

noted above, §34.171, *id.*, declares that, unless the state shall pay such expenses, the county shall pay "all reasonable expenses of the office of circuit and county court judges." You inform me that the state has provided for the personal use of the county court judge the official Florida Statutes and the volumes of the Southern Reporter system, and that the county has provided a county law library, located on the third floor of the court house, for the use of all judges and attorneys. The law library is financed by an additional charge of five dollars on each case filed in the circuit and county courts pursuant to a local ordinance. You state also that the county court judge is located on the second floor of the court house, so that the law library is not always readily accessible to him.

It cannot be doubted that adequate law books are a *sine qua non* for the proper exercise by a judge of his judicial powers. And the basic question of whether the law books reasonably necessary for the use of county and circuit court judges in carrying out their judicial duties are an office expense that may be paid from county funds, if not supplied by the state, must be given an affirmative answer. Here, however, it appears that the board of county commissioners has undertaken to supplement the law books provided by the state for county and circuit court judges by enacting a county ordinance assessing a five dollar service charge on civil suits for the purpose of financing a county law library; and the question of whether, in this particular situation, the expense of additional law books for the personal use of the judges in their own offices would be "reasonable" and thus legally payable from county funds under §34.171, *supra*, is a factual question that I am not in a position to decide.

073-174—May 18, 1973

COURT COSTS

NOT IMPOSED WHEN ADJUDICATION OF GUILT WITHHELD

To: Randall P. Kirkland, Clerk, Circuit and County Courts, Orlando

Prepared by: Michael M. Corin, Assistant Attorney General

QUESTION:

May a court assess costs pursuant to §§23.103 and 23.105, F. S., when, in disposing of the case, it withholds an adjudication of guilt?

SUMMARY:

It is impermissible for a court to assess costs pursuant to §§23.103 and 23.105, F. S., when, in disposing of the cause, the court withholds the adjudication of guilt.

Section 23.103, F. S., provides:

Assessment of additional court costs in criminal proceedings; disposition.—Every court created by the state constitution or by legislative act shall assess \$1.00 as a court cost against every person convicted for violation of a . . . municipal or county ordinance. In addition, \$1.00 from every bond estreature or forfeited bail bond related to such penal statutes or penal ordinances shall be forwarded to the state treasurer as hereinafter described. However, no such assessment shall be made against any person convicted for violation of any state statute, municipal ordinance or county ordinance relating to the parking of vehicles. All such costs collected by the aforesaid courts shall be deposited in the state treasury to the credit of the general revenue fund in the manner prescribed by rules promulgated by the head of the

department of law enforcement upon recommendation of the executive director.

Section 23.105, F. S., states:

Additional assessment by local government.—Municipalities and counties may assess an additional \$1.00, as aforesaid, for law enforcement education expenditures for their respective law enforcement officers.

I find the following quote taken from AGO 072-195 to be pertinent to your inquiry:

Section 23.105 authorizes a county to "assess an additional \$1.00, as aforesaid," for law enforcement education expenditures. The words "as aforesaid" refer to the provision in §23.103 for the assessment of one dollar "as a court cost" except when the offense is relating to the parking of vehicles. The result is that §23.105 merely authorizes a county to have an extra dollar assessed as a court cost for law enforcement education expenditures *when a person is convicted of violating a penal statute or a penal county ordinance involving an offense not relating to the parking of vehicles*. This authorization has nothing to do with a bail bond forfeiture. (Emphasis supplied.)

The provision in §§23.103 and 23.105, F. S., for the assessment of one dollar costs clearly mandates that the assessment be predicated upon the conviction of the assessee for violation of a state penal or criminal statute or for violation of a municipal or county ordinance, except that no assessment shall be made when the assessee is convicted of an offense relating to the parking of vehicles.

Under Florida case law, it is well settled that a defendant is not convicted until the judge adjudicates the defendant's guilt. *Weathers v. State*, 56 So.2d 536 (Fla. 1952); *Gordon v. State*, 119 So.2d 753 (2 D.C.A. Fla., 1960). *See also State v. Young*, 238 So.2d 589 (Fla. 1970), *appeal dismissed*, 400 U. S. 962 (1971).

Accordingly, your question is answered in the negative.

073-175—May 18, 1973

PUBLIC OFFICERS

COMPENSATION FOR ADDITIONAL SERVICES—TEMPORARY ADDITIONAL SERVICE BY JUSTICE OF THE PEACE

To: Warren O. Tiller, Volusia County Attorney, DeLand

Prepared by: Bjame B. Andersen, Jr., Assistant Attorney General

QUESTIONS:

1. Is a county responsible to pay a temporarily assigned justice of the peace, in addition to his statutory salary, additional compensation for additional duties and services performed upon assignment by the chief judge of the judicial circuit to serve in another justice of the peace court in the circuit pursuant to Rule 1.020 RCP (1971)?

2. If the county is responsible, does the county then have the authority to seek reimbursement of the salary payments made to the disabled justice of the peace during his period of disability and absence from the bench?

SUMMARY:

A county is not responsible to pay additional compensation to a