

Opinion No. 49-5201

March 11, 1949

BY: JOE L. MARTINEZ, Attorney General

TO: E. D. Trujillo State Auditor Santa Fe, New Mexico

{*22} I have your letter of March 7, 1949, regarding the retirement of Judge Livingston N. Taylor, and enclosing a delayed certificate of birth and an affidavit of employment. You ask whether these documents are sufficient evidence to warrant the commencement of Judge Taylor's retirement pay.

While a regular certificate of birth is of course the best evidence, in many instances it is impossible to obtain such a certificate as in a good number of the states a system of vital statistics was not started until recently. In those instances or where for some reason a certificate of birth cannot be obtained, a delayed certificate of birth such as is presented by Judge Taylor is the best evidence obtainable of the applicant's date of birth.

You will note from the delayed birth certificate that among the documents supporting it is listed the family bible record of the family. Such evidence as this may be introduced in a court of law and I believe is clearly sufficient for the administrative purpose herein involved. The affidavit of Ed Bray states that the records of the office of the county clerk of Union County show that Judge Taylor was appointed on July 13, 1933, and that he served until January 9, 1949. In addition to this affidavit, you are also required to take notice of the records {*23} in the office of the Secretary of State which would show the date of appointment and dates of qualification after election to subsequent terms in the office. As these records show that Judge Livingston N. Taylor attained the age of 64 years while occupying the office of Judge of the District Court, and that he served continuously in such position for over ten years within the period of eighteen years immediately preceding his retirement, it is the opinion of this office that he is entitled to retirement and that the above described documents are sufficient evidence of his eligibility thereto.