

Attorney General of Missouri

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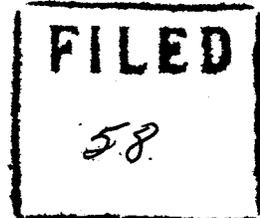
JOHN ASHCROFT
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February 25, 1982

OPINION LETTER NO. 58

The Honorable James C. Kirkpatrick
Secretary of State
State of Missouri
Room 209 State Capitol Building
Jefferson City, Missouri 65101



Dear Mr. Secretary:

This letter is in response to your questions asking as follows:

1. In counties where more than one associate circuit judge is to be elected should the candidates file for the position of associate circuit judge by division, such as division I, II, III, etc., or do they file only as associate circuit judges?

2. If your answer to the above is that they do not file by division or district is the ballot for the Primary and General election to be entitled: associate circuit judge (one to be elected) if only one is elected in the county; (two to be elected) if two are to be elected; (three to be elected) if three are to be elected, etc.?

3. If your answer is yes to number one, is it necessary for the candidates to file by district or by division?

4. If your answer is yes to questions three, do those candidates who have already filed without naming the district or division, need to refile by district or division prior to the close of the filing date of April 27, 1982?

The Honorable James C. Kirkpatrick

5. If your answer is yes to question No. 2, are the candidates names listed on the ballot in the order of their filing?

In answer to your first question which asks whether candidates for the office of associate circuit judge in counties which have more than one associate circuit judge should file by division or generally for the office of associate circuit judge, it is our view that the candidates should file by division. In this respect we note that Article V, Section 27, Missouri Constitution--the schedule to the judicial article--provides that the former magistrate courts and the former probate courts became "divisions of the circuit court" on January 2, 1979. Further, it seems clear that the legislature has considered the associate circuit judge divisions as separate divisions in the appointment of division clerks, Section 483.245, RSMo Supp. 1981, and in the various distinctions drawn between associate circuit judge probate division and the other associate circuit judge divisions by a number of statutory provisions. See, for example, Section 478.018.2, RSMo Supp. 1981.

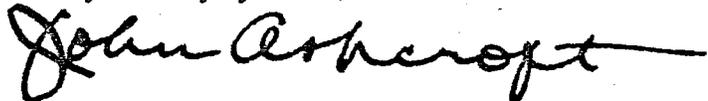
In those jurisdictions in which associate circuit divisions have not been previously identified, the election authority should establish appropriate identification of the divisions for election purposes.

In answer to your third question, it is our view that the candidates should file by division and not by districts.

In answer to your fourth question, it is our view that, in these peculiar circumstances, those candidates who have not filed by division should be allowed to amend their declarations to indicate the divisional office for which they intended to file; such amendment must be done before the expiration of the time for filing under Section 115.349, RSMo.

In answer to your fifth question, candidates who so amend their declarations should be allowed to retain their places on the ballot as of the time of filing notwithstanding any such amendment.

Very truly yours,



JOHN ASHCROFT
Attorney General