



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS

May 13, 2020

Wade White, Esq.  
Attorney for the Neshoba County Board of Supervisors  
501 Main Street  
Philadelphia, Mississippi 39350

Re: Bailiff Fees

Dear Mr. White:

The Office of the Attorney General is in receipt of your request for the issuance of an official opinion.

### **Question Presented**

Are County Constables, who serve as bailiffs, paid for attendance per day, per session or per session, per judge?

### **Brief Response**

A constable is paid for each day, or part thereof, for civil and criminal cases, regardless of the number of judges he or she serves as bailiff for that day. Thus, a constable, serving as bailiff, may receive a fee of \$55.00 for attending each day or portion of a day in a civil case and may receive a fee of \$55.00 for attending each day or portion of a day for attending a criminal case on the same day for a combined total of \$110.00 if serving as a bailiff in both a civil case and criminal case on the same day. *See*, MS AG Op., *Dulaney* (October 26, 2007).

### **Applicable Law and Discussion**

The fee for a constable to serve as bailiff in a civil case<sup>1</sup> and the fee for a constable to serve as a bailiff in a criminal case<sup>2</sup> are both set by reference to Miss. Code Ann. Section 19-25-31, which

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<sup>1</sup> *See*, Miss. Code Ann. Section 25-7-27(e).

<sup>2</sup> *See*, Miss. Code Ann. Section 19-19-8.

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states, in part, as follows:

. . . Any such person so employed shall be paid by the county on allowances of the court on issuance of a warrant therefor in an amount of Fifty-five Dollars (\$55.00) for each day, or part thereof, for which he serves as bailiff when the court is in session. . . .

This office has previously opined that:

[a] constable may serve as bailiff for more than one judge. However, the constable may only receive payment for each day or part thereof, for civil or criminal court, regardless of the number of judges he serves as bailiff on a given day. If the constable serves in both civil court and criminal court on the same day he may be entitled to a \$40.00 fee in the civil court<sup>3</sup> and a \$55.00 fee in the criminal court for a total of up to \$95.00 for that day's service as bailiff.

MS AG Op., *Dulaney* (October 26, 2007); *see also*, MS AG Op., *Pratt* (October 3, 2008).

Based upon the applicable statutes, it is the opinion of this office that a constable is paid per day, or part thereof, for his or her service as a bailiff in civil cases, and separately, for his or her service as a bailiff in criminal cases. A constable who serves as a bailiff in civil case(s) only on a single day is entitled to receive a \$55.00 fee pursuant to Sections 25-7-27(e) and 19-25-31. A constable who serves as a bailiff in criminal case(s) only on a single day is entitled to receive a \$55.00 fee pursuant to Sections 19-19-8 and 19-25-31. A constable who serves as a bailiff in both a civil and criminal cases in one day would be entitled to a total fee of \$110.00.

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/ *Emiko Hemleben*

Emiko Hemleben  
Special Assistant Attorney General

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<sup>3</sup> Since the issuance of the *Dulaney* opinion, Miss. Code Ann. Section 19-25-31 was amended to increase the fee in a civil case from \$40.00 to \$55.00.