



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

June 19, 1975

Opinion No. 75-247

Mr. Michael G. Patton
Lyon County Attorney
Lyon County Courthouse
Emporia, Kansas 66801

Dear Mr. Patton:

You inquire concerning the application of K.S.A. 25-2316(a) (1) to an elector of your county. You advise that a woman recently inquired of the county clerk concerning the continuing validity of her voter registration. The individual in question, you advise, is registered by her maiden name. She is now married, and questions whether she must reregister using her married name. The registrant continues to use her maiden name where she works in Emporia, and uses her married name only at home with her family.

K.S.A. 25-2316(a) states in pertinent part thus:

"When a voter has been registered according to law this registration shall continue to be valid until any one of the following occurs:

(1) The voter changes name *by marriage*, divorce or legal proceedings." [Emphasis supplied.]

This statute was drawn into question in *Gallop v. Shanahan*, no. 120,456, decided November 1, 1972, by Judge Barbara of the Shawnee County District Court, in which plaintiff argued that a woman's name did not change by operation of law upon marriage, but that she may choose whether to adopt her husband's surname, and that therefore a woman's registration did not automatically become void under this statute upon marriage. The court agreed, concluding that "as a matter of law a woman upon marriage does not *ipso facto* or *ipso jure* abandon her maiden name and automatically assume the surname of her husband unless, of

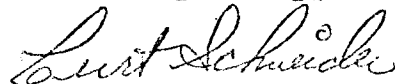
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course, there is an express intent to do so." This decision was not appealed, and remains the only pertinent point on the question in this jurisdiction, to our knowledge.

From the information described above, we cannot determine conclusively whether the voter has in fact adopted her husband's surname as her legal name. The voter's intention is controlling. If she has chosen to retain her maiden name on marriage, as she is legally privileged to do, the registration is not void, and no reregistration is necessary. If, however, she has chosen to adopt the surname of her husband as her legal name, reregistration is necessary. We would further point out that if as a result of the marriage, the voter has changed her residence, whether within or without the precinct in which she lived when previously registered, reregistration is necessary.

I hope the foregoing will be helpful.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj