



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

September 29, 2020

The Honorable Carlos D. Palmer  
Greenwood Municipal Court Judge  
406 Main Street  
Greenwood, Mississippi 38935

Re: Establishment of Municipal Veterans Misdemeanor Treatment Court

Dear Judge Palmer:

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

#### **Question Presented**

May the Greenwood Municipal Court establish a municipal veterans misdemeanor treatment court?

#### **Brief Response**

No, the Greenwood Municipal Court may not establish a municipal veterans misdemeanor treatment court because only the Mississippi Legislature may establish an inferior court, and it has empowered circuit courts of Mississippi sole authority to operate veterans treatment courts.

#### **Applicable Law and Discussion**

Mississippi Code Annotated Section 21-23-7 provides the manner in which a municipal court shall operate and sets forth certain powers that a municipal court judge enjoys. That section provides, in pertinent part:

The municipal judge shall have the power to establish and operate a probation program, dispute resolution program *and other practices or procedures appropriate to the judiciary and designed to aid in the administration of justice.* Any such program shall be established by the court with written policies and procedures filed with the clerk of the court for public record.

Miss. Code Ann. § 21-23-7(5) (emphasis added). While this section authorizes a municipal court judge to “establish and operate” “other practices or procedures appropriate to the judiciary and designed to aid in the administration of justice,” there is no explicit grant of authority to establish a veterans treatment court, or any other kind of intervention court.

We have previously addressed the scope of Section 21-23-7(5)’s generalized grant of authority for a municipal court judge to “establish and operate” “other practices or procedures appropriate to the judiciary and designed to aid in the administration of justice.” *See* MS AG Op., *Dawson* at \*2 (Jan. 23, 2004). In *Dawson*, we opined that this language within Section 21-23-7(5) did not grant a municipal court judge authority to non-adjudicate offenses because the Legislature had already addressed that issue, finding that “we are of the opinion that as the field of non-adjudication has been specifically addressed by the Legislature in Section 99-15-26, that a municipal judge may not, by local rule, establish procedures for non-adjudications.” *Id.* at \*2.

Similarly, the Legislature has specifically addressed the establishment of veterans treatment courts and has chosen to vest authority to operate such courts within the circuit courts of the state. Mississippi Code Annotated Section 9-25-1 provides, in pertinent part:

(1) The Legislature recognizes that our military veterans have provided an invaluable service to our country. In doing so, many may have suffered the effects of, including, but not limited to, post-traumatic stress disorder, traumatic brain injury and depression, and may also suffer drug and alcohol dependency or addiction and co-occurring mental illness and substance abuse problems. As a result of this, some veterans come into contact with the criminal justice system and are charged with felony offenses. There is a critical need for the justice system to recognize these veterans, provide accountability for their wrongdoing, provide for the safety of the public, and provide for the treatment of our veterans. *It is the intent of the Legislature to create a framework for which specialized veterans treatment courts may be established at the circuit court level and at the discretion of the circuit court judge.*

(2) Authorization. *A circuit court judge may establish a Veterans Treatment Court program.* The Veterans Treatment Court may, at the discretion of the circuit court judge, be a separate court program or as a component of an existing intervention court program. At the discretion of the circuit court judge, the Veterans Treatment Court may be operated in one (1) county within the circuit court district, and allow veteran participants from all counties within the circuit court district to participate.

Miss. Code Ann. § 9-25-1(1)–(2) (emphasis added). Because the Legislature has addressed the issue of veterans treatment courts, without reference to municipal courts, we are of the opinion that a municipal court may not, on its own, establish such a court.

Moreover, only the Legislature is empowered to establish inferior courts. *See* MISS. CONST. art. VI, § 172 (“The Legislature shall, from time to time, establish such other inferior courts as may be necessary, and abolish the same whenever deemed expedient.”); *see also* *Miss. Jud. Performance Comm’n v. Thomas*, 549 So. 2d 962, 964 (Miss. 1989) (noting Legislature’s authority to create

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inferior courts). Accordingly, absent statutory authorization by the Mississippi Legislature, a municipal court cannot establish an inferior court.

For these reasons, this office is of the opinion that the Greenwood Municipal Court may not establish a municipal veterans misdemeanor treatment court.

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/ Gregory Alston*

Gregory Alston  
Special Assistant Attorney General

OFFICIAL OPINION