



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

October 11, 2022

William H. Davis, Jr., Esq.
Attorney, Alcorn County Board of Supervisors
Post Office Box 1613
Corinth, Mississippi 38835

Re: Fee for Constable Serving as Bailiff

Dear Mr. Davis:

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

Question Presented

May the Alcorn County Board of Supervisors pay a constable the statutory fee for serving as a justice court bailiff during scheduled court days on which the constable reports for duty, but court is thereafter cancelled due to no fault of the constable?

Brief Response

A constable is only entitled to receive the statutory fee when he serves as bailiff when court is in session.

Discussion

Section 19-19-8 of the Mississippi Code provides: “A constable that serves as a bailiff in justice court for criminal cases may be paid by the county in an amount equal to the allowance paid to riding bailiffs as provided in Section 19-25-31.” In turn, Section 19-25-31 provides that “[a]ny such person so employed shall be paid by the county on allowances of the court on issuance of a warrant therefor in an amount between Fifty-five Dollars (\$55.00) and One Hundred Dollars (\$100.00) for each day, or part thereof, for which he or she serves as bailiff when the court is in session.” Similarly, Section 25-7-27(e) provides a fee “[f]or service as a bailiff in any court in a civil case, to be paid by the county on allowance of the court on issuance of a warrant therefor, an amount equal to the amount provided under Section 19-25-31 for each day, or part thereof, for which he serves as bailiff when the court is in session.” Sections 19-19-8 and 25-7-27(e) both rely on Section 19-25-31, which provides for payment for the days a constable “*serves as bailiff when the court is in session.*” (emphasis added).

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This office has previously opined that “[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.” MS AG Op., *White* at *1 (May 13, 2020) (emphasis added). While a constable is entitled to the statutory fee for an entire day or only a portion thereof, Section 19-25-31 requires that the constable not only serve as bailiff in order to collect the fee, but to do so while court is in session. It is the opinion of this office that tradition dictates that court cannot be in session without the presence of the presiding judge.

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/ *Misty Monroe*

Misty Monroe
Assistant Attorney General

OFFICIAL OPINION