

Opinion No. 45-4795

September 22, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. C. R. Sebastian State Comptroller Santa Fe, New Mexico

{*136} We are in receipt of your letter of September 21, 1945, in which you ask our opinion as to whether or not it is necessary for the District Court Clerks to submit for approval to the County Commissioners, vouchers to be paid out of the Court Fund.

Your attention is directed to Section 16-314 of the N.M. 1941 Compilation, creation and governing the Court Fund. This section provides, in part, as follows:

"* * * when collected it (the Court Fund) shall be turned over to the county treasurer, to be by him disbursed for the payment of the expenses of the district court in his county, only as provided by law, or upon a certificate of the clerk of the district court * * *, that an **allowance has been made by said court, and no court shall authorize** the issuance of any certificate on any account whatsoever, unless there shall be at the time money in the county treasury to meet and pay such certificate, and said clerk shall immediately, after the close of any term of court, transmit to said treasurer a certified list of all **allowances made by said** court at such term, * * *"

In examining this section, it is first seen that no provision or requirement whatsoever is made for the approval of any voucher paid out of the Court Fund by the County Commissioners.

Secondly, it is seen that the allowance is to be made by the Court, and the certificate to be transmitted to the Treasurer. It is clear that the Legislature intended to vest in the Court the complete control of the Court Fund within the limitations established by law.

In view of the foregoing, it is my opinion that it is not necessary for the Clerk of the District Court to submit any voucher payable out of the Court Fund to the County Commissioners for their approval.

By ROBERT W. WARD,

Asst. Atty. General