

Opinion No. 21-3078

August 9, 1921

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. P. S. Eaves, Justice of the Peace, Lovington, New Mexico.

Justice of the Peace Process May Be Served Anywhere in County.

OPINION

{*81} I am in receipt of your letter of the 5th instant, stating that you have before you certain cases in which the defendants cannot be served with process in person within your precinct, and inquiring if there is any provision or rule of law whereby they may be served outside of the precinct, or by publication, except in attachment suits.

The jurisdiction of justices of the peace is by law prescribed to be coextensive with the limits of the county in which they shall be elected, provided that they shall reside and hold office in the precinct for which they may be elected. (Section 3168, Code 1915).

The jurisdiction of the justice of the peace being defined by statute as being coextensive with the limits of the county in which they are elected, it would naturally follow, therefore, that the process of the justice of the peace could be served anywhere within the limits of such county, and this rule was recognized by the Supreme Court of the Territory in the case of Territory vs. Witt, reported at 16 N.M. 335, wherein the court had under consideration section 3243, Code 1915, and used the following language:

"All process by a justice of the peace is directed to the 'Sheriff or any constable of the proper county,' and may be executed anywhere in the county."

From the foregoing, it is quite clear that there is no limit upon a service of process issued from a court of justice of the peace within the limits of the county in which such justice of the peace was elected.