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Election Law Opinion DAD-49  
Re: Sufficiency of recitals  
in the application of a  
nonpartisan or independ-  
ent candidate for a  
place on the general  
election ballot

Dear Mr. Mauro:

In your letter of July 26, 1982, you submitted the following questions regarding V.A.T.S. Election Code, art. 13.50, subds. 4 and 5:

1. Under Subdivision 4 of Article 13.50, is it permissible to have an application to run as an independent candidate that contains signatures dated before the runoff primary election if there is no runoff primary election for the particular office for which a person desires to run as an independent candidate?
2. Under Subdivision 5 of Article 13.50, what amount of information is needed to satisfy the requirement of a "signer's address"? If the other information given, along with the list of registered voters in the county, is sufficient to identify a signer as a qualified voter in a particular county, does the address satisfy the requirements of the statute? For example, if a person's street address and the voter's registration number are listed, but there is no city designation, can the signature be counted if the signer's name can be found on the voter's registration list which will provide the city he lives in?

3. If the application contains signatures with no signature date but there are signatures above and below the signature with dates which indicate the voter signed between the two dates, is that sufficient to indicate the probable date of signing under Subdivision 5 of Article 13.50?

This official election law opinion is rendered by me as chief election officer of the state in accordance with V.A.T.S. Election Code, art. 1.03, subd. 1.

Addressing your questions in order:

1. V.A.T.S. Election Code, art. 13.50, subd. 4, states, in part:

An application may not be circulated for signatures until the day after the general primary election day, or if a runoff primary election is held for the office sought by the applicant, until the day after the runoff primary election day. A signature obtained before the day an application may be circulated is void.

Therefore, the answer to your first question is yes. Of course, no signatures could be counted if they were dated before the day after the general primary election.

2. In Tyler v. Cook, 573 S.W.2d 567, 570 (Tex. Civ. App.--San Antonio 1978), reversed on other grounds 576 S.W.2d 769 (Tex. 1978), the court said: "As pointed out above, art. 13.50 does not expressly require . . . that the addresses be stated with any degree of specificity."

The same court, however, in a decision construing art. 13.08(d), stated:

It is clear that the legislature intended that something more be given than a post office box or a mere recital of the city of the voter's residence. There is no reason to believe that language clearly indicating that a description of an address which designates no more than the city in which the voter resides is not sufficient, contemplates that the giving of a street number, without a designation of the city, would be sufficient. '201 Main Street' gives even less information than 'San Antonio, Texas'.

Pierce v. Peters, 599 S.W.2d 849, 851 (Tex. Civ. App.--San Antonio, 1980, no writ).

A comparison of art. 13.08(d) and art. 13.50, subd. 5, will show that the statutory language construed in Pierce, supra, is somewhat more specific than the statutory language in question.

Art. 13.08(d) provides, in part:

. . . The petition must show the following information with respect to each signer: His address (including his street address if residing in a city, and his rural route address if not residing in a city), his current voter registration certificate number (also showing the county of issuance if the office includes more than one county), and the date of signing . . .

Art. 13.50, subd. 5, provides:

In addition to the person's signature, the application shall show each signer's address, the number of his voter registration certificate, and the date of signing.

The legislative purpose of both of the above-cited statutes is to allow verification of signatures. Furthermore, the language used is mandatory, not directive. "Provisions of election laws governing what is required of candidates are mandatory." Geiges v. DeBusk, 534 S.W.2d 437 (Tex. Civ. App.--Dallas 1976, no writ).

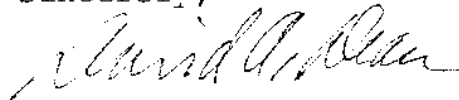
Therefore, it is my opinion that for a signature on an application pursuant to art. 13.50 of the Election Code to be valid it must be accompanied by all four of the required items of information. However, since the statutory language in question is not specific as to what detail is required in the address, I am of the opinion that it is unnecessary to reject a signature for a technical deficiency in the recital of the address, where the recital is sufficient for the purpose of verifying the signature. The El Paso Court of Civil Appeals, construing art. 13.08(d), said, "The Election Code does not require just a petition which may be verified. It requires specified information . . ." Shields v. Upham, 597 S.W.2d 502, 504 (Tex. Civ. App.--El Paso 1980, no writ). This applies as well to independent candidates' applications under art. 13.50. However, the legislature has apparently chosen to be somewhat less specific in its requirements under art. 13.50.

3. Your third question must be answered no. For reasons developed in the answer to your second question, a signature on an application under art. 13.50 may not be counted unless accompanied by the signer's address, the number of his voter registration certificate, and the date of signing. The omission of any one of these items is fatal as to that signature.

SUMMARY

An application of an independent candidate for a place on the general election ballot must comply with the mandatory provisions of V.A.T.S. Election Code, art. 13.50, subds. 4 and 5. Each signature on the application must be accompanied by the signer's address, the number of his voter registration certificate, and the date of signing. The omission of any one of these items is fatal to that signature. The language of art. 13.50, subd. 5, does not require that the signer's address be stated with any certain degree of specificity. An otherwise valid signature should not be rejected when the recital of the signer's address is sufficient for the purpose of verification.

Sincerely,



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