

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
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Opinion No. 13-85

Authority of District Attorneys General in Municipal Courts

QUESTION

If a citation issued for a state criminal offense requires the defendant's appearance in a municipal court, is the district attorney general divested of authority to prosecute the offense?

OPINION

No. The district attorney general is the only person with authority to prosecute a State of Tennessee criminal offense in a municipal court.

ANALYSIS

While ordinarily the jurisdiction of municipal courts is limited to cases involving violations of municipal ordinances, it may be extended by the General Assembly to include other cases arising under Tennessee law. *See, e.g., City of Chattanooga v. Davis*, 54 S.W.3d 248, 276-77 (Tenn. 2001); *Hill v. State ex rel. Phillips*, 216 Tenn. 503, 507, 392 S.W.2d 950, 952 (1965); *Moore v. State*, 159 Tenn. 468, 19 S.W.2d 233, 233 (1929). Accordingly, the General Assembly has provided that certain municipal courts have original jurisdiction of Tennessee criminal offenses. *See* Tenn. Code Ann. § 40-1-107 (providing that “[o]riginal jurisdiction of criminal actions is committed to the . . . city judges of certain towns and cities”). Those municipal courts that exercise jurisdiction over criminal offenses are usually accorded concurrent jurisdiction with general sessions courts for offenses committed within the city limits. *See, e.g., City of White House v. Whitley*, 979 S.W.2d 262, 263 (Tenn. 1998) (noting authority of White House Municipal Court “to exercise jurisdiction concurrent with courts of general sessions in all cases involving the violation of the criminal law of the State within the corporate limits of the city”).

The General Assembly has also specified the duties of a district attorney general to include that “[e]ach district attorney general: (1) [s]hall prosecute in the courts of the district all violations of the state criminal statutes and perform all prosecutorial functions attendant thereto, including prosecuting cases in a municipal court where the municipality provides sufficient personnel to the district attorney general for that purpose.” Tenn. Code Ann. § 8-7-103. There are no Tennessee statutes that specifically govern the exercise of prosecutorial discretion in determining whether, if at all, criminal proceedings are to be instituted. *Quillen v. Crockett*, 928 S.W.2d 47, 50 (Tenn. Crim. App. 1995). However, the Tennessee Supreme Court has recognized

that “[t]he District Attorney General and only the District Attorney General can make the decision whether to proceed with a prosecution for an offense committed within his or her district.” *Ramsey v. Town of Oliver Springs*, 998 S.W.2d 207, 209 (Tenn. 1999). This Office has previously opined in reviewing these authorities that, “[t]herefore, no other entity or individual [other than the District Attorney General] may prosecute state criminal actions in a municipal court vested with concurrent general sessions jurisdiction.” Tenn. Att’y Gen. Op. 01-120, at 2 (July 31, 2001).

Thus, if a citation issued for a state criminal offense commands the defendant’s appearance in municipal court, the district attorney general is the only person with authority to prosecute the offense. The district attorney general may elect to prosecute the case in that court, dismiss the case there, or take any other appropriate action regarding the case as allowed by the law of Tennessee.

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