

Opinion No. 10.

Contempt Proceedings—Supreme Court—Fines and Forfeitures, where deposited—Clerk of the Supreme Court.

Held: Money paid into the office of the Clerk of the Supreme Court as a fine imposed by the Supreme Court in a contempt proceedings originating in said court, must, after deducting any costs incurred, be paid to the county treasurer of Lewis and Clark County, and by such treasurer credited to the general school fund of Lewis and Clark County.

January 20, 1945.

Mr. Frank Murray
Clerk of Supreme Court
Helena, Montana

Dear Mr. Murray:

You have requested an opinion regarding the disposition of money paid into your office as a fine or penalty in contempt proceedings originating and tried in the Supreme Court.

Section 12433, Revised Codes of Montana, 1935, provides:

“All fines and forfeitures collected in any court, except police courts, must be applied to the payment of

the costs of the case in which the fine is imposed or the forfeiture incurred; and after such costs are paid, the residue must be paid to the county treasurer of the county in which the court is held and if not otherwise provided by law, by him credited to the general school fund of said county; and at the time of payment of any such fine or forfeiture there shall be filed with the county treasurer, a complete statement showing the total of the fine or forfeiture received or incurred with an itemized statement of the costs incurred by the county in such action, which statement shall give the title of the cause and be subscribed by the person or officer making such payment." (Emphasis mine.)

Our Supreme Court has held this section is applicable to contempt proceedings. (State ex rel. Flynn v. District Court, 24 Mont. 33, 36, 60 Pac. 493; Dunlavy v. Duggett, 38 Mont. 204, 209, 99 Pac. 436.)

It will be noted the above statute provides all fines and forfeitures collected in any court, excepting police courts, after deducting costs, must be paid to the county treasurer of the county in which the court is held, unless otherwise provided by law. Section 9917, Revised Codes of Montana, 1935, provides for the penalty in such cases, but makes no provision as to the disposition of the fine.

A contempt proceedings originating and tried in the Supreme Court is tried in Lewis and Clark County, as that is "the county in which the court is held." It follows, therefore, such fine—after deducting costs—must be paid to the county treasurer of Lewis and Clark County, and credited by him to the general school fund of Lewis and Clark county.

It is therefore my opinion money paid into your office as a fine imposed by the Supreme Court in a contempt proceedings originating in said court, must—after you have deducted any costs incurred—be paid to the county treasurer of Lewis and Clark county, and by such treasurer credited to the general school fund of Lewis and Clark county.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General