



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

February 25, 1975

Opinion No. 75- 79

Ms. Dorothy M. Chapman
Logan County Clerk
Logan County Courthouse
Oakley, Kansas 67748

Dear Ms. Chapman:

K.S.A. 25-2309(a) provides that in order to register to vote, one must apply therefor, "by giving his name, place of residence and such other information as necessary to identify him and to determine his qualifications as an elector" Subsection (f) requires that the applicant provide, among other information, his "name." You inquire whether a married woman who has adopted her husband's surname may lawfully register as, e.g., "Mrs. John Doe" or "Mrs. J. D. Doe," or whether she is required to register as "Mary Doe."

At 57 Am.Jur.2d, Name, § 9, it is stated thus:

"It is well settled by common-law principles and immemorial custom that a woman upon marriage abandons her maiden name and assumes the husband's surname. Her correct first name, however, is her maiden Christian name, and not the Christian name of her husband. Legally therefore, her name consists of her own Christian name and her husband's surname.

Some courts, while recognizing the rule that in a strict sense the Christian name of a married woman's husband is not her name, have nevertheless also taken into consideration that by a general social custom a married woman is designated, not only by her husband's surname, but also by his Christian name or names or the initials thereof preceded by the appellation

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abbreviation 'Mrs.' Accordingly, these courts have held a married woman sufficiently identified for legal purposes, for instance, where she is designated as 'Mrs.' followed by her husband's middle name and surname, or by his initials and surname." [Footnotes omitted.]

Thus, it is the general rule that "[t]he prefix 'Mr.' or 'Mrs.' is no part of a persons name, and amounts to no more than a title-- a mere redundancy." Harrell V. Alabama Farm Bureau Mutual Casualty Ins. Co., 251 So.2d 220 (Ala. 1971). However, when the term "name" appears in election laws, whether relating to designation of candidates' names or the manner of registration, the word should be taken in its plain, ordinary and usual sense. As the court pointed out in State ex rel. Rainey v. Crow, 382 S.W.2d 38 (Mo. 1964), quoting with approval from State ex rel. Lane v. Corneli, 347 No. 932, 149 S.W.2d 815 (1941):

"'A person's name is the designation ordinarily used, and by which he or she is known in the community. Names are used as a method of identification. Whether the identification is sufficient is ordinarily a question of fact.'" 382 S.W.2d at 42.

At 26 Am.Jur.2d, Elections, § 218, the writer states thus:

"Thus, a person's name is the designation by which he is commonly known and the one by which he knows himself and others call him. A candidate is entitled to have the name he has adopted, and under which he transacts private and official business, printed on the official ballot, provided he acts in good faith and with honest purpose. Accordingly, a married woman has the lawful right to have printed on the ballot a name, adopted and used in business for many years, which contains her husband's initials prefixed by the term 'Mrs.'" [Footnotes omitted.]

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It is certainly correct that the descriptive title "Mrs." is not, ordinarily, a part of one's legal name. If Huff v. State Election Board, 32 Pac. 920 (Okla. 1934), the court held that a candidate who sought to have her name appear on the ballot as "Mrs. I. L. Huff" was entitled to have it so appear, on the ground that, based upon her experience in government and business and usage over a number of years, "she is commonly known and identified by that name and has theretofore lost her identity by her maiden Christian name." The opinion of the court suggests that it is based upon the finding that she had legally changed her given name to "Mrs." and abandoned her given Christian name. More realistically, the opinion appears to be based on the fact that the candidate was commonly and widely known as "Mrs. I. L. Hugg," and not by any other name, including her given Christian name.

Although the prefix "Mrs." is not, ordinarily, a part of one's legal name, and is only a title, it is not necessary to perfect a valid registration that the legal name be used in its entirety. The name which the applicant must furnish only his or her name in its ordinary, common and usual sense, that being, ordinarily, the designation which the applicant commonly and ordinarily uses to describe him- or herself, and by which he or she is commonly known and identified in the community. Thus, if "Mrs. John Doe" is the name by which the applicant is commonly known and the name which she commonly uses socially and in business, and is sufficient to identify the registrant on the registration books from other registrants, there is in our opinion no legal reason why the applicant may not be permitted to so register.

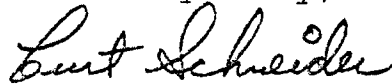
As you point out, under regulations adopted by the Secretary of State governing the determination of the sufficiency of petitions, titles such as "Mrs." must be disregarded. These regulations are adopted pursuant to K.S.A. 2-3602:

"The secretary of state shall adopt rules and regulations for the guidance of county election officers and other officers as specified by law in making determination under this section of sufficient similarity of names on petitions and names in registration books."

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These regulations govern determinations of the sufficiency of petitions; however, they do not govern the use of names by which persons may lawfully be registered to vote. In our view, the use of the descriptive title "Mrs." is lawful, when an applicant for registration is ordinarily and commonly known and identified in the community by that title in conjunction with her husband's given name and surname.

Yours very truly,



CURT T. SCHNEIDER
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cc: The Honorable Elwill M. Shanahan
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