



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

October 21, 2022

The Honorable Steve Ross  
Justice Court Judge, Tallahatchie County, District I  
Post Office Box 440  
Charleston, Mississippi 38921

Re: Authority of Justice Court to Seek Assistance from Municipal Police for  
Serving Contempt Warrants

Dear Judge Ross:

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

### **Background**

You state that you have issued contempt warrants to be served by constables and the sheriff's department with no results. In a subsequent conversation, you clarified that the warrants in question are criminal contempt warrants where defendants have neither showed up in court nor paid the outstanding fines.

### **Questions Presented**

1. May a justice court judge use municipal police officers for serving contempt warrants after the justice court has issued those warrants to constables and the sheriff's department with no results?
2. If so, can the constable's fee as authorized under Mississippi Code Annotated Section 25-7-27 be collected by the justice court and then paid to the city?

### **Brief Response**

1. Yes. Arrest warrants may be served by any lawful officer with arrest powers pursuant to Rule 3 of the Mississippi Rules of Criminal Procedure. However, Section 99-3-1 provides that police officers may only serve arrest warrants within their municipal jurisdiction.

2. No. We find no statutory provision authorizing the justice court to collect a constable's fee for serving an arrest warrant as authorized under Section 25-7-25 and pay same to the city when a municipal police officer serves an arrest warrant for the justice court.

### **Applicable Law and Discussion**

We understand your question to involve criminal contempt. Procedures for contempt in justice court "shall conform to Rule 32 of the Mississippi Rules of Criminal Procedure." MRJC26. Criminal contempt means "willful disobedience or resistance of any person to a court's lawful writ, subpoena, process, order, rule, or command, where the primary purpose of the finding of contempt is to punish the contemnor. . . ." MRCrP 32.1(d)(2). Penalties for criminal contempt "are designed to punish the contemnor for disobedience of a court order; punishment is for past offenses and does not terminate upon compliance with the court order." *Mingo v. State*, 944 So. 2d 18, 32 (Miss. 2006) (quoting *In re Williamson*, 838 So. 2d 226, 237 (Miss. 2002)). A court is authorized to prosecute indirect criminal contempt on its own initiative pursuant to MRCrP 32.3(a).

Regarding service of a warrant, the Mississippi Rules of Criminal Procedure control "in all criminal proceedings, from arrest through post-trial motions, in all trial courts within the State of Mississippi, except as otherwise provided in these Rules." MRCrP Rule 1.1. *See* MS AG Op., *Delgado* at \*1 (Jan. 26, 2018) (opining that arrest warrants must be served pursuant to Rule 3 of the Mississippi Rules of Criminal Procedure). Rule 3.2 of the Mississippi Rules of Criminal Procedure states that arrest warrants "shall be directed to and may be executed by any officer authorized by law within the State of Mississippi." MRCrP Rule 3.2(c)(1). A wide range of law enforcement is authorized to make arrests under Section 99-3-1, which provides that "[a]rrests for crimes and offenses may be made by the sheriff or his deputy or by any constable or conservator of the peace within his county, or by any marshal or policeman of a city, town or village within the same." Miss. Code Ann. § 99-3-1(1).

Therefore, in accordance with the criminal rules and statutes, it is the opinion of this office that arrest warrants may only be served within the county by its sheriff, deputy sheriff, constable, or conservator of the peace. Municipal police officers may serve warrants within their city, village, or town but do not have jurisdiction to serve criminal warrants outside the municipal limits. MS AG Op., *Hammack* at \*2 (Sept. 28, 2018); MS AG Op., *Chamblee* at \*1 (June 13, 2008). We have said, however, regarding arrests of persons named in a justice court warrant and found within the city limits, that "[a] municipal police officer may effect a lawful arrest under a proper warrant issued by a justice court judge. However, a municipal police officer is not required to serve a warrant so issued." MS AG Op., *Bennett* at \*1 (Apr. 24, 1981). Our opinion remains the same.

In response to your second question, the fees authorized in justice court may be found in Section 25-7-25, but the statute does not include authority to charge and collect a fee for service of an arrest warrant. Section 25-7-27 provides the fee to be charged when constables and marshals serve warrants in all criminal cases, and Section 25-7-19 provides the fee for sheriffs. We find no statutory authority for a justice court judge to pay a constable's or sheriff's statutory fee to a municipal police officer for serving an arrest warrant. Therefore, it is the opinion of this office that the justice court is not authorized to charge and collect the constable's fee for serving an arrest

warrant and then pay the same to the city when a municipal police officer serves an arrest warrant for the justice 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  
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OFFICIAL OPINION