

OPINION 65-191

Syllabus:

Upon completion of a transcript of a proceeding which was made at the request of the Judge of the Common Fleas Court, the court reporter should issue a statement of the charges to the clerk of the common pleas court, who should certify the statement and issue a voucher to the county auditor, who shall issue warrants on the county treasurer for the payment of such compensation.

To: Angus B. Wilson, Brown County Pros. Atty., Georgetown, Ohio
By: William B. Saxbe, Attorney General, October 25, 1965

Your request for my opinion reads as follows:

"I have a written request from the Official Court Reporter of the Court of Common Pleas, Brown County, Ohio, in regard to the preparation of transcripts for cases which have been submitted to a referee and which said transcripts are prepared to be presented to the judge for final determination of the matter.

"The question asked is as follows, to-wit: 'The matter in question is the compensation of the court reporter for the preparation of these transcripts. It is my contention that upon the completion of a volume of transcript I should submit a statement of charges to the clerk of the court of common pleas, who, in turn, should certify same and issue a voucher to the county auditor, who then should draw a warrant upon the county treasurer in favor of the court reporter. The county would then recover such amount, which would be taxed as costs in the case, by collecting such costs; these being paid to the county treasury and credited to the general fund.'

"Please review applicable sections of the Revised Code to-wit: Ohio Revised Code, Title 23, Sections 2301.23, 2301.24 and 2301.25."

Section 2301.22, Revised Code, provides for the annual salary of the court reporter and the per diem compensation if the appointment is for less than a year. This section reads as follows:

"Each shorthand reporter shall receive such compensation as the court of common pleas making the appointment fixes, not exceeding six thousand dollars each year. Such compensation shall be in place of all per diem compensation in such courts. In case such appointment is for a term of less than one year, such court may allow a per diem compensation not exceeding eighteen dollars per day, plus actual and necessary expenses incurred, for each day such shorthand reporter is actually engaged in taking testimony or performing other duties under the orders of such court, which allowance shall be in full for all services so rendered.

"The county auditor shall issue warrants on the county treasurer for the payment of such compensation in equal monthly installments, when the compensation is allowed annually, and when in case of services per diem for the amount of the bill approved by the court, from the general fund upon

the presentation of a certified copy of the journal entry of appointment and compensation of such shorthand reporters." (Emphasis added)

Section 2301.24, Revised Code, provides for additional compensation of court reporters. This section states:

"The compensation of shorthand reporters for making transcripts and copies as provided in section 2301.23 of the Revised Code shall not be more than twenty-five cents per folio of one hundred words, to be fixed by the judges of the court of common pleas of the county wherein the trial is had. Such compensation shall be paid forthwith by the party for whose benefit a transcript is made. The compensation for transcripts of testimony requested by the prosecuting attorney during trial in criminal cases or by the trial judge, in either civil or criminal cases, and copies of decisions and charges furnished by direction of the court shall be paid from the county treasury, and taxed and collected as costs."

(Emphasis added)

It is well settled that the compensation provided for in Section 2301.24, Revised Code, is in addition to the compensation allowed such reporters under the provisions of 2301.22, Revised Code. Opinion No. 3645, Opinions of the Attorney General for 1954, Page 143.

Section 2301.22, supra, which provides for the annual or the per diem compensation sets forth the procedure which is to be followed in making the payment of this compensation. Section 2301.24, Revised Code, which provides for the additional compensation which a court reporter may earn does not specifically set forth procedure in the same detail.

A question arises as to whether the detailed procedure which is set forth in Section 2301.22, Revised Code, is the procedure which is to be followed in Section 2301.24, Revised Code, in providing compensation for the court reporter when the source of the compensation, the county treasury, is the same.

I believe, it is logical to conclude that the same procedure which is set forth in Section 2301.22, supra, should be used since the source of the compensation, the county treasury, is the same and there is no apparent intent or reason to make the procedure different.

Section 2301.25, Revised Code, states:

"When more than one transcript of the same testimony or proceeding is ordered at the same time by the same party, or by the court, the compensation for making such additional transcript shall be one-half the compensation allowed for the first copy, and

shall be paid for in the same manner except that where ordered by the same party only the cost of the original shall be taxed as costs. ***When the testimony of witnesses is taken before the grand jury by shorthand reporters, they shall receive for such transcripts as are ordered by the prosecuting attorney the same compensation per folio and be paid therefor in the same manner provided in this section and section 2301.24 of the Revised Code. " (Emphasis added)

The "same manner" refers, in one situation, to the manner in which the court reporter is compensated when the trial judge orders transcripts of the testimony to be made. This is also one of the situations referred to in Section 2301.24, supra. The only procedure or manner which is set out in detail is in Section 2301.22, supra, and this must therefore be the procedure which Section 2301.25, supra, is referring to. Therefore, this procedure would be the procedure which should be followed in compensating the court reporter when a judge orders transcripts made.

It is my opinion and you are hereby advised that upon completion of a transcript of a proceeding which was made at the request of the Judge of the Common Pleas Court, the court reporter should issue a statement of the charges to the clerk of the common pleas court, who should certify the statement and issue a voucher to the county auditor, who shall issue warrants on the county treasurer for the payment of such compensation.