

Opinion No. 14-1395

December 7, 1914

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. Charles A. Jones, Carlsbad, New Mexico.

SHERIFF.

Not official duty of a sheriff to convey insane person to the asylum.

OPINION

{*256} I am in receipt of your letter of the 2nd instant in which you inquire whether it is by law made the duty of a sheriff to convey insane persons to the asylum at Las Vegas, after they have been committed thereto by the district court in accordance with the provisions of Section 3619 of the Compiled Laws of 1897.

By the provisions of the section above referred to the district court, upon committing an indigent insane person to the asylum, is given the right to make an order granting the reasonable costs and charges of such examination and the transportation of such person to the asylum, and the county commissioners of the county from which the insane person is taken shall order and allow such costs and {*257} charges in favor of the several persons entitled thereto. I am unable to find any law which makes it the duty of a sheriff to convey an insane person to the asylum, and it would thus seem that if a district court should authorize a person, who happened to be a sheriff, to take charge of a lunatic and transport him to the asylum, such sheriff would not be acting in his official character, but as an agent of the court, and as such agent he could not be required to account to the county treasurer for any compensation which may have been allowed him by the district court for such services.