

The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

March 18, 1996

The Honorable Molly M. Spearman  
Member, House of Representatives  
335-D Blatt Building  
Columbia, South Carolina 29211

Re: Informal Opinion

Dear Representative Spearman:

You seek an opinion from this Office regarding whether the Saluda County Elections and Voter Registration Commission (Commission) is required to accept a voter registration application when the applicant strikes the clause "citizen of the United States" from the application. In addition, you ask whether the Commission should accept an application when the applicant changes the clause "citizen of the United States" so that the words United States appear in lower case letters. Finally, you ask whether giving false information to certain questions contained in a voter registration application would be grounds for refusal of the application.

The right to vote is derived from our state constitution. Article II, § 3, provides: "Every citizen possessing the qualifications required by this Constitution and not laboring under the disabilities named in or authorized by it shall be an elector." Article II, § 4, provides: "Every citizen of the United States and this State of the age of eighteen and upwards who is properly registered shall be entitled to vote . . ." Under Article II, § 8, the General Assembly is given the power to determine the administrative aspects of voter registration.

Prior to being registered to vote, an individual must complete a written application. S.C. Code Ann. § 7-5-170(1) (Supp. 1995). This written application for registration must be on a form prescribed and provided by the executive director of the State Election Commission. S.C. Code Ann. § 7-5-170(2) (Supp. 1995).

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The application must contain, among other things, an oath in which the applicant must ". . . solemnly swear (or affirm) that I [applicant] am a citizen of the United States . . ." Id.

When an applicant for registration strikes out the portion of the application in which the applicant swears or affirms to be "a citizen of the United States," the application, as modified, fails to provide information regarding the citizenship of the applicant. Since United States citizenship is a qualification for voting, if the applicant strikes this information, the Commission is unable to determine whether the applicant is qualified to vote. Thus, the application should be rejected.

Furthermore, S.C. Code Ann. § 7-5-170(2) contains a specific oath which all applicants are required to take. By striking the language in the oath pertaining to United States citizenship, the applicant submits an application that fails to include the specific language required by statute to be contained in the application. Consequently, an application altered in such a fashion is not in accord with the statutory dictates and, therefore, should be rejected.

In a situation where an applicant alters the application by rewriting the clause "citizen of the United States" with the words United States appearing in lower case letters, the applicant has submitted an application that does not contain the specific language required to be present in the application by S.C. Code Ann. § 7-5-170(2). As previously noted, pursuant to S.C. Code Ann. § 7-5-170(2), the application must contain an oath in which the applicant swears that "I [applicant] am a citizen of the United States . . ." Consequently, if the application is altered so that the oath does not appear exactly as it does in the statute, the application is not in accord with the statutory dictates and, therefore, should be rejected.

Finally, it is axiomatic that an applicant must give truthful and accurate answers to all questions contained in the application. Unquestionably, South Carolina has a compelling interest in protecting the integrity of the electoral process and preventing voter fraud. Storer v Brown, 415 U.S. 724, 94 S.Ct. 1274, 39 L.Ed.2d 714 (1974); Greidinger v. Davis, 988 F.2d 1344 (1993). Accordingly, if when completing the application, the applicant fails to answer the questions truthfully and accurately, the application should be rejected. In the event that an applicant is found to have fraudulently applied for registration, the applicant is guilty of perjury and is subject to the penalty for that offense. S.C. Code Ann. § 7-5-170(2).

In conclusion, a decision regarding whether an applicant possesses the legal qualifications to be registered to vote rests

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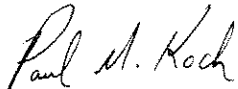
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with the Commission. S.C. Code Ann. § 7-5-230 (1976). However, in my opinion, should the Commission receive a voter registration application which the applicant has either struck the clause "citizen of the United States," or altered so that "United States" appears in lower case letters, the Commission is not obligated to accept the application. Furthermore, in my opinion, if an applicant gives inaccurate or untruthful information when completing the application, the application should be rejected.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

Sincerely yours,



Paul M. Koch

Assistant Attorney General

PMK/fg