



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

October 17, 1957

Honorable Wayland G. Holt
District Attorney
132nd Judicial District
Snyder, Texas

Opinion No. WW-279

Re: Jurisdiction of Justice
Courts of Borden County
in misdemeanor cases.

Dear Mr. Holt:

You have requested our opinion on the following question:

"In the absence of a special statute increasing the jurisdiction of the County Court (of Borden County), does the County Court have jurisdiction concurrent with Justice Courts in misdemeanor criminal cases where the maximum punishment is a fine of \$200.00 or less?"

You state in your request that a vacancy exists in each Justice Court in Borden County and that certain members of the Commissioners' Court do not want to fill these vacancies if the County Court has jurisdiction of cases referred to in your question.

The office of Justice of the Peace is a constitutional office created by the provisions of Section 18 of Article V of the Constitution of Texas. Vacancies in the office of Justice of the Peace are required to be filled by the Commissioners' Court by the provisions of Section 28 of Article V of the Constitution of Texas. Therefore, you are advised that it is the duty of the Commissioners' Court to fill the vacancies that exist in the offices of Justices of the Peace of Borden County, regardless of whether the County Court of Borden County has jurisdiction of cases referred to in your question.

Referring to your specific question, Article 51, Vernon's Code of Criminal Procedure, provides for criminal jurisdiction of Justice Courts.

Article 56, Vernon's Code of Criminal Procedure, provides:

"The county courts shall have original

jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice court, and when the fine to be imposed shall exceed two hundred dollars."

Article 60, Vernon's Code of Criminal Procedure, provides:

"Justices of the peace shall have jurisdiction in criminal cases where the fine to be imposed by law may not exceed two hundred dollars."


In construing these provisions, it has been held that the Justice Court and the County Court have concurrent jurisdiction of cases where the fine could not exceed \$200.00. See Culpepper v. State, 172 S.W.2d 697, 698 (Tex.Crim. 1943); Skaggs v. State, 247 S.W.2d 906 (Tex.Crim. 1952). Therefore, you are advised in answer to your question that the County Court has jurisdiction concurrent with Justice Courts in misdemeanor cases where the maximum punishment is a fine of \$200.00 or less.

SUMMARY

It is the duty of the Commissioners' Court to fill vacancies in the office of Justice of the Peace even though the County Court has concurrent jurisdiction with Justice Courts of misdemeanors cognizable in Justice Courts.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
John Reeves
Assistant

JR:jl

APPROVED:

OPINION COMMITTEE

George P. Blackburn, Chairman
J. C. Davis, Jr.
Ralph R. Rash
Morgan Nesbitt
Houghton Brownlee, Jr.

APPROVED FOR THE ATTORNEY GENERAL
BY: James N. Ludlum