



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

January 19, 2023

Anthony E. Nowak, Esq.
Attorney, DeSoto County Board of Supervisors
Post Office Box 346
Hernando, Mississippi 38632

Re: Riding Bailiffs

Dear Mr. Nowak:

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

Questions Presented

1. May a constable be authorized by the judges of the circuit, chancery, county courts, and special courts of eminent domain, to serve as a riding bailiff?
2. If the answer to question one above is in the affirmative, is the county to pay the constable serving as a riding bailiff the same fees as authorized to be paid to the sheriff's riding bailiffs?

Brief Response

1. No. A constable is not authorized to serve as a riding bailiff.
2. Due to our response to your first question, your second question is moot.

Applicable Law and Discussion

Mississippi Code Annotated Section 19-25-31 provides authority for certain judges to allow a sheriff riding bailiffs to serve in the respective court of the judge. Section 19-25-31 states, in pertinent part:

Each judge of a circuit, chancery or county court, or a court of eminent domain may, in the judge's discretion, by order entered on the minutes of the court, allow the sheriff riding bailiffs to serve in the respective court of such judge, not to exceed

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four (4) bailiffs. . . . No full-time deputy sheriff shall be paid as a riding bailiff of any court.

This section provides that certain judges may allow the sheriff to have additional, “riding” bailiffs to serve in court. *See Lewis v. Hinds County Circuit Court*, 158 So. 3d 1117, 1121 at n.1 (Miss. 2015) (“Riding bailiffs are hired under the judge's discretion by a court order and allow the sheriff additional bailiffs . . . , and they differ from deputies or bailiffs of the sheriff.”)

Constables are elected county law enforcement officers and their duties are set forth in Section 19-19-5. They may serve as justice court bailiffs in criminal court under the purview of Section 19-19-8 and may serve as bailiffs in civil court under Section 25-7-27. The statutes do not provide for constables to serve as riding bailiffs, only that they be paid the rate set forth in the riding bailiff statute when fulfilling their statutory role as bailiff under Sections 19-19-8 and 25-7-27.

There is no statutory authority authorizing a judge of the circuit, chancery, or county court, or a court of eminent domain, to order a constable to serve as a riding bailiff for the sheriff.

Due to our response to your first question, your second question is moot.

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