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COURTS, COUNTY—JUDGE, COMPENSATION—§1907.081 R.C.—DETERMINED FROM POPULATION OF COUNTY COURT DISTRICT AND NOT “AREA OF JURISDICTION” ASSIGNED TO EACH JUDGE, §1907.071 R.C.

SYLLABUS:

The compensation of county court judges under the formula found in Section 1907.081, Revised Code, should be based as to one factor on the population of the county court district and not on that of the area of separate jurisdiction of individual judges in counties having more than one such judge.

Columbus, Ohio, April 3, 1959

Hon. Bernard T. McCann, Prosecuting Attorney
Jefferson, County, Steubenville, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Hazel A. Cecombe, a State examiner for the Bur of Inspection and Supervision of Public Offices is presently auditing certain public offices in Jefferson County, Ohio and has questioned the present compensation being received by the three county court judges.

“The examiner referred the matter to the State Auditor’s office and under date of March 20, 1959 she received a letter from Mr. T. Vincent Martin stating that the compensation of county court judges should be figured on the population of the district as designated by the Court of Common Pleas. Applying this interpretation the compensation of the three judges would be as follows:

“Population—Area one	Per capita	Amount
22,472	3 cents	\$674.16
Area two		
20,312	3 cents	609.36
Area three		
17,839	3 cents	535.17

“The base pay as set out in R.C. 1907.081 is \$1,500.00, and in addition to this compensation the Board of County Commissioners under Section R.C. 1907.082 provided for the payment

of \$700.00, so that a summary of the total salaries to which each judges should be entitled under the state interpretation would be as follows:

	Area one	Area two	Area three
	\$ 674.16	\$ 609.36	\$ 535.17
	700.00	700.00	700.00
	1,500.00	1,500.00	1,500.00
Total:	<u>\$2,874.16</u>	<u>\$2,809.36</u>	<u>\$2,735.17</u>

“According to the last Federal decennial census the population of the county court district is as follows:

“Population of Jefferson County,	96,495
Population of Steubenville, having a Municipal Court,	35,872
Population of county court district,	<u>60,623</u>

“If the compensation of the county court judges is to be figured under an interpretation of R.C. 1907.081 of three cents per capita of the population of the county court district, each county judge would be entitled to be paid as follows:

“\$1,500.00
700.00
1,818.69
<u>\$4,018.69</u>

“I wish to mention that at the present time as shown by the journal of the county commissioners each judge is receiving \$4,000.00 per annum.

“I do not agree with the opinion of the State Auditor’s office in holding that the additional amount of compensation of three cents per capita is to be figured on the population of the area as fixed by the Common Pleas Court. The language in Section 1907.081 dealing with compensation recites that the additional amount that the judges of the county court shall be figured at three cents per capita of the population of the county court district. Section 1907.011 of the Revised Code defines the term ‘county court district, as follows:

“‘There is thereby 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.’

"Mention of this was made in opinion number 812 of the Attorney General's Opinions for 1957 at page 320, and it appears to me that under this opinion that it would be inconsistent to hold that the area of jurisdiction would be the county court district for the purposes of compensation but not for other purposes.

"I have advised both the Board of County Commissioners of Jefferson County and the State Examiner that I was referring this matter to your office for an opinion and it will be appreciated if you will advise me on this question at your earliest convenience."

The distinction between (1) a county court judge's "area of jurisdiction", and (2) the "county court district" in which such a judge is elected, was pointed out in Opinion No. 812, Opinions of the Attorney General for 1957, p. 320. The syllabus in that opinion reads in part:

"1. Under the provision of Sections 1907.051 and 1907.052, Revised Code, county court judges are required to be elected by the electors of the entire county court district in which the office of such judge is created and not by the electors of the 'area of jurisdiction' designated as provided in Section 1907.071, Revised Code, for particular judges in counties having more than one such judge.

"2. There is no requirement in Chapter 1907., Revised Code, that a county court judge be a resident elector of the 'area of jurisdiction' which he may be designated to serve as provided in Section 1907.071, Revised Code, but such judge is required under the provisions of Section 1907.051, Revised Code, to be a qualified elector and resident of the county court district in which he is elected or appointed. * * *"

In Section 1907.081, Revised Code, we find this provision:

"Judges of the county court shall receive as compensation one thousand five hundred dollars per annum plus an additional amount equal to three cents per capita of the *population of the county court district* as determined by the last federal decennial census. * * *" (Emphasis added)

In Section 1907.011, Revised Code, the expression "county court district" is defined. This section reads:

"There is thereby created in each county of the state, in which the territorial jurisdiction of a municipal court or municipal courts is not co-extensive 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.”

The expression “area of jurisdiction” is fixed as provided in Section 1907.071, Revised Code, which reads in part:

“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 (1907.06.1) 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. * * *” (Emphasis added)

Nothing could be clearer than the propositions (1) that the county court district is a territory greater in extent than an area of separate jurisdiction, (2) that such district will embrace two or more such separate areas if any are marked out as provided in Section 1907.071, *supra*, and (3) that it is the population of the *county court district*, and not that of the area of separate jurisdiction, which is to be utilized to compute the salary of a county court judge. Accordingly, and in specific answer to your inquiry it is my opinion that the compensation of county court judges under the formula found in Section 1907.081, Revised Code, should be based as to to one factor on the population of the county court district and not on that of the area of separate jurisdiction of individual judges in counties having more than one such judge.

Respectfully,

MARK McELROY
Attorney General