

ADAIR COUNTY COMMISSION MINUTES  
WEDNESDAY, DECEMBER 17, 2014

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IN REF. ORDER NO 18 December 16, 2014 Judgment for Case No.14AR-CV00603

IN THE CIRCUIT COURT OF ADAIR COUNTY, MISSOURI

2<sup>nd</sup> Judicial Circuit, by way of  
The Honorable Russell E. Steele,  
Relator,

vs.

Adair County Commission,  
as an entity,

Carson Adams, in his official capacity  
as an Adair County Commissioner,

Mark Thompson, in his official capacity  
as an Adair County Commissioner,

Stanley Pickens, in his official capacity  
as an Adair County Commissioner,

Sandra Collop, in her official capacity  
as Adair County Clerk, and

Lori Smith, in her official capacity as  
Adair County Treasurer,

Respondents.

Case No. 14AR-CV00603

12/16/2014

**JUDGMENT**

The Court is specially appointed by the Missouri Supreme Court to hear this matter. The parties have agreed that the hearing may be held in the Circuit Court of Boone County, Missouri at Columbia Missouri. The parties are present in person with their respective attorneys.

The parties have engaged in mediation under the supervision of the Court.

Parties present for the court's consideration a Proposed Settlement Agreement (Respondents' Exhibit 53) but they have been unable to agree on one issue involving the classification of certain employees of the Juvenile Office/Juvenile Court of the Second Judicial Circuit of Missouri.

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As part of the mediation process the parties have agreed to submit this issue for determination by the Court and be bound thereby, the parties acknowledging the same in open Court.

The Court takes up the matter of the employees of the Juvenile Office/Juvenile Court. It makes the following Findings and Conclusions.

**Findings**

1. The Bruce Normile Juvenile Justice Center is located in the City of Kirksville, Adair County, Missouri. It received its first resident in December, 2000. It has 50 full and part-time employees who are designated as employees of the State of Missouri.
2. The Presiding Circuit Judge of the Second Judicial Circuit appoints and has authority over the following employee positions, in addition to the Juvenile Justice Center:
  - a. Court Services Administrator;
  - b. Deputy Juvenile Officer;
  - c. Deputy Juvenile Officer/School Liaison;
  - d. Coordinator for Community Service, Restitution, and School Mentoring Programs;
  - e. Guardian Ad Litem;
  - f. Tracker who monitors compliance by the Juvenile Offender with conditions imposed by the Juvenile Court. These six employment positions are hereinafter called the "Six Employment Positions."
3. General tax revenue from the three counties of the Second Judicial Circuit is not involved in the funding of salaries and fringe benefits for these Six Employment Positions.
4. The positions of the Tracker, the Coordinator for Community Service-Restitution-School Mentoring Programs, the Guardian ad Litem, and the Deputy Juvenile Officer/School Liaison are funded by various grants obtained by the Relator.

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5. The position of Deputy Juvenile Officer and Court Services Administrator are funded by the operations of the Juvenile Justice Center.
6. All of these positions have been in place and providing services on behalf of the Relator since the operations of the Normile Juvenile Justice Center began in December 2000.
7. Each of the positions for more than 10 years has been classified as a "County" employee with participation in the Adair County Health Benefit/Insurance Program and the Local Area Government Employee Retirement System (LAGERS) funded by reimbursement from grants and the operations of the Juvenile Justice Center.
8. Pursuant to the terms of Section 211.393.5 RSMo., the Six Employment Positions and employees who fill those positions cannot participate in the County Employee's Retirement System Fund.
9. The Six Employment Positions are vital to the administration of justice and the functioning of the Juvenile Court/Juvenile Office and the Second Judicial Circuit of Missouri.
10. The Relator has met with the Office of State Court Administration and requested that the positions in question be treated and funded as "state" employees but this request has been refused.

**Conclusions**

The Six Employment Positions are hereby classified and designated as employees of Adair County, Missouri, for purposes of the payment of salary, health insurance, retirement plan and fringe benefits. No General tax revenue shall be used to fund their salaries, health insurance, retirement plan and fringe benefits. The expense of said Six Employment Positions shall be borne completely by public or private grants or the operating revenue of the Juvenile Justice Center. The judiciary has the power to appoint all necessary staff which carries with it the right to have such appointees paid a salary commensurate with their responsibilities, the right to hire necessary

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employees cannot be denied by another branch of government, *Anderson v. State of Missouri, et al.*, 273 S.W. 3d 533, 539 citing *State ex rel. Weinstein v. St. Louis County*, 451 S.W.2d 99, 101 (Mo. Banc 1970). The ability to hire necessary employees cannot be shackled or made impotent, 451 SW2d at p. 102. The Six Employment Positions shall be funded by public or private grants or the operating revenue of the Juvenile Justice Center. Section 211.393.1(2) RSMo. as interpreted by the Missouri Supreme Court in the decision of *Cooper County v. Circuit Court of the 18<sup>th</sup> Judicial Circuit of Missouri*, 124 S.W.3d 466, 467-468 (Mo. 2004) held that any person whose position is financed in whole or in part by public or private grant did not become a state employee. *Cooper County* holds further that juvenile office employees shall be "County" employees if included in the budget submitted to the County, *id* at p. 468. This decision recognizes the necessity and importance of the Juvenile Court to be able to employ appropriate personnel. The necessity for recruiting and retaining qualified professionals to provide vital services to children in local communities is also recognized by Section 211.382 RSMo. These positions have been in existence since 2000, they provided vital services essential to the functioning of the Juvenile Justice Center and the Juvenile Court. The Respondent, Adair County Commission, is ordered to treat these positions and individuals who fill these positions as "County Employees" to the extent required by this Judgment. The written Settlement Agreement between the parties is approved to the extent that it provides that these positions will be recognized as "County" employees for the purposes of salary, retirement, and fringe benefits but that all of these financial requirements will be satisfied by either grants or the operating revenues of the Juvenile Justice Center, only, and not by General County tax revenue. Notwithstanding the foregoing, in the event any of the Six Employment Positions shall become vacant for any reason whatsoever and said vacancy shall continue for 90 consecutive days, Adair County shall no longer be obligated to classify said position as a county position, it thereafter being the responsibility of the Court to provide county-like benefits for said position if said position is later filled.

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ATTEST:   
County Clerk

  
Presiding Commissioner