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Opinion No. 11-22

Reimbursement for Transportation of Individuals to be Involuntarily Hospitalized

QUESTIONS

1. Is a sheriff in County A entitled to be reimbursed for transportation costs from County B for transporting a resident of County B who has been involuntarily hospitalized if the individual was first detained and determined to be in need of involuntary hospitalization in County A?

2. May a sheriff in County A bill County B for the sheriff's transportation costs only if the individual from County B who has been involuntarily hospitalized was first detained in County B?

3. May a sheriff in County A refuse to transport an individual located in County A who has been determined to be in need of involuntary hospitalization if the individual was initially detained in another county by some other law enforcement agency?

OPINIONS

1. Yes. Tennessee Code Annotated § 33-6-901(b) expressly authorizes County A to bill County B for the cost of transporting a resident of County B who has been involuntarily hospitalized when the individual was first detained and determined to be in need of involuntary hospitalization in County A.

2. No. Tennessee Code Annotated § 33-6-901(b) expressly authorizes the county in which the individual was initially detained to seek reimbursement for travel costs from the individual's county of residence. Therefore, County A may bill County B for the costs of transporting a resident of County B, even though the individual was not first detained in County B.

3. Yes. Tennessee Code Annotated § 33-6-901(b) places the responsibility for transportation upon the county in which the individual was initially detained. The detaining county is not relieved of this duty until the provisions of Tenn. Code Ann. § 33-6-406(b) are met. Therefore, the sheriff in County A may refuse to transport an individual located in County

A who has been determined to be in need of involuntary hospitalization if the individual was initially detained in another county by some other law enforcement agency.

ANALYSIS

I.

You ask whether Tenn. Code Ann. § 33-6-901(b) entitles a county ("County A") to be reimbursed for transportation costs from an individual's county of residence ("County B") when the individual was first detained and determined to be in need of involuntary hospitalization in County A. This question requires application of the statute to determine who is financially responsible for transporting individuals in need of involuntary hospitalization. The statute provides:

> Transportation of persons to be involuntarily hospitalized is the responsibility of the county in which the person is initially detained. The sheriff or secondary transportation agent providing transportation may bill the county of residence for transportation costs.

Tenn. Code Ann. § 33-6-901(b).

When construing a statute, the primary goal of the courts is to give effect to the purpose of the legislature without exceeding its intended scope. *Hayes v. Gibson County*, 288 S.W.3d 334, 337 (Tenn. 2009). When a statute is unambiguous, a court will construe its meaning from the natural and ordinary meaning of the words chosen. *State v. Flemming*, 19 S.W.3d 195, 197 (Tenn. 2000).

Applying these principles, Tenn. Code Ann. § 33-6-901(b) authorizes reimbursement to County A in this situation. The statute's plain text provides that the county in which an individual is initially detained is responsible for transporting that individual. Tenn. Code Ann. § 33-6-901(b). The sheriff or secondary transportation agent providing transportation may bill the county of residence for the transportation costs. *Id*. Therefore, Tenn. Code Ann. § 33-6-901(b) specifically entitles the sheriff in County A to be reimbursed from County B for the costs of transporting a resident of County B who was initially detained and determined to be in need of involuntary hospitalization in County A.

II.

You next ask whether Tenn. Code Ann. § 33-6-901(b) entitles the sheriff in County A to be reimbursed by County B for transportation costs only if the individual was initially detained in County B. Because County A is entitled to be reimbursed by County B for transportation costs when a resident of County B was initially detained in County A, the plain text of the statute

clearly authorizes reimbursement in instances when the individual was not originally detained in County B.

III.

You finally ask whether the sheriff in County A may refuse to transport an individual located in County A who has been determined to be in need of involuntary hospitalization if the individual was initially detained in another county by some other law enforcement agency. This question requires us to review the procedures for emergency involuntary hospitalization under Title 33, Chapter 6, Part 4.

Under Tenn. Code Ann. § 33-6-401, if an individual has a mental illness or serious emotional disturbance, and poses an immediate substantial likelihood of serious harm under Tenn. Code Ann. § 33-6-501 because of that mental illness or serious emotional disturbance, that individual may be detained under Tenn. Code Ann. § 33-6-402 to obtain examination for certification of need for care and treatment. Tenn. Code Ann. § 33-6-401. Only officers authorized to make arrests in the state, licensed physicians, psychologists authorized under Tenn. Code Ann. § 33-6-427(a), and professionals designated by the Commissioner of the Department of Mental Health and Developmental Disabilities under Tenn. Code Ann. § 33-6-427(b), are authorized to detain an individual for examination without a civil order or a warrant. Tenn. Code Ann. § 33-6-402.

Upon detention, the individual must first be examined pursuant to Tenn. Code Ann. § 33-6-404, to determine whether the person is subject to admission to a hospital or treatment resource under Tenn. Code Ann. § 33-6-403. If the individual is subject to admission, the examiner is required to complete a certificate of need, assess the individual's clinical needs and needs for physical restraint or vehicle security, and determine the mode of transportation to the hospital. Tenn. Code Ann. § 33-6-404. If the individual is not already at the facility, hospital or treatment resource at which the individual is proposed to be admitted, the examiner who completed the certificate of need shall turn the individual over to the custody of the sheriff or transportation agent designated under Title 33, Chapter 6, Part 9, who shall transport the individual for proceedings under Tenn. Code Ann. § 33-6-407. Tenn. Code Ann. § 33-6-406(a). The sheriff or transportation agent is required to notify the hospital or treatment resource as to where the individual is and the best anticipated time of arrival. Tenn. Code Ann. § 33-6-406(b)(1). If the sheriff or transportation agent provides notice and arrives within the anticipated time of arrival, the sheriff or transportation agent is required to remain at the hospital or treatment resource only long enough for the individual to be evaluated for admission under Tenn. Code Ann. § 33-6-407, but not longer than one hour and forty-five minutes. Tenn. Code Ann. § 33-6-406(b)(2). Only in counties having a population of 600,000 or more according to the 1970 federal census or any subsequent federal census is the sheriff or transportation agent relieved of further transportation duties upon delivering the individual to the hospital or treatment facility. Tenn. Code Ann. § 33-6-406(b)(4).

Finally, if the individual is examined under Tenn. Code Ann. § 33-6-407 and the examiner determines that the individual is subject to admission under Tenn. Code Ann. § 33-6-

404, the examiner shall complete a second certificate of need, and the individual may then be admitted for emergency diagnosis, evaluation and treatment. Tenn. Code Ann. § 33-6-407(b). If the individual is not subject to admission, the sheriff or transportation agent is responsible for returning the person to the county unless the sheriff or transportation agent is no longer under a duty to remain at the hospital or treatment resource under Tenn. Code Ann. § 33-6-406. Tenn. Code Ann. § 33-6-407(c) and (d). Thus, the sheriff or transportation agent designated under Title 33, Chapter 6, Part 9, remains responsible for the individual's transportation needs until the individual is admitted to the hospital or treatment facility unless the sheriff or transportation agent has been relieved of that duty by Tenn. Code Ann. § 33-6-406(b).

Generally, the county in which an individual is located will be responsible for providing transportation under Title 33, Chapter 6, Parts 4 and 5. Tennessee Code Annotated § 33-6-901(a)(1) states, in pertinent part:

> The sheriff in a county in which a person with mental illness or serious emotional disturbance is to be transported under part 4 or 5 of this chapter, shall transport the person except for persons who are transported by: … (C) A person authorized under other provisions of this title . . . .

Tenn. Code Ann. § 33-6-901(a)(1). While Tenn. Code Ann. § 33-6-901(a)(1) provides the general rule for transporting individuals under Title 33, Chapter 6, Parts 4 and 5, Tenn. Code Ann. § 33-6-901(b) provides a more specific rule in instances where an individual has been detained under Tenn. Code Ann. § 33-6-402. As discussed in Part I above, in instances where an individual has been detained under Tenn. Code Ann. § 33-6-402, transportation of that individual is the responsibility of the county in which the person is initially detained. Tenn. Code Ann. § 33-6-901(b).

In construing statutes, courts must "ascertain and give effect to the legislative intent without unduly restricting or expanding a statute's coverage beyond its intended scope." *Wilson v. Johnson County*, 879 S.W.2d 807, 809 (Tenn. 1994). When the statute is unambiguous, legislative intent is determined from the plain and ordinary meaning of the language used in the statute. *Freeman v. Marco Transp. Co.*, 27 S.W.3d 909, 911 (Tenn. 2000). The statutory language must be "read in the context of the entire statute, without any forced or subtle construction which would extend or limit its meaning." *National Gas Distribs. v. State*, 804 S.W.2d 66, 67 (Tenn. 1991). Statutes that are related to the same subject matter should be read *in pari materia*. *In re C.K.G.*, 173 S.W.3d 714, 722 (Tenn. 2005). In addition, a statute should be construed so that "no part will be inoperative, superfluous, void or insignificant." *State v. Northcutt*, 568 S.W.2d 636, 637-38 (Tenn. 1978). At the same time, a statute should not be construed to produce an absurd or incongruous result. *Barnett v. Barnett*, 27 S.W.3d 904, 908 (Tenn. 2000). Furthermore, under the rules of statutory construction, statutes which address the specific are given precedence over those that address the general. *Drennon v. General Electric Company*, 897 S.W.2d 243, 247 (Tenn. 1994). The courts strictly construe exceptions to general statutes. *Anderson Fish & Oyster Co. v. Olds*, 197 Tenn. 604, 611, 277 S.W.2d 344 (1955).

Applying these principles of statutory construction, we conclude that the specific provision of Tenn. Code Ann. § 33-6-901(b), rather than the more general provisions of Tenn. Code Ann. § 33-6-901(a), dictates which entity is responsible for transporting an individual who has been detained under Tenn. Code Ann. § 33-6-402. Subsections (a) and (b) must be read *in pari materia*. *In re C.K.G.*, 173 S.W.3d at 722. Furthermore, because subsection (b) specifically addresses situations in which an individual has been detained under Tenn. Code Ann. § 33-6-402, it will be given precedence over the general transportation provisions of subsection (a). *Drennon v. General Electric Company*, 897 S.W.2d at 247. If subsection (a) were meant to apply to all instances in which an individual needed to be transported under Title 33, Chapter 6, Parts 4 and 5, subsection (b) would be rendered insignificant, because the county in which the individual is located would always be responsible for providing transportation, regardless of whether the individual was initially detained there. In order for subsection (b) to be effective, subsection (a) should be read as requiring the county in which the individual is located to provide transportation unless the individual was initially detained in a different county under Tenn. Code Ann. § 33-6-402.

Turning to your hypothetical, you ask whether the sheriff in County A may refuse to transport an individual located in County A who has been determined to be in need of involuntary hospitalization if the individual was initially detained in another county ("County C") by some other law enforcement agency. It is the opinion of this office that the sheriff in County A may refuse to transport the individual. Because the individual was initially detained under Tenn. Code Ann. § 33-6-402, we must look to Tenn. Code Ann. § 33-6-901(b) to determine who is responsible for providing transportation. The plain language of Tenn. Code Ann. § 33-6-901(b) obligates County A to provide transportation only for an individual who has been detained under Tenn. Code Ann. § 33-6-402 when the initial detention occurred in County A. Tenn. Code Ann. § 33-6-901(b). In this situation, the individual was initially detained in County C, making County C responsible for the individual's transportation needs. *Id.* Unless County C falls within the exception set forth at Tenn. Code Ann. § 33-6-406(b)(4), it is responsible for providing transportation to the individual until the individual is either admitted or, if the sheriff provided adequate notice and arrives within the anticipated time of arrival, not longer than one hour and forty-five minutes after arrival. Tenn. Code Ann. § 33-6-406(b).

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