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A MUNICIPAL COURT HAS TERRITORIAL JURISDICTION IN MUNICIPAL CORPORATIONS AND TOWNSHIPS WHICH EXTEND FROM THE SHORES OF LAKE ERIE SOUTHWARD, SUCH MUNICIPAL COURT, UNLESS SPECIFICALLY AUTHORIZED BY STATUTE, DOES NOT HAVE JURISDICTION—
§§1901.02-1531.18.

SYLLABUS:

Where under Section 1901.02, Revised Code, a municipal court has territorial jurisdiction in municipal corporations and townships which extend from the shores of Lake Erie southward, such municipal court, unless specifically authorized by statute, does not have jurisdiction over a case involving a violation set forth in Section 1531.18, Revised Code, where the violation occurred in the waters of Lake Erie off the shores of one of said municipal corporations or townships.

Columbus, Ohio, August 5, 1960

Hon. Paul J. Mikus, Prosecuting Attorney
Lorain County, Elyria, Ohio

Dear Sir:

I have before me your request for my opinion which reads as follows:

“Section 1531.18 R.C. provides as follows:

‘Any judge of a county court, police judge, or municipal court judge has final jurisdiction within the territory for which he is elected or appointed in a prosecution for violation of any section of the Revised Code or orders of the wildlife council relating to the taking, possession, protection, preservation, or propagation of wild animals, and has like jurisdiction in a proceeding for forfeiture of property used in violation of any such law or order. Any violation of any order of the council is unlawful.’

“With regards to violations occurring within or upon the waters of Lake Erie within the jurisdiction of the State of Ohio, the question has arisen as to whether or not municipal courts within Lorain County have jurisdiction over such violations pursuant to Sec. 1531.18 R.C. For example, the Lorain Municipal Court has jurisdiction by statute within municipalities of Lorain and Sheffield Lake and the townships of Black River and Sheffield; each of said municipalities and townships extend from the shores of

Lake Erie southward. If a violation occurred in Lake Erie off the shores of Black River Township and an arrest is made by law enforcement agents of the Division of Wildlife, can prosecution therefore be conducted within the Municipal Court of Lorain? Incidentally, all of Lorain County is divided into four municipal court districts and all of its territory is located within said districts."

The question posed in your request for my opinion depends upon the territorial limits of the municipal court of the city of Lorain. A municipal court is a statutory court and the limits of its territorial jurisdiction are dependent upon legislative enactments. 38 Ohio Jurisprudence, 2d, 44, Municipal and County Courts, Sec. 37. Section 1901.02, Revised Code, provides in part:

"The Lorain municipal court has jurisdiction within the municipality of Sheffield Lake and within Black River and Sheffield townships in Lorain County."

The original boundaries of Lorain county are set forth in Section 14415, General Code, 21 Ohio Laws, 5. A consideration of Section 14415, General Code, does not clearly indicate whether the county extends to the northern boundary of the United States located in the middle of Lake Erie. The legislature, however, in 1827 in order to resolve the uncertainty as to the northern boundaries of the various counties bordering on Lake Erie enacted language which is now Section 14533, General Code, 25 Ohio Laws, 59 (Sections 14415 and 14533, General Code, were omitted from the Revised Code in the code revision of 1953). Said Section 14533 reads as follows:

"The north and south lines of the several counties of Ashtabula, Geauga, Cuyahoga, and Lorain, are hereby declared to extend due north, from the shores of Lake Erie, to the northern boundary line of the United States, in Lake Erie aforesaid; and all that part of the state of Ohio, which lies north of the south shore of said Lake, and south of the said boundary line, and between the lines of said counties of Ashtabula, Geauga, Cuyahoga, and Lorain, extended as aforesaid, is hereby declared to be a part of said counties, respectively."

This act was a result of the confusion which arose in regard to criminal jurisdiction of the various lake counties concerning offenses occurring on Lake Erie. History of Lorain County, Williams' Brothers, 1879, page 43.

A township is defined in 39 Ohio Jurisprudence, 272 as follows:

“* * * a territorial and political subdivision of the state, established exclusively for public purposes, and connected with the administration of local government. It is an agent of the state—a constitutional part of the plan of permanent organization of state government, * * *.”

The legislature in conferring jurisdiction upon the municipal court of Lorain has extended the jurisdiction of the court into Sheffield and Black River townships which border on Lake Erie. The various maps, histories and laws of Ohio do not indicate whether townships bounding upon Lake Erie extend to the northern boundary of the county as extended by Section 14533, General Code. A township is a creature of legislation and its boundaries are those established by law. 52 American Jurisprudence, 476. The question of boundaries of township bordering on the ocean, and other bodies of water is discussed in 87 Corpus Juris Secundum, Towns, Section 13 as follows:

“* * * If a stream is called for as a boundary the presumption is that the middle of the stream was intended, unless a different location is clearly expressed. Lines running to the sea do not ordinarily include the seashore; but under early legislation the sound boundary of Connecticut towns follows the high water mark, crossing bays and harbors on a straight line drawn between points on opposite shores from one of which objects and movements can be discerned with the naked eye on the other.

“Where a swamp is designated as a boundary the ascertainment of the boundary may depend on the character of the swamp, as whether it partakes of the character of a lake or pond or whether it is a kind of water course in which water accumulates at times but which drains out later. * * *”

It seems to be the general rule that all creeks; havens, coves, and inlets lying within projecting headlands, and all bays and arms of the sea lying within and between lands not so wide but that persons and objects on the one side can be discerned by the naked eye by persons on the opposite side, are to be taken to be within the body of the township. 52 American Jurisprudence, 476, Towns and Townships, Section 7.

Thus it appears that under these common law principles, the townships bounding Lake Erie cannot be said to include Lake Erie. It then remains to be seen whether some act of the legislature has given these townships jurisdiction over this territory.

The acts of the legislature previously referred to, as noted, do not refer to the jurisdiction here concerned. Under Section 503.02, Revised Code, however, there is found a procedure for the changing of the boundaries of a township. This section provides:

“The board of county commissioners may change the boundaries of any civil township, or partition any township among other townships within the county, by attaching a part of one within the county, by attaching a part of one township to another, by dividing one township and attaching the parts to other townships, or by laying off and designating a new township from the territory of one or more townships of the same county or from territory not before included in a civil township, when it is made to appear necessary or expedient by a petition for that purpose, signed by a majority of the householders residing within the bounds of the townships to be affected by such partition or division.”

While under this section it may be possible to change the boundaries of the townships involved to include the waters of Lake Erie, it does not appear that such action has ever been taken. Accordingly, the original boundaries of the townships, which do not include the waters of Lake Erie, must govern.

Of significance in determining the understanding of the legislature as to the waters of Lake Erie are those provisions of Section 1901.02, *supra*, reading:

“* * *

The Cleveland municipal court has jurisdiction within the corporate limits of the municipality of Bratenahl in Cuyahoga county and three miles northerly beyond the south shore of Lake Erie between the easterly and westerly boundary lines of the City of Cleveland extended northerly into Lake Erie three miles.

“* * *

“The Euclid municipal court has jurisdiction three miles northerly beyond the south shore of Lake Erie between the easterly and westerly boundary lines of the city of Euclid extended northerly into Lake Erie three miles.

“* * *”

Since it was deemed necessary to include this specific jurisdiction as to these two courts the legislature must have assumed that the boundaries of the political subdivisions involved did not extend into Lake Erie. While those two courts have jurisdiction only within municipal corporations, I

believe that the rules as to boundaries apply the same as if townships were involved.

While from the foregoing I must conclude that the Lorain municipal court would not have jurisdiction over a case prosecuted under Section 1531.18, Revised Code, in which the alleged violation took place in Lake Erie off the shores of Black River township, such conclusion does not rule out any prosecution for such violation.

Section 2931.03, Revised Code, provides:

“The court of common pleas has original jurisdiction of all crimes and offenses, except in cases of minor offenses the exclusive jurisdiction of which is vested in courts inferior to the court of common pleas.”

Section 1531.18, *supra*, here concerned, does not grant exclusive jurisdiction to the courts inferior to the court of common pleas and, therefore, violations may be prosecuted in that court.

Accordingly, it is my opinion and you are advised:

1. Where under Section 1901.02, Revised Code, a municipal court has territorial jurisdiction in municipal corporations and townships which extend from the shores of Lake Erie southward, such municipal court, unless specifically authorized by statute, does not have jurisdiction over a case involving a violation set forth in Section 1531.18, Revised Code, where the violation occurred in the waters of Lake Erie off the shores of one of said municipal corporations or townships.

Respectfully,
MARK McELROY
Attorney General