

Opinion No. 20-2531

March 30, 1920

BY: O. O. ASKREN, Attorney General

TO: Mrs. Frank Woodwide, Separ, Grant County, New Mexico.

Qualifications of Voters.

OPINION

In reply to your letter of March 26th requesting my opinion concerning the right of one David Lughran to vote in New Mexico, advise, that under the law, as you know, one must reside in this state for at least one year before he acquires the right to vote. This does not mean that he must actually reside in the state during all that portion of the time, but it is purely a question of intent, and if he actually established residence in New Mexico at least one year before he offers to vote and has during all that time claimed New Mexico as his home, no doubt the courts would hold that he was a legal voter. One does not lose his place of residence by being absent in the army or navy, or while being employed by the Government or State.

A poll tax receipt is not necessary and there is no particular form of challenge. In the event a challenge is desired, the challenger at the poll may request one of the judges to swear the proposed voter and any and all questions may be propounded to him under oath concerning his residence and concerning his right to vote at such election. Under the given statement of facts, I am unable to determine, as a matter of law, whether the party is entitled to vote because it is purely a question of intent upon the part of the proposed voter, coupled with facts which would substantiate his declared intention. In the event the judges determine that the challenge should be sustained, the judges should follow the election law concerning votes that are challenged.