



2004 - 041

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

BILL PRYOR
ATTORNEY GENERAL

December 17, 2003

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

Honorable Virginia B. Merritt, Chairman
Covington County Board of Registrars
228 Hillcrest Drive
Andalusia, Alabama 36420

Elections – Precincts – Voting – Poll
Lists – Covington County

A voter must cast his or her vote in
the precinct where he or she resides.

Dear Ms. Merritt:

This opinion of the Attorney General is issued in response to your request on behalf of the Covington County Board of Registrars.

QUESTION

May a voter cast his or her vote in any
precinct within the county without regard to the
precinct in which the voter resides?

FACTS AND ANALYSIS

Your request states that many voters in Covington County live in rural areas and want to vote, and have voted, in a precinct located in a city that is closer to the voter's place of work, but is not the precinct in which he or she lives. You state that it has been a practice in the past by the Board of Registrars to assign voters to the precinct that the voter selects as more convenient for the voter. The current board has assigned voters to the proper precinct based on their residence address, but the voters complain and want to continue to vote at other precincts in the county that are more convenient to his or her place of work. The county commissioners and the school board members are elected at-large; thus, the ballots are the same for all precincts.

Voter registration is based upon residency, and a voter must vote in the county, district, or precinct in which he or she resides. ALA. CODE § 17-3-9, *et seq.* (1995). The precincts are established by the county commission and are clearly defined geographical areas for the purpose of voting. ALA. CODE §§ 17-5A-2 & 17-5A-3 (1995). Voters are assigned to the precincts by the county board of registrars based upon their residence.

Section 17-4-127 of the Code of Alabama, as amended by Act 2003-313, provides as follows:

It shall be unlawful for any elector to cast his or her ballot during any general election, primary election, municipal election or special election in any precinct, any district, any ward, or any other subdivision where his or her name does not duly appear upon the official list of the precinct, district, ward or subdivision. All ballots cast in any election contrary to this section are hereby declared illegal and, upon a contest duly instituted, the ballots shall be excluded in determining the final result of any election; provided, that nothing in this section shall prevent any qualified elector residing in the precinct, ward, or voting district from voting after presenting a proper certificate from the board of registrars, or from voting a provisional ballot when his or her name does not duly appear upon the official list of the precinct, district, ward or subdivision.

2003 Ala. Acts No. 2003-313. (Section 17-4-127 has been amended by this act to provide for provisional voting instead of challenge voting, which is not at issue here.)

It is unlawful for a voter to cast a ballot in a precinct where his or her name does not appear on the official list of voters for that precinct. Voters should vote in the precinct where he or she resides.

Honorable Virginia B. Merritt
Page 3

CONCLUSION

A voter must cast his or her vote in the precinct where he or she resides.

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

Sincerely,

BILL PRYOR
Attorney General

By:



CAROL JEAN SMITH
Chief, Opinions Division

BP/BFS
129601v1/60968