

2295

COURTS: COUNTY—JUDGE; CANDIDATE MUST BE ELECTOR OF COUNTY COURT DISTRICT—§§1907.051, 3513.261 R.C.

SYLLABUS:

A candidate for election to the office of county court judge must be an elector of the county court district involved.

Columbus, Ohio, July 1, 1958

Hon. Warren F. Sheets, Prosecuting Attorney
Gallia County, Gallipolis, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“The Board of Elections of Gallia County, Ohio, has requested that I seek your formal opinion on the following matter:

“Mr. ‘X’, who is a qualified elector and resident of the City of Gallipolis, Gallia County, Ohio, has requested and received from the local Board of Elections, a nominating petition for the office of Judge of the County Court of Gallia County, Ohio.

“Please be advised that the territorial jurisdiction of the County Court of Gallia County, Ohio, is comprised of the entire county, except the City of Gallipolis, Ohio, which has a Municipal Court, the territorial jurisdiction of which is the City of Gallipolis.

“The Board’s specific question is:

‘Shall it receive the nominating petition of Mr. “X” for filing, accept his filing fee, and place his name on the

ballot as a candidate for the office of the County Judge at the November election, when on the face of the nominating petition it will appear that he is not a qualified elector and a resident of the County Court District of Gallia County, Ohio, at the filing date of his petition?’

“I respectfully direct your attention to Section 1907.051 of the Revised Code, State of Ohio, ‘Qualifications of Judges, Terms, and etc.’, wherein the first sentence of said section reads as follows:

“‘A County Court Judge *during his term of office* shall be a qualified elector and a resident of the County Court District to which he is elected or appointed.’
(Emphasis added)

“I have your formal Opinion No. 812, dated July 17, 1957, which touches upon the residential qualifications of the candidate for the office of County Judge.

“The Board respectfully requests your opinion prior to August 6, 1958, as this is the last date, in which a candidate for the office of Judge of the County Court may file his petition.”

It is true that Section 1907.051, Revised Code, *expressly* provides only that a county court judge shall be an elector and resident of the county court district involved only “during his term of office.” This section, however, also contains the following provision:

“* * * All candidates for county court judge shall be nominated by petition. The nominating petition shall be in the general form and signed and verified as prescribed by section 3513.261 of the Revised Code, and shall be signed by qualified electors of the county court district not less in number than one per cent of the number of electors who voted for governor at the next preceding regular state election in the district; provided that no such nominating petition shall be accepted for filing or filed if it appears on its face to contain signatures aggregating in number more than twice the minimum aggregate number of signatures required by this section. * * *”

Section 3513.261, Revised Code, thus referred to, in addition to prescribing the language of the statement of candidacy and the nominating petition, contains the following provision:

“* * * Each nominating petition *shall contain* a statement of candidacy which shall be subscribed and sworn to by the candidate named therein. * * *” (Emphasis added)

The form of statement of candidacy, thus declared to be a part of the nominating petition, contains the following provision:

“I further declare that I am an elector qualified to vote for the office I seek.”

Provisions of this sort are mandatory, and failure to comply therewith renders the declaration void. *Koehler v. Board of Elections*, 125 Ohio St., 251. Moreover, a false oath on such a declaration would amount to perjury as provided in Section 3599.36, Revised Code, and is punishable by imprisonment for “not less than one nor more than ten years.” Section 3599.36, Revised Code.

In the instant case, it is evident that the prospective candidate cannot truthfully, and lawfully, comply with the statutory requirements in question. Accordingly, because Section 1907.051, Revised Code, includes, by reference to Section 3513.261, Revised Code, the requirement of signing and verification of the statement of candidacy “in the general form” therein provided, I am impelled to the conclusion that a candidate for election to the office of county court judge must be an elector of the county court district involved.

Respectfully,

WILLIAM SAXBE
Attorney General