

FEEES. CORONERS INQUEST: Fees allowed to Doctor for post-mortem.  
Autopsy. Witness fee.

February 15, 1939.

Honorable W. G. Tracy  
Prosecuting Attorney  
McDonald County  
Anderson, Missouri



Dear Mr. Tracy:

This office is in receipt of your request for an opinion, which is as follows:

"I am writing you in regard to an autopsy done at Pineville, Missouri a short time ago, by Dr. S. B. Buck of Anderson, Missouri. The County Court allowed Dr. Buck \$13.00 for his services. He demands that he be paid for an autopsy instead of a postmortem examination, stating that there is a difference between a postmortem examination and an autopsy.

"The fee of \$25.00 for the autopsy was agreed upon by the Coroner and myself before the autopsy. Dr. Buck, also, claims fees for five trips on different days that he made to Pineville at the request of the Coroner, the inquest having been postponed on this account. The Doctor, also, says that his testimony should be classified as that of an expert.

"Will you please advise me as to what fees he should be allowed."

Section 11631, 1929 R. S. Mo., providing for the allowance of a surgeon's fee, by the County Court, for a post-mortem examination at an inquest, is as follows:

"When a physician or surgeon shall be called on by the coroner, or any magistrate of the county acting as the coroner, to conduct a post-mortem examination, the county court of said county shall be authorized to allow such physician or surgeon to be paid out of the county treasury any sum as a fee not exceeding ten dollars, to such physician or surgeon who may be engaged in said examination."

Section 11632, provides for the certification of the costs to the County Court and, is as follows:

"The coroner or other officer holding an inquest, as provided for by this chapter, shall present to the county court a certified statement of all the costs and expenses of said inquest, including his own fees, the fees of jurors, witnesses, constables and others entitled to fees for which the county is liable; and the county court shall audit and allow the same, and shall make a certified copy of the same, without delay, and deliver such copy to the county treasurer, which copy shall be deemed a sufficient warrant or order on the treasurer for the payment of the fees therein specified to each person entitled to such fees. The county treasurer shall pay to each person on demand, or to his legal representatives, the fees to which he is thus entitled, and shall take the proper receipt therefor, and produce the same in his settlements with the county court as vouchers for the money so paid out by him."

Section 11633, provides for the allowance of such costs by the County Court only under certain conditions and, is as follows:

"No costs or fees to the coroner shall be allowed by the county court, in any case of the view of or inquest on a dead body, unless it appears to the court that the coroner, either before or during the view or inquest, had reasonable cause to believe that such body was that of a person who had come to his death by violence or casualty, or who, being unknown, was found dead within such county; but where any such inquest or view has been held by the coroner, on a notification by some person, without reasonable cause to suppose that such dead body was that of a person unknown, or who had come to his death by violence or casualty, the person giving such notification, without reasonable cause, as aforesaid, shall be liable to pay all the costs, fees and expenses of such view or inquest."

The section providing for an autopsy under a certain condition is 11639 and, is as follows:

"Whenever an inquest shall be held, and the coroner shall have good reason to believe that the deceased came to his death by poison administered by the hand of some person other than the deceased, he may, at the request of the jury, cause chemical analysis and microscopical

examination of the body of the deceased, or any part of it, to be made; and the testimony of medical and chemical experts may be introduced for the purpose of showing how and in what manner the deceased came to his death; and the coroner shall certify to the county court of his county the fact of such analysis or examination, and testimony of such medical or chemical experts, and that the same was, in his opinion, necessary to an examination into the cause of the death of the deceased; and the court shall allow such fees or compensation for such analysis, examination or medical or chemical testimony of experts as shall be deemed by said court to be just and reasonable."

Section 11644, provides for a continuance of an inquest and, is as follows:

"When an inquest shall be continued by the coroner, it shall be his duty forthwith to call before him all witnesses summoned in the case, and verbally notify such as may attend to appear before him, to testify at the inquest on the day set for the continuance of the same, which verbal notice shall be in all respects as valid as a summons, and the coroner shall take note of the names of the witnesses so notified. No further summons shall thereafter issue to any witness so notified, and such notification shall have the same effect as an original summons, and may be the basis for an attachment of the witness."

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The question of costs and fees is purely statutory. The Supreme Court has construed such question in *Houts vs. McCluney*, 102 Mo. 13, 16; 14 S. W. 766, wherein it says:

"In the first place, no costs are allowed by the common law. They are, with us, creatures of the statute. They must be paid in the amounts and in the manner specified in the statute. Sections 5156 and 5613 are clear and unambiguous. They make the county liable for the fees allowed the coroner, jurors, witnesses and the constable in all inquests where the coroner has reasonable cause to believe that the person over whose body the inquest is held, came to his death by violence or casualty."

#### CONCLUSION

Therefore, it is the opinion of this department that a doctor, except when coroner, may be allowed a fee for a post-mortem not exceeding ten dollars, by the County Court, as provided in Section 11631, supra.

An autopsy may be made and payment allowed therefor for the cause specified in Section 11639, supra, in whatever sum the county court deems just and reasonable. Likewise the County Court should allow just and reasonable compensation for the testimony of medical or chemical experts who testify to the results of such autopsy.

Respectfully submitted,

S. V. MEDLING  
Assistant Attorney General

APPROVED:

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J. W. BUFFINGTON  
(Acting) Attorney General

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