

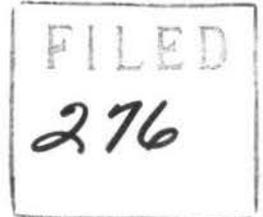
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The provision of Section 84.480, RSMo Supp. 1971, which prohibits the appointment of a person as chief of police of Kansas City who is "more than sixty years of age" applies to a person who has reached his sixtieth birthday.

OPINION NO. 276

September 5, 1973

Mr. John C. Craft  
Secretary-Attorney  
Board of Police Commissioners  
1125 Locust Street  
Kansas City, Missouri 64106



Dear Mr. Craft:

This opinion is in answer to your request asking for an interpretation of the provision in Section 84.480, RSMo Supp. 1971, relative to the office of police chief of Kansas City which provides in part that:

" . . . At the time of the appointment the chief shall not be more than sixty years of age, . . . "

There appears to be some conflict in the various decisions in the United States, 86 C.J.S. Time §8. However, we believe the correct rule to be that "when one reaches the age of 18 years he 'is over the age of 18.'" In the Matter of the Application of John Smith, Jr., 351 P.2d 1076 (Crim.App. Okla. 1960). Notably, the Oklahoma Court of Criminal Appeals in that instance distinguished previous cases of the Supreme Court of Oklahoma construing insurance contracts which held that a person is not over a specified age until he has passed his birthday next, beyond the age specified, as being cases based on contractual obligations. Id. at 1078.

In Missouri, with respect to elections, the Missouri Supreme Court in Totton v. Murdock, 482 S.W.2d 65 (Mo. banc 1972) held that a person who celebrated his eighteenth birthday on August 9, 1972, is eighteen on August 8, 1972, "under the accepted theory that a birthday is, in fact, the first day of another year."

Another case in point is Green v. Patriotic Order Sons of America, Inc., 87 S.E.2d 14 (N.C. 1955) in which the Supreme Court of North Carolina held that when a person reaches his fiftieth

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birthday he has lived fifty calendar years of twelve months each, and after his fiftieth birthday he is over fifty years of age. The Oklahoma and North Carolina cases both relied on Bay Trust Co. v. Agricultural Life Ins. Co., 271 N.W. 749 (Mich. 1937) in which the Supreme Court of Michigan held that a person two months and ten days past his sixtieth year was "over age of 60 years."

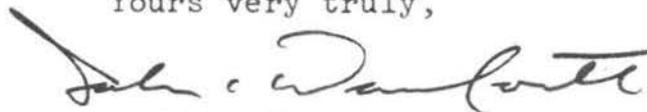
We therefore conclude that, in the premises, a person who has passed his sixtieth birthday is "more than sixty years of age."

#### CONCLUSION

It is the opinion of this office that the provision of Section 84.480, RSMo Supp. 1971, which prohibits the appointment of a person as chief of police of Kansas City who is "more than sixty years of age" applies to a person who has reached his sixtieth birthday.

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

Yours very truly,



JOHN C. DANFORTH  
Attorney General