



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

February 21, 1957.

Honorable W. G. Woods, Jr.  
County Attorney  
Liberty County  
Liberty, Texas.

OPINION NO. WW-36

Re: Is it legal for a sheriff to work prisoners outside of the county jail on his private ranch operations even if the labor is voluntary and the prisoners are paid out of the sheriff's personal funds?

Dear Mr. Woods:

This opinion is in response to your letter of February 12, 1957, in which you asked the following question:

"Is it legal for a sheriff to work prisoners outside of the County Jail on his private ranch operations whether or not such prison labor is voluntary on the part of the prisoners and whether or not such prisoners are paid for their labor out of the personal funds of the sheriff?"

Article 793 of Vernon's Code of Criminal procedure reads in part:

"When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the workhouse, or on the county farm, or public improvements of the county, as provided in the succeeding article; or if there be no such workhouse, farm or improvements, he shall be imprisoned in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; . . ."

Article 794 of Vernon's Code of Criminal Procedure reads in part:

"Where the punishment assessed in a conviction for misdemeanor is confinement in jail for more than one day, or where in such conviction the punishment is assessed only at a pecuniary fine and the party so convicted is unable to pay the fine and costs adjudged against him, those so convicted shall be required to do manual labor in accordance with the provisions of this article under the following rules and regulations: . . .

"5. They shall be put to labor upon the public roads, bridges or other public works of the county when their labor cannot be utilized in the county workhouse or county farm. . ."

Attorney General's Opinions O-1061 and O-3809, copies of which are herewith enclosed, hold that the above mentioned Articles require that county prisoners be worked only on county projects.

The fact situation involved in your request is clearly of a private nature and in accord with the above Attorney General's Opinions, we are of the opinion that Articles 793 and 794, V.C.C.P designate the exclusive projects upon which county prisoners may be employed. Your question is therefore answered in the negative.

SUMMARY

It is illegal for a sheriff to work prisoners outside of the county jail on his private ranch operations even if the labor is voluntary and the prisoners are paid out of the sheriff's personal funds.

Yours very truly,

WILL WILSON  
ATTORNEY GENERAL

By

*Wayland C. Rivers, Jr.*  
Wayland C. Rivers, Jr.  
Assistant Attorney General

WCR:jl  
Encl.

APPROVED:

OPINION COMMITTEE  
By H. Grady Chandler  
Chairman