

Opinion No. 41-3841

July 21, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Elliott S. Barker State Game Warden Santa Fe, New Mexico

{*79} In your letter of July 16 you request our opinion as to whether or not it would be permissible for any person charged with the **commission of a misdemeanor to plead** guilty to the commission of the same before a justice of the peace outside of the county wherein the misdemeanor was committed, assuming that the party charged with the commission of the misdemeanor would formally waive any question of jurisdiction.

By statute the jurisdiction of a justice of the peace, among other things, is co-extensive with the limits of the county in which they shall be elected. Our Supreme Court has specifically held that the jurisdiction of a justice of the peace is "inferior, special and limited by statute to specific territorial boundaries established by law as a county * * *." Territory vs. Valencia, 2 N.M. 108.

It is a general rule of law that any exercise of jurisdiction by a justice of the peace beyond his prescribed territory is coram non judice and void. It is a further general rule of law that where the jurisdiction of the Court is specifically prescribed that the parties to an action cannot confer jurisdiction on a court by consent or waiver. See 35 C. J. 536.

In view of the foregoing authority, I am of the opinion that a justice of the peace could not legally impose sentence on any person who had committed a misdemeanor in any county other than the one in which the justice of the peace was elected.

Trusting that the foregoing sufficiently answers your inquiry, I am

By HOWARD F. HOUK,

Asst. Atty. General