

Opinion No. 19-2166

January 23, 1919

BY: HARRY S. BOWMAN, Assistant Attorney General

TO: Mr. Theodore Roualt, Game Warden, Santa Fe, New Mexico.

Non Resident Owner of Property in New Mexico Not Entitled to Resident Fishing or Hunting License.

OPINION

Owing to rush of work occasioned by reason of the legislative session, your oral request for an opinion as to the right of a person whose home is in another state, but who owns property in New Mexico, to have issued to him a resident game license, has been delayed for a few days.

Your inquiry involves the construction or interpretation of the latter part of section 7, Chapter 101, Laws of 1915. The chapter above named provides for two classes of licenses for hunting and fishing to be issued by your office, one called a "resident hunting or fishing license" and the other a "non-resident hunting or fishing license."

The third from the last paragraph of the above mentioned section provides that any "resident of the United States who has been a **bona fide** resident of this state for six months then last past shall be entitled to procure a resident hunting or fishing license."

The paragraph following provides for the issuance of "non- resident licenses."

The question arises as to what the words "**bona fide** resident" of this state mean. The words "**bona fide**" when used in connection with the word "resident" have been held to mean "real" and not "feigned."

Hill vs. Ahern, 135 Mass. 58.

The word "resident" has been variously defined, and often to be synonymous with the word "inhabitant" or "citizen." It has also been defined to mean "the place where one has his domicile or home." The word "resident" has been held in one case to mean the "place where a person has a seat or settlement, or the place where he dwells, or abides, or lives."

Stevens vs. Larwill, 81 Mo. App. 140; 84 S. W. 113.

In Brisenden vs. Chamberlin, 53 Fed. 307, "resident" was defined as "the place where a man's habitation is fixed."

From all of the above definitions, it will appear that a "resident" is one who lives in a place or has his home there, and that a person who has a home in one state but owns property in another state cannot be held to be a resident of the latter state.

There is no question, therefore, but that such a person last above mentioned would not be entitled to a resident game license under the provisions of Chapter 101, Laws of 1915, but that he would be compelled to procure a non-resident license in order to be entitled to the privileges granted by this statute.

I understand that the question has arisen by reason of residents of the City of El Paso demanding the issuance of resident licenses to them by your office. The supreme court of the State of Texas has held that the words "resident" and "inhabitant" are synonymous, and such being the case even the Texas courts could not take the position that persons living in El Paso would be entitled to a resident hunting license in the State of New Mexico.

Trusting that the foregoing satisfactorily answers your inquiry, I am,