



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 24, 1996

The Honorable James M. Kuboviak
Brazos County Attorney
300 East 26th, Suite 325
Bryan, Texas 77803

Letter Opinion No. 96-060

Re: Whether the district and statutory county courts of Brazos County may utilize a centralized filing system for misdemeanor cases, so that the county attorney may file a misdemeanor case to be tried in either the district or a statutory county court with the county clerk (ID# 37938)

Dear Mr. Kuboviak:

Under Government Code section 25.0232(g), where the district court and the statutory county courts of Brazos County share jurisdiction, the district clerk serves as clerk of the statutory county court, as well as the district court. You ask whether Brazos County district and statutory county court judges may establish a centralized filing system so that the county attorney may file with the county clerk a misdemeanor case over which the district, as well as the statutory county courts, have jurisdiction. We conclude that the district clerk, not the county clerk, may accept for filing misdemeanor cases over which both the district and statutory county courts have jurisdiction. Consequently, the centralized filing system you describe is contrary to law.

Brazos County comprises the 361st Judicial District.¹ The 361st District Court has jurisdiction in misdemeanor cases.² Brazos County also has two statutory county courts, County Courts at Law Numbers 1 and 2.³ A statutory county court, having the same jurisdiction general law provides to a constitutional county court,⁴ shares jurisdiction with the district court in misdemeanor cases involving official misconduct and misdemeanor cases in which the highest fine that may be imposed is no more than \$500.⁵ In

¹Gov't Code § 24.506(a).

²*Id.* § 24.506(b).

³*Id.* § 25.0231.

⁴*See id.* § 25.0003(a).

⁵*Id.* § 26.045(a).

other misdemeanor cases, a statutory county court has exclusive original jurisdiction.⁶ Although Brazos County has one constitutional county court in addition to its statutory county courts, that court has no jurisdiction over misdemeanor cases.⁷ Consequently, we need not consider it further in response to the question you raise.

You indicate that the county already has established a centralized filing system through the county clerk's office. Thus, for those misdemeanor cases in which both the statutory county courts and the district court share jurisdiction, the county attorney may file a case with the county clerk's office, and that office randomly will assign the case to either a statutory county or the district court.⁸ In essence, you question whether the county's centralized filing system comports with the law.

Government Code section 25.0232 governs Brazos County's county courts at law. Subsection (g) of that section allocates to the district clerk the duty of serving as clerk of a county court at law in those matters where the county court shares jurisdiction with the district court. In all other cases over which the county court has jurisdiction, the county clerk serves as clerk of the court.⁹ In light of this express directive, we believe that the county clerk may not accept for filing misdemeanor cases over which the county courts at law and the district court have concurrent jurisdiction. Rather, we believe only the district clerk may accept for filing these misdemeanor cases. We find nothing, however, that precludes the district clerk from distributing the misdemeanor cases between the two statutory county courts and the district court.

The Court Administration Act, Government Code chapter 74, is not contrary to this conclusion. Under the Court Administration Act, the district and statutory county court judges must adopt local rules of administration regarding the assignment, docketing, transfer, and hearing of all cases.¹⁰ The act does not, however, authorize the judges to adopt rules contravening other law.

⁶*Id.*

⁷*Id.* § 26.121.

⁸You further describe the centralized filing system as follows:

Only one clerk maintains the misdemeanor records of cases filed by the County Attorney. The numbering of the cases remains sequential by filing date. Court system personnel can tell at a glance by the case number that the case is a misdemeanor, and therefore where the records are located and where documents are to be filed. . . . [O]ne clerk randomly assigns cases to the three courts with misdemeanor jurisdiction (two county courts at law and one district court).

⁹Gov't Code § 25.0232(g).

¹⁰*Id.* § 74.093(a), (b).

S U M M A R Y

Government Code section 25.0232(g) precludes the county clerk of Brazos County from accepting for filing misdemeanor cases over which the statutory county courts and the district court have concurrent jurisdiction. Rather, only the district clerk may accept for filing these misdemeanor cases.

Yours very truly,



Kimberly K. Oltrogge
Assistant Attorney General
Opinion Committee