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65101

March 7, 1980

OPINION LETTER NO. 98

The Honorable Harriett Woods
Senator, District 13
Capitol Building, Room 329
Jefferson City, Missouri 65101

Dear Senator Woods:

This letter is in answer to your recent opinion request concerning eligibility of an individual for the office of municipal judge of the City of Wellston, Missouri, which is a city within a first class county with a charter form of government.

You state that this person was municipal judge of the City of Wellston for a period of more than three years prior to January 2, 1979. You state further that the contention has been made that the provisions of § 479.020(3), V.A.M.S., insofar as non-lawyers are concerned have the effect only of holding in office a nonlawyer municipal judge until the end of his term of office.

Section 479.020(3), V.A.M.S., provides as follows:

No person shall serve as a municipal judge of any municipality with a population of seven thousand five hundred or more or of any municipality in a county of the first class with a charter form of government unless he be licensed to practice law in this state unless, prior to January 2, 1979, of this act, he has served as municipal judge of that same municipality for at least three years.

Under the clear provisions of such section, a person who is not a lawyer and who has served at least three years as the municipal judge of a city coming within the provisions of such section is eligible to serve as municipal judge of such a city.

The Honorable Harriett Woods

There is no requirement in such section that the service as municipal judge be continuous or that the person filing for office under such subsection be an incumbent of the office at the time he files or that he file for office at the first election held after the adoption of such subsection.

Therefore, it is our view that any person who has, prior to January 2, 1979, served as a municipal judge of any municipality with a population of seven thousand five hundred or more or in any municipality in a county of the first class with a charter form of government for at least three years is eligible to file as a candidate for such office in 1980 in a city in which such judge is to be elected in 1980.

Very truly yours,

A handwritten signature in cursive script that reads "John Ashcroft". The signature is written in dark ink and is positioned above the typed name.

JOHN ASHCROFT
Attorney General