

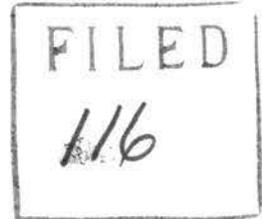
ELECTIONS:
CANDIDATES:
RESIDENCE:
COMMITTEEMEN:

Under the provisions of Sections 120.770 and 120.340, RSMo 1969, a candidate for the office of committeeman who is not a resident of the ward for which he files is not eligible to have his name placed on the ballot.

OPINION NO. 116

April 11, 1972

Honorable C. E. Hamilton, Jr.
Prosecuting Attorney
Callaway County, Courthouse
Fulton, Missouri 65251



Dear Mr. Hamilton:

This letter is in answer to your request for an opinion in which you ask:

"Can a person who is not a resident of an election ward as of the date of filing for election closes file for party committeeman of that ward if he will be a resident of the ward and a qualified elector in the ward as of the date of the August primary election?"

You state that:

"A person in Fulton, Missouri, has been Republican Committeeman from Ward 3 for sometime. In the month of June 1972 he plans to move to a location in Ward 2. However, as of the closing date for filing, April 25, 1972, he will still be a resident of Ward 3. If he moves to Ward 2 in June he will be a qualified elector of Ward 2, to vote in the August primary. The County Clerk desires to know if this man should be permitted to file for committeeman from Ward 2."

In addition you note that you have considered our holding in Opinion No. 160 dated March 2, 1970, to James, copy enclosed, in which we held that a person who meets the residency and age requirements to vote in the November general election, although he is not

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twenty-one at the time of the primary election may file for the office of committeeman pursuant to Section 120.770, RSMo 1969. We repeat these pertinent sections here for the sake of clarity.

Section 120.770 with respect to the election of committeemen states:

"At the August primary each voter may write in the space left on the ballot for that purpose the names of a man and a woman, qualified electors of the precinct, or voting district as the case may be, for committeemen for such township, or voting district, and the man and the woman receiving the highest number of votes in such township, or election district, shall be the members of the party committee of the county of which such voting precinct or district is a part. Any qualified elector in any such voting precinct or district may have his or her name printed on the primary ballot or party ticket on which he or she may desire to become a candidate for committeeman or committeewoman by complying with the provisions of section 120.340 and, in all counties in this state now or hereafter containing a city of the first class, by also paying the sum of five dollars to the treasurer of the county committee of the party on whose ticket he or she seeks election."
(Emphasis added)

Section 120.340 with respect to the declaration of candidacy states in part:

"No candidate's name shall be printed upon any official ballot at any primary election unless the candidate has on or before five p.m. prevailing local time on the last Tuesday of April preceding the primary filed a written declaration of candidacy, as provided in sections 120.300 to 120.650, stating his full name, residence, office for which he proposes as a candidate, the party upon whose ticket he is to be a candidate, and that if nominated and elected to the office he will qualify. The declaration shall be in substantially the following form: . . ." (Emphasis added)

In our view the underscored portions of the above sections emphasize that the legislature intended that such candidate be

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a resident of such voting precinct or district at the time that he files his declaration of candidacy. In this instance since the person involved will not be a legal resident until after the time for filing his declaration has passed he is not eligible to have his name placed on the ballot.

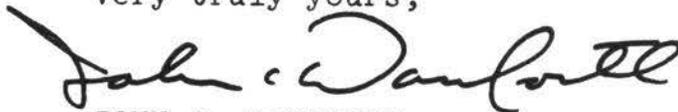
We adhere to the conclusion reached in Opinion No. 160, 1970 to James, noted above, and we are of the view that such opinion is not inconsistent with the views we express here because such prior opinion assumed that the residency requirements were met at the time of the filing of the declaration.

CONCLUSION

It is the opinion of this office that under the provisions of Sections 120.770 and 120.340, RSMo 1969, a candidate for the office of committeeman who is not a resident of the ward for which he files is not eligible to have his name placed on the ballot.

The foregoing opinion which I hereby approve was prepared by my assistant, John C. Klaffenbach.

Very truly yours,



JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 160
3/2/70, James