



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

August 14, 1957

Honorable Henry Wade
Criminal District Attorney
Records Building
Dallas County
Dallas, Texas

Opinion No. WW-220.

Re: Authority of Commissioners' Court to pay Clerk of the Court of Civil Appeals for services as Custodian of the Courtroom, Judge's Chambers and Library of the Court of Civil Appeals.

Dear Mr. Wade:

Your Opinion Request of July 29, 1957, presents the following question:

"Do the statutes permit the Commissioners Court to appropriate, out of the County's General Fund, an amount not exceeding \$50.00 per month to the Clerk of the Court of Civil Appeals as additional compensation for his services as Custodian of the Court Room, Judges Chambers and Library of such Court of Civil Appeals?"

Article 1058a, Vernon's Code of Criminal Procedure, provides:

"That the Commissioners court of any county, having a population of 210,000 or more, in which is located a Court of Civil Appeals having its quarters in the County Court House, is authorized to pay out of its General Fund, not exceeding fifty dollars per month, to the Bailiff of such Court of Civil Appeals, or other employee of said Court designated by it, as additional compensation for his services as Custodian of the Court Room, Judges Chambers and Library of such Court of Civil Appeals."

Moore v. Sheppard, 144 Tex. 537, 192 S.W.2d 559 (1946) states at page 560:

"The Clerks of the Courts of Civil Appeals are not entitled to receive extra compensation

for services performed within the scope of their official duties prescribed by law. . . ."

Article 1832, Vernon's Civil Statutes, dealing with the Clerk of the Court of Civil Appeals, provides:

"Each clerk shall be librarian in charge of the library of his court, and shall take charge of, keep in good order and make catalogs of the books thereof."

By Article 1832, Vernon's Civil Statutes, the Clerk of the Court of Civil Appeals is charged with custodial duties in the Library of the Court of Civil Appeals. The Clerk may not receive any extra compensation for the performance of these duties with which he is charged.

Since the performance by the Clerk of the Court of Civil Appeals of the duties of Custodian of the Courtroom and of the Judge's Chambers would not be incompatible with the performance of the Clerk's regular duties, the Commissioners' Court is authorized to pay the sum of \$50.00 per month to the Clerk of the Court of Civil Appeals for the performance of this additional work, provided, of course, that the Court of Civil Appeals, pursuant to Article 1058a, has designated the Clerk as the one to receive this additional compensation.

Senate Bill No. 58, Acts 55th Legislature, Regular Session, 1957, ch. 4, p. 5, provides:

"Section 1. The salaries of all state officers and all state employees, except the salaries of the District Judges and other compensation of District Judges, shall be for the period beginning September 1, 1957 and ending August 31, 1959 in such sums or amounts as may be provided for by the Legislature in the general appropriations Act. It is specifically declared to be one of the intents hereof that the Legislature shall also fix the amount of supplemental salaries hereafter, out of court fees and receipts, to be paid to the clerks and other employees of the Courts of Civil Appeals, the Supreme Court and the Court of Criminal Appeals.

"Sec. 2. All laws and parts of laws fixing the salaries of all state officers and employees, except the salaries of the District Judges and other compensation of District Judges, are hereby

specifically suspended insofar as they are in conflict with this Act. It is specifically declared to be one of the intents hereof that any and all laws authorizing payment of supplemental salaries from court receipts and fees to clerks and other employees of the Courts of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals, are suspended insofar as they are in conflict with this Act."

This Act is the same as one that has been passed for a number of years. Additional compensation from the Commissioners' Court is not included as "salaries" under this Act.

SUMMARY

The Commissioners' Court is authorized to pay the sum of \$50.00 per month to the Clerk of the Court of Civil Appeals for the performance by the Clerk of the duties of custodian of the Courtroom and Judge's Chambers of the Court of Civil Appeals.

Very truly yours,

WILL WILSON
Attorney General of Texas



By
John R. Lennan
Assistant

JRL:jl:wb

APPROVED:

OPINION COMMITTEE

H. Grady Chandler, Chairman
C. K. Richards
F. C. (Jack) Goodman

REVIEWED FOR THE ATTORNEY GENERAL

BY: Geo. P. Blackburn