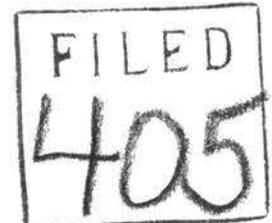


ELECTIONS:  
ABSENTEE VOTING:

An absentee ballot which is mailed to the issuing officer by an individual other than the voter at the request of the voter, is a valid ballot and should be counted if otherwise in compliance with the Absentee Voting Laws.

OPINION NO. 405

October 17, 1968



Honorable Ronald R. McKenzie  
Prosecuting Attorney of Marion County  
Hannibal, Missouri

Dear Mr. McKenzie:

This is in answer to your letter of recent date in which you ask for an official opinion from this office as to the validity of an absentee ballot which is mailed to the issuing officer by the officer notarizing the ballot or by some other person at the request of the voter.

Section 112.050 RSMo., 1959, provides in part as follows:

" \* \* \* The envelope shall be sent by mail by the voter, postage prepaid, to the officer issuing the ballot, and for the ballot to be effective and eligible to be counted the envelope containing it shall bear a postmark not later than the date of the election and shall be delivered to the issuing official not later than six o'clock p.m. of the day next succeeding the day of such election, or the ballot may be delivered in person to the issuing official, who shall give his written receipt therefor, not later than six o'clock p.m. of the date of the election. \* \* \*"

This office has ruled in opinion No. 500 issued November 3, 1966 to Honorable Fred A. Murdock, that the voter must return the ballot to the issuing officer either by mail or in person and that the ballot cannot validly be delivered to the issuing officer in person by anyone other than the voter. We are enclosing a copy of such opinion. As you will note, the holding made in such opinion was based on the fact that Section 112.050, provides that unless the ballot is sent by mail, it must be delivered "in person."

Honorable Ronald R. McKenzie

We are enclosing opinion No. 309, rendered July 8, 1966, to Honorable Donald J. Gralike, which sets forth the general law regarding agency and holds that a principal can authorize an agent to perform any act which the principal could perform except such acts as are required to be performed personally by a statutory provision or such acts as are of such a personal nature that they can be performed only in person.

There is no requirement in Section 112.050 that the mailing be done by the voter personally, and it is therefore our view that an absentee voter may authorize some other individual to mail his ballot to the issuing officer after the voter has marked such ballot and the envelope has been properly sealed and attested.

#### CONCLUSION

It is the opinion of this office that an absentee ballot which is mailed to the issuing officer by the voter may properly be accepted providing the absentee ballot has been executed in compliance with the Absentee Voting Law. The sealed envelope containing the ballot may be deposited in the mail for delivery to the issuing officer by the voter or by someone acting for him and at his direction.

The foregoing opinion which I hereby approve was prepared by my assistant, Mr. C. B. Burns, Jr.

Very truly yours,

NORMAN H. ANDERSON  
Attorney General

Encl:  
No. 309  
July 8, 1966  
Hon. Donald J. Gralike

No. 500  
November 3, 1966  
Hon. Fred A. Murdock