

File No. 81557

October 10, 1947

Honorable Members of the Board of Estimates
City of Baltimore

Gentlemen:

You have referred to me a letter from Mr. William C. O'Brien who states that on September 5, 1947, one of his former employees telephoned him from the Baltimore City Jail and requested that a fine, which had been imposed upon him, be paid and his release secured. Pursuant to this request, the fine in the amount of \$12.95 was paid. However, upon going to the jail to secure the employee's release, Mr. O'Brien was informed that his employee was ill and in no condition to be moved that night. The next morning the employee was dead, having died in the jail during the night. Mr. O'Brien inquires whether, in view of the fact that the release of the employee was not obtained, the amount of the fine can be refunded to him.

It is my opinion that Mr. O'Brien is entitled to no refund. It is true that, normally, upon the payment of a fine the person upon whom it has been imposed is released. However, I have inquired into the facts of the case and learned that it was because of an overdose of opiates and alcohol, self-administered by the incarcerated employee, that the doctors at the jail regarded it as dangerous to release him at the time he was called for by his employer. Thus, the employee, through his own acts, caused himself to be retained in custody even after the payment of the fine. Furthermore, the release of a defendant is only an incidental effect of the payment of a fine and not a condition subsequent to its validity. The obligation to pay a fine results from the transgression of a law and barring errors of law becomes absolute at the time of its imposition. Therefore, I do not feel that it can be said that the employer is entitled to a refund of this fine.

Very truly yours,

/s/ SIMON E. SOBLOFF

City Solicitor

HO'D/db