Opinion No. 79-20

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OPINION OF: Jeff Bingaman, Attorney General

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TO: The Honorable Robert M. Doughty II, District Judge, Twelfth Judicial District, Post Office Box 2004, Alamogordo, New Mexico 88310

COMMITMENT PROCEDURES

Involuntary commitment hearings held pursuant to Section 43-1-13 NMSA 1978 need not be held at the courthouse at the county seat but may be held instead at a facility located elsewhere in the county.

FACTS

Section 43-1-13 NMSA 1978 of the Mental Health and Developmental Disabilities Code provides that developmentally disabled adults involuntarily committed to a residential habilitation facility must be afforded a commitment hearing in district court at least every six months. Section 34-6-24 NMSA 1978 provides that the district court in each county shall be held at the county seat.

Most developmentally disabled adults in New Mexico are committed to the facility at Fort Stanton which is located in Lincoln County. The county seat of Lincoln County is in Carrizozo, approximately thirty miles from Fort Stanton and it has proven logistically difficult and expensive to transport Fort Stanton residents to Carrizozo for commitment hearings.

QUESTIONS

May the district court hold the commitment hearings required by Section 43-1-13 NMSA 1978 at the Fort Stanton facility?

CONCLUSIONS

Yes.

ANALYSIS

Section 34-6-24 NMSA 1978, in establishing the district court at the county seat, provides that:

"In each county, the district court shall be held at the county seat. Each board of county commissioners shall provide adequate quarters for the operation of the district court, and provide necessary utilities and maintenance service for the operation and upkeep of district court facilities. From the funds of each judicial district, furniture, equipment, books and supplies shall be provided for the operation of each district court within the judicial district."

OPINION

The intent of any statute is essentially determined by its language, see, e.g., **Winston v. New Mexico State Police Bd.,** 80 N.M. 310, 454 P.2d 967 (1969), and the language of this statute seems to be directed primarily toward the establishment and maintenance of adequate quarters for the district court in each county. Accordingly, it is not necessarily the intent of Section 34-6-24, **supra,** to require that all district court proceedings be held at the courthouse established at the county seat.

An earlier territorial law similarly provided that the district *{*49}* courts be held at the county seats of the different counties and was applied to sustain the validity of a trial at the **de facto** rather than **de jure** county seat. **Territory v. Clark,** 15 N.M. 35, 99 P. 697 (1909). Although the issue in that case was raised in the context of the trial court's allegedly mistaken determination of the location of the county seat, the opinion questions the view holding that trials conducted at other than the county are a nullity.

Moreover, the New Mexico Constitution does not necessarily require that all proceedings of the district court be held at the county seat. Article VI, Section 13 states only that "Unless otherwise provided by law, at least two terms of the district court shall be held annually in each county, at the county seat."

Nor do the other statutes governing the district court necessarily imply a restriction of judicial activity to the county seat. Section 34-6-2 NMSA 1978 provides that, in addition to regular terms, "all other business of the district courts shall be conducted in any county at any time as directed by the district judge." Section 34-6-17 NMSA 1978 permits the district court by rule to establish an additional judicial office at other than the county seat to better serve the convenience of the public. Section 34-6-19 NMSA 1978 authorizes the district court to designate the place of employment of the various court personnel. Section 34-6-23 NMSA 1978 provides for per diem and travel expenses for district judges and court personnel while absent from the principal office on official business. These statutes thus at least contemplate or accommodate judicial activity at locations other than the county seat.

Finally, by Rule 83 of the Rules of Civil Procedure for the District Courts, the Supreme Court has authorized the district courts "to regulate their practice in any manner not inconsistent with these rules." Pursuant to Rule 83, district courts have been held to have supervisory control over their dockets, **Birdo v. Rodriguez,** 84 N.M. 207, 501 P.2d 195 (1972); and to assign cases in accordance with the workload, **Atol v. Schifani,** 83 N.M. 316, 491 P.2d 533 (Ct. App. 1971). It has been held that Rule 83

does not permit a district court the authority to limit the extent of a part's substantive right to disqualify a judge. **Beall v. Reidy,** 80 N.M. 444, 457 P.2d 376 (1969).

The District Court for the Twelfth Judicial District could therefore elect under Rule 83 to adopt the practice of holding commitment hearings at the Fort Stanton facility. Such practice is not inconsistent with the statutes nor with the Rules of Civil Procedure. Nor does it appear to limit any substantive right of the developmentally disabled adult. The substantive rights of persons who are to be involuntarily committed are guaranteed by the requirements of Section 43-1-13, **supra,** which does not require that the commitment proceeding be held at the county seat or any other particular location.

As the Court noted in **Territory v. Clark, supra,** it was not even suggested that the defendant "was in any way actually harmed or put at any disadvantage" by being tried at one location in the county rather than another. 15 N.M. at 40. The location of a hearing within a county is essentially a procedural rather than substantive matter.

In sum, absent a showing by the person to be committed that his substantive *{*50}* rights have in any way been abridged if his commitment hearing is not held at the county seat in Carrizozo, the district court is not precluded from adopting the practice, pursuant to Rule 83, of holding such hearings at the Fort Stanton facility when, in its discretion, such practice would better serve the public convenience.

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