

Opinion No. 46-4964

November 13, 1946

BY: C. C. McCULLOH, Attorney General

TO: Mr. J. V. Gallegos Assistant District Attorney Tucumcari, New Mexico

{*284} We are in receipt of your letter of November 6th in which you state the following:

"The candidate for county assessor who was elected in yesterday's election died today. The county commissioners intend to appoint a county assessor within the next few days to serve the decedent's unexpired term for 1946 and to continue for two years thereafter. May the same person who has served approximately twenty-six months as county assessor be eligible for election to the same office for two years thereafter?"

I am not certain that I fully understand your question. However, it appears to me that the problem you have in mind is this:

Has a person, who has held a county office for two years and two months, held office for two consecutive terms, within the meaning of the Constitution, so that he is ineligible to be elected or appointed to a county office for two years thereafter?

Art. 10, Sec. 2 of the Constitution provides as follows:

"TERMS OF COUNTY OFFICERS. -- All county officers shall be elected for a term of two years, and after having served two consecutive terms, shall be ineligible to hold any county office for two years thereafter."

You will observe that the first clause of this section provides that a term of office shall be two years. This being so, it is my opinion that a person who has served merely two months has not served a term of office within the contemplation of the Constitution.

In view of the foregoing, it is my opinion that the county commissioners may appoint this person to serve a full two-year term.

By ROBERT W. WARD,

Asst. Atty. General