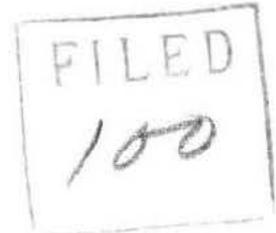


Opinion telephone request
answered by letter
(Siddens)

Opinion No. 100

February 13, 1964

Honorable J. E. Schellhorn
Representative - Second District
Buchanan County
2610 Penn Street
St. Joseph, Missouri



Dear Mr. Schellhorn:

With reference to your telephone conversation with Gordon Siddens, Assistant Attorney General, on February 12, 1964, concerning the validity of candidate filings for the 1964 Primary Election in Buchanan County, we understand the following to be the facts.

The treasurer of the Buchanan County Democratic Committee died in December 1963. The County Committee did not meet to elect a new treasurer until February 1964. In the meantime, several persons filed candidacies in Buchanan County and paid filing fees to the Buchanan County Committee, and obtained receipts therefor from the secretary of the County Committee who acted as treasurer without official authority to so act. Your question is whether or not these filings and these receipts signed by the secretary of the County Committee are valid.

This question is governed by Section 120.350, Revised Statutes of Missouri 1959, as amended, 1963 Cumulative Supplement. We enclose herewith a copy of an opinion issued by this office dated June 4, 1954, to C. D. Hamilton. In addition to the case of State ex rel. Haller vs. Arnold, 277 Mo. 474, 210 SW 374, 375, cited in the above opinion, there are other more recent cases which follow the same principles. State ex rel. Neu vs. Waechter, 332 Mo. 574, 58 SW2d 971; State ex rel. Preisler vs. Woodward, 340 Mo. 906, 105 SW2d 912; and State ex rel. Dodd vs. Dye, Mo. App., 163 SW2d 1055.

Siddens
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Honorable J. E. Schellhorn

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The essential fact is that the filing fee has in fact been paid within the proper time to the County Committee. The issuance of the receipt and the form thereof is not of vital importance. In my opinion, the receipts issued by the secretary acting as treasurer, even though without official authority of the Committee, are valid for the purposes of compliance with Section 120.350. Since there is plenty of time to do so before the filing deadline, it would be permissible for the County Committee treasurer to now issue appropriate receipts showing the payment of the fees and now filing the same with the county clerk.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

JGS:lo:hm