

OPINION
56-99

October 8, 1956 (OPINION)

ELECTIONS

RE: Candidates - Failure to File Expense List

Under date of October 4, 1956, you wrote a request for an opinion on the following:

Are the provisions of Sections 16-2004 and 16-2020 of the N.D.R.C. 1943 applicable to an individual who:

1. Did not file a petition for nomination at the primary.
2. Did incur primary election expenses.
3. Did not file statement of campaign expenses.
4. Did receive enough write-in and sticker votes to be nominated.

The above is with reference to a county, no-party office."

Section 16-2004 provides that within fifteen days after a primary or general election, a candidate for nomination or election or public office at such election shall file an itemized statement setting forth in detail all the moneys contributed, expended, or promised by him to aid and promote his nomination or election, or both, as the case may be.

Section 16-2020 provides as follows:

FAILURE TO FILE LIST OF EXPENSES; NAME OMITTED FROM BALLOT; DELAY IN MAKING STATEMENT; EFFECT. The name of a candidate chosen at a primary election, or otherwise, shall not be printed on the official ballot for the ensuing election unless there has been filed by or on behalf of said candidate the statement of accounts and expenses relating to nominations required by this chapter. Delay beyond the time prescribed in making such statement shall not preclude its acceptance nor prevent the insertion of the name on the ballot, if there is a reasonable time therefor after the receipt of such statement."

You will note that delay beyond the time prescribed in making such statement (with reference to expenses) shall not preclude its acceptance nor prevent the insertion of the name on the ballot, if there is a reasonable time therefor after the receipt of such statement.

The first thing to consider is the question of whether or not the party you mention under the conditions you mention was a candidate. In Webster's Dictionary we find the word "candidate" to mean: "One who offers himself, or is put forward by others, as a suitable

person, or an aspirant or contender for an office, is a candidate." It would seem therefore that from the facts you give, the person you mention was a candidate. Since section 16-2004 provides that such statement must be filed and since section 16-2020 states that the name of such candidate cannot be placed on the ballot until such statement has been filed, we are of the opinion that the name of such candidate cannot be placed on the ballot until he has furnished said statement and, of course, the conditions upon which he should do so are stated in section 16-2020 which we have mentioned and reads, "Delay beyond the time prescribed in making such statement shall not preclude its acceptance nor prevent the insertion of the name on the ballot, if there is a reasonable time therefor after the receipt of such statement."

See the case of Homnes v. Lynch, 46 N.D. 580, 179 N.W. 719. It is up to the officials to determine whether the filing of the document is done within a reasonable time.

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