

OPINION NO. 82-009**Syllabus:**

1. A sheriff may charge the fee set forth in R.C. 311.17(A) for each writ, when serving multiple writs upon one individual.
2. A sheriff serving multiple writs on one individual may charge the mileage fee set forth in R.C. 311.17(B)(1) on each writ.
3. A sheriff serving writs upon multiple defendants located in one place may charge the mileage fee set forth in R.C. 311.17(B)(1) on each writ.

To: Thomas R. Spellerberg, Seneca County Prosecuting Attorney, Tiffin, Ohio
By: William J. Brown, Attorney General, March 1, 1982

I have before me your request for my opinion in response to three questions which I have phrased as follows:

1. Is it proper for a sheriff going out and serving one person with four or five different writs to charge the fee set forth under R.C. 311.17(A) for each writ?
2. Is it proper for a sheriff to charge separate mileages for each writ served upon an individual as seems to be implied under R.C. 311.17(B)(1)?

3. Is it proper for a sheriff to charge separate mileages for writs served on several individuals when those individuals are located in the same place?

R.C. 311.17(A), the subject of your first question, reads as follows:

For the services specified in this section, the sheriff shall charge the following fees, which the court or clerk thereof shall tax in the bill of costs against the judgment debtor or those legally liable therefor:

- (A) For the service and return of the following writs and orders:
- (1) Execution:
 - (a) When money is paid without levy or when no property is found, three dollars;
 - (b) When levy is made on real property, for the first tract, ten dollars, and for each additional tract, two dollars;
 - (c) When levy is made on goods and chattels, including inventory, fifteen dollars;
 - (2) Writ of attachment of property, except for purpose of garnishment, ten dollars;
 - (3) Writ of attachment for the purpose of garnishment, five dollars;
 - (4) Writ of replevin, ten dollars;
 - (5) Warrant to arrest, each person named in the writ, five dollars;
 - (6) Attachment for contempt, each person named in the writ, three dollars;
 - (7) Writ of possession or restitution, ten dollars;
 - (8) Subpoena, each person named in the writ, one dollar;
 - (9) Venire, each person named in the writ, one dollar;
 - (10) Summoning each juror, other than one venire, one dollar;
 - (11) Writ of partition, five dollars;
 - (12) Order of sale on partition, for the first tract, ten dollars, and for each additional tract, two dollars;
 - (13) Other order of sale of real property, for the first tract, ten dollars, and for each additional tract, two dollars;
 - (14) Administering oath to appraisers, one dollar and fifty cents each;
 - (15) Furnishing copies for advertisements, fifty cents for each hundred words;
 - (16) Copy of indictment, each defendant, two dollars;
 - (17) All summons, writs, orders, or notices, for the first name, three dollars and for each additional name, fifty cents.

I note that, with the exception of R.C. 311.17(A)(17), the word "writ" appears throughout the subdivisions of R.C. 311.17(A) in its singular form. Further, the statutory fees are set for particular types of writs, rather than according to the number of trips made for service or the number of items served on a particular individual. Thus, from the plain language of the statute, it appears that the fees specified in R.C. 311.17(A) should be charged for each writ served. I am aware that in some instances the singular may be read as plural. See R.C. 1.43(A). However, this technique is to be used only when the context of the statute requires such an interpretation. Wingate v. Hordge, 60 Ohio St. 2d 55, 396 N.E.2d 770 (1979). I can find no compelling reason why the word "writ" should, in this case, be given its plural meaning. I conclude, therefore, that a sheriff may charge the fee specified by R.C. 311.17(A) for each writ he serves.

Your second question concerns the mileage to be charged by a sheriff pursuant to R.C. 311.17(B)(1). That provision reads as follows:

(B) In addition to the fee for service and return, the sheriff may charge:

(1) On each summons, writ, order, or notice, a fee of fifty cents per mile, for the first mile and fifteen cents per mile for each additional mile, going and returning, actual mileage to be charged on each additional name. (Emphasis added.)

R.C. 311.17(B)(1) clearly states that the mileage fees are to be charged on each writ. The first recourse in statutory interpretation is to the plain language of the statute. Lake County National Bank v. Kosydar, 36 Ohio St. 2d 189, 305 N.E.2d 799 (1973). A plain and unambiguous statute leaves no need to resort to rules of statutory construction. Swetland v. Miles, 101 Ohio St. 501, 130 N.E. 22 (1920). Consequently, the plain language of the statute necessitates a conclusion that a sheriff may charge the mileage fees set forth in R.C. 311.17(B)(1) on each writ which he serves.

The plain language of the statute is also dispositive of the third question. As was discussed above, R.C. 311.17(B)(1) states that mileage is to be charged on each writ. This provision clearly authorizes the charge of a mileage fee on each writ regardless of the fact that the individuals served are all located in one place.

The above conclusions are in accordance with the opinions of past Attorneys General. In 1943 Op. Att'y Gen. No. 6508, p. 633, a prior Attorney General, in interpreting G.C. 2845, the predecessor to R.C. 311.17, concluded that a sheriff could properly charge the specified mileage for each indictment served upon a defendant. This was found to be true even though the indictments were served on the defendants in one place, at one time. 1960 Op. Att'y Gen. No. 1843, p. 682 also dealt with multiple indictments served on the same defendant and concluded that a sheriff could charge fees for service and mileage for each indictment served. See 1958 Op. Att'y Gen. No. 3027, p. 671, 674 ("[t]he language of Section 311.17. . . is quite clear and contains no provision for the omission of a fee when little or no effort is required to serve the writ"); 1920 Op. Att'y Gen. No. 1728, vol. II, p. 1199. Thus, the statutory language has consistently been interpreted to permit a sheriff to charge fees and mileage for each document served pursuant to R.C. 311.17. Moreover, I note, as did my predecessor in 1960 Op. No. 1843, that the General Assembly has left the language which was so interpreted unchanged through numerous statutory amendments. Given these facts, I can see no basis for abandoning what is now a long-established interpretation of R.C. 311.17. Wadsworth v. Dambach, 99 Ohio App. 269, 133 N.E.2d 158 (Ottawa County 1954).

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

1. A sheriff may charge the fee set forth in R.C. 311.17(A) for each writ, when serving multiple writs upon one individual.
2. A sheriff serving multiple writs on one individual may charge the mileage fee set forth in R.C. 311.17(B)(1) on each writ.
3. A sheriff serving writs upon multiple defendants located in one place may charge the mileage fee set forth in R.C. 311.17(B)(1) on each writ.