

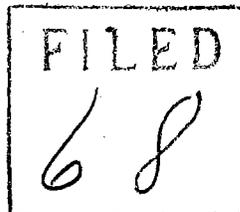
MISSOURI TRAINING SCHOOL
FOR BOYS:

CONTAGIOUS DISEASE:

ADMISSION:

Boy affected with contagious disease
not to be admitted to Missouri Train-
ing School for Boys at Boonville,
Missouri.

March 13, 1947



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Honorable Woodson Oldham
Judge of Division No. 2
Circuit Court of Jasper County
Webb City, Missouri

Dear Judge Oldham:

Your letter of recent date asking for an opinion of this
department, reads as follows:

"I would appreciate having the opinion of your
office on the following situation:

"One Aubrey Rogers, a colored sixteen year old
boy of Joplin, was sentenced to a term of three
years at Boonville for car theft and some bur-
glaries. He was given a blood test, which
returned negative, for syphilis and then pa-
roled. While on parole he apparently contracted
syphilis and when finally delivered to the in-
stitution a blood test showed positive. After
keeping him about two weeks the institution
delivered him back to our jail refusing to keep
him under Section 9000 R.S. No. 1939. While we
felt that, since our records showed a commitment
and delivery to the institution and acceptance
there, we had no authority to keep the boy, we
did send him to St. Louis to the Federal Hospi-
tal there for treatment. After treatment he was
taken back to Boonville and they refused to
accept him. We have a letter from the hospital
that the disease is no longer infectious although
a blood test will show positive for some period
of time.

"My questions are:

"1. Can the institution refuse to accept this
boy? If they cannot refuse to accept does your
office take the necessary steps to force accep-
tance?

"2. Is syphilis, an infectious disease, and not contagious, a contagious disease under Section 9000 R.S. Mo. 1939?

"3. Having once accepted a boy committed can the institution deliver him back to this county without parole or similar action?

"4. Are there any other circumstances under which the institution can arbitrarily refuse to accept persons committed from this county aside from the reasons set out in Section 9000?

"I would appreciate an immediate opinion."

Your four questions, pertaining more or less to the same subject matter, are being consolidated and answered as one, and by our answer we will endeavor to cover all the circumstances raised by your questions relative to the committing of boys to the Missouri Training School for Boys at Boonville, Missouri.

Section 9000, R.S. Mo. 1939, provides:

"No person who is neglected or dependent or who is idiotic or insane, or who has any contagious disease, shall be committed to or received by the superintendent into said Missouri training school for boys."

Section 9008, R.S. Mo. 1939, provides:

"It shall be the duty of the said commission to provide for the separation of the inmates in said Missouri training school for boys into different classes and to provide an entirely separate department for each class, so that the younger and less vicious shall not come in contact with the older and more hardened class. Each department shall be entirely separate from any other department and shall have different subordinate officers in control thereof, and said commission shall provide rules whereby the inmates may be transferred

from one department or class to another department or class from time to time, as their conduct may merit or require; and in order that there shall be separate departments so that the inmates may be classified according to their desserts and each class kept in its appropriate department, said commission shall cause suitable buildings and enclosures to be erected for the department or class containing older or more hardened offenders, and those who cannot be controlled except by closer confinement and sterner discipline than in the school department. Said buildings and enclosures shall be erected upon a different part of the grounds from the buildings now located thereon, and shall constitute a distinct department of the institution."

Section 8992.32, Laws 1945, p. _____, S.C.S.S.B. No. 347, Sec. 32, Mo. R.S.A. Vol. 19, Cum. Pocket Part, p. 50, provides:

"It shall be the duty of the board of training schools and of the director to formulate and execute plans for the classification of all juvenile inmates committed to their charge as may be necessary to accomplish the proper training and moral rehabilitation of such juvenile inmate. There shall be such classification into groups according to age, mental ability and other pertinent characteristics as may be necessary for segregation of such inmates, as, in the opinion of the superintendent and the staff, may be potentially vicious or criminally inclined from those who are readily amenable to discipline and correction. The superintendent of each training school shall assign one building at said training school for the purpose of a receiving cottage, where inmates shall be received upon commitment and sheltered while being classified and studied by members of the staff so authorized."

These three sections are not conflicting, and their meaning should be harmonized and read together.

Section 9000, supra, recites that no person who has a contagious disease shall be committed to, or received by, the superintendent of the Missouri Training School for Boys.

Section 9008, supra, provides for the classification of the inmates received at the Missouri Training School for Boys, as also, Section 8992.32, supra, provides for the classification and receiving of inmates at training schools.

According to the Division of Health of the Department of Public Health and Welfare, the disease of syphilis is both infectious and contagious, and, being a contagious disease, it therefore falls within the prohibition of Section 9000, supra, and, by this section a boy suffering from a contagious disease cannot be committed by the court, in the first instance, to the institution, and, if committed, then the superintendent of the institution cannot legally receive him.

The provisions of Sections 9008 and 8992.32, supra, fix a period of time for classifying boys committed to the training schools, and such classification includes physical examination, as well as mental, in order to determine the best way to bring about rehabilitation and the proper training that should be given. The receiving period therefore, should be interpreted to mean a period of time in which a boy is held under observation at the Missouri Training School for Boys before he is finally booked as an inmate; so, if any legal reason be found, during the receiving period, why such boy is not a proper subject for admission, then he is to be rejected and referred back to the sentencing court for further consideration. During this time a blood test is made by the Division of Health, at the request of the institution, and a report made according to the finding. When a blood test shows positive the medical staff at the institution advises against the acceptance of the boy, because they contend that as long as the blood test shows positive the disease is contagious. This, therefore, is a question of medical science.

No boy is officially admitted into the Missouri Training School for Boys until he has passed through the classification period, which varies as to the number of days according to the individual, and, if all tests measure up to the requirements of the law for such admission, then he is definitely booked in and becomes an inmate of the institution under the law and can only be released therefrom by due course of law.

The above sections, and particularly Section 9000, R.S. Mo. 1939, are the sections stating the grounds or causes for which,

and under what conditions, a boy cannot be committed to or received by the training schools, and this department does not take any steps to have the training schools accept such person when the law prohibits him from being received. It was the intention of the Legislature, in passing Section 9000, supra, that one affected with a contagious disease should not be accepted at the Missouri Training School for Boys.

CONCLUSION

Therefore, it is the opinion of this department that the Missouri Training School for Boys at Boonville, Missouri, can legally refuse to receive one who has been committed to that institution by a court, when the medical report shows such person is affected with the disease of syphilis. It is further the opinion of this department that the acceptance of a boy committed to the institution is not definite until the examinations made during the period of classification determine that he can legally be admitted.

Respectfully submitted,

GORDON P. WEIR
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

GPW:CP