

ADAIR COUNTY COMMISSION MINUTES
WEDNESDAY, OCTOBER 8, 2014

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IN THE CIRCUIT COURT OF ADAIR COUNTY, MISSOURI

FILED
OCT 08 2014
LINDA DECKER
CIRCUIT CLERK
ADAIR COUNTY

2nd Judicial Circuit, by way of
The Honorable Russell E. Steele,
Relator,

vs.

Adair County Commission,
as an entity, et al
Respondents.

Case No. 14AR-CV00603

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ORDER

This Court has been specially assigned to hear this matter by Order of the Missouri Supreme Court. This Court conducted two prehearing telephone conferences with counsel representing all parties on October 2, 2014 and October 7, 2014. Before the telephone conference, the Court reviewed all of the pleadings then-filed by the parties.

The Court understands, and this was confirmed by counsel, that the Adair County Commission and the Lewis County Commission have filed Petitions for Review of the 2014 budget proposed by the Second Judicial Circuit, Relator, with the Judicial Finance Commission. A hearing was conducted by the Judicial Finance Commission concerning the Petitions for Review on July 17, 2014 and the matter was deemed submitted under Supreme Court Operating Rule 12 on September 9, 2014. The matter is still under deliberation by the Judicial Finance Commission. The findings made in this Order are for the limited purpose of allowing temporary relief so the parties may process this matter in a timely and orderly manner without prejudice to any final findings of facts or conclusions of law as to either party that may ultimately be decided by the Judicial Finance Commission or by this Court in these proceedings.

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Subject to the ultimate resolution of the Fiscal Year 2014 disputes and for the limited purpose of this Order, the Court finds that a juvenile justice system does not operate effectively and fairly unless the juvenile is provided competent legal representation at all critical points in the process. The operation of the Juvenile Court and of the Drug Court is essential to the administration of justice for juveniles under the jurisdiction of the Second Judicial Circuit.

On or about September 18, 2014, the Relator filed a Petition seeking Writs of Mandamus and/or Prohibition. Before the Court entered a preliminary order pursuant to Rule 94.04, given the seriousness and importance of the issues involved in the lawsuit, the Respondents filed an Answer and Affirmative Defenses to the Petition and a Legal Memorandum with exhibits.

The Court acknowledges that a Writ of Mandamus typically would not be issued if there is an adequate remedy at law. However, the Supreme Court Rules governing Writs of Mandamus and Prohibition are Rules 94.01 and 97.01. They provide the following authority to this Court: "... [t]he court may, by order, direct the form of such further details of procedure as may be necessary to the orderly course of the action or to give effect to the remedy." Further, the United States Supreme Court decision *In re Gault* (1967) has held that juveniles should be provided due process in delinquency proceedings; that juveniles facing incarceration have the right to counsel and that due process is violated when the juvenile's legal interests are not protected (See also Supreme Court Rule 115). Further, the Missouri Supreme Court has provided that a Juvenile Office shall be represented by legal counsel. Based on this authority and the agreements of the parties in certain respects, the Court finds that the payment of

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attorneys serving as General Counsel to the Juvenile Office and Juvenile Division of the Second Judicial Circuit are essential to the administration of justice and the payment of attorneys appointed by the court or who have contracted with the court to provide legal services to indigent parents in Juvenile Court proceedings, including termination of parental rights proceedings, are essential to the administration of justice while the Judicial Finance Commission proceeds with the processing of the Respondents' case and/or through the processing of this matter.

Without determining any of the disputed matters related to the employment status of the Drug Court Case Manager, Kristin Rouner, and without prejudice to Respondents' positions in the two pending matters, the Court finds that this position is functioning in support of the Drug Court operations in Adair County in the Second Circuit.

Therefore, pursuant to Rules 94.01, 97.01 and 68.02, it is the Order of this court that:

a. the Respondents shall release from the escrowed funds the following amounts to the following individuals in payment of attorneys fees for services rendered (see Paragraph 17 of Relator's Petition):

- i. Philip Dale Barrett, the amount of \$5,150.00;
- ii. Wallace W. Trosen, the amount of \$5,000.00;
- iii. Meredith Morrow Ila, the amount of \$5,600.00;
- iv. C. David Rouner, the amount of \$16,000.00.

b. The new Drug Court Coordinating Commission Grant for the Relator effective July 1, 2014 did not include funding for the Drug Court Case Manager. The

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Relator appointed Kristin Rouner as an employee of the Juvenile Office to serve as the Drug/DWI Court Case Manager, effective August 1, 2014, with a salary of \$1,294.23 plus fringe benefits of \$597.31 per two (2) week pay period. This is to be paid solely from escrowed revenue generated in the part of the fiscal year commencing as of July 1, 2014 by the operations of the Normile Juvenile Justice Center. The Adair County Commission escrowed revenue generated in part of the fiscal year commencing as of July 1, 2014 by the operations of the Normile Juvenile Justice Center. The Respondents shall release escrowed funds sufficient to pay Kristin Rouner's salary and fringe benefits from August 1, 2014 until the Judicial Finance Commission renders its decision on this issue. The Court further orders that any of the disputed matters related to the employment status of the Drug Court Case Manager, Kristin Rouner, involved in this Order are without prejudice to Respondents' positions in the two pending matters.

c. This matter is set for a no more than one (1) day hearing on the merits on November 13, 2014 beginning at 9:00 A.M. The hearing shall be held at such place as this Court shall determine. The Court informs the parties that this Temporary Order in Mandamus does not waive or preclude any legal argument or issue which the parties may wish to have considered at the hearing on the merits.


d. Relator is granted ten (10) days from the date of this Order to file an Amended Petition and join additional parties.

e. Pursuant to Supreme Court Rule 68.02, within seven (7) days of this order, the current Relator, on the one hand, and the current Respondents, on the other,

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ATTEST:


County Clerk


Presiding Commissioner