

753.

POOR RELIEF — CHILDREN MUST RESIDE TWELVE MONTHS IN TOWNSHIP BY MEANS OTHER THAN CHARITABLE BEFORE ENTITLED TO POOR RELIEF—MUST HAVE LEGAL SETTLEMENT THEREIN—RESIDENCE AND DOMICILE DISCUSSED.

SYLLABUS:

Children whose father is deceased and reside with their mother and have a legal settlement in a township and county of this state, must reside with their mother in another township and county of this state for twelve consecutive months and be maintained there for that time by means other than charitable as mentioned in Section 3477 of the General Code, before becoming a charge for poor relief on the new township.

COLUMBUS, OHIO, May 2, 1933.

HON. NORTON C. ROSENTRER, *Prosecuting Attorney, Port Clinton, Ohio.*

DEAR SIR:—This will acknowledge your request of recent date for an opinion as to the following facts:

“Referring particularly to Section 3479 of the General Code, as to who are considered to have a legal settlement for the purpose of poor relief, we are confronted with the following situation:

Oregon Township, Lucas County, is adjacent to Allen Township, Ottawa County. Up until June 20th, 1932, Mrs. X had lived with her husband, Mr. X, in Oregon Township. Both parties, as near as I can ascertain, had for many years lived in Oregon Township. On June 20th, 1932, Mr. X died, leaving Mrs. X with eight minor dependent children. Following the death of Mr. X, Mrs. X made application to the Lucas County officials and received \$50.00 per month as mother's allowance of that county for the support of her children. On October 3rd, 1932, Mrs. X with her eight children moved to Allen Township, Ottawa County, Ohio, and married Mr. Z, who at that time was a legal resident of the said Allen Township. However, Mr. Z was not then self-supporting and both Mr. Z and the present Mrs. Z and all of the children have ever since October 3, 1932, been provided for and supported by the trustees of Allen Township.

I have been called upon by the trustees of Allen Township to determine whether the mother and such children are a legal charge upon that township for the purpose of poor relief, or whether such relief is a proper charge against Oregon Township, Lucas County.

I am of the opinion that the children of the former Mrs. X, now Mrs. Z, are not a proper charge to Allen Township for the purpose of poor relief and I refer to the opinion of the Attorney General of 1912 at page 1423, which reads as follows:

‘The county of legal settlement of a minor for purposes of poor relief is that of a father and cannot be changed during minority after the death of the father.’

I have asked the officials of Lucas County to assume the cost for the relief of the eight children, but they have refused to assume

any portion thereof. They have, however, signified they would be willing to follow the opinion of the Attorney General on this matter and I would like to have your decision with reference thereto."

The question of the residence or domicile of a minor is exhaustively discussed in *In re Guardian of James Edward Murray*, 4 N. P. (N. S.) 233, the court's opinion being affirmed and complimented in 8 O. C. C. (N. S.) 498. This case involved the question of the residence of a minor for the purpose of the appointment of a guardian, and the court held:

"A minor can not himself change his domicile, and as the residence of a minor is determined by the domicile of a parent or some person standing in the relation of a parent to him, the word 'residence', as used in Section 6254, Revised Statutes, means 'domicile'. * * * * Where the father who is the last surviving parent of a minor, dies while domiciled with the father's parents, and the minor continues, for a time after the death of his father to reside with the grandfather, the minor is a 'resident' of the county in which the grandfather is 'domiciled', within the meaning of Section 6254, Revised Statutes of Ohio."

On p. 237, the court quotes the following authorities:

"After the father's death, the mother became the natural guardian of the child, and the child's domicile is then the domicile of the mother. Law of Domicile, Jacobs, Section 238; 12 Ohio, 194; 5 Ohio, 315.

She can change the domicile of the child only by changing her own domicile. Law of Domicile, Jacobs, Section 240; 112 U. S. 458; 12 Ohio, 194."

In accord with the above authorities, Mrs. Z, the mother of the eight children of Mr. X, now deceased, being their legal guardian, changed the domicile and residence of the children when she moved with them from Oregon Township, Lucas County, to Allen Township, Ottawa County, for the purpose of residing there. However, the term "legal settlement" is not synonymous with "domicile" or "residence" when applied to the provisions of the General Code, in regard to poor relief.

On July 24, 1912, the time of the rendering of Opinion No. 578 of one of my predecessors, Opinions of Attorney General for 1912, p. 1423, the last clause of Section 3477, General Code, provided:

"The wife or widow of a person whose last legal settlement was in a township or municipal corporation in this state, shall be considered to be legally settled in the same township or municipal corporation. If she has not obtained a legal settlement in this state, she shall be deemed to be legally settled in the place where her last legal settlement was previous to her marriage."

This section was repealed April 26, 1927, by House Bill No. 266, 112 O. L. 157, at which time Section 3477 was enacted and which reads as follows:

"Each person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief."

Under the provisions of Section 3477, it would be necessary for Mrs. Z and her eight children to reside continuously and be supported for twelve consecutive months in Allen Township, Ottawa County, without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief, before they could establish their legal settlement in Allen Township, Ottawa County, Ohio.

Specifically answering your question, it is my opinion that the eight children of Mrs. Z have a legal settlement in Oregon Township, Lucas County, Ohio, and this township is responsible for the poor relief of said children, the children or their mother not having lived in Allen Township, Ottawa County, Ohio; for sufficient time to gain their legal residence in that township and county.

Respectfully,

JOHN W. BRICKER,
Attorney General.

754.

POOR RELIEF—INDIGENT—TOWNSHIP TRUSTEES OR MUNICIPAL AUTHORITIES UNAUTHORIZED TO CARE FOR NON-RESIDENT AND COLLECT EXPENSES THEREOF FROM TAXING DISTRICT IN WHICH INDIGENT HAS LEGAL SETTLEMENT.

SYLLABUS:

Township trustees or municipal authorities have no legal right to provide for the care and maintenance of non-resident indigents while in their taxing district and collect the expense thereof from the taxing district in which the indigent has a legal settlement, except as provided for by Section 3480-1, General Code.

COLUMBUS, OHIO, May 2, 1933.

HON. CALVIN CRAWFORD, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication of recent date requesting an opinion upon the following statement of facts:

"A certain indigent is legally settled in the city of Dayton, but