

Opinion No. [29-15]

September 12, 1929

BY: E. C. WARFEL, Assistant Attorney General

TO: Mr. Jose R. Lopez, Box 322, Las Vegas, New Mexico.

OFFICERS -- Constable may not serve warrant of arrest outside his county.

OPINION

Your letter of the 10th inst. inquiring as to your right as constable to go out of your county and serve criminal process and collect compensation therefor, is duly at hand.

In reply thereto shall say that a search of the statutes and constitution of New Mexico does not reveal any express provision as to the territorial jurisdiction of a constable, but he is a precinct officer, and you were elected as constable of Precinct No. 29 of that County, and it appears to be the rule of law that in the absence of express provisions to the contrary the powers of an officer are limited to the territory of which he is an officer.

In 23 Am. and En. page 365, 2nd ed., this authority says:

"As a general rule, an officer can perform no official act outside of and beyond the territorial limits in which he is authorized and required to act. His powers are limited to the territory of which he is an officer."

In the case of *Morrell v. Ingle*, 23 Kans. 32, the Supreme Court of that State there says:

"In the absence of express provision to the contrary, the powers of an officer are limited to the territory of which he is an officer."

There are a number of other cases from other states which hold to the same effect, therefore, I am compelled to say that it is my opinion that as there is no express provision of statute giving you authority to act outside of your county you will be unable to legally collect fees and expenses for such services.

Of course, if you had been acting as a duly authorized representative of the sheriff's office, in other words, if the sheriff had deputized you for such purpose, the foregoing would not apply and you could collect your mileage and expenses in the regular way.