

Opinion No. 39-3305

October 17, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mr. E. C. Gober, Justice of the Peace, 205 West Gold Avenue, Albuquerque, N. M.

{*114} I am in receipt of your letter of October 14th wherein you inquire as to whether a person who has been arrested in a county at the instance of a telephone conversation by the sheriff of another county may be taken before the proper authority having jurisdiction and set bond as required in Section 105-2217, New Mexico Code.

Section 105-2217, New Mexico Statutes, Annotated, 1929 Compilation, specifically states that for the purpose of having a person admitted to bail, if no authority to the officer making the arrest to take bail be indorsed upon such warrant, then if required by the defendant the arresting officer may take him before some authorized officer of the county where the arrest is made.

I am of the opinion that the officer should have the warrant at the time the defendant is taken before some authority having jurisdiction in the matter.

You further inquire as to whether appeal can be taken from the justice of the peace court to the district court in peace proceedings. There is no appeal whatever in peace proceedings from the justice of the peace court to the district court. The law provides that the bond shall run for a certain period and that the person shall {*115} appear before the district court on the first day of the next term thereof. The district judge then may discharge a person or continue the same in effect.

Trusting that the foregoing sufficiently answers your question, I am,