

Opinion No. 68-84

August 14, 1968

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Col. Joseph A. Black Chief New Mexico State Police P.O. Box 1628 Santa Fe, New Mexico

QUESTION

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Does the Uniform Traffic Citation serve as a complaint if the officer who issued the citation is unable to reach the Justice of the Peace prior to the violator being stopped for failure to appear as promised?

CONCLUSION

No.

OPINION

{*136} ANALYSIS

The Commissioner of the Department of Motor Vehicles prepares the Uniform Traffic Citation, Section 64-22-11, N.M.S.A., 1953 Compilation (P.S.). This form is used by all state and local law enforcement agencies, Section 64-22-11.2, N.M.S.A., 1953 Compilation (P.S.).

Section 64-22-11.3, N.M.S.A., 1953 Compilation, is initially significant here. It states:

"Uniform traffic citation is complaint. -- The uniform traffic citation used as a notice to appear is a valid complaint, though not verified, in the event the person receiving it voluntarily appears in court."

This section was applied in the case of **State v. Mesecher**. 74 N.M. 510, 395 P. 2d 233 (1964).

Your question was answered in at least one prior Attorney General's Opinion, No. 61-117, issued November 10, 1961. In that opinion, this office stated:

"When a person to whom a uniform traffic citation has been issued violates his written promise to appear in court, he has committed a violation **in addition** to that for which he was originally cited. (Citations omitted). And for the commission of the misdemeanor in failing to appear, the violator may be tried in any court of competent jurisdiction in the

county where the original violation for which the citation was issued took place. **Arrest for such violation is to be made upon warrant issued out of the particular court.**" (Emphasis supplied.)

The answer to your question is No.

By: Donald W. Miller

Assistant Attorney General