



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

October 15, 2026

The Honorable Mickey Avent
Justice Court Judge, Lafayette County
72 F.D. Buddy East Parkway, Suite 201
Oxford, Mississippi 38655

Re: Simultaneous Service as Deputy Sheriff and Justice Court Deputy Clerk

Dear Judge Avent:

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

Question Presented

May a deputy sheriff also serve as a justice court deputy clerk and accept sworn affidavits?

Brief Response

Yes. An individual employed as a deputy sheriff has law enforcement authority and exercises core powers within the executive branch. However, the statutory duties of a justice court deputy clerk, including acknowledging affidavits, do not constitute the exercise of core judicial powers. Accordingly, simultaneous service as a deputy sheriff and a justice court deputy clerk does not violate the separation of powers doctrine.

Applicable Law and Discussion

The scope of this opinion is limited to whether the simultaneous service in two public positions violates the separation of powers doctrine. We refer you to the Mississippi Ethics Commission regarding any potential conflicts of interest or other ethical implications arising out of simultaneous service.

The powers of the government of the State of Mississippi are divided into the legislative, judicial, and executive branches. MISS CONST. art. I, § 1. The separation of powers doctrine prohibits a person from holding positions in two different branches of government when both positions exercise “core powers” within their respective branches. *See* MISS CONST. art. I, § 2; MS AG Op., *Hudson* at *1 (June 26, 2020). “Core power” has been defined by the Mississippi Supreme Court

to include those circumstances ‘where the acts are ongoing and are in the upper level of governmental affairs and have a substantial policy-making character.’” MS AG Op., *Hudson* at *1 (quoting *Dye v. State*, 507 So. 2d 332, 343 (Miss. 1987)).

This office has opined that an individual employed as a deputy sheriff has law enforcement authority and exercises core powers within the executive branch. MS AG Op., *Smith* at *2 (July 26, 2013) (citing MS AG Op., *Bluntson* (Oct. 8, 2008); *In re Anderson*, 447 So. 2d 1275 (Miss. 1984)).

This office has previously opined that a justice court clerk’s administrative authority to assign courtrooms for the convenience of defendants does not constitute the exercise of core judicial power. MS AG Op., *Millender* at *1 (Sept. 25, 1991). Consistent with that opinion, this office has also opined that simultaneous service as a justice court clerk and mayor does not violate the separation of powers doctrine. MS AG Op., *Young* at *1 (Dec. 3, 1992).

Section 9-11-27 authorizes justice court clerks and deputy clerks to file and record pleadings, acknowledge affidavits, certify court records, and issue necessary process. Section 99-33-2 requires a justice court clerk to record criminal affidavits and assign the cases to a justice court judge. Although these duties relate to the operation of the judicial branch, they do not constitute the exercise of core judicial powers. MS AG Op., *Young* at *1 (Dec. 3, 1992). Consistent with prior opinions regarding justice court clerks, we conclude that a justice court deputy clerk’s performance of these statutory duties, including acknowledging affidavits, does not constitute the exercise of core judicial powers.

Accordingly, it is the opinion of this office that, although a deputy sheriff exercises core powers within the executive branch, the statutory duties of a justice court deputy clerk do not constitute the exercise of core judicial powers. Therefore, simultaneous service as a deputy sheriff and a justice court deputy clerk does not violate the separation of powers doctrine. Again, we refer you to the Mississippi Ethics Commission regarding any potential conflicts of interest or other ethical implications arising out of simultaneous service.

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/ *Regan McKnight*

Regan McKnight
Special Assistant Attorney General