



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

November 29, 2021

The Honorable C. Grant Hedgepeth
Jones County Justice Court Judge
5180 Highway 11 North
Ellisville, Mississippi 39437

Re: Jurisdiction of Justice Court Over Felony Charges

Dear Judge Hedgepeth:

The Office of the Attorney General has received your request for an official opinion.

Question Presented

At what point does a justice court lose jurisdiction over a felony offense?

Brief Response

A justice court loses jurisdiction over a defendant charged with a felony offense when either the defendant is bound over to the grand jury or the defendant waives the preliminary hearing.

Applicable Law and Discussion

Mississippi Code Annotated Section 99-33-1 states, in pertinent part, that “justice court judges shall have jurisdiction concurrent with the circuit court of the county over all crimes occurring in the county whereof the punishment prescribed does not extend beyond a fine and imprisonment in the county jail.” Miss. Code Ann. § 99-33-1(2). Section 99-33-13 prohibits a justice court judge from punishing an offender or rendering any final judgment at the trial of any criminal case where the justice court judge discovers the crime was a felony rather than a misdemeanor. Instead, the judge must require the defendant to give bail for his appearance in circuit court, unless the felony is not bailable, in which case, the defendant should be committed without bail. Miss. Code Ann. § 99-13-13. However, Sections 99-33-1 and 99-33-13 allow the grand jury to remand a case to a justice court to be tried as a misdemeanor. MS AG Op., *Turnage* at *1 (Dec. 1, 2014).

We have previously opined that Sections 99-33-1 and 99-33-13 “limit the criminal jurisdiction in justice court to misdemeanors and provide[s] for the proper procedure for processing criminal

Hon. C. Grant Hedgepeth

November 29, 2021

Page 2

matters of a felony nature.” MS AG Op., *McLarty* at *1 (Apr. 9, 1984). Furthermore, we have described a justice court’s role in a felony charge stating, “[a] justice court’s jurisdiction in felony cases is limited to acting as a conservator of the peace to preliminary matters, i.e. determining probable cause, issuing warrants, setting bonds and conducting initial appearances and preliminary hearings. Therefore, a felony case cannot be tried in justice court.” MS AG Op., *Regan* at *1 (May 10, 1996). As such, it has been and remains the opinion of this office that a justice court loses jurisdiction over a defendant charged with a felony offense when the defendant is bound over to the grand jury or waives his right to a preliminary hearing. MS AG Op., *Wood* at *1 (July 25, 2003); MS AG Op., *Hemphill* at *1 (Sept. 30, 2011) (“Justice Court retains jurisdiction of the case, including revocation of bond, until the defendant is bound over to the grand jury or the defendant waives the preliminary hearing.”).

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ *Abby Overby*

Abby Overby
Special Assistant Attorney General

OFFICIAL OPINION