

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

January 11, 2019

Honorable Barbara Blackmon
Attorney, Claiborne County Board of Supervisors
Post Office Box 105
Canton, Mississippi 39046-0105

Re: Appointment of Temporary Justice Court Judge

Dear Senator Blackmon:

Attorney General Jim Hood is in receipt of your opinion request and has assigned it to me for research and reply.

Facts

In your letter, you explain that one of the Claiborne County Justice Court Judges has informed the Board of Supervisors that she will be temporarily unable to hold court for a time that will exceed thirty days due to medical leave. The other Justice Court Judge of Claiborne County has informed the Board of Supervisors that due to short notice and prior commitment, she is not able to hold court for the temporarily absent judge as she is unavailable during the weeks the absent judge is scheduled on the court calendar. By way of a telephone call, she confirmed with our office that she has other employment scheduled during the weeks she is not on the calendar.

Question Presented

Whether the Claiborne County Board of Supervisors can appoint another Justice Court Judge for the one who will be out for more than the thirty (30) day period, or if according to Section 9-11-31 of the Mississippi Code Annotated, the other Justice Court Judge is required to hold Court because we have more than one judge.

Legal Research and Response

Section 9-11-31 provides:

(1) When any justice court judge is unable, by reason of being under any

Honorable Barbara Blackmon
January 11, 2019
Page 2

suspension by the Commission on Judicial Performance or the Mississippi Supreme Court, or by reason of sickness or other disability, to attend and hold court at the time and place required by law to do so for a period of time in excess of thirty (30) consecutive days, and due to such inability to attend and hold court there is no judge to hold court in such county, the board of supervisors of the county in which such judge serves shall appoint another justice court judge of the county or an adjoining county or a municipal court judge to attend and hold said court and perform all the duties of such judge during such suspension or disability.

(2) Any presently sitting justice court judge appointed pursuant to subsection (1) of this section shall receive no additional compensation for his or her service. Any other person so appointed shall, for the period of his service, receive compensation from the county for each day's service a sum equal to 1/260 ths of the current salary in effect for justice court judges.

The plain language of the statute provides that when a justice court judge is temporarily unable to attend and hold court for a period of time in excess of thirty consecutive days due to sickness or other disability, and due to such sickness or disability there is no judge to hold court in such county, the board of supervisors shall appoint another judge to attend and hold court and perform all the duties of the absent judge. Pursuant to Section 9-11-31, the individual appointed shall be " . . . another justice court judge of the county or an adjoining county or a municipal court judge to attend and hold said court and perform all the duties of such judge during such suspension or disability."

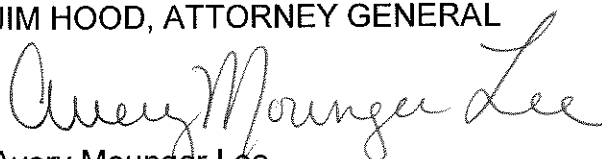
As explained in your letter, Claiborne County is divided into two districts and, therefore, has two justice court judges. However, the Justice Court Judge presently sitting in the other district of the county is unavailable to hold court during the weeks set on the court calendar for the temporarily absent judge. Consequently, it is the opinion of this office that, as a result of the lack of availability of the remaining sitting judge, the Claiborne County Board of Supervisors may appoint a justice court judge of an adjoining county or a municipal court judge to attend and hold court during the time the absent judge is on medical leave.

If this office may be of any further assistance to you, please let us know.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:


Avery Mounger Lee
Special Assistant Attorney General