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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Presidential Electors -
Petitions - Independent
Candidates

A petition for ballot access
may only contain a single
candidate for President and
Vice President.

Dear Ms. Worley and Representative Rogers:

This opinion of the Attorney General is issued in response to your
request.

QUESTION

May a petition for ballot access contain
multiple independent candidates for President
and Vice President?

FACTS AND ANALYSIS

Independent candidates for President and Vice President must com-
ply with section 17-19-2 of the Code of Alabama to have their names
placed on the ballot in Alabama. Section 17-19-2 states as follows:

(a) When presidential electors are to be chosen, the Secretary of State of Alabama shall certify to the judges of probate of the several counties the names of all candidates for President and Vice-President who are nominated by any national convention or other like assembly of any political party or by written petition signed by at least 5,000 qualified voters of this state.

(b) The certificate of nomination by a political party convention must be signed by the presiding officer and secretary of the convention and by the chairman of the state executive or central committee of the political party making the nomination. Any nominating petition, to be valid, must contain the signatures as well as the addresses of the petitioners. Such certificates and petitions must be filed in the office of the Secretary of State no later than the 6th day of September next preceding the day fixed for the election.

(c) Each certificate of nomination and nominating petition must be accompanied by a list of the names and addresses of persons, who shall be qualified voters of this state, equal in number to the number of presidential electors to be chosen. Each person so listed shall execute the following statement which shall be attached to the certificate or petition when the same is filed with the Secretary of State: "I do hereby consent and do hereby agree to serve as elector for President and Vice-President of the United States, if elected to that position, and do hereby agree that, if so elected, I shall cast my ballot as such elector for _____ for President and _____ for Vice-President of the United States" (inserting in said blank spaces the respective names of the persons named as nominees for said respective offices in the certificate to which this statement is attached).

In construction of statutes, legislative intent may be gleaned from the language used, the reason and necessity for the act, and the purpose sought to be obtained. *Bama Budweiser of Montgomery, Inc. v. Anheuser-Busch, Inc.*, 611 So. 2d 238, 248 (Ala. 1992); *Tuscaloosa County Comm'n v. Deputy Sheriffs' Ass'n of Tuscaloosa County*, 589 So. 2d 687, 689 (Ala. 1991); *Shelton v. Wright*, 439 So. 2d 55, 57 (Ala. 1983). In addition, statutes addressing related subjects should be compared. *House v. Cullman County*, 593 So. 2d 69, 75 (Ala. 1992).

Section 17-19-2(a) requires that at least 5000 qualified voters of this State must sign a petition requesting that the persons named in the petition be placed on the ballot as independent candidates for President and Vice President. That section does not affirmatively allow multiple candidates for each office. Moreover, the language of section 17-19-2(c) leads to the conclusion that the petition is limited to a single candidate. It requires that the petition be accompanied by a statement from the electors naming the independent candidates for President and Vice President that the electors pledge to support. The form of the statement for the electors is provided for in this section and includes a single blank, rather than multiple blanks, for each office.

This reading of the statute is consistent with the statutory framework for ballot access, which indicates the Legislature's intent that ballot access be restrictive, not expansive. Alabama law provides a two-track system by which a political party may have its name placed on a ballot for statewide and local elections: (1) a candidate of the party must receive 20 percent of the votes cast in the last general election, or (2) the party must gather three percent of the signatures of qualified electors who cast ballots for governor in the last general election. ALA. CODE §§ 17-8-2.1 & 17-16-2 (Supp. 2003); see *Libertarian Party of Alabama v. Wallace*, 586 F.Supp. 399 (M.D. Ala. 1984). Independent candidates in elections other than for President and Vice President must comply with an identical three-percent signature requirement. ALA. CODE § 17-7-1(a)(3) (Supp. 2003).

This Office has previously stated that the State "has a legitimate interest in limiting the ballot to serious contenders who are truly independent and demonstrate substantial community support." Opinion to Honorable Jim Bennett, Secretary of State, dated September 27, 1996, A.G. No. 96-00326 at 4 (quoting *Anderson v. Firestone*, 499 F.Supp. 1027, 1029 (N.D. Fla. 1980)). See also *Swanson v. Bennett*, 219 F.Supp. 1225, 1231 (M.D. Ala. 2002); *Libertarian Party*, 586 F.Supp. at 400.

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Therefore, in Act 95-786, the Legislature raised the signature requirement for political parties from one to three percent. In rejecting a constitutional challenge to the three-percent requirement for independent candidates generally, the United States District Court for the Middle District of Alabama, in *Swanson*, observed that the Alabama requirement was "more restrictive than the laws of its sister states." 219 F.Supp. at 1233. The purpose of section 17-19-2 is to ensure that each candidate is supported by 5000 voters. A petition with multiple candidates could influence a voter to sign the petition because the voter supported one candidate, even if the voter did not support, or even know, the other candidates.

CONCLUSION

A petition for ballot access may only contain a single candidate for President and Vice President.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

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