

Executions—Fees—Costs—Criminal Cases.

A fee of one dollar should be charged in each instance where more than one execution is issued in the same case.

The fine is not required to be entered in the judgment docket in criminal cases, but this practice is recommended.

October 20, 1927.

D. J. Olson, Esq.,
Clerk of District Court,
Plentywood, Montana.

My dear Mr. Olson:

You have requested my opinion on the following questions:

1. If more than one execution is issued in the same case, should the fees be one dollar for each execution issued, or one dollar for all executions issued in the same case?

2. In the case of a fine being imposed on a defendant, should the fine be entered on the judgment docket the same as a judgment by default or a deficiency judgment?

Section 4918 R. C. M. 1921 provides that for issuing execution and all services connected therewith the clerk must collect one dollar. It may be necessary to issue several executions as, for instance, where executions are issued to sheriffs of different counties or where all property is not found and levied upon under the first execution.

It is my opinion that in such cases an additional fee of one dollar should be charged for each separate execution issued.

Answering your second question, section 12073 provides a judgment that defendant pay a fine or costs, constitutes a lien upon the real estate of defendant which lien dates from the date of defendant's arrest. Section 12074 provides when judgment upon a conviction is rendered the

clerk must enter the same in the minutes. This entry in the minutes constitutes the judgment. (*State v. Atlas*, 244 Pac. 477.)

It is therefore not necessary for the validity of the judgment that it be entered in the docket, but this practice is recommended in order to give proper notice of the judgment lien for costs to those examining the docket in connection with liens upon real estate.

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Very truly yours,

L. A. FOOT,
Attorney General.