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COURTS, COUNTY—JURISDICTION, CRIMINAL—§2931.02 R.C.
—COMPLAINTS FILED BY MEMBERS OHIO STATE HIGH-
WAY PATROL.

SYLLABUS :

1. Each judge of a county court, in counties having more than one judge of the county court, has criminal jurisdiction throughout the area of jurisdiction assigned to him as provided by Section 1907.071, Revised Code.

2. Where there is within the county one or more municipal courts, and a county court, judges of such county court do not have county-wide criminal jurisdiction with respect to crimes and offenses committed within the territorial jurisdiction of such municipal court.

3. When an offense is committed within the county court district and there is no other court of concurrent jurisdiction except those courts enumerated in Section 2931.02, Revised Code, judges of the county court have county-wide jurisdiction with respect to such offense when the complaint or affidavit is filed by the persons or officers enumerated in Section 2931.02, Revised Code.

4. Members of the State Highway Patrol are authorized representatives of the Department of Highway Safety, State of Ohio, and as such are “authorized representatives of a state * * * department” within the meaning of Section 2931.02, Revised Code.

5. When an offense is committed within the county court district and judges of such court have county-wide jurisdiction, as provided in Section 2931.02, Revised Code, such judge may cause the accused to be brought before him or another judge of the county court.

Columbus, Ohio, March 17, 1959

Hon. G. William Brokaw, Prosecuting Attorney
Columbiana County, Lisbon, Ohio

Dear Sir:

I have your request for my opinion reading:

“Columbiana County has three county court judges, the County Court District of Columbiana County being composed of all townships excepting Liverpool Township and the city of East Liverpool. In accordance with the provisions of Section 1907.071, Revised Code, the judges of the Court of Common Pleas of Columbiana County have divided the County Court District into three separate areas and have assigned one county court judge to serve in each area.

“Does Section 2931.02 of the Revised Code confer criminal jurisdiction upon each of the three county court judges throughout the County Court District, or is each county court judge limited in his jurisdiction to those offenses committed within the area to which he has been assigned?”

“The above question does not pertain to those criminal cases where the affidavit is filed by the prosecuting attorney, the sheriff, the party injured or any authorized representative of a state or federal department, but to cases where the affidavit or complaint is filed by a person other than those named above, and particularly by a state highway patrolman.”

The answer to your specific question lies, primarily, with an interpretation of Section 2931.02, Revised Code:

“A judge of a county court is a conservator of the peace and has jurisdiction in criminal cases throughout his area of jurisdiction in the district in which he is elected and where he resides and county(-) wide jurisdiction in all criminal matters only upon affidavit or complaint filed by the prosecuting attorney or upon affidavit or complaint made by the sheriff, the party injured, or any authorized representative of a state or federal department, in the event there is no other court of concurrent jurisdiction other than the court of common pleas, police court, or mayor’s court, and on view or on sworn complaint, to cause a person, charged with the commission of a felony or misdemeanor, to be arrested and brought before him or another judge of a county court, and, if such person is brought before him, to inquire into the complaint and either discharge or recognize him to be and appear before the proper court at the time named in such recognizance, or otherwise dis-

pose of the complaint. He may also hear complaints of the peace and issue search warrants. Judges of county courts have county-wide jurisdiction on sworn complaint, to issue a warrant for the arrest of a person charged with the commission of a felony where it is made to appear that such person has fled or is outside this state and it is necessary or desirable to extradite such person. Judges of county courts have jurisdiction within their respective counties in all cases of violation of any law relating to:

“(A) Adulteration or deception in the sale of dairy products and other food, dring, drugs, and medicines :

“(B) Prevention of cruelty to animals and children ;

“(C) The abandonment, nonsupport, or ill treatment of a child by its parents ;

“(D) The abandonment, or ill treatment of a child under sixteen years of age by its guardian ;

“(E) The employment of a child under fourteen years of age in public exhibitions or vocations injurious to health, life, or morals, or which will cause or permit him to suffer unnecessary physical or mental pain ;

“(F) The regulation, restriction, or prohibition of the employment of females and minors ;

“(G) The torturing, unlawfully punishing, ill treating, or depriving anyone of necessary food, clothing, or shelter ;

“(H) Any violation of the Chapters 4301. and 4303. of the Revised Code, or keeping a place where intoxicating liquor is sold, given away, or furnished in violation of any law prohibiting such acts ;

“(I) The shipping, selling, using, permitting the use of, branding, or having unlawful quantities of illuminating oil for or in a mine ;

“(J) The sale, shipment, or adulteration of commercial feeds ;

“(K) The use of dust creating machinery in workshop and factories ;

“(L) The conducting of a pharmacy, or retail drug or chemical store, or the dispensing or selling of drugs, chemicals, poisons, or pharmaceutical preparations therein ;

“(M) The failure to place and keep in a sanitary condition a bakery, confectionery, creamery, dairy barn, milk depot, laboratory, hotel, restaurant, eating house, packing house, slaughterhouse, ice cream factory, or place where a food product is manufactured, packed, stored, deposited, collected, prepared, produced,

or sold for any purpose, or for the violation of any law relating to public health;

“(N) Inspection of steam boilers, and of laws licensing steam engineers and boiler operators;

“(O) Prevention of short weighing and measuring and all violations of the weights and measures laws;

“(P) Laws relating to the practice of medicine or surgery, or any of its branches;

“(Q) Laws relating to the filling or refilling of registered containers by other than the owner, or the defacing of the marks of ownership thereon;

“(R) Offenses arising from or growing out of the violation of conservation laws.” (Emphasis added)

On the basis of the foregoing it is apparent that each judge of the county court has criminal jurisdiction throughout the area of jurisdiction assigned to him as provided by Section 1907.071, Revised Code. The county-wide jurisdiction of each judge of the county court in certain criminal matters is dependent upon the existence of a court of concurrent jurisdiction other than those courts listed in Section 2931.02, *supra*. It is to be noted that municipal courts are not among those listed in Section 2931.02, *supra*. Therefore, if the offense is not one contained within the provisions of divisions (A) through (R), Section 2931.02, *supra*, if it is initiated upon affidavit of the Prosecuting Attorney, the sheriff, the party injured, or by the representative of a state or federal department, and is committed within the territorial jurisdiction of a municipal court, there is a court of concurrent jurisdiction, *i.e.*, the municipal court, and the judge or judges of the county court would not have jurisdiction of the offense.

If the offense were committed within the county court district, and the prosecution were initiated as described above, each judge of the county court would have jurisdiction since there is *no other court of concurrent jurisdiction* other than those courts enumerated in Section 2931.02, *supra*. Although such judge would have jurisdiction to have the person charged arrested and brought before him, the judge may order the person so charged to appear before *another judge of the county court*.

This provision would appear to have practicality and convenience as its principal objective. Although any judge of the county court has jurisdiction in such a case, it may be in the furtherance of justice and fairness to the accused to have the case presented to another judge of the county court.

Section 1907.012, Revised Code, provides :

“A county court shall have jurisdiction in motor vehicle violations, other misdemeanors and in all other actions in which a justice of the peace court had jurisdiction under Chapters 1909., 1917., 1919., 1923., 2329., 2931., 3111., 3305., 3707., 3771., 3773., 3781., 4143., and 4513. of the Revised Code. All actions in a county court shall proceed in the manner provided for proceedings in a justice of the peace court under Chapters 1911., 1913., 1915., 1917., 1921., 2335., 2933., 2935., and 2937. of the Revised Code.”

From the foregoing and a thorough consideration of the county court statutes it is apparent that the jurisdiction of a particular judge of a county court having more than one judge must be determined on the basis of two criteria: (1) Is the offense charged one which comes within the jurisdiction of a *judge of the county court*, and (2) is it an offense within the jurisdiction of *the county court*? If jurisdiction has been conferred upon a *judge of the county court*, no further consideration is required. When jurisdiction has been conferred upon the county court, the further determination is required with respect to the proper judge to hear and determine the cause.

The final paragraph of your request assumes that a state highway patrolman is not “the authorized representative of a state * * * department.” With this assumption I cannot agree. I should deem it foreclosed from argument that state highway patrolmen are authorized representatives of the Department of Highway Safety of the State of Ohio. See Sections 5503.01 and 5503.02, Revised Code.

Therefore, it is my opinion and you are accordingly advised that :

1. Each judge of a county court, in counties having more than one judge of the county court, has criminal jurisdiction throughout the area of jurisdiction assigned to him as provided by Section 1907.071, Revised Code.
2. Where there is within the county one or more municipal courts, and a county court, judges of such county court do not have county-wide criminal jurisdiction with respect to crimes and offenses committed within the territorial jurisdiction of such municipal court.
3. When an offense is committed within the county court district and there is no other court of concurrent jurisdiction except those courts enumerated in Section 2931.02, Revised Code, judges of the county court

have county-wide jurisdiction with respect to such offense when the complaint or affidavit is filed by the persons or officers enumerated in Section 2931.02, Revised Code.

4. Members of the State Highway Patrol are authorized representatives of the Department of Highway Safety, State of Ohio, and as such are "authorized representatives of a state * * * department" within the meaning of Section 2931.02, Revised Code.

5. When an offense is committed within the county court district and judges of such court have county-wide jurisdiction, as provided in Section 2931.02, Revised Code, such judge may cause the accused to be brought before him or another judge of the county court.

Respectfully,
MARK McELROY
Attorney General