Opinion No. 58-116

June 6, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

TO: Mr. Levon Lee, Acting Director, Department of Game and Fish, Santa Fe, New Mexico

QUESTION

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1. May a dependent of a permanently assigned military person be qualified to purchase a resident hunting or fishing license after residing in New Mexico 6 months prior to applying for same?

2. Would it be legal for any person to sign the name of another as an applicant when applying for a hunting or fishing license in New Mexico?

CONCLUSIONS

1. Yes.

2. No.

OPINION

ANALYSIS

Your first question was squarely answered in Opinion of the Attorney General No. 57-228, rendered September 10, 1957, to your department. Therein, we held Sec. 53-3-1(6), N.M.S.A., 1953 Comp., 1957 Supp., applied equally to residents of this state as well as to non-residents who nonetheless live here and that both categories must have continuously resided here, or lived here, six months prior to applying for a license. True, your question relates to a dependent of one in the military, but we believe this immaterial. In short, the status of the applicant himself is the criterion not the status of a party upon whom the applicant depends for support.

Your second question relates to whether the application for a license must be signed personally by the applicant, or may someone do it for the applicant on the latter's behalf.

Sec. 53-3-2, N.M.S.A., 1953 Comp., provides:

"The state game and fish warden shall prepare and furnish blank applications for all persons applying for fishing or hunting licenses within this state. Each person, before receiving any fishing or hunting license, shall make application therefor on a blank so provided. Among other matters which may be shown by said application, shall be a statement showing the exact residence of applicant. The application **shall be signed by applicant** and, in all cases where a resident license is applied for, by one (1) other resident of the locality where such application is filed. By the signature of such resident, the latter shall corroborate the statement of applicant as to his residence. All applications for licenses shall be filed with, and issued by, license vendors appointed by the state game warden. All fishing and hunting licenses and the application therefor shall contain the place of residence of the person to whom any license may be issued." (Emphasis supplied).

This first was enacted as Laws 1923, Ch. 129, Sec. 1. While subsequently amended, the change was not material to your inquiry.

Sec. 53-3-5, N.M.S.A., 1953 Comp., provides:

"It shall be the duty of the state warden, and he shall have the authority to prescribe and procure the printing of all forms and blanks that may be required to carry out the intent of this chapter and not inconsistent herewith, and all necessary blanks shall be furnished by him to the several license collectors, and no license shall be issued except on an **application signed by or on behalf of the applicants,** and any false statement in any application shall render the license issued thereon void. Each license collector shall keep a correct and complete record of such license issued by him, which record shall remain in his office and be open to the inspection of the public at all times, and he shall retain out of the moneys received from such license the sum of twenty-five cents (25c) for each license, which shall cover issuing of said license, and shall pay the balance to the state game warden on or before the tenth day of the month following, and shall at the same time report the number and kind of licenses issued. The state game warden shall forthwith turn over all moneys so received to the state treasurer to be credited by him to the game protection fund." (Emphasis supplied)

This was first enacted as Laws 1912, Ch. 85, Sec. 48. Again, subsequent amendment occurred but was not relative to your question.

Thus Sec. 53-3-5 permits an application to be signed by someone on behalf of the applicant; Sec. 53-3-2 requires the application to be signed by the applicant. The latter is the statute latest in point of time.

We have endeavored to reconcile the statutes but are unable to do so. They relate to applications for licenses, hence, have the same subject matter insofar as that problem is concerned. On that subject matter, they conflict with one another as to whether one may sign on behalf of the applicant.

In the recent case of **State** v. **Valdez,** 59 N.M. 112. 279, P. 2d 868, our Supreme Court said at 59 N.M. 118:

"The doctrine that repeals by implication are not favored is firmly imbedded in our law, but we are equally committed to the rule that where two statutes have the same object and relate to the same subject, if the later act is repugnant to the former, the former is repealed by implication to the extent of the repugnancy, even in the absence of the repealing clause in the later act. . ."

The issue at hand is a comparable situation to the one passed on by our court. Needless to say, that ruling conclusively binds this office. Sec. 53-3-2 governs, and we hold in the negative.