



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

May 26, 1982

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE 19131 296-2215  
CONSUMER PROTECTION 296-3751  
ANTITRUST 296-5299

ATTORNEY GENERAL OPINION NO. 82- 113

The Honorable Ben Foster  
Speaker Pro Tem  
825 O. W. Garvey Bldg.  
Wichita, Kansas 67202

Re: Kansas Constitution -- Legislative Article --  
Qualification of Candidates for Nomination or  
Election to Legislature

Synopsis: A person who is a candidate for nomination or election to the legislature must be a qualified elector, which requires inter alia that such person has attained the age of eighteen. Thus, a person who will not attain the age of eighteen until March of 1983 may not be a candidate for nomination or election as a state representative at the 1982 primary or general election. Cited herein: K.S.A. 25-2306, Kan. Const., Art. 2, §4; Art. 5, §1.

\* \* \*

Dear Representative Foster:

You have inquired whether a person who will not attain the age of eighteen until March of 1983 may be a candidate for the office of state representative at the general election of 1982.

We believe the answer to your inquiry is provided by a consideration of two sections of the Kansas Constitution. Section 4 of Article 2 thereof states:

"During the time that any person is a candidate for nomination or election to the legislature and during the term of each legislator,

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such candidate or legislator shall be and remain a qualified elector who resides in his or her district."

It is clear from the plain and unambiguous language of this section of our constitution that a candidate for nomination or election to the legislature must be a qualified elector. A "qualified elector" is constitutionally defined in Article 5, Section 1 of the Kansas Constitution. It provides, in pertinent part, as follows:

"Every citizen of the United States who has attained the age of eighteen years and who resides in the voting area in which he or she seeks to vote shall be deemed a qualified elector."

It is apparent from the foregoing that, to be a qualified elector, a person must have attained the age of eighteen years. Accordingly, it is our opinion that a person who is a candidate for nomination or election to the legislature must be a qualified elector, which requires inter alia that such person has attained the age of eighteen. Thus, a person who will not attain the age of eighteen until March of 1983 may not be a candidate for nomination or election as a state representative at the 1982 primary or general election.

In passing, we also note that a qualified elector must be a registered voter. The State, ex rel., v. Dunn, 118 Kan. 184 (1925). Even though K.S.A. 25-2306 permits registration by persons under the age of eighteen, such persons must attain the age of eighteen by the next statewide general election, and this section also prohibits voting at any election by a person who is not eighteen years of age. Hence, the person about whom you inquire also is statutorily ineligible as a qualified elector, since he is not entitled to register under our voter registration laws.

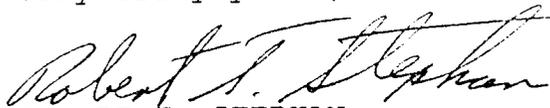
Finally, we have pursued your suggestion that there may be a court case in Texas which provides a precedent for permitting the candidacy and election of a person under the age of eighteen. However, the only case we have discovered that has apparent relevance to your inquiry is distinguishable from the situation you have presented for our consideration. In Rose v. White, 536 S.W.2d 395 (1976), it was determined that a candidate for nomination of a party to the office of state representative in Texas was entitled to have his name placed on the primary ballot, even though he would not attain the required age until after the election. However, under the facts presented in that case, the candidate would attain

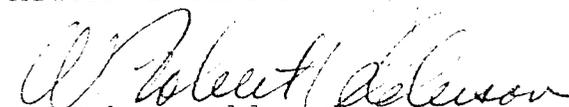
the required age prior to, and be eligible to assume the office on, the day the legislature commenced and legislators took the oath of office.

Of more importance, however, is the fact that the provision in the Texas Constitution (Art. III, §7) prescribing qualifications for state representatives specified a minimum age, which was construed by the Court of Civil Appeals in Dallas as a requirement pertaining to the eligibility for office, since nothing in the pertinent section of the Texas Constitution indicated that such age requirement was intended to apply to the time of election. Id. at 397.

Legally, as well as factually, then, the Rose case is distinguishable from the situation you pose. While the Court in Rose found that the pertinent section of the Texas Constitution prescribed an age requirement that pertained to eligibility for office, rather than election, the corresponding provision in our constitution (Kan. Const., Art. 2, §4) requires a person who is a candidate for nomination or election to the legislature to be a qualified elector, which is constitutionally defined (Kan. Const., Art. 5, §1) as a person who, inter alia, has attained the age of eighteen. Clearly, then, the age requirement in our constitution does not relate solely to a person's eligibility to the office of state senator or state representative; it is one of the qualifications which must be satisfied by a candidate for nomination or election to either of such offices.

Very truly yours,

  
ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS

  
W. Robert Alderson  
First Deputy Attorney General

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