

BALLOTS:  
ELECTIONS:  
CANDIDATES:

Candidates who file as "independent" candidates in the primary election appear under the designation "non-partisan" on the primary election

ballot; and if they are successful in being nominated at the primary election, they appear under the designation "nonpartisan" on the general election ballot. Candidates who are nominated by petition appear under the designation of the party name shown on the petition. A candidate nominated by petition as an "independent" candidate would appear under the "independent" designation.

OPINION NO. 96

March 30, 1971

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



Dear Mr. Kirkpatrick:

This is in response to your opinion request on the following questions:

"We will appreciate your advice as to whether any candidate who files by declaration is to have his name appear on the Primary ballot under such nonpartisan ticket even though his declaration designated his ticket as 'independent.'

"Further, is the nominee on the nonpartisan ticket as a result of the Primary election carried on the General election ballot under the nonpartisan ticket even though his declaration designated his ticket as 'independent?'

"Finally, we anticipate that in the near future, nominating petitions for a candidate for state-wide office will be filed with this office. Since candidates nominated in this manner do not appear on the Primary Election ballot, are they carried on the General election ballot under the 'independent' or 'nonpartisan' ticket?"

In answer to your first question, we previously held in an opinion to you, Opinion No. 342, 1970, ". . . where it is necessary

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to prepare an 'independent' or 'nonpartisan' ballot, . . . only one ballot is to be prepared and . . . such ballot is a 'nonpartisan' ballot under the provisions of Section 120.450 [RSMo 1969]." A candidate who files declaration designating his ticket as "independent" is to appear under the designation "nonpartisan" on the primary ballot.

In answer to your second question, we are of the opinion that a candidate who is the nominee on the nonpartisan ticket, as a result of the primary election, should be listed on the general election ballot as a "nonpartisan" candidate. Such a designation would be in keeping with the provision of Section 111.341.4, RSMo 1969, which provides that the names of nominees of each political party shall be placed under the party name designated by it in the certificates of nominations. While strictly speaking, a nonpartisan candidate, is not a candidate of a party, the candidate has been nominated as a nonpartisan candidate and a reasonable reading of Section 111.341.4 would indicate that he is to retain that same "party" label in the general election.

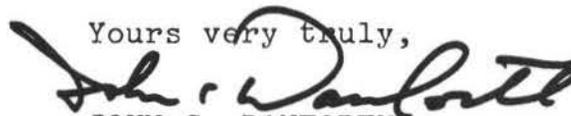
In answer to your third question, when a candidate is nominated by petition in accordance with the provisions of Section 120.190, RSMo 1969, his name should appear on the ballot under the party name designated in the nominating petitions, as is required by Section 111.341.4, RSMo 1969, wherein it provides "Names of the nominees of each . . . group of petitioners shall be placed under the party name designated by . . . petitions . . . ." Therefore, if petitions to nominate a candidate were filed with the name of the party therein shown as "independent," the candidate's name would appear under the designation "independent" on the general election ballot.

#### CONCLUSION

It is the opinion of this office that candidates who file as "independent" candidates in the primary election appear under the designation "nonpartisan" on the primary election ballot; and if they are successful in being nominated at the primary election, they appear under the designation "nonpartisan" on the general election ballot. Candidates who are nominated by petition appear under the designation of the party name shown on the petition. A candidate nominated by petition as an "independent" candidate would appear under the "independent" designation.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Charles A. Blackmar.

Yours very truly,



JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 342  
5-22-70, Kirkpatrick