

December 13, 1962

OPINION REQUEST NO. 428 ANSWERED BY LETTER

Honorable Garner L. Moody
Prosecuting Attorney
Wright County
Mansfield, Missouri



Dear Sir:

This is in response to your request of this office for an opinion dated November 27, 1962, as follows:

"I would like an opinion from your office on the following questions:

- "(1) Would the fact that the notary public who signed and sealed a ballot being voted, was one of the two witnesses who witnessed the mark of the voter on the envelope, invalidate the ballot?"
- "(2) Would the fact that a duly commissioned notary public who was registered in the county in which an absentee ballot was cast, failed to show on the ballot the expiration of his commission, invalidate the ballot?"

The answer to question one is in the negative because Section 112.050, RSMo 1959, requires that the absentee ballot envelope be signed and sealed before a notary who is a witness to the act.

Honorable Garner L. Moody

The answer to question two is in the negative in view of Kansas City and S.E. Ry. Co. vs. Kansas City and S.W. Ry. Co., 31 S.W. 451, wherein it is stated that a notary's failure to certify as to the expiration of his term does not affect the validity of a deed. It is deemed that this is analogous and we believe the courts would hold the same way so as not to disenfranchise a voter.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

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