



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

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Honorable Karren S. Price  
District Attorney  
123rd Judicial District  
Shelby & Panola Counties  
101 San Augustine St.  
Center, Texas 75935

LO-90-74

Dear Ms. Price:

You ask whether a county-court-at-law judge may hear pleas of guilty in felony cases filed with the district court. We answer that he may do so, provided that certain conditions are met.

Section 74.054 of the Government Code provides, in part:

(a) Except as provided by Subsections (b) and (c), the following judges may be assigned as provided by this chapter by the presiding judge of the administrative region in which the assigned judge resides:

(1) a regular district, constitutional county, or statutory county court judge in this state;

. . . .

(b) A regular statutory county court judge may not be assigned to hear a matter pending in a district court outside the county of the judge's residence.

Section 74.056 provides, in part:

(a) A presiding judge from time to time shall assign the judges of the administrative region to hold special or regular terms of court in any county of the administrative

region to try cases and dispose of accumulated business.

Under these provisions, the presiding judge of the administrative region may assign a statutory, or county-court-at-law, judge in his region to hear any district court case. By contrast, a retired or former judge may be assigned only in his area of specialty. Section 74.055 provides, in part:

(a) Each presiding judge shall maintain a list of retired and former district, appellate, and statutory county court judges who meet the requirements of this section.

(b) The presiding judge shall divide the list into area specialties of criminal, civil, or domestic relations cases. A retired or former judge may only be assigned to a case in the judge's area of specialty. a judge may qualify for assignment in more than one area of specialty.

(c) To be eligible to be named on the list, a retired or former judge must:

(1) have served as a judge for at least four years in a district, statutory county, or appellate court;

(2) have developed substantial experience in the judge's area of specialty;

(3) not have been removed from office;

(4) certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that the judge did not resign from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022 and before the final disposition of the proceedings;

(5) annually demonstrate that the judge has completed in the past calendar year the educational requirements for active district and statutory county court judges; and

(6) certify to the presiding judge a willingness not to appear and plead as an attorney in any court in this state for a period of two years.

Either party to a case may object to the assignment of a particular judge to a particular case. Section 74.053 provides:

(a) When a judge is assigned under this chapter the presiding judge shall, if it is reasonable and practicable and if time permits, give notice of the assignment to each attorney representing a party to the case that is to be heard in whole or part by the assigned judge.

(b) If a party to a civil case files a timely objection to the assignment, the judge shall not hear the case. Each party to the case is only entitled to one objection under this subsection for that case.

(c) An objection under this section must be filed before the first hearing or trial, including pretrial hearings, over which the assigned judge is to preside.

If an assignment is properly made, however, and no objection is offered, the judge has a duty to hear the case. Section 74.058 provides:

(a) Except as provided by this chapter, a judge assigned by the presiding judge to a court in the same administrative region, or to a court in another administrative region at the request of the presiding judge of the other administration region, shall serve in the court or administrative region to which he is assigned.

(b) The presiding judge of a judge's administrative region may relieve the judge of an assignment on presentation of good cause in writing by the assigned judge to the presiding judge.

(c) If the presiding judge refuses to relieve a judge from assignment after receiving from the judge a written statement

declining the assignment for good cause, the judge may, not later than the fifth day after refusal by the presiding judge, petition the chief justice for relief from the assignment for good cause. The chief justice may grant or refuse a petition for relief from assignment at his discretion.

Finally, we note that, upon assignment, a judge has "all the powers of the judge of the court to which he is assigned." Section 74.059 provides:

(a) A judge assigned under the provisions of this chapter has all the powers of the judge of the court to which he is assigned.

(b) A judge shall extend the regular terms of the court, or call the special terms, that are necessary to carry out the purposes of this chapter and to dispose of pending litigation. If a term is extended, the other terms of the court may be opened and held as usual, and a term of court in that district does not fail because of the extension. By entering an order on the minutes of the court, the judge of a district court or statutory county court or a judge assigned by the presiding judge may convene a special term of the court for the trial of cases, the entry of orders, and the disposition of the business before the court.

(c) A district or statutory county court judge shall:

(1) diligently discharge the administrative responsibilities of the office;

(2) rule on a case within 90 days after the case is taken under advisement;

(3) request the presiding judge to assign another judge to hear a motion relating to the recusal of the judge from a case pending in his court; and

(4) if an election contest or a suit for the removal of a local official is filed in his court, request the presiding judge to

assign another judge who is not a resident of the county to hold a regular or special term of court in that county to dispose of the suit.

We conclude that the presiding judge of an administrative region may assign a statutory, or county-court-at-law, judge in his region to hear any district court case, provided that the various requirements of chapter 74 of the Government Code are met. See generally, Attorney General Opinion JM-506 (1986).

Yours very truly,



Rick Gilpin, Chairman  
Opinion Committee



Sarah Woelk, Chief  
Letter Opinion Section  
Opinion Committee

RG/SW/lcd

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