

**BEFORE THE JUDICIAL FINANCE COMMISSION
STATE OF MISSOURI**

**IN RE: Circuit Court Budget of the 18th
Judicial Circuit of the State of Missouri**)
)

COOPER COUNTY MISSOURI,)
a body corporate and politic, by and through)
its governing body, the)
COUNTY COMMISSION OF COOPER)
COUNTY, MISSOURI,)

Petitioner,)

vs.)

CASE NO. 03-0064

EIGHTEENTH JUDICIAL CIRCUIT,)
Hon. Donald Barnes, Presiding Judge,)

Respondent.)

FINDINGS OF FACT, CONCLUSION OF LAW AND DECISION

This matter comes before the Judicial Finance Commission upon a Petition for Review filed on February 28, 2003, by Cooper County, Petitioner herein, against the Circuit Court for the Eighteenth Judicial Circuit, Respondent herein. Petitioner seeks a determination as to whether it is required to fund the salary of a deputy juvenile officer in the amount of \$17,834.00 for the last half of the 2003 budget year. Petitioner also seeks a determination as to whether it is required to pay attorney's fees in the amount of \$5,000.00 for Respondent's representation before this Commission. Based on its Answer, filed March 14, 2003, Respondent admits that both amounts in dispute are correct as listed in the Petition and further states that the \$17,834.00 in question is used for the basic services program previously funded by a grant from the Division of Youth Services, and for a support position necessary to effectuate said program.

Pursuant to subdivision (2) of subsection 5 of section 477.600, RSMo 2000, this Commission is required to issue a written opinion to address the reasonableness of the circuit court budget request.

The Commission decides that there are no controverted areas of material fact dividing the parties, and concludes that the issues before the Commission are questions of law that can be decided by the Commission without the necessity of a formal hearing in this matter.

The Commission concludes that it has jurisdiction to hear and decide this matter. The Petitioner, as the governing body of Cooper County, deemed the budget estimate of the

Respondent to be unreasonable, and properly filed a petition for review with the Commission pursuant to section 50.640, RSMo 2000, and the Commission now so rules.

As to the issue of funding the support position, the Commission concludes that, in light of the decision it has issued on the identical issue in Cooper County Commission v. Eighteenth Judicial Circuit, Case No. 01-0059, which decision is deemed final since it was not appealed by either party, the circuit court's funding request is unreasonable. As the Commission previously decided in Cooper County:

“The Commission concludes that the ‘maintenance of effort funding’ required by Section 211.393.6, RSMo 2000 is a minimum level of funding required of each affected county. The Commission concludes in the present action and consistent with our previous holding in Stone County Commission v. Thirty-Ninth Judicial Circuit, Case No. 99-0054, that a grant position does not create an applicable exception and is not ‘outside’ of the scope of this decision. As such, Deputy Juvenile Officer Colycott’s position funding request for the second half of the budget year 2001 is unreasonable. As previously stated in Stone County:

‘To require a county to pay ‘personal services’ related expenditures would frustrate the intent of HB 971, which was to relieve the counties of the growth in the personal services portion of the counties’ juvenile court budgets while requiring counties to continue to provide the same amount of funding for juvenile court operations.’”

As to the issue of funding Respondent’s attorney’s fees for this case, the Commission concludes that, having ruled on an identical question of law involving these identical parties in Cooper County, Case No. 01-0059, Respondent knew or should have known the outcome in the instant case, and therefore Respondent’s request for attorney’s fees is unreasonable. This Commission has held since its inception in several previous cases that attorney’s fees for defense of the Circuit Court are considered in general to be reasonable expenditures within the meaning of section 50.640, RSMo. Macon County Commission v. Forty-First Judicial Circuit, Case No. 98-0051; St. Louis County v. Twenty-First Judicial Circuit, Case No. 84-0004; In re the 1984 Budget for the Circuit Court of St. Louis County, 687 S.W.2d 896 (Mo. banc 1985). In affirming this Commission, which had approved the expenditure of attorney’s fees on behalf of the Circuit Court of St. Louis County, the Supreme Court in In re the 1984 Budget for the Circuit Court of St. Louis County stated:

“Section 476.270, RSMo 1978, provides that ‘all expenditures accruing in the circuit courts... shall be paid out of the treasury of the county in which the court is held...’ Under judicial interpretation of this provision, “expenditures” means lawful expenditures, defined as...1. Those the General Assembly has fixed by statute or absolutely reposed in the court's discretion... 3. Those reasonably necessary for the court to carry out its functions.” In re the 1984 Budget for the Circuit Court of St. Louis County, 687 S.W.2d at 899 (Mo. banc 1985).

The Commission here is bound by those prior holdings, and reasserts the proposition that attorney’s fees for the defense of the circuit court are lawful expenditures of the circuit court.

The Commission holds, however, that in this limited circumstance where Respondent has requested, prospectively, attorney's fees in a case that Respondent anticipated would be brought by Petitioner, and where this Commission has rendered a prior decision on an identical matter in favor of the Petitioner, attorney's fees are unreasonable, and that to award such fees would promote the perennial litigation of this identical issue ad infinitum.

Therefore, the Commission reduces by \$22,834.00 the juvenile court budget estimates submitted by the Circuit Court.

DATED this _____ day of _____, 2003.

The Honorable Robert G. Dowd, Jr., Chairman
The Honorable Robert Clayton II, Vice-Chairman
The Honorable David Coonrod
The Honorable Edith Louise Messina
The Honorable David Lee Vincent III
The Honorable Marshall Pile
The Honorable Gerald Jones

I hereby certify that copies of the foregoing Findings of Fact, Conclusion of Law and Decision were mailed by certified mail, addressee only, return receipt requested, this ____ day of _____, 2002, to: William McCullah, 221 Main Street, Forsyth, Missouri 65653, attorney for Petitioner; Steven A. Fritz, 202 West Fourth, Sedalia, Missouri 65301, attorney for Respondent.

Gregory J. Linhares
Commission Counsel