

Opinion No. 55-6282

September 14, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Wm. J. Cooper, Director of Parole, P. O. Box 1219, Santa Fe, New Mexico

We have received your request for opinion dated September 6, 1955. You propound the following hypothetical question:

What "would be the status of a prisoner who had a sentence of not less than five years nor more than ten years who, after having served three years in the Penitentiary, was paroled and thereafter, having served one year after his release, the Board having determined that he had performed the obligations of his release and that his final release was not incompatible with his welfare and that of society, makes a final order of discharge and issues a certificate to the prisoner.

If six months later he should commit another offense, could he be recommitted for the balance of the original term or would he be finally discharged from his sentence upon the issuance of the certificate of discharge, as set forth above? . . ."

Section 19, Chapter 232, Laws of 1955, in part, provides:

". . . When a prisoner on parole has performed the obligations of his release for such time as shall satisfy the board that his final release is not incompatible with his welfare and that of society, the board may make a final order of discharge and issue a certificate of discharge to the prisoner; but no such order of discharge shall be made in any case within a period of less than one year after the date of release except where the sentence expires earlier thereto."

It is the opinion of this office that the statute quoted above can have no other possible meaning than that, once a final order of discharge is made and a certificate issued therefor, the prisoner has fully and completely served his sentence and is no longer amenable to the processes of the Penitentiary or the Parole Board.

Therefore, in the hypothetical question which you have asked about, the prisoner having received his certificate of discharge, he no longer may be recommitted for the balance of the original term since there is nothing left for him to serve. His obligation to the State has been discharged.

I trust the above answers your inquiry satisfactorily

By Santiago E. Campos

Assistant Attorney General