

August 17, 1937

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ARIZONA ATTORNEY GENERAL

R. S. Espinosa, Deputy Clerk
Superior Court of Santa Cruz County
Nogales, Arizona

Dear Mr. Espinosa:

Your letter of August 15, 1937, with reference to the matters therein set forth, has been received.

After a consideration of the problem stated in your letter and a careful examination of the statutes in question, we are of the opinion that the plaintiff in the action pending in your court may not secure the issuance of a writ of garnishment without executing a bond as required by law, unless such garnishment is issued after a judgment has been entered in the action now pending in the Superior Court of Santa Cruz County.

It is our opinion that the judgment which is referred to in subsection 3 of Section 4258, R.C.A. 1928, refers to a judgment rendered in the court out of which the writ of garnishment is to be issued. In other words, we believe that the statute contemplates that judgment shall first be rendered in the action pending in your court before a writ of garnishment may be issued without bond. We believe that the plaintiff might probably secure the issuance of a writ of garnishment under subsection 2 of that section, but he would, of course, be required to execute a bond as required by Section 4259 before such writ might issue.

We trust that this answers your inquiry.

Yours very truly,

JOE CONWAY
Attorney General

MARK WILMER
Assistant Attorney General

E. G. FRAZIER
Special Assistant
Attorney General