

ELECTIONS:
PRIMARY ELECTIONS:
CHALLENGERS:

1. Precinct election judges in Kansas City can recognize an inside challenger for a political party who is vouched for by judges representing that party or by persons present belonging to that party where the challenger with the duly signed credentials of the party chairman has not put in an appearance at the polling place. 2. A challenger recognized by the election judges maintains his position as challenger only until such time as a challenger with credentials from the party chairman presents himself at the polling place. 3. A form purporting to be an appointment of an inside challenger by the election judges for the rest of the election day because no authorized inside challenger has presented himself at the polling place does not meet legal requirements.

OPINION NO. 383

July 21, 1970

Honorable Phillip P. Scaglia
State Representative
District No. 15
5101 Brookwood
Kansas City, Missouri 64110



Dear Representative Scaglia:

This is in response to your request for an opinion concerning the authority of precinct election judges in Kansas City to select inside challengers at the polls when the inside challenger, who has been duly authorized to act as challenger by his respective party chairman, is unavailable. Specifically, you ask the following questions:

1. If challengers with duly signed credentials do not appear within 30 minutes after the polls open, can the election judges select an inside challenger who is vouched for by judges representing that party or by person or persons present belonging to that party?

2. If the election judges do select such a person, can this person be replaced by a person or persons who subsequently appear with duly signed credentials?

3. Does the enclosed form, purporting to be an appointment of an inside challenger by the election judges because no authorized inside challenger has presented himself, meet legal requirements?

Honorable Phillip P. Scaglia

Section 117.590, RSMo 1959, provides:

"At every registration and election, each one of the political parties shall have the right to designate and keep a challenger at each place of registration and voting who shall be assigned such position immediately adjoining the officers in charge of registration or the election inside the polling or registration booth as will enable him to see each person as he offers to register or vote and who shall be protected in the discharge of his duty by the judges of election and the police. An authority, signed by the recognized chairman or presiding officer of the chief managing committee of a party in any such city, shall be sufficient evidence of the right of the challenger for such party to be present inside the registration or polling place. But in any case, any challenger does not or cannot produce the authority of such chairman, it shall be the duty of such judges of election to recognize a challenger that shall be vouched for and presented to them by the persons present belonging to such political party, or who shall be vouched for by the judge representing such party. The chairman of the managing committee of each political party for such city may remove any challenger appointed by him and substitute another in his place. The challenger so appointed and admitted to the room where such ballot box is kept shall have the right and privilege of remaining during the canvass of the votes and until the returns are duly signed and made. Each political party shall also have the right to a challenger placed conveniently outside of the polling booth, but not in the way of the voters. . . ."

It is clear that the legislature created the position of challenger as an attempt to insure honest elections. By designating and maintaining challengers in each polling place, a party can protect itself against election irregularities. A challenger has the authority to present questions on behalf of his party both as to the integrity of the election process and as to the qualifications of voters. The challenger is supposed to be an integral part of the election process.

Honorable Phillip P. Scaglia

The statute also indicates that fundamentally and primarily the selection and designation of challengers is to be done by the party chairman. It expressly provides that written authority by the recognized chairman or presiding officer of the chief managing committee of a party shall be sufficient evidence of the right of the challenger for such party to be present inside the registration or polling place. It also allows the party chairman to remove any challenger appointed by him and substitute another in his place. The statute further provides that the election judges shall recognize a challenger for a party in any instance where a challenger does not or cannot produce the written authority of his party chairman.

In view of the legislative expression that the presence of party challengers is deemed to be helpful in conducting honest elections and in view of the statutory provisions for substitution in the event a challenger does not or cannot produce the authority of his party chairman, it is our opinion that the election judges in Kansas City can select an inside challenger for a party who is vouched for by judges representing that party or by persons present belonging to that party where the challenger appointed by the party chairman has not put in his appearance at the polling place and presented his credentials to the election judges after the polls have opened.

However, the statute does not give the election judges the authority to appoint a challenger, only the authority to recognize a challenger in any case where a challenger does not or cannot produce the written authority of his party chairman. This being so, it is our opinion that the election judges have a right to recognize a challenger who shall act as a challenger only until such time as the challenger properly appointed by the party chairman puts in an appearance and presents his duly signed credentials. At this point, the challenger with the written authority of the party chairman replaces the challenger recognized by the election judges.

In view of our opinion, we cannot approve of the form enclosed in your request which purports to be an appointment of an inside challenger by the election judges because no authorized inside challenger has presented himself. Specifically, we disapprove of this form because it purports to appoint a challenger for the rest of the election day, whereas we have held in our opinion that a challenger can only be recognized by the election judges until such time as a challenger with duly signed credentials from the party chairman presents himself at the polling place.

Honorable Phillip P. Scaglia

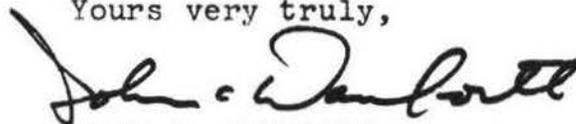
CONCLUSION

It is the opinion of this office that:

1. Precinct election judges in Kansas City can recognize an inside challenger for a political party who is vouched for by judges representing that party or by persons present belonging to that party where the challenger with the duly signed credentials of the party chairman has not put in an appearance at the polling place.
2. A challenger recognized by the election judges maintains his position as challenger only until such time as a challenger with credentials from the party chairman presents himself at the polling place.
3. A form purporting to be an appointment of an inside challenger by the election judges for the rest of the election day because no authorized inside challenger has presented himself at the polling place does not meet legal requirements.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Richard L. Wieler.

Yours very truly,



JOHN C. DANFORTH
Attorney General