

1980 WL 120841 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 21, 1980

*1 Mr. Melvin B. McKeown, Jr.

Attorney at Law

Post Office Box 299

York, South Carolina 29745

Dear Mr. McKeown:

Mr. Goolsby has referred your recent letter to me for reply. You have stated in your letter that a petition to change the form of government has been filed with the York County Registration Board. You have raised several caestions in regard to the consideration of this petition. Specifically, you have raised the following questions:

1. May the signatures of persons who were deleted from the registration rolls before the petitions were circulated because of their voting records be considered?

South Carolina Code of Laws, 1976, Sections 7-3-20(c)(2) and (3) require the State Election Commission to delete the names of persons who are deceased, no longer qualified to vote in the precinct where currently registered, convicted of a disqualifying crime, or who are no longer qualified to vote by operation of law. Further, it is assumed that a person is no longer qualified to vote if the voter has failed to vote in two consecutive state-wide general elections and any other local elections in the intervening years between the two general elections.

The Code provides that if a person has been deleted for their voting record that they may be reinstated upon their request after they have received notification of the fact they have been deleted. South Carolina Code of Laws, 1976, Section 7-3-30. Additionally, a person who has been deleted may be reinstates even on the day of an election by specific statutory procedures. South Carolina Code of Laws, 1976, Sections 7-5-440; 7-13-820.

If a person is purged, he is no longer a qualified voter because he does not have a valid registration certificate. A person who has been purged for non-voting would not have a qualified registration certificate until he requests re-instatement. Therefore, if a person has been purged from the registration list signs a petition, it would be a sufficiently valid reason to not count that signature.

2. May signatures on sheets of paper which neither contained the petition nor were attached to a petition be considered?

3. May signatures on petition forms printed in the newspaper be considered?

These two questions raise an identical problem and that is that there is no set procedure in the law for the form of a home rule petition. The general law is equally vague as to the proper form of a petition. When contacted prior to the beginning of the petition effort, our Office has suggested that the petition format to follow would be the one set out for nomination of candidates at South Carolina Code of Laws, 1976, Section 7-11-80. However, as the petition procedure has already been conducted and filed with the County Registration Board, the standard to follow would appear to be one of reasonableness.

Using this standard it would generally not be reasonable to count signatures on a piece of paper that does not reflect the signatures were for the proposition submitted.

*2 Likewise, if [Section 7-11-80 of the Code](#) is not followed for the petition guidelines, there would be no prohibition to counting valid signatures sent in from a petition form published in a newspaper.

Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

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