



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

JUN 02 2004
Opinion Number 04-0133

Honorable John J. Dahmer
Clerk of Court
Parish of Tangipahoa
P. O. Box 667
Amite, Louisiana 70442

10 Clerks of Court
46-A Fees & Costs
90-A-1 Public Funds & Contracts

Clerk of Court may use public funds of his office to pay reasonable attorney's fees incurred in defense of criminal charges arising out of the official functions of his office, as charges have been dismissed.

This office is in receipt of your opinion request regarding the reimbursement of attorney's fees in the defense of criminal charges from the public funds of the Clerk of Court's office. It is our understanding that as a result of an unfavorable Audit Report, the Tangipahoa District Attorney presented evidence against you alleging the illegality of certain expenditures of the funds of your office to the Grand Jury. According to your letter:

"Eight (8) of the nine (9) voted to return a no true bill and one (1) juror voted to return a true bill. Because there were only nine (9) jurors this caused the return to be pretermitted. Scott Perrilloux, the District Attorney, publicly announced the case was being dismissed and no further action was being taken...I had to hire legal representation and expended the sum of \$2,000.00 in legal fees which I personally paid...Would you please give your opinion on the Tangipahoa Parish Clerk's Office reimbursing me for the legal expenses."

This office has consistently opined that if a local public official or employee has been the subject of an investigation and/or prosecution of criminal charges arising out of the performance of the official functions of his office or employment, and the official or employee is exonerated, or the prosecution results in acquittal or dismissal or is quashed, the public official or employee's attorney's fees may be paid or reimbursed from public funds, provided the fees and related expenses are reasonable. See Attorney General Opinion Nos. 99-180, 97-117, 96-95, 94-384, 93-376, 91-474, 89-110, 85-822 and 79-349.

Accordingly, based upon your representation that the alleged offenses arose out of the performance of your official duties as the Clerk of Court and that the charges have now been dismissed, it is the opinion of this office that the public funds of the Clerk of Court's office may be used to reimburse you for the necessary and reasonable attorney's fees you incurred in the defense of criminal charges brought against you.

We hope the foregoing sufficiently answers your inquiry. Should you need assistance in other areas of the law, please do not hesitate to contact this office.

Yours very truly,

CHARLES C. FOTI, JR.
Attorney General

BY: 
JEANNE-MARIE ZERINGUE BARHAM
Assistant Attorney General

CCF, Jr./JMZB/dam