

JUDGMENTS: Section 3228, R. S. 1939, authorizes payment
INTEREST: of interest on judgments.

June 13, 1941

6-14



Mr. W. A. Holloway
Chief Clerk
State Auditor's Office
Jefferson City, Missouri

Dear Mr. Holloway:

We are in receipt of your request for an opinion under date of June 13th, wherein you state as follows:

"We are in receipt of a requisition from the Missouri State Highway Department requesting payment to James R. Hancock in the amount of \$14,820.25. This requisition is supported by a judgment certified by the Clerk of the Circuit Court of Osage County. However, the requisition includes a request for the payment of interest in the amount of \$1,679.60 which makes the total of the request in the requisition \$16,499.65, whereas the judgment as rendered by the Court recites the sum of \$14,820.05 'together with his costs' and does not make any provision for interest.

"We would like to have your opinion concerning the payment of this interest."

33 C. J., pp. 213-214, in discussing the question of whether judgments bear interest, states that:

"While there is some authority to the contrary it is stated in most decisions that judgments do not bear interest as a matter of legal right, or by the common law, so that interest may be collected by an execution thereon; * * * * *

but that,

"At the present time, by force of statute in most jurisdictions, interest on judgments as a matter of right is allowed, and may be collected on execution."

And further, on page 1204, we find the following statement:

"By statute, judgments now bear interest, although no provision for interest thereon is made in the judgment."

Section 3228, R. S. Mo. 1939, provides for interest on judgments:

"Interest shall be allowed on all money due upon any judgment or order of any court, from the day of rendering the same until satisfaction be made by payment, accord or sale of property; all such judgments and orders for money upon contracts bearing more than six per cent interest shall bear the same interest borne by such contracts, and all other judgments and orders for money shall bear six per cent per annum until satisfaction made, as aforesaid."

In the case of *The State v. Vogel*, 14 Mo. App. 187, l. c. 189-190, the court, in referring to the above statute, said:

"In order that the judgment should bear interest, it was not necessary that the court delivering the judgment should say so and make this statement a part of the judgment, because the statute expressly provides that every judgment shall bear interest."

Among the more recent decisions construing Section 3228, supra, is the case of State v. City of St. Louis, 115 S. W. (2d) 513, l. c. 515, wherein the St. Louis Court of Appeals said:

"Indeed the fact is that even were the charter silent with respect to the allowance of interest, the judgment in such a case would nevertheless bear interest in view of the fact that it is in all respects a final judgment as that term is used in statutes requiring interest to be paid on judgments, and therefore within the application of the general statute, section 2841, R. S. Mo. 192, Mo. St. Ann. Sec. 2841, p. 4628, which provides that 'interest shall be allowed on all money due upon any judgment or order of any court, from the day of rendering the same until satisfaction be made by payment, accord or sale of property.' Plum v. City of Kansas, 101 Mo. 525, 14 S. W. 657, 10 L. R. A. 371; Martin v. City of St. Louis, 139 Mo. 246, 41 S. W. 231."

And in discussing the theory upon which interest is allowed, the court said (l. c. 515):

"The underlying theory upon which interest is allowed on money judgments is that from the moment of the entry of the judgment the amount thereof is due from the judgment debtor

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with the necessary consequence that the latter is thereafter in default until the judgment is satisfied, and is therefore required to pay interest on his debt as compensation for his further retention and use of the judgment creditor's money. * * * * "

For further authority as to the right to collect interest on judgments by virtue of Section 3228, supra, see the case of City of St. Louis v. Senter Commission Co., 124 S. W. (2d) (Mo. Sup.) 1180, 1. c. 1182; Bridges Asphalt Co. v. Jacobsmeier, 142 S. W. (2d) (Mo. Sup.) 641, 1. c. 644.

From the foregoing we are of the opinion that it is not necessary that the judgment expressly state that it bears interest for the reason that Section 3228, R. S. Mo. 1939, allows interest on judgments as a matter of right.

Respectfully submitted,

MAX WASSERMAN
Assistant Attorney-General

APPROVED:

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