

Oltason (copy)

Bartlett

Peen

Beck

# LAW LIBRARY ARIZONA ATTORNEY GENERAL

August 3, 1954  
Opinion No. 54-116

TO: Mr. Walter J. Bennett, Assistant Chief  
Division of Law Enforcement  
Arizona Game & Fish Commission  
Arizona State Building  
Phoenix, Arizona

RE: Residence of minor whose parents  
moved to Arizona while minor was  
in the service.

QUESTION: May a discharged serviceman claim  
to be a bona fide resident of Arizona  
for the reason that his parents moved  
to the state while he was in military  
service?

Our statute 57-115, A.C.A. 1939, as amended, 1953 Supplement,  
reads in pertinent part as follows:

"57-115. License fees.--  
\* \* \* \* \*

A resident for the purpose of this act is  
defined to be a citizen of the United States  
who has been a bona fide resident of this  
state for one year immediately preceding the  
date of application for license, or a member  
of the armed forces including aliens on active  
duty with the United States and stationed in  
the state of Arizona for one year immediately  
preceding the date of application for license.  
\* \* \*

Quoting from In Re Webb's Adoption (1947), 65 Ariz. 176, 177  
P. 2d 222:

\* \* \* \* \*

"(3) The term 'resides' as used in the  
adoption statute refers to legal residence  
or domicile. Johnson v. Smith, 94 Ind. App.  
619, 180, N.E. 188; Cribbs v. Floyd, 188  
S.C. 443, 199 S.E. 677.

(4) An infant is not sui juris and there-

fore cannot fix or change his domicile. His residence is that of his parents or the one of them who has the legal custody of him, or if neither parent has the legal custody, the one who stands in the relation of loco parentis to him. Johnson v. Smith, supra; Crain v. Walker, 222 Ky. 828, 2 S.W. 2d 654; Cribbs v. Floyd, supra.

(5) The domicile of the father, if the parents are married, is ordinarily the domicile of the child. In re Adoption of Susans', 37 A. 2d 645.

(6) A domicile once acquired continues until a new one is acquired. In re Adoption of Susans', supra."

\* \* \* \* \*

The general rule is, that the domicile or residence of the parents is the domicile of the children, notwithstanding that the children are outside the state. An infant cannot of his own volition, with certain exceptions not applicable here, acquire a new domicile, and until he is twenty-one, his domicile or residence will be that of the parents. This is true regardless of where they move and whether or not the child accompanies them.

In answer to your question, if the parents have been bona fide residents of Arizona for one year immediately preceding the date of application, then the son is a bona fide resident of Arizona, if the son is, in fact, under the age of twenty-one years.

The fact that the Navy would not pay traveling expenses has no bearing whatever on the question.

We hope the above will be of assistance to you.

Sincerely,

JAMES P. BARTLETT  
Special Assistance to  
The Attorney General

JPB:mp