

CIRCUIT CLERK AND
RECORDER, DEPUTIES:

A deputy in the office of circuit clerk
and recorder must reside in the county
three months before appointment.



June 9, 1952

6/9/52

Mr. Gaylord P. O'Connor
Prosecuting Attorney
Pike County
Bowling Green, Missouri

Dear Mr. O'Connor:

We have given careful consideration to your request for
an opinion, which request is as follows:

"I would like to submit to you the follow-
ing question for your opinion:

"May the Recorder of Deeds and Ex-officio
Circuit Clerk in a third class county ap-
point a Deputy Circuit Clerk who is not a
resident of the County from which the
Recorder was elected?"

Section 8 of Article VII of the Constitution of Missouri
is as follows:

"No person shall be elected or appointed
to any civil or military office in this
state who is not a citizen of the United
States, and who shall not have resided
in this state one year next preceding his
election or appointment, except that the
residence in this state shall not be
necessary in cases of appointment to
administrative positions requiring
technical or specialized skill or knowledge."

It is herein provided that any public officer, with certain
exceptions, must reside in the state one year next preceding his
election or appointment. But nothing is contained in the Consti-
tution to require prior residence in the county in which the
officer is to serve. This is a matter to be determined by
statute.

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Section 59.300, RSMo 1949, is as follows:

"The circuit clerk and recorder in counties of the fourth class, and in counties of the third class wherein the offices shall have been combined, as recorder of the county, may appoint in writing one or more deputies, to be approved by the judge of the circuit court, which appointment with the like oath of office as their principals, to be taken by them and endorsed thereon shall be filed in the office of the county clerk. Such deputy recorders shall possess the qualifications of clerks of courts of record, and may, in the name of their principals, perform the duties of recorders of deeds, but all circuit clerks and recorders and their sureties shall be responsible for the official conduct of their deputies."

This statute governs the appointment and qualifications of deputy circuit clerks and recorders in counties where the two offices are combined, and such deputies must have the same qualifications as clerks of courts of record.

Section 483.010, RSMo 1949, is as follows:

"No person shall be appointed or elected clerk of any court, unless he be a citizen of the United States, above the age of twenty-one years, and shall have resided within the state one whole year, and within the county for which he is elected three months before the election; and every clerk shall, after his election, reside in the county for which he is clerk."

This statute, defining the qualifications of all clerks of courts of record, requires any such clerk serving as a county officer to reside in the county three months before his election, and this qualification applies to a deputy appointed under Section 59.300, supra.

These particular sections of the law have not been construed by the appellate courts of this state, but the rule of

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construction has been defined in many cases. The Supreme Court of Missouri in State ex rel. v. Board of Education, 294 Mo. 106, l.c. 115, said: "It is also a cardinal rule that when the language is plain, there can be no construction because there is nothing to construe." We now hold that the language of the statutes quoted above is entirely clear, and the plain meaning of the law should be observed.

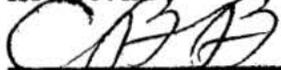
CONCLUSION

It is the opinion of this office that a deputy in the office of circuit clerk and recorder in a third-class county must reside in the county three months before being appointed to such office.

Respectfully submitted,

B. A. TAYLOR
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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