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VACANCY OCCURRING ON A BOARD OF TOWNSHIP TRUSTEES—IF BOARD DOES NOT FILL THE VACANCY WITHIN THIRTY DAYS THE COUNTY COURT OF THE COUNTY MUST FILL THE VACANCY—§503.24, 1907.071, R.C.

SYLLABUS :

1. When a vacancy occurs on a board of township trustees of a township located in a county court district, and the board does not fill the vacancy within thirty days after it occurs, the vacancy should be filled by the county court of the county as prescribed by Section 503.24, Revised Code.

2. In a county court district having more than one county court judge such a vacancy must be filled by a majority of all of the judges of the court, and may not be filled by the judge having territorial jurisdiction, granted pursuant to Section 1907.071, Revised Code, in the township in which the vacancy occurred.

Columbus, Ohio, March 16, 1961

Hon. Lynn B. Griffith, Jr., Prosecuting Attorney  
Trumbull County, Warren, Ohio

Dear Sir :

I have before me your communication requesting my opinion as to the following questions :

"1. A vacancy has occurred on the Board of Trustees for Hubbard Township, Trumbull County, Ohio, by the resignation of one of its members.

"2. The remaining Trustees cannot agree and have not within thirty (30) days agreed upon the appointment of successor.

"3. Trumbull County has three (3) County Judges, all elected in a county wide election and seated by the Common Pleas Court of this County in separate civil districts. Each Judge is of equal rank and no designation of a presiding Judge has been made.

#### "Question

"Under Section 503.24 of the Ohio Revised Code, is the appointment to be made by the Judge in whose civil district the township is located, or by the panel of Trumbull County Courts acting as a group?"

Section 503.24, Revised Code, referred to in your request, reads as follows :

"If, by reason of the nonacceptance, death, or removal of a person chosen to an office in any township at the regular election, or if there is a vacancy from any other cause, the board of township trustees shall appoint a person having the qualifications of an elector to fill such vacancy for the unexpired term.

"If a township is without a board or if no appointment is made within thirty days after the occurrence of a vacancy on the board, the county court of such county shall appoint suitable persons, having the qualifications of electors in the township, to fill such vacancies for the unexpired term.

"Wherever, in any township, a municipal court replaces the county court and there is no board of township trustees, or if no appointment is made within thirty days after the occurrence of a vacancy on the board, the municipal judge or the presiding municipal judge, if there is more than one, may fill vacancies on the board. In those townships wherein there are no judges of a county court or municipal judges and there is no board of township trustees, or if no appointment is made within thirty days after the occurrence of a vacancy on the board, the probate judge may fill vacancies on such board."

Your question indicate that no appointment was made within thirty days after the occurrence of the vacancy. It naturally follows that the vacancy shall be filled by the county court. The only question to be resolved is the definition of a county court, bearing in mind that Section 503.24,

*supra*, does not vest authority in a judge of the county court but in the county court itself.

Section 1907.011, Revised Code, relating to county courts, provides:

“There is hereby created in each county of the state, in which the territorial jurisdiction of a municipal court or municipal courts is not coextensive with the boundaries of the county, a court to be known as the county court with jurisdiction throughout a county court district consisting of all territory within the county not subject to the territorial jurisdiction of any municipal court.”

Thus, the county court is the court having jurisdiction throughout the county court district.

Section 1907.071, Revised Code, relating to areas of jurisdiction, provides:

“In counties having more than one county court judge, the court of common pleas of such county shall divide the county court district into areas of separate jurisdiction and shall designate the area in which each judge shall have jurisdiction to the exclusion of any other judge of such district, except as provided in section 1907.061 of the Revised Code, and the location where each judge shall hold court. Each such area shall be made up of one or more townships. In assigning areas, the court of common pleas shall make each area as equal in population to others in the district as is possible under existing conditions.

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Accordingly, where there is more than one judge of the county court, each judge is given a separate area of jurisdiction. In such a case, no one judge has jurisdiction throughout the county court district.

It follows that a reference to the county court of the county includes all of the judges of that court and could not be construed to refer to one judge. It appears clear, therefore, that the reference in Section 503.24, *supra*, to “the county court of such county” can apply only to the court of the county, which is made up of all of its judges, and not to the judge who happens to have territorial jurisdiction in the area concerned.

Accordingly, it is my opinion and you are advised:

1. When a vacancy occurs on a board of township trustees of a township located in a county court district, and the board does not fill the vacancy within thirty days after it occurs, the vacancy should be filled by the county court of the county as prescribed by Section 503.24, Revised Code.

2. In a county court district having more than one county court judge such a vacancy must be filled by a majority of all of the judges of the court, and may not be filled by the judge having territorial jurisdiction, granted pursuant to Section 1907.071, Revised Code, in the township in which the vacancy occurred.

Respectfully,

MARK McELROY

Attorney General