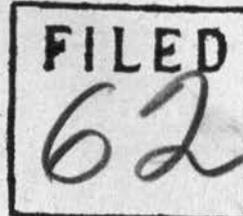


ELECTION) Declaration of candidacy for Office of Probate Judge
) sufficient in counties where Probate Judge is also
) Magistrate.

June 15, 1950



Honorable Harold L. Miller
Prosecuting Attorney
DeKalb County
Maysville, Missouri

Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"Will you kindly advise whether or not in your opinion a candidate who files a declaration of candidacy for the office of 'Probate Judge' only, in a 3rd class county where the proper title to the office is now that of Probate Judge and Magistrate, has formally declared for any office and is entitled to a place and listing upon the ballots?"

Section 11550, Laws of Missouri, 1944, Ex. Sess., p. 24, provides in part as follows:

"The name of no candidate shall be printed upon any official ballot at any primary election, unless such candidate has on or before the last Tuesday of April preceding such primary filed a written declaration, 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: * * *"

Honorable Harold L. Miller

Section 18 of Article V, Constitution of Missouri, 1945, provides in part:

"In counties of 30,000 inhabitants or less, the probate judge shall be judge of the magistrate court. * * *"

DeKalb County, according to the 1940 census, had a population of 9,751. Therefore, it falls within the constitutional provision above quoted. Under that constitutional provision, the office to be filled is judge of the probate court and the judge of the probate court is by virtue of his office judge of the magistrate court. Consequently, we see no deficiency in a declaration of candidacy for the office of probate judge in your county, where the person filing the declaration omits to specify that he is a candidate for judge of the probate court and magistrate.

CONCLUSION

Therefore, it is the opinion of this department that a declaration of candidacy for the office of probate judge in a county having less than 30,000 inhabitants is sufficient, and there is no necessity for stating that the office for which the candidacy is filed is for that of probate judge and magistrate.

Respectfully submitted,

ROBERT R. WELBORN
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

RRW/feh