

ELECTIONS:
BALLOTS:
NONPARTISAN CANDIDATES:
PRIMARY ELECTIONS:

It is not necessary for county clerks or boards of election commissioners to print a separate ballot when there is only one candidate filed on a nonpartisan or independent ticket in a primary election.

OPINION NO. 287

May 27, 1968

Honorable James C. Kirkpatrick
Secretary of State of Missouri
Capitol Building
Jefferson City, Missouri



Dear Mr. Kirkpatrick:

This is in response to your request for an opinion as to whether or not it is necessary for county clerks and/or boards of election commissioners to print a separate ballot when there is only one candidate filed on a nonpartisan or independent ticket in a primary election.

The necessity of printing a ballot in primary elections is regulated by Section 120.430, RSMo 1959, which provides:

"Whenever any person shall have filed as a candidate for nomination upon a party ticket which at the last preceding election for governor shall have cast less than five per cent of the total vote cast for governor in such election, and when not more than one person shall have filed as a candidate for any office on such party ticket, no ballot shall be printed for the primary election as herein provided unless upon petition of at least ten per cent of the voters voting in the county at said preceding election for governor. When no ballots are printed as herein provided, the candidates filing declarations and who are unopposed shall be certified, as by sections 120.300 to 120.650 provided, as the nominees of such party casting less than five per cent of the vote of the state."

Honorable James C. Kirkpatrick

The case of State v. Toberman, (Mo. 1954), 269 S.W. 2d 753, which held that either the state primary or new petition method was available to persons desiring to become independent or non-partisan candidates, also considered the question as to the necessity of printing a nonpartisan ballot wherein the court stated at page 756:

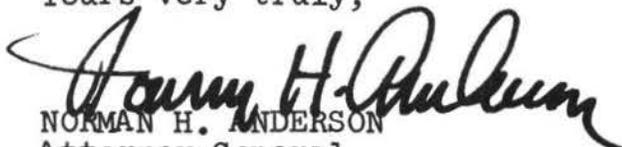
"Both parties agree that, if relator is entitled to file in the primary, Section 120.430 makes it unnecessary to print a nonpartisan primary ballot, if there are no contests on the nonpartisan ticket for any office. We agree that this is within the intent and purpose of the statute, which was intended to prevent unnecessary expense of printing primary ballots for unopposed candidates on tickets which had not received five percent of the total vote cast for Governor in the last preceding election."

CONCLUSION

Therefore, it is the opinion of this office that it is not necessary for county clerks or boards of election commissioners to print a separate ballot when there is only one candidate filed on a nonpartisan or independent ticket in a primary election.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Richard E. Dorr.

Yours very truly,


NORMAN H. ANDERSON
Attorney General