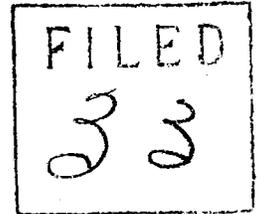


MAGISTRATES: Three questions regarding abstracting and indexing unsatisfied judgments appearing in records of justice of the peace.

September 6, 1947



Honorable Bernard W. Gnefkow
Third District Magistrate Court
Jackson County
Kansas City, Missouri

Dear Sir:

This will acknowledge your request for an opinion which, in part, reads:

"I would like to have an opinion from your office in regard to Section 1, Part 2 of the recently approved Senate Bill No. 96, on the following questions.

"(1) Of what should an abstract of judgment consist? Does the state plan to make up a sample form for all the Magistrates to use or must each Magistrate make up his own form?

"(2) Will it be in accord with this law if the abstracts of judgment are put on forms so that they may be assembled and bound in alphabetical order or will it be necessary to compile 2 books, one as an index and one containing the abstracts?

"(3) There are a number of cases on the Justice of the Peace Docket books which contain no entry other than the record of filing. The jackets containing the original papers are in many instances impossible to locate, particularly those over 3 years old. No doubt many of these cases were settled out of court. Will it be necessary to record these cases or does this law apply only to those cases where the Justice or clerk has made an entry on the Docket book showing a judgement had been rendered?"

In your request three questions are asked which require the interpretation of Section 7, paragraph (2) of Senate Bill No. 96 which was enacted by the 64th General Assembly and was approved and became effective June 23, 1947. Section 7, paragraph (2) provides:

"(2) The clerk of the magistrate court shall prepare and keep in a well bound book an abstract and index of all unsatisfied judgments in civil cases appearing in the records of justices of the peace which have been delivered to him, and which were rendered at any time after the first day of January 1935. Such abstract and index shall show the names of the parties to each action in which the judgment was rendered, arranged so that the names of the parties in whose favor the judgment was rendered shall appear in alphabetical order, the date of the judgment, the amount thereof and an appropriate reference to the book or record where the record of such judgment may be found. The magistrate is authorized to employ such additional clerical assistants as may be necessary to prepare such abstract and index of judgments rendered prior to January 1, 1947, and reasonable compensation of such assistants together with other necessary expenses involved in preparing such abstract and index shall be paid from the county treasury upon the order of the county court. The county court shall provide an adequate and safe storage place for the books and records of justices of the peace which shall be readily accessible to the magistrate court."

The above section requires the clerk of the magistrate court to prepare and keep in a well bound book an abstract and index of all unsatisfied judgments, which were rendered after January 1, 1935, in civil cases which appear in the records of the justice of the peace that are delivered to the clerk of the magistrate court.

We find no statutory provision imposing a duty on the state to provide sample abstract and index forms of unsatisfied judgments. The wording of the statute clearly requires the clerk

of the magistrate court to prepare the abstract and index, and we believe that it would be incumbent on the clerk to adopt an appropriate form or method in keeping such records.

In your first question it is also asked of what should the abstract of unsatisfied judgments consist. Regarding this question the statute provides as follows:

"* * *Such abstract and index shall show the names of the parties to each action in which the judgment was rendered, arranged so that the names of the parties in whose favor the judgment was rendered shall appear in alphabetical order, the date of the judgment, the amount thereof and an appropriate reference to the book or record where the record of such judgment may be found.* * *"

Looking at the above language of the statute, we believe that it requires the abstract of unsatisfied judgments to show the names of the parties to the litigation, the party in whose favor the judgment was rendered, the date of the judgment and the amount of the judgment. If this much is shown we believe there would be a compliance with the provision of the statute. The other provisions of the statute requiring the arrangement of names in alphabetical order and making appropriate reference to the book or record where the record of the judgment may be found, we believe, refer and relate to indexing requirements.

In answer to your second question it does not appear that the statute requires the keeping of separate books for the index and abstract of unsatisfied judgments. We believe that it would be entirely proper to keep the index and abstract of unsatisfied judgments in one book if it can be conveniently and satisfactorily done.

In answer to your third question, we direct your attention to the first part of paragraph (2), Section 7 which provides:

"The clerk of the magistrate court shall prepare and keep in a well bound book an abstract and index of all unsatisfied judgments in civil cases appearing in the records of justices of the peace which have been delivered to him, * * *"

The above provision clearly provides that the only abstract to be kept is of unsatisfied judgments of civil cases which actually appear in the records of the justice of the peace which have been delivered to the clerk of the magistrate court.

CONCLUSION

It is, therefore, the opinion of this department that:

- (1) The clerk of the magistrate court in keeping the abstract of unsatisfied judgments in civil cases as required in paragraph (2), Section 7 of Senate Bill No. 96, should show in said abstract the names of the parties to the action in which the judgment was rendered, the party in whose favor the judgment was rendered, the date of the judgment and the amount of the judgment. The clerk of the magistrate court shall prepare and keep the abstract of unsatisfied judgments in appropriate form in a well bound book.
- (2) The statute does not require that the index and abstract of unsatisfied judgments be kept in separate books; if they can be satisfactorily kept in one book it would be proper to do so.
- (3) The only judgments that have to be abstracted or indexed are unsatisfied judgments in civil cases which actually appear in the records of the justice of the peace which have been delivered to the clerk of the magistrate court.

Respectfully submitted,

RICHARD F. THOMPSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

RFT:smw