

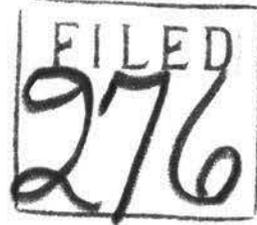
SHERIFFS:  
VACANCIES:  
ELECTIONS:  
QUO WARRANTO:  
REMOVAL FROM OFFICE:

Sheriff removed from office by quo warranto proceedings not eligible to be candidate for election to fill vacancy caused by such ouster.

June 25, 1963

OPINION NO. 276

Honorable Fred Stutler  
Representative, Sullivan County  
Capitol Building, Room 413  
Jefferson City, Missouri



Dear Representative Stutler:

This is in answer to your recent request for an opinion reading as follows:

"Mr. Everett Vannorsdel was ousted from the office of sheriff of Sullivan County by the Circuit Court of such County on June 13, 1963. The County Court of such County has in compliance with the decisions of Section 57.080, RSMo 1959, ordered a special election to fill the vacancy caused by such ouster. Is Mr. Everett Vannorsdel eligible to become a candidate for the office of sheriff at such special election?"

The judgment and decree of the Circuit Court of Sullivan County in the case of State of Missouri at the information of M. E. Montgomery v. Everett Vannorsdel provides in part as follows:

"WHEREUPON it is considered and adjudged by the court that the said Respondent, Everett Vannorsdel do not in any manner intermeddle with or concern himself in or about the rights, liberties, privileges, and franchises of the office of Sheriff of Sullivan County, Missouri, aforesaid, but that he be absolutely prohibited and excluded from exercising or using the same or any of them for the future, \* \* \*."

Honorable Fred Stutler

Such judgment specifically ousted Mr. Vannorsdel from the office of Sheriff of Sullivan County, Missouri, and specifically provided that he is prohibited and excluded from exercising or using the privileges and franchises of the office of Sheriff in Sullivan County.

In the case of State on Inf. McKittrick v. Wymore, 132 SW2d 979, the Supreme Court stated that the character of judgment in quo warranto cases is largely within the discretion of the court entering such judgment. In such case an information in quo warranto was filed against the Prosecuting Attorney of Cole County by the Attorney General of Missouri. The Supreme Court in its judgment ousted the Prosecuting Attorney from the office of Prosecuting Attorney of Cole County until the end of his first term of office. The Court said, l.c. 988:

"\* \* \* He is ousted from the office of prosecuting attorney as of Aug. 24, 1937, and until the end of his first term. \* \* \*"

In the case of State on Inf. of McKittrick v. Graves, 144 SW2d 91, the Supreme Court entered a judgment ousting the Prosecuting Attorney of Jackson County from the office of Prosecuting Attorney of Jackson County until the end of his term of office. The Court said, l.c. 98:

"\* \* \* He should therefore be ousted from the office of prosecuting attorney of Jackson county as of May 10, 1939, and until the end of his present term of office. \* \* \*"

It is clear from the judgments entered in the Wymore and Graves cases that a judgment in quo warranto ousting an incumbent from the office can also provide that his ouster is effective during the remainder of his term of office. There is no doubt that the judgment of the Circuit Court of Sullivan County ousting Mr. Vannorsdel does provide that he is prohibited and excluded from exercising the franchise from the office of Sheriff of Sullivan County in the future. Therefore, under the provisions of such judgment, Mr. Vannorsdel being prohibited from serving as sheriff of Sullivan County is ineligible to become a candidate for such office, at such special election.

Yours very truly,

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THOMAS F. EAGLETON  
Attorney General