

OPINION NO. 75-067

Syllabus:

A candidate seeking the office of municipal court judge must, pursuant to the Ohio Constitution, Article XV, Section 4, and R.C. 3503.01, be a resident of this state, of the involved

county and of the involved precinct(s) for thirty days immediately preceding the election.

To: Harry A. Sargeant, Jr., Sandusky County Pros. Atty., Fremont, Ohio
By: William J. Brown, Attorney General, September 29, 1975

I have before me your request for my opinion concerning the residency requirements of a candidate for the position of municipal court judge. You ask:

Must a candidate for the judgeship of Fremont Municipal Court reside in that area prior to the election for that position?

Article XV, Section 4, Ohio Constitution states:

"No person shall be elected or appointed to any office in this state unless possessed of the qualifications of an elector." (As amended Nov. 3, 1953; 125 v 1095).

The qualifications of an elector are set out in R.C. 3503.01, which provides in pertinent part as follows:

"Every citizen of the United States who is of the age of eighteen years or over and who has been a resident of the state thirty days, of the county thirty days, and of the voting precinct thirty days next preceding the election at which he offers to vote has the qualifications of an elector and may vote at all elections, provided that any qualified elector who in good faith moves his residence from one county to another county or from one precinct to another precinct in the same county at any time subsequent to the thirtieth day preceding an election may vote at such election in the precinct from which he moved wherein his voting residence had been legally established. In any precinct where registration is required, electors who have moved from one residence to another residence within the same precinct shall be permitted to vote and the election officials shall note the change of address on the proper forms."

(Emphasis added.)

The application of R.C. 3503.01, *supra*, clearly answers any question concerning what residency requirements a prospective candidate must meet in order to qualify as an elector in an upcoming election. Simply stated, the candidate must meet the criteria of an elector in that geographical territory in which he seeks office. Therefore, a candidate for a state office must be a resident of the state for thirty days, and thus satisfy the requirements of an elector at that level. Similarly, a candidate for a county office must also be a resident of the county for thirty days, and a candidate for a municipal office must additionally reside in one of the appropriate (voting) precincts for thirty days prior to the election. In this manner, the definitive requirements of Article XV, Section 4, Ohio Constitution and R.C. 3503.01 are conformed to and satisfied.

You have also asked about the validity of one particular nominating petition. As is clear from the materials you supplied with your request, that nominating petition contains statements which appear to show that the prospective candidate is not qualified as an elector in the upcoming election for municipal court judge. Further, it demonstrates no apparent indication that the prospective candidate will become qualified prior to the election.

Without additional facts it is impossible to conclude here that this particular nominating petition described above is a valid one. However, I note that pursuant to R.C. 3513.263 the board of elections has broad powers to determine the validity of a nominating petition. That section provides in pertinent part:

"All other matters affecting the validity or invalidity of such petition papers shall be determined by the board with whom such petition papers were filed."

(Emphasis added.)

Pursuant to that power it is clear that the board of elections may gather such additional facts as it believes relevant to its determination.

In specific answer to your request it is my opinion, and you are so advised that a candidate seeking the office of municipal court judge must, pursuant to the Ohio Constitution, Article XV, Section 4, and R.C. 3503.01, be a resident of this state, of the involved county and of the involved precinct(s) for thirty days immediately preceding the election.