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Opinion Committee

RD-873

Office Of  
GALEN RAY SUMROW  
Criminal District Attorney

Rockwall County Courthouse  
Rockwall, Texas 75087  
(214) 771-5968 FAX (214) 722-5812

February 7, 1996

Office of the Attorney General  
State of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

ATTENTION OPINION DIVISION

Re: Request for Opinion - May a person serve as municipal judge in more than one jurisdiction at a time?

Dear Sir:

As stated in Attorney General's Opinion JM-333, the Texas Constitution prevents a person from holding two civil offices of emolument simultaneously. In that case, the question raised was whether or not a person could serve as both municipal judge and county auditor at the same time. Your answer was that because both are offices of emolument, they cannot be held simultaneously.

A similar, but not identical, question has arisen in this county: May a person serve as municipal judge in more than one jurisdiction at a time? This is distinguishable from JM-333 in that this person holds the *same office* in at least two (and perhaps as many as twelve) separate jurisdictions as opposed to JM-333 wherein the person sought *two separate* offices of emolument in the *same jurisdiction*.

It is our opinion that because the office of municipal judge is a civil office of emolument, *Purcell v. Carillo*, 349 S.W.2d 263 (Tex.Civ.App. San Antonio 1961, no writ) holding that position in two separate jurisdictions constitutes prohibited dual office holding as contemplated by JM-333 and Article XVI, Section 40 of the Texas Constitution. However, because this is a matter of substantial local controversy, we have been asked to pursue an opinion from your office.

Your help in this matter is greatly appreciated. Should you need any additional