



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

August 25, 2022

The Honorable Wes Curry
Municipal Court Judge, City of Hattiesburg
200 West Pine
Hattiesburg, Mississippi 39401

Re: Forgiveness of Fines and Costs

Dear Judge Curry:

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

Background

You provide in your request that your municipal court has defendants with substantial amounts of unpaid fines and costs, many of whom are simply unable to pay the fines and costs and/or quit paying them because they are unable to find consistent employment. You say that your court has been in discussions with a local junior college as to whether it could provide free classes, such as GED and workforce development classes, to some of the defendants in your court in order to have their fines and costs suspended upon completion. You provide that you would do this by setting a defendant's case for review at a hearing, and at the hearing, you would amend the sentence so that the fines and costs may be forgiven on the condition that they complete such a class. Further, there would be policies and procedures, recorded in the clerk's office for public review, setting out the guidelines of what cases would qualify for the program.

Question Presented

May a municipal court suspend or forgive fines and costs previously adjudicated by the court on the condition that the defendant attend and complete a GED class or workforce development class?

Brief Response

A municipal judge is authorized to suspend fines in misdemeanor cases upon such terms as may be set by the court.

Applicable Law and Discussion

Mississippi Code Annotated Section 21-23-7(5) provides, in relevant part:

Subsequent to original sentencing, the municipal judge, in misdemeanor cases, is hereby authorized to suspend sentence and to suspend the execution of a sentence, or any part thereof, on such terms as may be imposed by the municipal judge, if (a) the judge or his or her predecessor was authorized to order such suspension when the sentence was originally imposed; and (b) such conviction (i) has not been appealed; or (ii) has been appealed and the appeal has been voluntarily dismissed.

This office has previously concluded that subsequent to original sentencing, Section 21-23-7(5) authorizes the municipal judge to suspend fines on such terms as may be imposed by the municipal judge. MS AG Ops., *Nowak* at *1 (Aug. 26, 2011) and *Barton* at *1 (Mar. 19, 2010). “As stated in *Barton* the court cannot grant amnesty or forgive or discount old fines as this would amount to an unlawful donation pursuant to Article 4 Section 66 of the Mississippi Constitution. However, by following the provisions of Section 21-23-7 (5) the court is suspending a portion of the fine which is authorized.” *Nowak* at *1. Therefore, so long as the cases in which the municipal judge seeks to suspend the fines are limited to those that involve misdemeanors and those that comply with the additional conditions provided in Section 21-23-7(5), it is our opinion that a municipal judge is authorized to suspend the fines at the court’s discretion and upon its imposed terms. We limit this opinion to the ability of the municipal judge to suspend fines in accordance with Section 21-23-7(5) and offer no opinion on any related program or condition a municipal judge might contemplate.

Please note, however, that Section 99-19-73(9) further provides, “[i]f 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.”

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/ Abigail C. Overby

Abigail C. Overby
Special Assistant Attorney General