



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

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

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OPINION 15-0110

Mr. Brian D. Mosley
City Attorney
Village of Creola
711 Washington Street
Alexandria, LA 71301

47 FINES, FORFEITURES & PENALTIES
La. R.S. 32:398.2
La. R.S. 32:57
La. R.S. 15:571.11

Absent the establishment of a mayor's court, the Village of Creola may not accept payments for violation of municipal traffic ordinances. Payments received from such violations must be deposited with the District Court and disposed of pursuant to La. R.S. 15:571.11(2).

Dear Mr. Mosley,

Your request for an Attorney General's Opinion has been assigned to me for research and reply. On behalf of the Mayor of the Village of Creola ("Village"), you have requested an opinion of this office to advise if the Village is permitted to accept payment of traffic citations in advance of a court appearance. According to your request, the Village does not have an established mayor's court. Therefore, all traffic citations are currently prosecuted through the district court. You ask whether the Village may accept payment for violation of municipal traffic ordinances despite the fact that the citations are prosecuted in district court.

La. R.S. 32:398.2 establishes the procedure for the disposition of traffic citations and provides, in pertinent part:

A. Each traffic enforcement officer upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of any city or town shall deposit the original citation or a copy of such traffic citation with a court having jurisdiction over the alleged offense or with the appropriate traffic violations bureau. However, a citation for a violation of R.S. 32:80(A) shall be deposited only with a court and not with a traffic violations bureau.

B. Upon the deposit of the original citation or a copy of the traffic citation with a court having jurisdiction over the alleged offense or with the traffic violations bureau as set forth herein, the original citation or copy of such traffic citation shall be disposed of only by trial in the court of proper jurisdiction or any other official action by a judge of the court, including

forfeiture of the bail, or by the deposit of sufficient bail with the traffic violations bureau or payment of a fine to said bureau by the person to whom such traffic citation has been issued. However, a citation or its copy alleging a violation of R.S. 32:80(A) shall be disposed of only by trial or acceptance of a plea in open court.

C. It shall be unlawful for any traffic enforcement officer or any other officer or public employee to dispose of a traffic citation or copies thereof or of the record of the issuance of the citation in a manner other than as required herein.

La. R.S. 32:57(D) provides that the "governing authority on whose behalf citations are issued for alleged violations of the provisions of this Chapter shall establish a procedure by which alleged offenders may plead guilty or nolo contendere to the alleged offense and pay the fine by mail."

While La. R.S. 32:57(D) authorizes a governing authority to establish a procedure whereby offenders may pay fines imposed for violations of municipal traffic offenses by mail, the citation may only be disposed of through "trial in the court of proper jurisdiction or any other official action by a judge of the court." As the Village has not established a mayor's court, the payment and disposition of violations must be made by a judge of the district court and therefore the provisions of La. R.S. 32:57(D) would not be available to the Village. Therefore, all payment for traffic citations issued pursuant to Village ordinances must be paid to and deposited with the Thirty-Fifth Judicial District Court, pursuant to any procedure established thereby.

Furthermore, because all violations of municipal traffic ordinances must be prosecuted in district court, it is the opinion of this office that all advance payments, by mail or otherwise, of fines for violations of municipal ordinances must be disposed of according to La. R.S. 15:571.11(2). This would result in twelve percent being remitted to the office of the district attorney, twelve percent to the sheriff's general fund, and seventy-six percent to the Village treasury. In accord is La. Atty. Gen. Op. No. 98-0117, which stated "[i]f there is a prosecution in district court for violation of a municipal ordinance (whether it duplicates a state statute or not), the municipal treasury receives 76% of the funds which result therefrom."

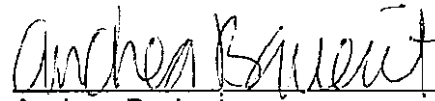
In conclusion, it is the opinion of this office that while La. R.S. 32:57(D) authorizes a governing authority to establish a procedure for the payment of a fine, the absence of a mayor's court prohibits the Village of Creola from establishing such a procedure. Any payment imposed for violations of municipal ordinances in advance of a scheduled court date must be mailed to, received, and deposited in the District Court and distributed in accordance with La. R.S. 15:571.11.

We hope this sufficiently answers your inquiry; however, if we may be of further assistance, please do not hesitate to contact our office.

With best regards,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By:

A handwritten signature in cursive script, appearing to read "Andrea Barient", written over a horizontal line.

Andrea Barient
Assistant Attorney General