

1972 WL 25261 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 3, 1972

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Dear Nick:

Thank you for your letter concerning the Democratic Party filings.

The order of Judge Grimball has caused a great deal of controversy in the counties and do know that at least one circuit judge considered he did not have jurisdiction beyond the Fifth Judicial Circuit. I have been informed that another circuit judge is of the same opinion.

Apparently, his last order dated March 28 recognized that he did not have territorial jurisdiction beyond the Fifth Judicial Circuit, as be specifically found in that order. If he did not have jurisdiction, his order seems to clearly indicate that he would not have had jurisdiction to issue the original restraining order; yet, at the same time, he states that he is modifying the original order so is to have the filing time expire on Saturday, March 25.

I do not feel that I am in a position to express an opinion as to whether a filing after March 20, the deadline fixed by statute, is or is not valid in view of Judge Grimball's order, the reason being that such a decision could only be reached by a court. I feel, however, that the appropriate action would be for the County Chairman to institute an action declaring that the normal deadline for filing is the controlling date for filing thereof. This would relieve the candidates of the onus of bringing a lawsuit against a late entry and I feel that the action would be successful. The only other alternative would be for the County Party to ignore Judge Grimball's order, and if a late entry then brought an action, he would have the burden of establishing that Judge Grimball's order was valid. My personal choice of action would be the first of these, particularly because so many counties are involved and a complete adjudication is necessary, which should be undertaken by the Party itself.

With best wishes,  
Cordially,

Daniel R. McLeod  
Attorney General

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