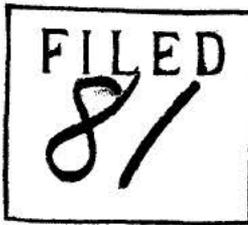


PAUPERS: County court may designate county  
COUNTY COURT: welfare director as its agent to  
DIVISION OF WELFARE: distribute county pauper fund.



November 19, 1952

11/20/52

Honorable Samuel E. Semple  
Prosecuting Attorney  
Randolph County  
Moberly, Missouri

Dear Mr. Semple:

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

"The County Court of Randolph County has been advised by the office of the State Auditor that the payments to the Randolph County Welfare Office for the care of indigent people in this county is improper.

"The County Court in this county has for the past fifteen years paid the money necessary for the care of sick and indigent people to the Randolph County Welfare Office and their agency, in turn, spends this money for the care of these people. A representative of the State Auditor's office advised two members of the County Court recently that such payments for the care of indigent people were not proper where the money was not paid direct but paid to the Welfare Office for them to administer.

"I would like to obtain an opinion from your office as to whether this procedure is improper or not."

Honorable Samuel E. Semple

Section 207.060, RSMo 1949, provides, in part, as follows:

"1. The director of welfare shall establish a county office in every county, which shall be in the charge of a county welfare director who shall have been a resident of the state of Missouri for a period of at least five years and whose salary shall be paid from funds appropriated for the division of welfare.

"2. For the purpose of establishing and maintaining county offices, or carrying out any of the duties of the division of welfare, the director of welfare may enter into agreements with any political subdivision of this state, and as a part of such agreement, may accept moneys, services, or quarters as a contribution toward the support and maintenance of such county offices. Any funds so received shall be payable to the state collector of revenue and deposited in the proper special account in the state treasury, and become and be a part of state funds appropriated for the use of the division of welfare."

From your request, and from facts ascertained supplementary thereto, it appears that the County Court of Randolph County does not wish to follow the plan set forth in paragraph 2 of Section 207.060, supra, but rather wishes to designate the county welfare director as the court's agent in the distribution of the pauper fund of the county.

This department, in an opinion rendered by a former Attorney General on November 12, 1934, held that the county court cannot delegate its duty in respect to the care for the poor to any other organization. The basis of that holding was that the statutes had imposed upon the county court the duty to care for the poor and that such duties cannot be delegated. What was said therein sets forth the correct statement of law insofar as the facts therein were concerned.

An officer to whom a discretion is entrusted cannot delegate the exercise thereof. State ex rel. Skrainka Const. Co. v. Reber, 226 Mo. 229, 126 S.W. 397; Matthews v. Alexandria, 68 Mo. 115; 46 C. J. 1033.

Honorable Samuel E. Semple

Section 205.580, RSMo 1949, provides as follows:

"Poor persons shall be relieved, maintained and supported by the county of which they are inhabitants."

Section 205.610, RSMo 1949, provides:

"The county court of each county, on the knowledge of the judges of such tribunal, or any of them, or on the information of any magistrate of the county in which any person entitled to the benefit of the provisions of sections 205.580 to 205.760 resides, shall from time to time, and as often and for as long a time as may be necessary, provide, at the expense of the county, for the relief, maintenance and support of such persons."

Under the above provisions the duties are imposed upon the county court to provide, at the expense of the county, for the support of the poor. This is a discretionary duty imposed upon the county court which cannot be delegated under the authorities cited above.

However, it is further the rule in this state that an officer "after he has himself exercised the discretion \* \* \* may, under proper conditions, delegate to another the performance of a ministerial act to evidence the result of his own exercise of the discretion." State ex rel. Skrainka Const. Co. v. Reber, supra.

While under the above rule the duty of providing for the poor of the county is imposed upon the county court, still the carrying out of the ministerial functions of such duty may be delegated to an agent of the county court. Therefore, if the county court desires to designate a county welfare director as its agent in carrying out such functions, then such delegation is proper and legal. The moneys so spent at no time become state moneys, but remain county moneys to be spent under the supervision of the county court by the county welfare director.

Honorable Samuel E. Semple

Conclusion.

It is therefore the opinion of this department that the county court may appoint the county welfare director as its agent in carrying out the ministerial functions relating to the distribution of the pauper fund under the direction of the county court.

Respectfully submitted,

C. B. BURNS, JR.  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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