

Opinion No. 20-2511

March 13, 1920

BY: N. D. MEYER, Assistant Attorney General

TO: Mr. Charles W. Davis, County Clerk, Gallup, New Mexico.

County Clerk Must Docket Money Judgments.

OPINION

In answer to your two letters asking whether or not the Clerk of the District Court should record money judgments without special request therefor on behalf of the plaintiff I beg to advise:

Section 3079 of the Code provides that:

"Any money judgment rendered in the Supreme or District Court shall be docketed by the Clerk of the Court in a book kept for the purpose, and shall be a lien on the real estate of the judgment debtor from the date of the filing of a transcript of the docket of such judgment in such book in the office of the County Clerk of the county in which such real estate is situated."

In view of the foregoing section it is my opinion that it is mandatory upon the Clerk of the District Court to docket money judgments in a book kept for the purpose without special request by the plaintiff. There is no fee to be charged by the Clerk of the District Court for docketing such judgment.

However, in regard to the making of a transcript of such judgment for the purpose of filing same with the County Clerk of the county in which any real estate of the judgment debtor is situated, I believe and therefore hold that it is necessary for the judgment creditor to make a request therefor and that the Clerk of the District Court is not to make such transcript until so requested.

Section 3082 provides that said Clerk of the District Court shall receive fifty cents for making and certifying said transcript, but I am of the opinion that this provision in said section is repealed by Chapter 149 of the Laws of 1919 which provides in Section 4 thereof, that Clerks of the District Courts shall perform such services required of them in civil actions other than those for which fees are provided for in said chapter without further compensation. Therefore, the Clerk of the District Court is not to make any charge whatsoever for preparing and certifying a transcript of judgment provided for in Section 3079.

When such transcript of judgment has been requested and has been prepared and certified by the Clerk of the District Court, the same may be filed with the County Clerk

upon the payment of a filing and recording fee of fifty cents as provided in Section 3082. This fee to be charged by the County Clerk is not affected by Chapter 149 because said chapter applies only to fees to be charged by Clerks of the District Courts and not County Clerks.

I believe that the foregoing will make clear the procedure to be followed in money judgments as provided for in Section 3079 and following sections. If you wish further information we shall be only too glad to serve you.