

**Opinion No. 35-1192**

October 8, 1935

**BY:** FRANK H. PATTON, Attorney General

**TO:** Dr. A. B. Stewart, Superintendent, New Mexico State Hospital, Las Vegas, New Mexico.

{\*83} We have your letter of October 7, 1935, enclosing a letter from Harry Lutgens, Director of Institutions, Sacramento, California, regarding the case of Marie McBride, which I am herewith returning to you.

It seems to me that the disposition of this case depends entirely upon the facts. If Marie McBride, for some good reason and while in a normal mental condition, became separated from her husband, then, in my opinion, her residence or domicile would not depend upon that of her husband. In other words, if she had abandoned her husband because of non-support, cruelty or some other reason recognized in law as grounds for divorce or separation, then she would be capable of establishing a residence for herself in some other state. The question would then arise whether or not she has established such a residence within the meaning of Section 26 of Chapter 76, Laws of 1933. This section defines a resident of this state to be one who has lived here continuously for a period of one year and who shall have acquired the rights of citizenship in this state and who has not acquired residence in another state by living continuously therein for at least one year subsequent to his residence in this state.

It is for you to determine from the information in your possession and in accordance with the law as above explained to you whether Marie McBride is a resident of this state within the meaning of the statute above referred to so as to require the New Mexico Insane Asylum to receive her for confinement in that institution.

By: QUINCY D. ADAMS,

Asst. Atty. General