Sheriffs and fees for service of process

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Subject:
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SHERIFFS--FEES FOR SERVICE OF PROCESS WHEN MORE THAN ONE DOCUMENT OR RETURN

To: Raymond Hamlin, Jr., Leon County Sheriff, Tallahassee

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QUESTION:

Should one fee of seven dollars and fifty cents be collected by a sheriff for service of process (except for subpoenas and executions) upon one person or defendant in any one cause, regardless of the number of documents served or the number of returns made?

SUMMARY:

One fee of seven dollars and fifty cents should be collected by the sheriff for service of process (except subpoenas and executions) upon one person or defendant at one time in any one cause, regardless of the number of documents served or the number of returns made.

Section 30.231, F. S., establishes a schedule of sheriffs' fees for service of process, stating in pertinent part that

"(1) The sheriffs of all counties of the state in civil cases shall charge fixed, nonrefundable fees for docketing and service of process, according to the following schedule:
(a) All summons or writs except subpoenas and executions: $7.50 *for each person or respondent to be served*.
(b) All writs except executions requiring a levy or seizure of property: $5.00 in addition to the $7.50 fee as stated in paragraph (a).
(c) Witness subpoenas: $5.00 for each witness to be served.
(d) Executions: . . . ." (Emphasis supplied.)

Section 30.231, F. S. 1971, amended to its present form (above) by Ch. 72-92, Laws of Florida, was intended "to establish a flat average fee in connection with the service of process, etc., as distinguished from the former procedure of determining the total fee for service of process by addition of the several fees afforded for various activities of a sheriff." Attorney General Opinion 063-96.

In AGO 066-19, interpreting the original version of s. 30.231(1), F. S. 1965, it was held that

"a sheriff making a service on one defendant at one time in one cause of action is entitled to but one fee . . . regardless of the number of additional papers served with the initial service of process, and regardless of the legal definition which might be attached to any of the additional papers."

Accord: Attorney General Opinion 072-419.

The 1972 amendment of s. 30.231, *supra*, made no alteration in that section which would be inconsistent with the foregoing rule of AGO 066-19. If anything, the amendment clarified the legislative intent in this regard, in that it expressly provides that, for "[a]ll summons or writs except subpoenas and executions," a fee of seven dollars and fifty cents shall be charged "for each person or respondent to be served." There is no distinction drawn on the basis of the number of documents served, whether the documents are attached or separate or whether a single return or a return for each separate document is made by the sheriff. (It might be noted that it was earlier held by this office that a fee of twenty-five cents should be collected for each additional return pursuant to s. 30.23, F. S. 1971. Letter to Sheriff Royal J. Untreiner, Escambia County, dated March 29, 1972. However, s. 30.23 was repealed by Ch. 72-92, *supra*, which, *inter alia*, increased the fees which sheriffs may charge for effecting service).

The only qualification of the rule of AGO 066-19 which s. 30.231, F. S., imposes is that no additional or different fee should be collected for service of nonexecution writs requiring a levy or seizure of property, witness subpoenas, and executions. Section 30.231(1)(b)-(d). Except for the charges relating to these latter types of documents, there is no other fee provided for service of process aside from the seven dollar and fifty cent fee established by s. 30.23(1)(a).

Therefore, pursuant to s. 30.231(1)(a), F. S., only the one fee of seven dollars and fifty cents should be collected for the service of all summonses and writs, except subpoenas and executions, served upon one person or defendant at one time in any one cause. Such a result is consistent with the notion, expressed in AGO 066-19, that the ever-increasing cost of litigation should be kept at a reasonable level, so that the courts of this state will "always remain open for those who seek the free administration of justice."