

**Opinion No. 31-315**

November 19, 1931

**BY:** E. K. Neumann, Attorney General

**TO:** Miss Grace Massie, Clerk, District Court, Roswell, New Mexico.

{\*120} Your letter regarding docket fees on appeals from Justice Courts has been received. You call attention to Chapter 122, Session Laws of 1931, which provides a docket fee of \$ 5.00 for appeals from Justice of the Peace Courts.

This Section reads as follows:

"That a docket fee of Five (\$ 5.00) Dollars and no more shall be paid to the Clerk of the District Court for docketing appeals to such court from the court of any justice of the peace as provided for in Sections 79-503 and 79-504 of the 1929 New Mexico Statutes Annotated, and the same docket fee shall also be paid to said Clerk for docketing a duly certified transcript of judgment and certified copy of the execution and return thereon issued out of the court of a justice of the peace as contemplated in Section 76-116 of the 1929 New Mexico Statutes Annotated."

It will be noted that the section refers to Sections 79-503 and 79-504 of the 1929 Compilation.

It has been held in Territory vs. {\*121} Lowitski, 6 N.M. 235; 27 Pac. 496 that these sections apply to civil cases only.

This would therefore leave the docket fee for a criminal appeal the same as formerly or, in other words, it remains at the old figure, viz. \$ 2.50.

By Frank H. Patton,

Asst. Attorney General