



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

November 14, 1962

Mr. W. W. Kilgore
County Attorney
Victoria, Texas

Opinion No. WW-1473

Re: Whether or not the plea
of nolo contendere is
available in Justice
Court.

Dear Mr. Kilgore:

You have requested an opinion as to whether or not a plea of nolo contendere is available in Justice Court.

The procedures governing practice in Justice Courts are found in Title 11, Code of Criminal Procedure, Articles 879-920. The provisions contained therein applicable to this opinion are as follows:

Article 898:

"After the jury is impaneled, the defendant may plead guilty or not guilty or the special plea named in the succeeding article."

Article 899:

"The only special plea allowed is that of former acquittal or conviction for the same offense."

Article 900:

"All pleading in justice court is oral. The justice shall note upon his docket the plea offered."

Article 902:

"The justice shall enter a plea of not guilty if the defendant refuses to plead."

There is, therefore, no provision contained in Title 11 of the Code of Criminal Procedure authorizing a plea of nolo contendere in Justice Court.

It is observed that the legislature, by Senate Bill 199, Acts 1959, 56th Legislature, p. 257, ch. 149, has recently amended Articles 501, 502, 505, 517, 518 and 519 of the Code of Criminal Procedure to provide for a plea of nolo contendere in some instances; it is clear by the act that it only amends those articles enumerated, and applies only to practice in the District and County Court.

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The legislature has specifically set out rules governing the practice in Justice Court, and only those pleas specified by Articles 898 and 899, Texas Code of Criminal Procedure, are available in the Justice of the Peace Court.

S U M M A R Y

"The plea of nolo contendere is not available in a Justice of the Peace Court."

Yours very truly,

WILL WILSON
Attorney General of Texas

By 

Paul Phy
Assistant Attorney General

PP:cjs

APPROVED:
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