

**Opinion No. 43-4280**

May 7, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Marshall Fuller, County Clerk, Hidalgo County, Lordsburg, New Mexico.  
Attention of Rachel Atkinson Deputy Clerk

We are in receipt of your letter of May 4, 1943, in which you ask whether or not it is absolutely necessary to have a witness for a marriage ceremony in order to make such marriage valid.

The general rule, as set down by the authority in 38 C. J., 1314, is that:

"Unless the statutes otherwise expressly provide, the presence of witnesses is not essential to the solemnization of the marriage."

Nowhere in our statutes governing marriage does any such requirement appear. While the form of marriage certificate set forth in Section 65-117 of the 1941 Compilation contains a place for the signatures of the witnesses this form was established in conformity with Section 65-116, wherein it is provided that for the purpose of insuring a uniform system of records of marriages the certificate should be **substantially** in the form contained in Section 65-117.

It is therefore my opinion that a marriage in other respects valid would not be considered invalid solely on the ground that there were no witnesses at the marriage of the parties involved.

I might add that the purpose of having witnesses at a ceremony is to enable the parties to adequately prove the existence of marriage.

By ROBERT W. WARD,

Asst. Atty. General