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## ARIZONA ATTORNEY GENERAL

GARY K. NELSON, THE ATTORNEY GENERAL  
STATE CAPITOL  
PHOENIX, ARIZONA

August 13, 1968

DEPARTMENT OF LAW OPINION NO. 68-15 (R-77)

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REQUESTED BY: THE HONORABLE DAN SCHIMMELPFENNIG,  
Mohave County Attorney

QUESTION: Do Sections 36-142 and 41-1826 A.R.S. as adopted by the 28th Legislature operate to expand the jurisdiction of Justice of the Peace Courts in criminal actions as set forth in Sections 22-301, Par. 4, and 22-402 B, respectively, to include authority to hear and determine misdemeanors and criminal offenses punishable by a fine exceeding \$300.00?

ANSWER: See body of opinion.

The Justice Courts and Police Courts have jurisdiction to impose fines not exceeding \$300.00, in the proper cases, and in addition to assess the penalties provided for in A.R.S. §§ 36-142 and 41-1826 even though the total amount exceeds \$300.00. A.R.S. § 22-301, Par. 4, as amended, provides:

"The justice of the peace courts shall have jurisdiction of. . . [m]isdemeanors and criminal offenses punishable by a fine not exceeding three hundred dollars, or imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment." (Emphasis added.)

A.R.S. § 22-402 gives Police Courts concurrent jurisdiction in such cases. The sentence that can be imposed, not the sentence actually imposed in a particular case, determines the jurisdiction of the Justice and Police Courts.

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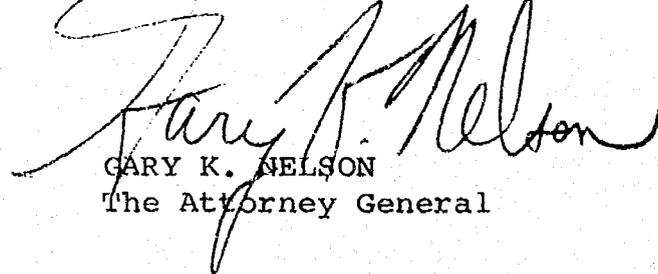
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A great number of misdemeanors are punishable by fines not exceeding \$300.00. If A.R.S. §§ 22-301 and 22-402 were to be construed as limiting the jurisdiction of Justice Courts and Police Courts to cases in which the total amount of the penalty that could be imposed, including penalties assessed under A.R.S. §§ 36-142 and 41-1826, does not exceed \$300.00, the Superior Court would be cluttered with cases that the Legislature obviously intended to be handled by the Justice and Police Courts. For example, the offense of drunk and disorderly, defined by A.R.S. § 13-379, is punishable by a fine not exceeding \$300.00 (A.R.S. § 13-1645). The additional penalty imposed by A.R.S. § 36-142 for a \$300.00 fine is \$30.00, by A.R.S. § 41-1826 another \$30.00, making a total penalty of \$360.00 for the offense of drunk and disorderly. This is the very type of offense the Justice Courts and Police Courts are designed to handle, not the Superior Courts.

For the above reasons, it is obvious that the Legislature intended to permit the Justice Courts and Police Courts to impose, in the proper cases, fines not exceeding \$300.00 and to add to such fines the penalties provided for in A.R.S. §§ 36-142 and 41-1826, even when the total amount of the fine and additional penalties in a particular case exceed \$300.00.

Respectfully submitted,



GARY K. NELSON  
The Attorney General

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