

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

October 13, 2003

Opinion No. 03-137

DA Use of Signature Stamp

QUESTION

Whether a District Attorney's use of a signature stamp to sign indictments results in a valid indictment.

OPINION

Yes, a District Attorney may adopt a rubber stamp facsimile as his or her signature as long as the district attorney personally affixes the stamp to the indictment.

ANALYSIS

The factual context for the request is that a District Attorney uses a signature stamp to sign indictments. He keeps the stamp in a locked drawer when it is not in use, is the only one authorized to use the stamp, and intends it to be his legally authored signature.

No Tennessee case deals directly with a District Attorney's use of a facsimile signature stamp, but *O'Dell v. City of Knoxville*, 54 Tenn. App. 59, 388 S.W. 2d 150 (1964), is so analogous that it is controlling. In *O'Dell*, the issue focused on a city judge who used a facsimile signature stamp on a warrant. *Id.* at 62. In analyzing the validity of the facsimile signature stamp, the court observed that nothing in the record established that the city judge had not adopted the facsimile as his signature or that any one other than he had stamped the facsimile signature to the warrant. *Id.* The court concluded that those circumstances raised a presumption that he had adopted the stamp as his signature and did stamp the warrant himself. *Id.* An opinion from this Office relied on *O'Dell* to conclude that a city judge could adopt a rubber stamp facsimile as her signature instead of signing her name as long as the judge personally affixed the stamp. Tn. Op. Atty. Gen. No. 79-35 (copy attached).

These authorities lead this Office to conclude that an indictment containing the facsimile rubber stamp of a District Attorney who has adopted the facsimile as his signature and who personally affixes the stamp is valid.

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

ELIZABETH B. MARNEY
Assistant Attorney General

Requested by:

Honorable Joe Crumley
District Attorney General
First Judicial District
Washington County Office
Washington County Courthouse
P.O. Box 38
Jonesborough, TN 37659