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A PERSON WHO HAS MOVED OUT OF A COUNTY, BUT MAINTAINS HIS VOTING RESIDENCE THERE IS AN ELECTOR AND MAY BE APPOINTED A COUNTY COMMITTEEMAN—§§3517.02, R.C., 3517.05, R.C., 3503.02, R.C., 143.41, R.C.

SYLLABUS:

A person who has moved out of a county to enter employment with the state and has retained his residence for voting purposes pursuant to division (G) of Section 3503.02, Revised Code, is an elector and resident of such precinct within the purview of Section 3517.02, Revised Code, and may be appointed a county central committeeman and chairman of the county executive committee, of his party, in that county.

Columbus, Ohio, June 29, 1962

Hon. George E. Schroeder, Prosecuting Attorney  
Putnam County  
Putnam County Courthouse, Ottawa Ohio

Dear Sir:

Your request for an opinion reads as follows:

“I have a situation where the chairman of the County Executive Committee has taken employment for the State of Ohio in Columbus, Ohio, and has sold his business and home here in Ottawa, Ohio. He was also a member of the Central Committee, having been elected from his precinct. He failed to file his petition for precinct committeeman, but voted by absentee ballot in his precinct at the primary election held on May 8th this year.

“The following questions concerning this situation are put to you as follows :

1. Can he be appointed a precinct committeeman by the Central Committee?

“2. Can he be appointed chairman of the County Executive Committee?

“I wish to direct to your attention Section 3517.02 of the Revised Code of Ohio, the last sentence of which is as follows: ‘Each member of a controlling committee shall be a *resident* and qualified elector of the district, ward or precinct which he is elected to represent (emphasis mine)’. I also wish to direct to your attention Section 3503.02 of the Revised Code of Ohio paragraph C which states that anyone in the employment of the State, the place where such person resided at the time of his removal shall be considered to be his place of residence.

“Section 3517.02 seems to put two requirements on an individual.

“1. That he be a resident, and

“2. That he be a qualified elector of the precinct.

“Could he be a qualified voter by reason of Section 3503.02 paragraph G and still not be a resident for the purposes of Section 3517.02? I would appreciate your answer as early as possible.”

Power to elect a member of the county central committee when a vacancy occurs because of failure to elect a central committeeman is granted to the county central committee by Section 3517.05, Revised Code, which reads as follows :

“All party committees, the selection of which is provided for in sections 3517.02 and 3517.03 of the Revised Code, shall serve until the sixth day after the date of the next party primary in the next even-numbered year. In case of vacancies caused by death, resignation, failure to elect, or removal from the precinct, ward, township, or district from which a committeeman was chosen, the controlling committee or, if authorized, the executive committee shall fill the vacancy for the unexpired term by a majority vote of the members of such committee.

“If more than one organized group claims to be the rightful county central or executive committee, each such group shall file a list of its officers and members as provided in section 3517.06 of the Revised Code, and the board of elections with which such lists are filed shall certify them to the state central committee of the party concerned. The state central committee shall meet within thirty days after receipt of such certification and forthwith

determine and certify which committee shall be recognized as the rightful county central or executive committee.”

Qualifications for county central committeeman are established by Section 3517.02, Revised Code, which reads as follows :

“All members of controlling committees of a political party shall be elected by direct vote of the members of the party, except as otherwise provided in section 3517.05 of the Revised Code. Their names shall be placed upon the official ballot and the persons receiving the highest number of votes for committeemen shall be the members of such controlling committees. Each member of a controlling committee shall be a *resident and qualified elector* of the district, ward, or precinct which he is elected to represent.”  
(Emphasis added)

The rules for determining residence of a citizen for the purpose of being a qualified elector are set forth in Section 3503.02, Revised Code, which reads, in part, as follows :

“All registrars and judges of elections, in determining the residence of a person offering to register or vote, shall be governed by the following rules :

“\* \* \*

\* \* \*

\* \* \*

“(G) If a person removes out of the county to engage in the services of the United States government, he shall not be considered to have lost his residence in this state during the period of such service, and likewise should he enter the employment of the state, the place where such person resided at the time of his removal shall be considered to be his place of residence.

“\* \* \*

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\* \* \*”

Since the person in question is by operation of Section 3503.02, *supra*, a resident and qualified elector of the precinct wherein he last resided prior to his removal to Columbus where he is in the state service, I am of the opinion that he is an elector and resident of such precinct within the purview of Section 3517.02, *supra*.

The fact that the person in question has sold his business and home in the precinct or county wherein he last resided seems irrelevant, since there is no ownership of property qualification incident to the right to vote in Ohio.

Furthermore, Section 3503.02 (G), *supra*, seems to have been enacted by the legislature for the purpose of allowing citizens to serve in the government of the state of Ohio without losing their residence and qualification as electors, because state employment might take them temporarily away from their usual place of residence.

As to the power to appoint members of the county executive committee, that power is vested in the county central committee by Section 3517.03, Revised Code, which reads, in part, as follows :

“\* \* \*

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\* \* \*

“Each party controlling committee shall elect an executive committee which shall have such powers as are granted to it by the party controlling committee, and as are provided by law. \* \* \*”

The statutes are silent as to the method of appointment of the chairman of the county executive committee. I assume that the power to appoint such chairman rests with the county central committee, unless it is delegated thereby to the county executive committee under the provision of Section 3517.03, *supra*.

I further assume that if a person meets the qualification as an elector and resident for the purpose of membership on the county central committee, such person is qualified to be appointed to the county executive committee.

There is, however, in the present case as in all instances involving political activity by any state employee, the question of whether the state employee is prohibited from actively participating in political activities under the prohibition in Section 143.41, Revised Code, which reads as follows :

“No officer or employee in the classified service of the state, the several counties, cities, and city school districts thereof, shall directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political party or for any candidate for public office ; nor shall any person solicit directly or indirectly, orally or by letter, or be in any manner concerned in soliciting any such assessment, contribution, or payment from any officer or employee in the classified service of the state and the several counties, cities, or city school districts thereof ; nor shall any officer or employee in the classified service of the state, the several counties, cities, and city school districts thereof, be an officer in any political organization or take part in politics other than to vote as he pleases and to express freely his political opinions.”

Such provision prohibits the person in question from being a member of or holding office in both the county central and executive committee of a political party if he is an employee in the *classified* service of the government of the state of Ohio.

In such a case, he would be subject to removal from his classified position if he were to so engage in politics. Opinion No. 4058, Opinions of the Attorney General for 1954, page 367.

Without having facts at hand as to the nature of the employment of the particular person in question (classified or unclassified), I cannot render an opinion as to his qualification to be a member of these committees.

To conclude, it is my opinion and you are advised that a person who has moved out of a county to enter employment with the state and has retained his residence for voting purposes pursuant to division (G) of Section 3503.02, Revised Code, is an elector and resident of such precinct within the purview of Section 3517.02, Revised Code, and may be appointed a county central committeeman and chairman of the county executive committee, of his party, in that county.

Respectfully,  
MARK McELROY  
Attorney General