

Opinion No. 38-1869

February 1, 1938

BY: FRANK H. PATTON, Attorney General,

TO: Mr. E. J. House, Jr., Chief New Mexico State Police Santa Fe, New Mexico.
Attention: Mr. A. B. Martinez, Sergeant

{*209} On January 27th you asked to be furnished an opinion "as to whether or not Justices of the Peace have a right to suspend fines and jail sentences imposed by them".

In the absence of statute, a justice has no authority to suspend a sentence imposed by him. 16 C. J. 358 and cases therein cited. The only provision with reference to the suspension of sentences by a Justice of the Peace is contained in Section 79-218, 1929 Compilation, and is limited to cases where the defendant is a minor or is the husband or wife of the prosecuting witness.

The Justices of the Peace, therefore, have no authority to suspend sentences imposed by them in any other cases.

By A. M. FERNANDEZ,

Asst. Atty. Gen.