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OPINION NO. 86-62

March 25, 1986

Honorable Mary J. Fox
Scott County Election Commissioner
P.O. Box 607
Waldron, AR 72958

RE: When an independent candidate for judge of the Waldron Municipal Court must file a Petition for Candidacy in order to get his name placed on the ballot

Dear Mayor Fox:

This opinion is in response to your request in which you ask whether an independent candidate for the Waldron Municipal Court must file a Petition for Candidacy before the deadline established for county officials.

The Waldron Municipal Court was created by Act 284 of 1969. This Act has the following title:

AN ACT to create a Municipal Court to Be Styled "The Waldron Municipal Court" in Scott County, Arkansas, to Prescribe the Manner of Selection, the Term, the Qualifications, and the Compensation of the Judge of Said Court; and for Other Purposes.

Section 2 of Act 284 provides:

SECTION 2. The judge of Waldron Municipal Court shall be elected by the qualified electors of Scott County at the 1970 General Election and each four (4) years thereafter for a term of four (4) years, and shall serve such term and until his successor is elected and qualified. The judge of said court shall be nominated and elected in a manner now provided by or as may hereafter be provided by law for the nomination and election of county officers in Scott County.

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Ark. Stat. Ann. §3-105(c) (1985 Cum. Supp.) provides the manner in which independent candidates for county offices are qualified. An independent candidate for county office must file no later than a date fixed by law as the deadline for filing political practice pledges and party pledges, if any be required by the rules of the party to qualify the candidate of a political party in a primary election. Independent candidates for municipal office are specifically excluded from Ark. Stat. Ann. §3-105. Ark. Stat. Ann. §3-105.1 (Act 1055 of 1985) provides:

Independent candidates for a municipal office shall file their petitions of nomination with the County Board of Election Commissioners not less than 60 days before the General Election.

Therefore, since a municipal judge is considered a municipal official, Ark. Stat. Ann. §19-1002.8 (Repl. 1980), any independent candidate for Waldron Municipal Court must file a petition for nomination prior to the deadline established by Ark. Stat. Ann. §3-105.1.

However, Ark. Stat. Ann. §19-956 or Act 545, Section 1 of the 1985 Legislature provides that:

1(a) The governing body of any first class city, second class city or incorporated town may enact an ordinance requiring independent candidates for municipal office to file petitions for nomination as independent candidates with the County Board of Election Commissioners no later than noon on the day before the preferential primary election.

(b) Such ordinance shall be enacted no later than 90 days prior to such filing deadline. Such ordinance shall be published at least once a week for two (2) consecutive weeks immediately following adoption of the ordinance in a newspaper having a general circulation in the city.

Therefore, it appears that the filing deadline established pursuant to Ark. Stat. Ann. §3-105.1 is subject to

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change if an ordinance is adopted by the governing body of your city.

The foregoing opinion which I hereby approve was prepared by Assistant Attorney General Rick D. Hogan.

Sincerely,


STEVE CLARK
Attorney General

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