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REWARD — LEGALLY APPOINTED AND QUALIFIED DEPUTY SHERIFF — MAY ACCEPT — FOR APPREHENDING, SECURING AND DELIVERING DESERTER OR ESCAPED MILITARY PRISONER TO PROPER UNITED STATES AUTHORITIES — REWARD MUST BE PAID INTO TREASURY OF COUNTY OF SUCH DEPUTY SHERIFF.

SYLLABUS:

A legally appointed and qualified deputy sheriff may accept a reward for apprehending, securing and delivering a deserter or an escaped military prisoner to the proper authorities of the United States, but such reward must be paid into the treasury of the county of such deputy sheriff.

Columbus, Ohio, August 16, 1944

Bureau of Inspection and Supervision of Public Offices
Columbus, Ohio

Gentlemen:

Your request for my opinion reads as follows:

“In Opinion No. 4829, rendered February 19, 1942, your office ruled that a county sheriff may legally accept the reward offered by the Federal Government for apprehending a deserter or soldier absent without leave, and upon receipt thereof, the reward must be paid into the county treasury.

May we respectfully request your opinion upon the following question:

May a legally appointed and qualified deputy sheriff accept such reward and retain same for his personal use?”

The syllabus of my Opinion No. 4829, found at page 131 in the Opinions of the Attorney General for 1942, reads as follows:

“A duly elected sheriff who has apprehended a deserter or soldier absent without leave and who has otherwise fulfilled all the requirements and conditions of Title 10, Section 1431, U.S.C. may legally accept the reward offered by the federal government in accordance with the provisions of said section. Upon the

receipt thereof by the sheriff, the provisions of Section 2977, General Code, require that said reward shall be held as public moneys belonging to the county and accounted for and paid over as such."

You now raise the question as to whether a legally appointed and qualified deputy sheriff may accept a reward from the federal government for apprehending a deserter or a soldier absent without leave.

Sections 1578 and 1431 of Title 10, U.S.C., respectively provide:

Section 1578:

"It shall be lawful for any civil officer having authority under the laws of the United States, or of any State, Territory, District, or possession of the United States, to arrest offenders, summarily to arrest a deserter from the military service of the United States and deliver him into the custody of the military authorities of the United States."

Section 1431:

"No greater sum than \$25 for each deserter or escaped military prisoner shall, in the discretion of the Secretary of War, be paid to any civil officer or citizen for services in the apprehension, securing, and delivering of deserters and escaped military prisoners, and the expenses incident to their pursuit."

There is a conflict of authority in this state as to whether a deputy sheriff is a public officer. See *State, ex rel. Wolf, v. Shaffer*, 6 O.N.P.(N.S.), 219; and *Republic Steel Corporation v. Sontag*, 21 O.L.Abs., 358. But in any event, all official acts of a deputy sheriff are done in the name of his principal, the sheriff. Hence, when a deputy sheriff arrests a deserter under authority of Section 1578 of Title 10, U.S.C., he is acting for and in the stead of the sheriff. In *Lessee of Anderson v. Brown*, 9 Ohio, 151, 152, it was said by Lane, C.J., in delivering the opinion of the court:

"The deputies of a sheriff compose but one officer, and they have no authority except that exercised in the name of the principal."

Since a deputy sheriff in arresting a deserter is acting in the name of his principal, the sheriff, it follows that the reasoning and conclusion of my said Opinion No. 4829 are applicable to your question. In other words,

the deputy sheriff may legally receive the reward from the federal government, but, inasmuch as he is acting in the name of the sheriff, such reward must be paid into the county treasury.

Respectfully,

THOMAS J. HERBERT

Attorney General