

ADAIR COUNTY COMMISSION MINUTES

MONDAY, SEPTEMBER 15, 2014

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Obviously the Circuit Judge referenced in that section would in this case be the Honorable Russell Steele. Further, Chapter 211 provides for counties in third and fourth class within one judicial circuit being allowed to "establish a place of juvenile detention to serve all the counties within that judicial circuit..." As pled by Relator, and as the Court will find, there is no dispute the 2nd Circuit has established a juvenile center, that being the Bruce Normile Juvenile Justice Center (hereinafter "Juvenile Center"). Issues pertaining to that center are being raised in this lawsuit. Overall there are over 50 employees within the Juvenile Office, including the Juvenile Center, and actually fees from operating the Juvenile Center fund a significant portion of the Court's budget.

COUNTY GOVERNMENT

The governing constitution presently in Missouri is that which was enacted in 1945. That constitution recognized the existing counties that were presently legal subdivisions of the state in Article 6, Section 1. That would have included Adair County. It specifically recognized the 2nd Judicial Circuit Court in Section 478.077, which consists of "the counties of Adair, Knox and Lewis."

Article 6, Section 8 addresses the issue of number of county classifications, which shall not exceed four. Relator alleges and believes there is no dispute that the Adair County would be a county of the third class.

Further Article 6, Section 7 of the Constitution provided for the election of a county court who shall manage all county business "as prescribed by law...". The governing body of a county is the county commission which is composed of three commissioners. The jurisdiction of the commissioners is divided into two districts with a presiding commissioner. A county commission is considered an agent of the county with no power other than what has been granted by law. *Jensen v. Wilson Tp.*, 145 S.W.2d 372 (Mo. 1940).

Initially county commissions had legislative, executive and what was referred to as quasi-judicial functions, however, nearly all of the latter functions were transferred to the

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circuit court system pursuant to the 1945 constitution. *Rippeto v. Thompson*, 216 S.W.2d 505 (Mo. 1949). Even when the county commissions were vested with quasi-judicial powers, that did not authorize a commission to invade upon the operation of the court system which is vested with the judiciary. Specifically, a county commission may not micromanage the hiring and firing of personnel of other county officials. *State ex rel. Lack v. Melton*, 692 S.W.2d 302, 305 (Mo. banc 1985). Relator is not denying that a county commission does have a limited role in the budgeting process of a judicial circuit, and that will be addressed immediately below.

Lastly, as to the County Clerk and County Treasurer, they have the responsibility of processing requests for payment of claims, i.e. warrants. That is set forth in large part in Chapter 50 of the Missouri Revised Statutes. Based upon that, Relator has named them as parties in this action due to their ministerial duty of processing claims.

BUDGETING ISSUES

As noted above and the Court will know by reviewing the pleadings this dispute centers around the County Commission's attempt to intercede in the budgeting and operation of the Juvenile Office. Much of that concerns the actual budgeting process, where the County Commission basically has a ministerial role in assisting the Circuit Court in operating the Juvenile Office.

Chapter 50 basically addresses budgeting of county offices. The circuit courts' budget has special procedures which are set forth in Section 50.640-50.642. Basically a circuit court presents the budget estimate to the circuit clerk who submits it to the budget officer. Once that is presented the county commission has a role in either appropriating the amount that is requested or file a petition before the Judicial Finance Commission pursuant to Section 50.640.2. Specifically that particular provision reads in relevant part:

If the county governing body deems the estimates of the circuit court to be unreasonable, the governing body may file a petition for review with the judicial finance commission on a form provided by the judicial finance commission after the estimates are included in the county budget. An amount

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equal to the difference between the estimates of the circuit court and the amounts deemed appropriate by the governing body shall be placed in a separate escrow account, and shall not be appropriated and expended until a final determination is made by the judicial finance commission under this subsection.

Thus as can be seen, a county commission is restricted to questioning the reasonableness of the budget. As Relator sets forth below, that more than invites the interpretation that the County Commission cannot micromanage the entire budget of the Circuit Court, to which they contribute only a fraction of the funds.

As pled by Relator, the County Commission filed a Petition before the Judicial Finance Commission. It is attached to Relator's pleading. Also attached is the 2nd Circuit's response.

The authority under Section 50.640.2 RSMo does not negate the authority of the Presiding Judge of the 2nd Judicial Circuit to operate the Juvenile Office, especially as pertains to funds that have absolutely nothing to do with the general tax revenue of Adair County. The general tax base of Adair County only contributes approximately 16% of the \$1.4 million budget, as it only contributes a portion of the 23% from general revenue of the three counties. Basically what the County Commission is attempting to do is through only appropriating a fraction towards the budget of the 2nd Circuit, manage the entire office of the 2nd Circuit, including, but not necessarily limited to, the Juvenile Office. The County Commission has no statutory authority to operate the Juvenile Office.

SPECIFICS AS TO FUNDING PERTAINING TO THE 2ND JUDICIAL CIRCUIT

The proposed budget of the 2nd Judicial Circuit totaled \$1,435,122.92 for fiscal year 2014. Seventy-seven percent of that would be funded by money having nothing to do with not only the Adair County Commission's contribution through Adair County's tax base. As noted above, the entire contribution from the general tax base of the

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counties that comprise the 2nd Judicial Circuit is 23%. The remaining 77% of the revenue is generated in part through grants of public and private agencies, donations and fees, which as to the latter is generally accomplished by the 56 employees involved in the operation of the Juvenile Office and the Bruce Normile Juvenile Justice Center.

Basically what the County Commission is attempting to do is through their approximate 16% contribution to the overall budget is to control the entire budget. Relator would contend that is not only contrary to their statutory authority, but would violate Article 2, Section 1 of the Constitution as to separation of powers. As noted above, the County Commission only has that power which is provided by statute, and Relator would contend there is no statutory authority for the Commission to be taking the actions that they are.

The bottom line is there are existing contracts between the 2nd Judicial Circuit and attorneys Philip Dale Barrett, Wallace W. Trosen, and Meredith Illa, for providing legal services to indigent parents in the Juvenile Court. It is not only important but necessary to have attorneys representing those clients, as the absence of their representation raises constitutional due process issues.

Further, there is a contract between the 2nd Judicial Circuit and C. David Rouner to represent the Juvenile Office, as referenced in the Petition. The requirement that the Juvenile Court be represented by an attorney is mandated by the Missouri Supreme Court. Thus when entering into the contract with Mr. Rouner, the 2nd Judicial Circuit was complying with a Supreme Court mandate. The Respondents are refusing to honor that contract and make payments that are due Mr. Rouner.

All contracts pled and referenced in the Petition have been in full force and effect for several years, and payments were made on those contracts even after the County Commission filed their petition with the Judicial Finance Commission. It is only since June that no further payments have been forthcoming. This could put the 2nd Circuit in potential breach of the contracts.

As illustrated in the pleading for the Writs, and as stressed elsewhere in these suggestions, the funding for the payment of those services has nothing to do with the tax base of Adair County or any of the counties within the 2nd Judicial Circuit. Nearly three-

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ATTEST:


County Clerk


Presiding Commissioner