

COUNTY COURTS:
BOUNTIES:

A county court may inquire into the validity of a bounty claim made against the county before paying such claim and ~~that~~ if after such investigation, which may include evidence offered by any person or persons, the court is satisfied that the claim is fraudulent, it may refuse to pay.

April 9, 1952

Honorable John H. Mittendorf
Prosecuting Attorney
Johnson County
Warrensburg, Missouri



Dear Sir:

This department is in receipt of your recent request for an official opinion. You thus state your opinion request:

"Some question has arisen in this County as to the duty of the County Court with regard to payment of bounty for wolves killed within the County.

"Recently a man filed claim with the County Clerk for the bounty and filed the necessary affidavit as provided by statute. An interested group appeared before the County Court and offered evidence to the effect that the claimant had not killed the wolf. Under the circumstances, is the County Court justified in hearing evidence as to the claim and does the County Court have any discretion in allowing the claim when the affidavit is filed?"

We direct your attention to Section 279.010, RSMo 1919, which states:

"The county court of any county in this state may pay a bounty of twenty dollars each for any grown coyote or wolf and five dollars each for any coyote or wolf pup which may be killed in such county, also a bounty of five dollars for each grown wildcat, and three dollars for each wildcat kitten which may be killed in such county; provided, that each such bounty shall not be paid for any coyote, wolf, wildcat, the pups of coyotes or wolves

Honorable John H. Mittendorf

or kittens of wildcats which may have been raised in captivity either within or without this state; provided further, that a coyote or wolf pup and a wildcat kitten shall be deemed such when under ten weeks old; provided, also, that it shall be unlawful to import into this state any such animals except for exhibition purposes and then only under permit as otherwise provided for by the statutes of this state."

However, the above section was amended by House Bill No. 344, passed by the 66th General Assembly, signed by the Governor on December 13, 1951, to become effective March 18, 1952. Section 279.010, supra, as amended, reads as follows:

"The county court of any county in this state shall pay a bounty of thirty dollars each for any grown coyote or wolf and five dollars each for any coyote or wolf pup which may be killed in such county, also a bounty of five dollars for each grown wildcat, and three dollars for each wildcat kitten which may be killed in such county; provided, that each such bounty shall not be paid for any coyote, wolf, wildcat, the pups of coyotes or wolves or kittens of wildcats which may have been raised in captivity either within or without this state; provided further, that a coyote or wolf pup and a wildcat kitten shall be deemed such when under ten weeks old; provided, also, that it shall be unlawful to import into this state any such animals except for exhibition purposes and then only under permit as otherwise provided for by the statutes of this state."

In an opinion rendered by this department on March 24, 1952, to Honorable Gene Frost, Prosecuting Attorney of Jasper County, this department held:

"It is therefore the opinion of this department that the county on and after March 18, 1952, shall pay the sum of \$30.00 for any grown coyote or wolf and

Honorable John H. Mittendorf

the sum of \$5.00 for each coyote or wolf pup which may be killed in the county and that the state treasurer shall reimburse the county treasurer two-thirds of all bounties paid by such county."

Section 279.020, RSMo 1949, states:

"1. Any person claiming the bounty under this chapter shall produce the whole pelt of the coyote, wolf or wildcat, wolf or coyote pup, or wildcat's kitten and exhibit the same for inspection by the clerk of the county court within ten days after the killing of such wild animal or animals, and shall take and subscribe an oath or affirmation that the pelt or pelts produced and exhibited by him had been killed by himself within the ten days last past and within such county, and that such pelt or pelts were not taken from any wolf or wolves, wildcat or wildcats, coyote or coyotes, or from wolf or coyote pup or pups or wildcat kitten or kittens raised by him or any other person or persons of whom he had knowledge that such animals were raised in capitivity.

"2. Following such oath or affirmation the said clerk of the county court shall then and there cause the ears of each wild animal pelt or pelts to be perforated by use of an ordinary gun wad cutter or similar device capable of removing a portion of the ears of such animal or animals, which said portion of said ears so removed shall not be smaller than the size of the bore of a twelve-bore shotgun, but not enough larger to spoil the value of such pelt or pelts to be used for commercial purposes. The said pieces so removed shall be known as 'scalps' of said animals in describing said pieces for any and all purposes connected with the payment of the bounty paid for the destruction of wildcats, wolves, coyotes, or their young. No bounty shall be paid for the scalps obtained from pelts of such animals unless

Honorable John H. Mittendorf

the same are in a green or uncured condition. The pelts of such animals shall be returned to the owners of them after the scalps have been removed by the county clerk.

"3. Any person or persons who shall violate or attempt to violate any of the requirements of this section shall be guilty of a misdemeanor."

Section 279.030, as amended by House Bill No. 344, supra, reads:

"The clerk shall preserve all such scalps until the next regular term of the county court, when he shall produce such scalps to the county court and the court shall cause warrants to be made for the amount of bounty due to such claimant and shall forthwith order all such scalps to be destroyed by burning in the presence of the county court. The clerk shall thereupon certify to the state comptroller the name and address of the claimant for such bounty and the amount of bounty paid by the county, which shall be audited by the state comptroller, and upon approval by the state comptroller and the state auditor, the state treasurer shall refund to the treasurer of such county two-thirds of all bounties so paid by such county."

From the above it would seem to be clear that it is mandatory upon a county court to pay the bounty that is provided for in Section 279.010, as amended, if the provisions of Section 279.020, supra, are followed by the claimant. The question which you raise is whether it is mandatory upon a county court to pay the bounty or bounties provided for in Section 279.010, supra, as amended, if the claimant follows the provisions of Section 279.020, supra, by stating under oath that the animals upon which the bounty or bounties claimed were killed by him within ten days of the time of their presentation to the clerk of the county court, within the county in which the bounty claim is made, and that such animal or animals were not raised by him or by any other person, or do Sections 279.010, as amended, 279.020, and 279.030, as amended, permit the county court to inquire into and hear

Honorable John H. Mittendorf

evidence upon the statement by the claimant required by Section 279.020, supra, as to whether such statement is true or false, before the county court allows the claim?

It would seem to us that the county court not only may, but that it is duty-bound to satisfy itself that the bounty claim is valid, and is not based upon fraud, before it pays out county and state money to a claimant under Section 279.010, supra, as amended, and that if, after such inquiry, the county court is convinced that the claim is fraudulent, it may and should refuse to pay the bounty.

At the outset it must be admitted that the right of the county court of inquiry into bounty claims, and the refusal of the court to pay such claims if they find them to be fraudulent, is not apparent upon the face of Sections 279.010, 279.020, and 279.030, supra. These sections simply hold that if a claimant makes a certain statement under oath the county court should pay the bounty. We must therefore look elsewhere for authority to support the position which we have assumed above.

In this connection we would direct your attention to Section 50.160, RSMo 1949, which section states:

"The county court shall have power to audit, adjust and settle all accounts to which the county shall be a party; to order the payment out of the county treasury of any sum of money found due by the county on such accounts; to enforce the collection of money due the county; to order suit to be brought on bond of any delinquent, and require the prosecuting attorney for the county to commence and prosecute the same; to issue all necessary process to secure the attendance of any person, whether party or witness, whom they deem it necessary to examine in the investigation of any accounts; and in order to procure the exhibition or delivery to them of any accounts, books, documents or other papers, the said court may issue process directed to the person in whose custody or care the said accounts, books, documents or other papers may be, commanding him to deliver or transmit the same to said court, which process shall be served by the sheriff; and the said court may examine all parties and witnesses on

Honorable John H. Mittendorf

oath, touching the investigation of any accounts, and if any person, being served with such process shall not appear according to the command thereof, without reasonable cause, or if any person in attendance at any hearing or proceeding shall, without reasonable cause, refuse to be sworn or to be examined, or to answer a question or to produce a book or paper, or to subscribe or swear to his deposition, he shall be deemed guilty of a misdemeanor; provided, that if the county court finds it necessary to do so, it may employ an accountant to audit and check up the accounts of the various county officers."

We would also direct your attention to Section 50.170, RSMo 1949, which states:

"When a demand against a county is presented to the county court, the usual form of entry may be exemplified thus:

"A B v. county. The account of A B for the sum of dollars being presented and inquired into, it is found by the court that the sum of dollars is due him from the county, payable out of (express the particular fund, as the case may require), and for which the clerk is ordered to issue a warrant."

In the case of State ex rel. Becker v. Wehmeyer, 113 S.W. (2d) 1031, the Court was construing the power of a county court to audit and settle demands against the county. At l.c. 1033, the Court stated:

"This follows from the fact that as a part of the jurisdiction with which county courts have been invested they have been given the power and duty of auditing and settling all demands against the county. Sections 2078, 12162, R.S.Mo. 1929, Mo. St. Ann. Sections 2078, 12162, pp. 2658, 6446. While it is true that in the performance of this duty a county court does not act judicially but only in an administrative capacity as the

Honorable John H. Mittendorf

fiscal agent of the county, yet it does not act without regard to its own judgment or opinion in the matter, but instead is called upon to exercise a discretion which is vested in it for the purpose of enabling it to protect the county from unjust or incorrect claims. Perkins v. Burks, supra."

In the case of State ex rel. Mitchell v. Rose, 281 S.W. 396, the Court stated, l.c. 397:

"The exact amount to which the local registrar may become entitled is not fixed by the foregoing statute, except as it depends upon the number of births and deaths occurring in his district, as ascertained by the state registrar from reports made by relator, thus establishing a debt against the county without affording the court an opportunity to examine and audit the account, and compelling the county court to disburse county funds on account of a report of births and deaths of which it may have evidence at hand did not occur. Although the Legislature has the power to provide for the payment of the fees to which the relator might be entitled out of the county treasury, it cannot take away from the county court the right to call in question both the facts and the law on which the payment of such fees is demanded. If the county court has no right to raise the question as to whether or not the number of births and deaths as certified to it by the state registrar in fact occurred, then the county court must go on paying the fees demanded by the relator as certified to the county court, regardless of the fact whether or not such reports are correct.

"The various provisions of the Constitution and statutes (articles 6, sec. 36, Const. of Mo., and sections 2574 and 9560, R.S. Mo. 1919) demonstrate that it is not only within the power, but is the duty, of the county court to look after public funds, examine, audit, adjust, and settle all accounts to which the county shall be a party, and to

Honorable John H. Mittendorf

pay out of the county treasury any sum of money found to be due by the county on such accounts; in short, responsibility for the safety of public funds, the accuracy and honesty of accounts, and statements of officials, is imposed on the county courts. It is for the county court to audit the claim of the relator to determine the correctness of same and to say whether it will demand that the correctness of the reports made to it by the state registrar shall be decided by the judicial department of the government before payment is made. State ex rel. Forgrave v. Hill et al., 198 S.W. 844, 272 Mo. 206, loc. cit. 213."

From the above it would, as we said, seem to be clear that it is the duty of the county court to inquire into all claims which are made against it, before paying such claims, and to refuse to pay such claims as it deems to be unjust or fraudulent.

Finally, we direct attention to Section 558.250, RSMo 1949, which states:

"Any member of the county court, common council or board of trustees, or officer or agent of any county, city, town, village, school township, school district, or other municipal corporation, who shall, in his official capacity, willfully or corruptly vote for, assent to or report in favor of, or allow or certify for allowance, any claim or demand, or any part thereof, against the county, city, town, village, school township, school district, or other municipal corporation, of which he is such officer or agent, or against the county court, common council or board of trustees of which he is a member -- such claim or demand, or part thereof, being for or on account of any contract or demand or service not authorized or made as provided or required by law -- every such person so offending shall, on conviction, be punished by imprisonment in the penitentiary not more than five years, or by a fine of not less

Honorable John H. Mittendorf

than one hundred nor more than five thousand dollars, or by imprisonment in the county jail not less than two nor more than twelve months, or by both such fine and imprisonment."

In the light of the above section, would any one say that if a county court or any member or members thereof had personal knowledge, or proof, that an animal upon which a bounty was claimed was killed outside the county or that claim was not made within ten days after the animal was killed, or that the animal had been raised by claimant or by some other person and that claimant's statement, under oath, in regard to these matters was false, that the court should go ahead and pay the claim? We think not.

CONCLUSION

It is the opinion of this department that a county court may inquire into the validity of a bounty claim made against the county before paying such claim and that if after such investigation, which may include evidence offered by any person or persons, the court is satisfied that the claim is fraudulent, it may refuse to pay.

Respectfully submitted,

HUGH P. WILLIAMSON
Assistant Attorney General

APPROVED:



J. E. WAYLOR
Attorney General

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