

# ADAIR COUNTY COMMISSION MINUTES MONDAY, SEPTEMBER 15, 2014

Continued from page 473

fourths of the funds utilized for the operation of the 2<sup>nd</sup> Judicial Circuit, which includes the Juvenile Office, are generated through grants, fees and services, and donations.

Further, Ms. Rouner's position would be funded from the same account as it has been historically. It is true that the grant that had historically paid her contract was not renewed and/or received, but the money would come from the nearly \$480,000.00 that is currently in Fund #907. Her work aids in the administration of the Juvenile Office, especially as it pertains to the statutory mandate of family reunification.

It would be improper to utilize Section 50.640 RSMo to allow the County Commission to intercede upon the Circuit Court as pertains to funds which have nothing to do with appropriations by the County Commission through the Adair County taxpayers. The requests presented by the 2<sup>nd</sup> Judicial Circuit for appropriations from Adair County were only pertaining to the issues of maintenance, mortgage and insurance. There was no request by the 2<sup>nd</sup> Circuit to provide any funding for the payment of the attorneys' fees that the Respondents are now refusing to process. Nor was there any request to fund Ms. Rouner's position from general revenue.

When pursuant to Section 56.640 the Judicial Finance Commission makes its determination on what is objected to, it is to contemplate and consider whether "the expenditures necessary to support the circuit court in relation to the expenditures necessary for the administration of all other county functions ..." This sentence invites the interpretation that those funds which are appropriated specifically by Adair County through general tax revenue should be subject to the objection to the budgetary process, as 77% of the revenue generated every year is beyond any appropriations from the three counties making up the 2<sup>nd</sup> Judicial Circuit. To interpret otherwise would allow the County Commission and potentially other county officers to manage the Juvenile Office, including whether attorneys will represent indigent clients, and more importantly whether the Juvenile Office complies with the Supreme Court mandate that it be represented by an attorney while in court.

9

## PROCEDURAL ISSUES

As the Court will note, Relator is asking for Writs of Mandamus and Prohibition. The Relator does not deny that Writs are extraordinary remedies but in this situation extraordinary remedies are necessary. Respondents are inhibiting and interfering with the administration of justice and Relator's legal and statutory responsibility of operating the Juvenile Office within the 2<sup>nd</sup> Judicial Circuit.

Relator would contend that through the pleadings clearly established rights are established and a Writ of Mandamus should lie. Specifically, Relator in his capacity as Presiding Judge entered into contracts with three attorneys for representation of indigent parents in the Juvenile Court. That is set forth in Paragraph 16, and copies of those contracts are attached to the Petition. Those contracts were in full force and effect at the time of the Commission's refusal to compensate the attorneys for services rendered. The same goes for Mr. Rouner's appointment as it pertains to representing the Juvenile Office.

As to Ms. Rouner's position, that is addressed above, but the County Commission would have no jurisdiction to interfere with that appointment. It cannot be stressed enough that no tax money from Adair County would be utilized to pay for that position, nor was it ever requested of the County Commission in the budgeting process to fund Ms. Rouner's position.

Relator is also asking for a Writ of Prohibition which would be an order obviously of this Court prohibiting, in certain specific circumstances, Respondents' interfering with Relator's legal obligations of operating the Juvenile Office, including the contracts that the 2<sup>nd</sup> Judicial Circuit has entered into, and appointments made to fill certain vital positions. Further, all Respondents should be prohibited from transferring the approximate \$480,000.00 surplus that has been identified in Fund #907 to the general operating fund of Adair County. No appropriations from Adair County or any of the tax bases in the 2<sup>nd</sup> Judicial Circuit can be traced to that \$480,000.00. The money that had been appropriated from the tax base has been spent, as noted above, for the requested purpose of mortgage, maintenance and insurance.

10

## CONCLUSION

Relator is not denying that there is currently a dispute before the Judicial Finance Commission. Relator has in his capacity of Respondent raised the issue that there are certain objections by the County Commission which the Judicial Finance Commission does not have jurisdiction. That is not resolved yet, but that would not be lethal to this request for Writs of Mandamus or Prohibition.

Looking at this practically, if this Court would interpret that a circuit court has no ability to intercede with a Writ in this fashion, any county commission could file an objection, for example, in February of a particular year and bring certain important functions of a circuit court to a standstill. In this case, that is exactly what happened, and over six months later there has been no ruling on the issues presented. To a certain extent, that brings the operation of the Circuit Court generally, and more specifically the Juvenile Office to a standstill. It leads to potentially dishonoring contracts. It leads to important due process issues when indigent people may not be able to be represented by a Court appointed attorney.

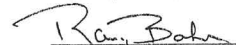
No law is to be interpreted as if it is absurd. *State ex rel. Blaine v. Lack*, 692 S.W.2d at 304, citing other case law. The requested relief of Relator at this time is only to the existing contracts which were in place for a number of years, as can be seen through the exhibits, and the representation of the attorneys has continued. The representation of in the Juvenile Court of defendants and/or parents who qualify is critical for the discharge of justice.

Further, Ms. Rouner's position is important to the administration of the 2<sup>nd</sup> Judicial Circuit generally, and the Juvenile Office more specifically. It aids in the statutory mandate of looking towards reunification. No funds from Adair County or any county as to the general tax base will be utilized to pay her salary, or any expenses of her position. Based upon that, neither the County Commission, nor any Respondent should

11

be allowed to intercede with Ms. Rouner's ongoing appointment, and the representation of the attorneys which are being provided under contract.

Respectfully Submitted,



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12

ATTEST:

  
County Clerk

  
Presiding Commissioner