

## Opinion No. 36-1413

July 24, 1936

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

**TO:** Mrs. Elizabeth F. Gonzales, Secretary of State, Santa Fe, New Mexico.

{\*132} A question has been raised regarding registration upon which I believe you should be informed in the event you should be called upon to advise registration officials. A member of a local registration {\*133} board in Pernalillo County wishes to know whether or not a person tried and convicted in a Federal Court of an offense against the laws of the United States and who has not been pardoned is entitled to be registered. He also asks the same question with regard to a person who has been convicted of an offense in another state than New Mexico.

These questions have never been decided by the Supreme Court of this state so far as I have been able to find out. In the case of *State ex rel Olson vs. Langer* (N.D.), 256 N.W. 377, it was held that a person convicted in the Federal Court of a crime which, under the laws of the United States, is a felony and who has not been restored to the civil rights, is not a qualified elector under the laws of North Dakota. North Dakota has a constitutional provision similar to ours in this respect. However, in this case one of the members of the North Dakota Supreme Court registers a strong dissent. So far as I have been able to determine from my research, there is no decided weight of authority one way or the other on the propositions under discussion. I do not know how our Supreme Court would decide this.

The questions are, by their nature, quite technical and I do not think that the average local registration board is qualified to determine when a person is disqualified from voting by reason of conviction of an offense in the Federal Courts or in those of some other state. It would always be necessary to find out whether the particular offense constituted a felony under the laws of such other state or of the United States. To do this would require special training. I do not think that our statutes on registration of voters gives such boards the power to decide such highly technical questions. I think it is their duty upon proper application being made by persons otherwise qualified to register such persons. If they are disqualified by reason of conviction in a Federal Court or those in some other state, this question can be raised at a later time and in a different manner. See *In re Reid*, 119 N.C. 641, 26 S.E. 337.

In view of the fact that registration will close tomorrow, I do not suppose that much publicity can be given this opinion. However, you can file it in your office for future reference if necessary.

By QUINCY D. ADAMS,

Asst. Atty. General