

N.D.A.G. Letter to Burke (Nov. 9, 1987)

November 9, 1987

Ms. Patricia L. Burke
Burleigh County State's Attorney
Burleigh County Courthouse
514 East Thayer Avenue
Bismarck, ND 58501

Dear Ms. Burke:

Thank you for your letter dated November 2, 1987, in which you have inquired concerning the payment of trial costs in a case transferred from municipal court to county court under N.D.C.C. § 40-18-15.1.

You will find enclosed with this letter North Dakota Attorney General's opinion 87-11 which discusses several of the issues raised in your inquiry. It was my opinion that the automatic transfer of a municipal ordinance violation to a county court for trial will be heard as a county court trial. The county court will not act as an appellate court conducting a trial de novo as the law existed prior to the passage of this section. Since the matter will become a county court case, the jury costs for the trial will be borne by the county.

Although this opinion did not discuss the payment of witness fees in a N.D.C.C. § 40-18-15.1 proceeding, the same conclusion would be reached as in the jury expenses. Since such a proceeding is a county court rather than a municipal court case, these expenses would also be borne by the county court and paid in accordance with N.D.C.C. § 31-01-16.

I hope that I have adequately responded to your inquiry. Should you desire further assistance in this matter, please do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

cv
Enclosure