not intend thereby to provide extra compensation to the judge of a single-judge municipal court. R.C. 1901.11(B)(3) describes such additional compensation as, "one thousand five hundred dollars over and above the salaries paid... to any other judge of the same court" (emphasis added). The fact that the General Assembly defined the amount of additional compensation with specific reference to the salaries of the other judges of the court is a clear indication that it did not intend to include within the provisions of R.C. 1901.11(B)(3) a judge of a single-judge municipal court.

Presiding Judge of Municipal Court

The conclusion that R.C. 1901.11(B)(3) does not apply to the judge of a single-judge municipal court is supported by the language of R.C. 1901.09, which establishes the position of presiding judge of a municipal court. R.C. 1901.09 states:

(A) In a municipal court having *two judges*, the judges [*sic*] whose term next expires shall be designated as the presiding judge.

(B) In a municipal court having *three or more judges*, the presiding judge shall be selected by the respective judges of the court on the second Monday in January of the even-numbered years. (Emphasis added.)

R.C. 1901.09, therefore, provides for the designation of a presiding judge in a municipal court only in those courts that have at least two judges. Thus, where a municipal court has only one judge, R.C. 1901.09 does not designate that judge as the court's "presiding judge."

Administrative Judge of Municipal Court

Your opinion request mentions the provisions of the Rules of Superintendence for Municipal Courts and County Courts regarding the designation of the administrative judge. M.C. Sup. R. 2, concerning the selection and duties of the administrative judge, states in part:

(A) Selection and Term; Notification. In every *multi-judge court*, the judges of the court shall, by majority vote, elect one of their number as administrative judge. An administrative judge shall be elected annually by each *multi-judge court* and an incumbent administrative judge may be re-elected to consecutive terms. (Emphasis added.)

M.C. Sup. R. 2(A) provides for the selection of an administrative judge only in multi-judge courts. Nothing in the rule suggests that the judge of a single-judge municipal court can be designated as the court's administrative judge.

A question has been raised, however, as to whether M.C. Sup. R. 12, concerning reports and information, provides for the judge of a single-judge municipal court to serve as the court's administrative judge. M. C. Sup. R. 12 states, in part:

(A) Administrative Judge. Each administrative judge shall, within the time stated in subdivision (F), send the Court Statistical Reporting Section a completed Administrative Judge Report which shall be a report of all cases not individually assigned.

....
(C) Single-Judge Court. For purposes of report preparation, review, and attestation, the judge of a single-judge court is considered an administrative judge. Each judge of a single-judge court shall report the status of all pending cases using both the Individual Judge Report and the Administrative Judge Report. (Emphasis added.)

Pursuant to M.C. Sup. R. 12(C), the judge of a single-judge municipal court "is considered" an administrative judge only "[f]or purposes of report preparation, review, and attestation," a small portion of the duties of an administrative judge.¹ The judge of a single-judge municipal court does not exercise the full range of powers and duties conferred on an administrative judge under M.C. Sup. R. 2. Thus, although M.C. Sup. R. 12 imposes upon the judge of a single-judge municipal court certain limited duties of an administrative judge, it provides no sound authority for designating that judge as the administrative judge of the court.

¹ M.C. Sup. R. 2 describes the powers and duties of the administrative judge, as follows:

(B) Powers. The administrative judge shall have full control over the administration, docket, and calendar of the court. The administrative judge shall exercise the powers conferred upon the administrative judge by these rules and powers vested by statute in the presiding judge....

The acts of the administrative judge may not be vacated, amended, or modified by the vote of a majority of the judges of the court.

(C) Duties. The administrative judge shall be responsible to the Chief Justice of the Supreme Court in the discharge of the administrative judge's duties and shall:

- (1) Have full responsibility for the administration, docket, and calendar of the court;
- (2) Cause cases to be assigned to individual judges and to particular sessions pursuant to these rules;
- (3) Require timely and accurate reports from each judge concerning individually assigned cases;

Summary

As discussed above, the judge of a single-judge municipal court is not designated as the presiding judge of that court under R.C. 1901.09. Further, although the judge of a single-judge municipal court, pursuant to M.C. Sup. R. 12, must perform certain duties of an administrative judge, such judge does not serve as the administrative judge of the court. Thus, the circumstances described in R.C. 1901.11(B)(3), which provides additional compensation to a judge who is both presiding judge and administrative judge of the court, will not occur in a single-judge municipal court.

Conclusion

Based upon the foregoing, it is my opinion, and you are hereby advised that, the judge of a single-judge municipal court is not entitled to receive the additional compensation provided for in R.C. 1901.11(B)(3).

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- (4) Require timely and accurate reports from judges and court personnel concerning particular session cases;
 - (5) Timely make all administrative judge reports;
 - (6) Formulate accounting and audit systems within the court and in the clerk's office which ensure the accuracy and completeness of all reports required by these rules; and
 - (7) Perform such other duties as are required by these rules of the Chief Justice of the Supreme Court.