

1974 WL 27844 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 3, 1974

\*1 Mr. Ben Williamson  
Route 3  
Darlington, South Carolina 29532

Dear Mr. Williamson:

Thank you for your letter of June 29, 1974, in which you raised additional questions concerning the right to vote in a primary election for magistrates.

Magistrates are appointed to their office by the Governor. There is no provision in the statutes requiring a magistrate to stand an election. Therefore, though magistrates often do run in primary elections this election is purely advisory. In other words the election indicates who the people would like as their magistrate; however, the Governor is not bound to appoint the person who wins the primary election.

You have asked if an individual could not truthfully state that he has not voted before at the primary election when he receives a ballot for the Democratic and Republican candidates. I understand you to believe that you will receive ballots for both party's candidates at the primary. However, the primary will be set up with separate books for each political party. Therefore, when you go to the polls to vote it will be necessary to make a decision as to which political party's primary you desire to vote in and you will receive a ballot only for that party.

However, if what you intended to inquire was whether or not it would be possible to truthfully state that an individual had not voted before in the Democratic primary when that individual had already voted in the Republican primary and had now gone to the Democratic primary to vote; the answer would still be that you would not be allowed to vote in the Democratic primary. The last part of the voter's oath as set out at South Carolina Code of Laws, 1962, as amended, Section 23-400.71 requires every voter to affirm that he has not voted at any other party's primary. Therefore, it would not be possible to vote in more than one party's primary.

Very truly yours,

Treva Ashworth  
Assistant Attorney General

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