

**Opinion No. [29-25]**

February 26, 1929

**BY:** M. A. OTERO, JR., Attorney General

**TO:** Mr. Fred Stringfellow, District Attorney, Raton, New Mexico.

CRIMINAL LAW -- Person may not be twice put in jeopardy for same offense.

**OPINION**

A proposition has just been brought to my attention with the request that I drop you a line regarding my reaction to it.

It seems that one Carlos B. Lopez of Taos County filed a complaint before Justice of the Peace Juan P. Romero of Precinct No. 24, Taos County, dated December 7, 1928, in which he charged that he had been assaulted by certain parties whose names, according to said complaint, were Alfred Esquibal, Rosinaldo Romero, Abedinago Sanchez, Pedro Sanchez, Margarito Sanchez, Frank Vigil and Felipe Armijo. The case was accordingly tried before the Justice of the Peace and the defendants Alfredo Esquibel, Rosinaldo Romero, Abedinago Sanchez, Pedro Sanchez and Felipe Armijo were each fined in the sum of \$ 5.00 and costs. This was on December 15.

Subsequently, the said Carlos B. Lopez apparently filed another complaint against the same defendants in the court of Fidel Vasquez, Justice of the Peace of Precinct No. 10 in Taos County, covering exactly the same facts, which, of course, cannot be done, as you know. The interested parties are, of course, very much excited about this situation and want something done by you to have the second case dismissed.

I regret having to bother you about this matter but in view of the circumstances I am wondering whether or not you wouldn't drop a line to Justice of the Peace Fidel Vasquez of Precinct No. 10 at Penasco, Taos County, telling him to throw out the case. That is, of course, if you care to do so. I believe this will probably be the simplest way of straightening the matter out for these people.

Of course, if this is an entirely different assault case on a different occasion, covering different facts, or if it was a felony charge, then, of course, that would be different, but from the papers and things that these people have brought down to me it would seem to be simply a case of filing two complaints in two different precincts covering one and the same cause. In any event, however, I will appreciate hearing from you about the matter.

Thanking you for giving this matter your attention, I am