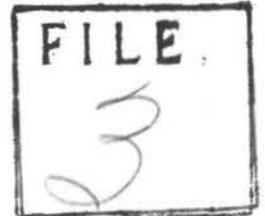


ELEEMOSYNARY INSTITUTIONS: Indigent insane must be resident
INSANE: of county before he may be admitted
as a county patient.

May 14, 1942

Hon. Omer H. Avery
Prosecuting Attorney
Lincoln County
Troy, Missouri

5-24



Dear Sir:

This department is in receipt of your request for
an official opinion, which reads as follows:

"I have a question to present to you
concerning a party who probably should
be adjudged insane. This party is a
resident of a W.P.A. Work Camp No. WP
9407 near Troy, Lincoln County, Missouri.
He was brought to this camp from the City
of St. Louis about two years ago, and on
one occasion he was released, returned to
St. Louis where he remained about thirty-
five days, and then returned to this camp.

"The question involved is whether he is a
subject to be dealt with by the City of
St. Louis or by Lincoln County."

Section 9328, R. S. Mo. 1939, provides in part as
follows:

"The several county courts shall have
power to send to a state hospital such
of their insane poor as may be entitled
to admission thereto. * * * * *"

Section 9335, R. S. Mo. 1939, provides as follows:

"If, after such examination, the court, or the jury, if one shall have been employed, shall be satisfied of the truth of the facts set forth in the statement, the court shall cause a suitable order to be entered of record, upon their own decision, or, where the verdict of the jury has been rendered, upon the verdict. * * * * *

Under the above sections it will be seen that in order for a person to be admitted to a state hospital as a county patient that he must be a "resident" of the county. As pointed out in Thomas v. Macon County, 175 Mo. 68, l. c. 74:

"The sections above referred to contain the only provisions to be found in our statutes expressly authorizing the cost of keeping a patient in the asylum to be charged to a county and in each of those cases it requires that the person be a resident of the county and that the county court should take the prescribed action in the premises."

Section 655, R. S. Mo. 1939, defines "residence":

"* * * * * seventeenth, the place where the family of any person shall permanently reside in this state, and the place where any person having no family shall generally lodge, shall be deemed the place of residence of such person or persons respectively; * * * * *

It is the rule in this state that the word "residence" has no fixed meaning applicable in all cases. State ex rel.

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v. Smith, 64 Mo. App. 313. But the question must be determined from all the facts. The intention of the party is a large factor in determining his residence. State v. Snyder, 182 Mo. 462, 82 S. W. 12; State ex rel. v. Dayton, 77 Mo. 678.

As pointed out in 54 C. J. 708, a man's residence is the place of actual abode to which, wherever he may be, he intends to return.

Under the facts submitted in your request, we are unable to determine whether the person in question is a resident of Lincoln County or not, but this fact should be determined by the County Court in passing upon the statement of a citizen of the county asking that the person in question be admitted to a state hospital as a county patient.

CONCLUSION

It is, therefore, the opinion of this department that a person, in order to be admitted to a state hospital as a county patient, must be a "resident" of the county. What constitutes a person a "resident" of the county is a matter of fact which must be determined by the county court.

Respectfully submitted,

ARTHUR O'KEEFE
Assistant Attorney-General

AO'K:CP

APPROVED:

ROY MCKITTRICK
Attorney-General