

ELECTIONS: Failure to file declaration in statutory time.

June 11, 1942

6-16

Honorable D. D. Thomas, Jr.
Prosecuting Attorney
Carroll County, Missouri



Dear Mr. Thomas:

This is in reply to your letter of recent date wherein you submit the question of a case in which a candidate for nomination does not file his declaration within the time prescribed by statute.

Section 11550 R.S. Mo., 1939 provides as follows:

"The name of no candidate shall be printed upon any official ballot at any primary election, unless at least sixty days prior to such primary a written declaration shall have been filed by the candidate, as provided in this article, stating his full name, residence, office for which he proposes as a candidate, the party upon whose ticket he is to be a candidate, that if nominated and elected to such office he will qualify, and such declaration shall be in substantially the following form:

*****"

By an opinion of this Department, under date of March 3, 1942, to Honorable Dwight H. Brown, it was held that June 5, 1942 is the last day to file declaration of candidacy.

In your letter you indicate that the candidate therein concerned filed his declaration on June 6, 1942. In our research for Missouri decision on the construction of the

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foregoing statute, we fail to find any case involving this question, however, we find the rule announced in Vol. 20 O. J. page 115, Section 113, wherein it is stated:

"The primary election laws of the various states impose certain requirements on a candidate at a primary election, such as filing with a designated official, a certain number of days before the primary, a paper in some prescribed form announcing his candidacy, swearing that he is qualified, making a statement of his membership in, and support of, the party whose nomination he seeks, causing his name to be printed on the official ballot as a candidate for the nomination, and filing the names of persons selected as his campaign committee. Such requirements are mandatory, and compliance with them is essential to enable the candidate to be voted for at the primary election and to have his name printed on the official ballot at the general election as the nominee of one of the principal political parties. * * * *"

This text cites a number of outstate authorities which support it.

CONCLUSION

From the foregoing, it is therefore, the opinion of this Department that the declaration filed on June 6, 1942, by a candidate for nomination at the August primary, comes too late to authorize the county clerk to place such candidate's name upon the primary ballot.

Respectfully submitted

APPROVED:

TYRE W. BURTON
ASSISTANT ATTORNEY GENERAL

ROY McKITTRICK
Attorney General

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