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March 1, 1960
Opinion No. 60-29

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ARIZONA ATTORNEY GENERAL

REQUESTED BY: Honorable Harry Ackerman
Pima County Attorney

OPINION BY: WADE CHURCH, The Attorney General

QUESTION: Is a notary public appointed in
one county authorized or empowered
to administer oaths in any other
county?

CONCLUSION: No.

Notaries public have no jurisdiction outside the county or political subdivision for which they are appointed in the absence of specific statutory authorization therefor. Fairbanks, Morse & Co. v. Getchell, 13 C.A. 458, 110 P. 331; In Re House Bill No. 166, 9 Colo. 628, 21 P. 473; Byrd v. Cochran, 39 Neb. 109, 59 N.W. 127.

A.R.S. § 41-311 (A), authorizing the appointment of notaries public and specifying their jurisdiction, provides that:

"A. The secretary of state may appoint notaries public in each county to hold office for four years who shall have jurisdiction in the county in which they reside and in which they are appointed. Acknowledgments of instruments may be taken and executed by a notary public in any county of the state although the commission is issued to the notary public in and for another county."

Until 1953, the Code (A.C.A. 1939, § 14-101) contained only the first sentence of the above-quoted section. This office, in Opinion No. 49-319 (1949) held that notaries public had, under that section, jurisdiction only in the counties of their appointment.

Then, in Laws 1953, Ch. 15, the Legislature added A.C.A. § 14-101(a), which provided that:

"14-101a. Territorial authority of notaries public

Notwithstanding the provisions of section 14-101, Arizona Code of 1939, and any other law to the contrary, acknowledgments of instruments may be taken and executed by a notary public in any county of the state although the commission is issued to the notary public in and for another county."

Honorable Harry Ackerman
Pima County Attorney

March 1, 1960
Page 2.

A.C.A. 1939 § 14-101 and § 14-101(a) were later combined in the present A.R.S. § 41-311(A), supra.

We think it is clear from the language and the history of A.R.S. § 41-311 that notaries public in Arizona have jurisdiction only in the county where they reside and for which they are appointed, with the sole exception of the taking and executing of acknowledgements of instruments. This exception cannot be applied to the many other duties of notaries public, listed in A.R.S. § 41-312.

It is, therefore, the opinion of the Attorney General that a notary public appointed in and for one county is not authorized or empowered to administer oaths in any other county.

STIRLEY NEWELL
Assistant Attorney General


WADE CHURCH
The Attorney General

SN:c.
60-29