

Opinion No. 43-4310

June 4, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Richard F. Rowley, Assistant District Attorney, Clovis, New Mexico

We are in receipt of your letter of May 31st, in which you ask whether a certificate of service possessed by one who has been released or discharged from the army because of his age is entitled to be recorded under section 66-1501 of the 1941 Compilation without charge. You further state that while the instrument is not in the usual form of discharge, it clearly shows that the bearer was discharged from the army, due to his age.

Section 66-1501 provides, in part:

"The county clerks of the several counties of the state shall, upon presentation to them, record, free of charge, in the volume known and designated as 'Miscellaneous Records,' the discharge papers of any soldier, * * *"

Section 66-1503 provides that:

"Excepting a dishonorable discharge, or one for misconduct, any discharge, including furloughs to the reserve or order relieving a member of a reserve corps from active duty, shall constitute an honorable discharge for the purposes of this act."

It is noted that the definition of "discharge" covers any type of discharge and that Section 66-1501 uses only the general term "discharge papers."

It is therefore my opinion that any instrument showing that a soldier has been discharged as defined in this act is subject to record free of charge, no matter whether such instrument is in the usual form or not. It is further my opinion that a certificate of service is such a discharge.

By ROBERT W. WARD

Asst. Atty. General