

Opinion No. 55-6191

June 16, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Abner Schreiber, Assistant District Attorney, First Judicial District, Los Alamos, New Mexico

Replying to your letter of June 6, 1955 in which you requested an opinion from this office concerning whether or not a Justice of the Peace may accept checks in payment of fines, please be advised as follows:

The general rule of law is that except as otherwise authorized by statute, a fine must be paid in money, 36 CJS Fines, Section 6, at page 785. We do not find any statute in New Mexico that would authorize a Justice of the Peace in accepting a check as payment for the fine. If a Justice of the Peace chose to accept a check in payment of a fine, and that check proved to be no good, we have no doubt that the Justice of the Peace would be liable for the payment of the same.

We call your attention to Section 40-45-23 of the New Mexico Statutes Annotated, 1953 Compilation, which provides that a Justice of the Peace must turn over all money received by him in the discharge of his duties within fifteen days from the collection thereof.

We trust that this will answer your question.

By: Paul L. Billhymer

Assistant Attorney General