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ARIZONA ATTORNEY GENERAL
March 5, 1952
Op. No. 52-60

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Mr. Gilbert L. Cady
Comptroller, Arizona State College
Tempe, Arizona

Dear Mr. Cady:

We have your letter of February 21 in reference to a claim of Charles Stidham for services rendered the College as an instructor and advising us the claim is being held up by the Auditor because of the provisions of Section 12-709, ACA 1939, which reads:

"Legal salary only to be received and in full, payable semi-monthly.--The salaries provided in this chapter shall be in full compensation for all services rendered by any officer, deputy or assistant. Salaries shall be paid twice in each month on regular days not more than sixteen (16) days apart. All state or county officers, employees, members of boards and commissions not mentioned in this chapter, and all deputies, stenographers, clerks and employees of any officer, board or commission, or of any institution, shall receive the salary provided by the laws creating or authorizing their respective positions, and shall not, under any pretext, receive any salary or emolument in excess of the salary so provided by law."

Mr. Stidham is now and was at the time the services were rendered an Assistant Attorney General of Arizona, but the services rendered the College were separate and distinct from his duties as an Assistant Attorney General and in no wise interfered with the performance of his duties as an Assistant. We think the objection to Mr. Stidham's claim is

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answered adversely to the Auditor's contention in our Opinion No. 51-306 to Mr. E. A. Thomas of the Arizona Power Authority. We enclose copy of the opinion.

In addition to the authorities cited in the above mentioned opinion we call your attention to the case of Mousseau vs. Garey, County Auditor, 252 Pac. 324, wherein the California court considered a statute almost identical to Section 12-709 and held the California statute did not prevent an officer from drawing one salary as an officer and at the same time draw another from a different employment with the county. In disposing of the case, the court said:

"By subdivision 21 of section 4041 of the Political Code, the board of supervisors is given authority to appoint a purchasing agent. This section was in force at the time of plaintiff's election. Therefore, the duties of the purchasing agent were at no time any part of the duties to be performed by the plaintiff as county clerk of said county. The board of supervisors had no authority to require plaintiff in his official capacity to perform these duties. Whoever the board appointed purchasing agent would perform the duties of this office as purchasing agent and not in any other capacity. When, therefore, plaintiff was appointed to this position and entered upon the discharge of the duties of purchasing agent, he performed said duties not as county clerk of said county or as ex officio county clerk. The salary paid him as purchasing agent was not paid him for services rendered either as county clerk or ex officio county clerk of said county. Had plaintiff resigned his office as county clerk the next day after his appointment as purchasing agent said resignation would have had no effect upon his position as purchasing agent and he would have continued to discharge the duties of said last-named position so long

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as the board of supervisors continued
him in such employment.

Therefore section 4290 of the Political
Code, providing that the salaries therein
provided shall be in full compensation of
all services rendered by county officers
either as officers or ex officio officers,
has no application to the compensation
paid plaintiff for services which had no
connection with, and which were entirely
independent of, his duties as county
clerk. * * * "

For the reasons stated in Opinion No. 51-306 and
those given in Mousseau vs. Garey, supra, it is our opinion
Mr. Stidham is entitled to compensation from the College for
the services rendered, notwithstanding he was an Assistant
Attorney General and was drawing a salary as such at the time
the services were rendered.

Yours truly,

FRED O. WILSON
Attorney General

EARL ANDERSON
Assistant Attorney General

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cc. State Auditor

Opinion Citator 52-60

A.G. Opinion 77-201