

Opinion No. 60-182

October 3, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Dan Sosa, Jr. District Attorney Third Judicial District Las Cruces, New Mexico

QUESTION

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Can employees of White Sands Missile Range and Hollomon Air Force Base, residing on the federal reservation as such, register to vote in the State of New Mexico, presuming, of course, that they have been here for more than one year and are otherwise qualified to register to vote?

CONCLUSION

See analysis.

OPINION

{*577} ANALYSIS

We feel that Opinion of the Attorney General No. 4549, dated July 18, 1944, in large measure answers the question posed by you. The question therein was whether military personnel living on military reservations within the State could register and vote in our elections. That opinion pointed out that the answer depended upon several things. First of all, if the reservation is one which has been ceded to the United States by this State, it was held that personnel living on that reservation would not be entitled to vote. With this conclusion we agree. The New Mexico Supreme Court has also {*578} so declared in **Arledge v. Mabry**, 52 N.M. 303. Second, if the reservation has not been ceded to the United States by this State, the question then becomes one of the intent of the person. If his intention as manifested by his actions indicates that he considers the State of New Mexico his residence, i.e., his domicile, then he would be entitled to register and vote in the elections of this State. We do not feel that the fact that the above opinion dealt with military personnel and the present situation deals presumably with employees of the military, i.e., civilian personnel, alters the theory applied. We are unable to distinguish the two situations. A categoric answer to your question is not possible in view of the fact that the facts necessary to make the determination of intent are not available to us. Such a categoric answer can be obtained in specific cases by applying the theory of the above opinion to the facts in each case.

By: Boston E. Witt

Assistant Attorney General