

Opinion No. 63-88

August 5, 1963

BY: OPINION of EARL E. HARTLEY, Attorney General

TO: Mr. Luis L. Fernandez, Chief Local Government Division Department of Finance and Administration Santa Fe, New Mexico

QUESTION

QUESTION

Are costs collected in juvenile court cases to be remitted to the State Court Fund?

CONCLUSION

No.

OPINION

{*194} ANALYSIS

As we understand it, the facts giving rise to your opinion request are as follows: The Eleventh Judicial District Court remitted to the State Court Fund some 569 dollars collected as costs in juvenile court cases, and the Court is now seeking a refund of this sum.

Chapter 214, Laws 1963, compiled as Section 16-3-25.1, N.M.S.A., 1953 Compilation, provides that "Each clerk of the district court shall remit all costs collected in **criminal** cases to the State Treasurer for credit to the state court fund." (Emphasis added).

Our Supreme Court has specifically held that juvenile court {*195} proceedings are "entirely different in nature and character from criminal proceedings." **In re Santillanes**, 47 N.M. 140, 138 P. 2d 503. In its opinion the Court quoted with approval a Colorado decision which said that juvenile court proceedings are "special statutory civil proceedings."

This being the case, costs collected in juvenile court proceedings are not costs collected in criminal cases, and thus such costs do not have to be remitted to the State Court Fund.

Let us turn now to the mechanics of the requested refund. Under Section 16-3-28, N.M.S.A., 1953 Compilation, as amended in 1963, the State Board of Finance must approve all disbursements from the State Court Fund. When such approval is granted, the amount to be disbursed is certified to the Department of Finance and Administration.

That agency then issues a warrant upon the State Court Fund payable to the county treasurer for credit to the county court fund. Thus, the initial step to be taken is for the District Judge, or his court clerk, to file a written application for the refund with the State Board of Finance.

By: Oliver E. Payne

Assistant Attorney General