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February 6, 1951

Op. No. 51-43

Honorable Jack Hunsaker
Justice of the Peace
Mesa, Arizona

N/A

Dear Judge:

This is in reply to your letter of January 29, 1951, wherein you ask us two questions. It would have been a little better procedure for you to have asked the County Attorney of Maricopa County these questions, because it works a little more harmoniously by doing so. However, we will answer it and send the County Attorney a copy of the opinion. Your first question:

"Would like your opinion on Juvenile Traffic cases as to whether they should be tried before me, Justice of the Peace, Do I have any jurisdiction over them, or should they go before Judge Bernstein, as he advised."

Our Code, Section 46-117, is in part as follows:

"Definitions.--In this act, unless the context otherwise requires:

'Juvenile court' means the superior court when exercising its jurisdiction over neglected, dependent, incorrigible, or delinquent children, or children accused of crime under the age of eighteen (18) years;

'Judge' means judge of the juvenile court;

'Child' means a person under the age of eighteen (18) years;"

Subsection (b) of Section 46-122 ACA 1939, is as follows:

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"(b) Whenever a child under the age of eighteen (18) years is charged with the commission of a crime or the violation of an ordinance before any magistrate or justice of the peace, the magistrate or justice of the peace shall certify that the child is so charged, and shall transmit the records of the case to the clerk of the superior court, and thereupon the juvenile court shall exercise jurisdiction."

These two quoted sections seem to be plain, and after they have now been called to your attention, we do not believe that they need much interpretation. We all know that throughout the state there are many people under the age of eighteen who are accused of minor offenses in the Justice Court and their age is not ascertained and the entire matter is attended to by the Justice of the Peace, but when the age of the person is ascertained to be under eighteen then the Justice of the Peace does not have authority to proceed any further. In this connection we would cite to you Section 20-102 ACA 1939, which gives the jurisdiction of the Justice of the Peace. This section does not disclose the age limit, but as Section 46-117 and Section 47-122, supra, are later enactments they will govern your procedure in this matter.

Your second question is:

"And as a personal favor I would like some information regarding the legality as to the signature of my name which is Jarvis Hunsaker instead of Jack Hunsaker, which is the name I have used all of my life. I was elected by that name, all my friends and people in Mesa know me by that name, but there is a question as to whether it is legal for me to use Jack on all court papers issued in this office."

We will answer this last question by quoting to you part of 38 Am. Jur., starting at page 600, under the heading, Fictitious or Assumed Name:

"It is merely a custom for persons to bear the name of their parents;

hence, in the absence of a statute or judicial adjudication to the contrary, there is nothing in the law prohibiting a person from taking or assuming another name, so long as he does not assume a name for the purpose of defrauding other persons through a mistake of identity. In other words, a contract or obligation may be entered into by a person under any name he may choose to assume. The law is chiefly concerned with the identity of the individual, and when that is ascertained and clearly established, the act will be binding on him and on others.

It is well settled that an assumed or fictitious name may be either a purely artificial name or a name that is or may be applied to natural persons. It is held to be immaterial that there is a living person who bears the same assumed name.

* * * Since the object and purpose of describing a person by his name is to identify him, it is a general rule that a person may be designated in legal proceedings by the name by which he is commonly known, although this does not constitute his true name. Moreover, it is not necessary that the person shall be known as well by the one name as by the other; it is sufficient if he is known by both names."

In this connection we would like to have you read Section 44-714 ACA 1939 which refers to names to be used on complaints and informations, etc., and Sections 27-501 and 27-502, which pertain to change of name. We fail to find any statute in the State of Arizona which requires you to use the Christian name given you by your parents. We believe that after you have read this letter and the citations that you will be convinced that it will be

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legal for you to continue to sign your name as Jack Hunsaker.

Very truly yours,

FRED O. WILSON
Attorney General

CHAS. ROGERS
Assistant Attorney General

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