

**OPINION NO. 67-119****Syllabus:**

1. A county court judge may not represent defendants wherein the state of Ohio is plaintiff in criminal actions instituted in the county court to which that judge is elected. A county court judge may, however, represent defendants wherein the state of Ohio is plaintiff in criminal actions which originated in courts of the county other than the one to which he was elected to serve as judge.

2. A county court judge may represent defendants in criminal actions in counties other than the one for which he was elected to serve as judge.

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**To: Bernard W. Freeman, Huron County Pros. Atty., Norwalk, Ohio**  
**By: William B. Saxbe, Attorney General, December 13, 1967**

I have before me your recent request for my opinion concerning the practice of law by a county court judge in county courts. Your letter specifically asks:

"(1) May a County Court Judge represent defendants wherein the State of Ohio is plaintiff in criminal actions in the County for which that County Court Judge is elected?"

"(2) May a County Court Judge represent defendants in criminal actions in Counties other than those for which he is elected to serve as a Judge?"

I believe that both questions may be approached through a more general discussion of the practice of law by county court judges. I would respectfully call your attention to the last paragraph of Section 1907.081, Revised Code, relative to this matter:

"A judge of a county court shall be disqualified from the practice of law only as to matters pending or originating in said county court during his term of office."

In 1958 this office was called upon to clarify the term "county court" as used in Section 1907.061, supra. Opinion Number 2142, Opinions of the Attorney General for 1958, emphasizes that each county has only one county court and

"The fact that the county court district may have been divided into areas of separate jurisdiction under the provisions of Section 1907.071, Revised Code, and that one judge has been assigned to each 'area of jurisdiction' does not alter the fact that there is but one county court district and all judges are judges of the county court."

Branch one of the syllabus of the 1958 opinion, supra, reads:

"Judges of the county court as provided in Section 1907.081, Revised Code, are disqualified from the practice of law as to matters pending or originating in any 'area of jurisdiction' of the county court to which such judges were elected or appointed during their terms of office, notwithstanding the fact that in certain cases such judges are limited in their jurisdiction to causes of action arising in their 'area of jurisdiction' as provided in Section 1907.071, Revised Code."

It seems clear, therefore, that a county court judge may not represent any party in the capacity as a lawyer, in the county court of the county to which he is elected, regardless of whether or not his "area of jurisdiction" is separate from that of another county court judge .

Opinion Number 3291, Opinions of the Attorney General for 1962, likewise ruled on Section 1907.081, supra. It pointed out that said section constitutes an exception to the provisions of Section 4705.01, Revised Code, relating to the general prohibitions upon attorneys in the practice of law. The first branch of the syllabus of that opinion, supra, states:

"1. The provisions of Section 1907.081, Revised Code, a special statute pertaining to the practice of law by judges of county courts, constitutes an exception to the provisions of Section 4705.01, Revised Code, a general statute barring judges of courts of record from practicing law during their terms of office even

though, under Section 1907.012, Revised Code, county courts will become courts of record for all purposes as of January 1, 1963."

Returning to the provisions of Section 1907.081, supra, one finds that the judge of a county court "shall be disqualified from the practice of law only as to matters pending or originating in said county court during his term of office." Section 1907.081, supra, does not place a limitation upon the judge of a county court as to the parties whom he either represents or opposes.

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

1. A county court judge may not represent defendants wherein the state of Ohio is plaintiff in criminal actions instituted in the county court to which that judge is elected. A county court judge may, however, represent defendants wherein the state of Ohio is plaintiff in criminal actions which originated in courts of the county other than the one to which he was elected to serve as judge.

2. A county court judge may represent defendants in criminal actions in counties other than the one for which he was elected to serve as judge.