

## Opinion No. 64-09

January 27, 1964

**BY:** OPINION OF EARL E. HARTLEY, Attorney General Oliver E Payne, Assistant Attorney General

**TO:** Mr. James C. Compton, District Attorney, Ninth Judicial District, Portales, New Mexico

### QUESTION

#### FACTS

Approximately three years ago a registered voter in Roosevelt County moved to Lubbock, Texas, and lived there about two years, returning to Portales in July, 1963.

#### QUESTION

Under such circumstances is the person eligible to be a candidate for a county office in the next primary election?

#### CONCLUSION

No.

### OPINION

#### ANALYSIS

Section 3-11-16, N.M.S.A., 1953 Compilation (P.S.), provides for the filing of declarations of candidacy for county offices. Such declaration of candidacy must be in substantial compliance with the form provided for in Section 3-11-7, N.M.S.A., 1953 Compilation (P.S.).

This latter Section sets forth a Declaration of Candidacy form which reads in part as follows: "I, \_\_\_ a **qualified elector** of Precinct No. \_\_\_, of the County of \_\_\_, State of New Mexico . . ." (Emphasis added.) Section 3-1-1, N.M.S.A., 1953 Compilation, defines "qualified elector" as a "citizen of the United States who at the date of the election will be over the age of twenty-one years and will have resided in the state twelve months, in the county ninety days and in the precinct in which he offers to vote thirty (30) days, **next preceding the election**, except idiots, insane persons, persons convicted of a felonious or infamous crime unless restored to political rights."

Unless these residency provisions can be complied with, a person is not a qualified elector and thus cannot be a candidate for county office.