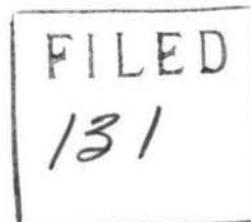


April 20, 1972

OPINION LETTER NO. 131
Answer by Letter - Klaffenbach

Honorable James C. Kirkpatrick
Secretary of State
State Capitol Building
Jefferson City, Missouri 65101



Dear Mr. Kirkpatrick:

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

"Section 120.370, RSMo 1969, provides, in part:

'No person shall file a written declaration of candidacy for more than one office to be filled at the next general election, . . .'

"Where a candidate:

1. files a declaration of candidacy for a county elective office to be filled at the November general election;
2. then, without withdrawing such declaration, files a declaration of candidacy with this office for a state-wide elective office to be filled at the same election;
3. then, files a withdrawal of his declaration of candidacy for the county office, and then;
4. files a new declaration of candidacy for the state-wide office;

which declaration filed with this office should be used to determine the order in which the candidate's name shall appear on the certificate made by this office pursuant to Section 120.380?"

Honorable James C. Kirkpatrick

You also state:

"On January 20, 1972, a written declaration of candidacy was filed in this office for a state-wide elective office to be filled at the November 1972 General Election.

"We are now advised that the same candidate had previously filed a declaration of candidacy for a county elective office which is also to be filled at the November 1972 General Election.

"We are further advised that subsequent to January 20, 1972 and before April 4, 1972, a withdrawal of the declaration of candidacy for the county office was filed by the candidate.

"Following the withdrawal, and on April 4, 1972, the candidate filed a new declaration of candidacy for the same state-wide office."

We assume that the withdrawal of candidacy for the county office which you mention was made in accordance with the provisions of Section 120.375, RSMo Supp. 1971.

While we do not here consider what the situation would be if the second declaration of candidacy for statewide office had not been filed, it is our view that, in the premises, the last such declaration of candidacy for state office is the one to be considered.

Very truly yours,

JOHN C. DANFORTH
Attorney General