



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

July 13, 2021

Christopher D. Hemphill, Esq.
Caledonia Town Attorney
Post Office Drawer 1426
Columbus, Mississippi 39703

Re: Fees and Fines for Violation of Municipal Ordinances

Dear Mr. Hemphill:

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

Question Presented

If the Town of Caledonia (the "Town") adopts an ordinance making certain specified misdemeanors a violation of town ordinance, would the municipal court continue to collect and remit to the State of Mississippi those fees, assessments, costs and fines that have previously been remitted to the State?

Response

Yes. State assessments collected pursuant to Mississippi Code Annotated Section 99-19-73 must be remitted to the state. Municipal fines, fees, and court costs, such as those collected pursuant to Section 21-23-7, would remain with the municipality.

Applicable Law and Discussion

Section 21-13-19 provides:

All offenses under the penal laws of this state which are misdemeanors, together with the penalty provided for violation thereof, are hereby made, without further action of the municipal authorities, criminal offenses against the municipality in whose corporate limits the offenses may have been committed to the same effect as though such offenses were made offenses against the municipality by separate ordinance in each case. However, for such misdemeanor, any penalty of incarceration is hereby limited to no more than six (6) months in jail, and any fine is hereby limited to a maximum of One Thousand Dollars (\$1,000.00) for each such violation in any case tried without a jury. Judgments for fines, costs, forfeitures and

other penalties imposed by municipal courts may be enrolled by filing a certified copy of the record with the clerk of any circuit court and execution may be had thereon as provided by law for other judgments.

Section 21-23-7(1) states, in relevant part: “The municipal judge shall have the jurisdiction to hear and determine, without a jury and without a record of the testimony, all cases charging violations of the municipal ordinances and state misdemeanor laws made offenses against the municipality and to punish offenders therefor as may be prescribed by law.” Section 21-23-7(11) lists the allowable court cost for various offenses in municipal court. Any fine established, pursuant to Section 21-13-1, by the municipal governing authority for violation of a municipal ordinance “would be imposed by the municipal court, upon a finding of a violation of the municipal ordinance.” MS AG Op., *Scanlon* at *3 (July 1, 2011) (citing MS AG Op., *Moore* (Mar. 22, 2002)).

The state assessment schedule is found in Section 99-19-73, which provides, in part:

It shall be the duty of the municipal clerk of each municipality to deposit all the state assessments collected in the municipal court in the municipality on a monthly basis with the State Treasurer pursuant to appropriate procedures established by the State Auditor. The municipal clerk shall make a monthly lump-sum deposit of the total state assessments collected in the municipal court in the municipality under this section, and shall report to the Department of Finance and Administration the total number of violations under each subsection for which state assessments were collected in the municipal court in the municipality during that month.

Miss. Code Ann. § 99-19-73(10)(c).

When asked whether a municipality had authority to charge court costs for the violation of a city ordinance, our office previously opined that: “a defendant convicted of violating a municipal ordinance may be charged with court costs of such a conviction. Also, he should be charged state assessments pursuant to Section 99-19-73(5) subject to the statutory maximum.” MS AG Op., *Davis* at *1 (July 16, 1999).¹

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/ Beebe Garrard

Beebe Garrard
Special Assistant Attorney General

¹ While not specifically responsive to your request, it is also worth noting that Section 99-19-73(9) further provides: “If a fine or other penalty imposed is suspended, in whole or in part, such suspension shall not affect the state assessment under this section. No state assessment imposed under the provisions of this section may be suspended or reduced by the court.”