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80-00551



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SEP 12 1980

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Pickens County - Elections -
Absentee Voting

Absentee election manager should not accept an absentee ballot unless it is (1) mailed to him, or (2) hand delivered to him in person by the voter.

Discussion of procedure to be followed by absentee election manager where affidavit on absentee ballot is incorrect.

Opinion by Assistant Attorney General Breland

Dear Mr. Floyd:

This is in response to your request for an opinion from this office of July 28, 1980, regarding the proper procedure for returning absentee ballots.

Your first question is whether Section 5 of Act No. 80-732, which amends Section 17-10-9, Code of Alabama 1975, prohibits a second party from delivering an absentee ballot to the absentee ballot manager. My opinion is that it does. Section 5 of Act 80-732 states, in pertinent part:

"After marking the ballot and subscribing the oath herein required, the voter shall seal his ballot in the plain envelope provided, place that plain envelope inside the affidavit envelope, complete the affidavit, and shall forward it by United States mail to the addressee or shall hand it to him in person." (Emphasis added)

According to this section, an absentee voter must either mail the ballot to the absentee election manager or deliver it in person. He cannot have another person deliver the ballot for him. This answers your second question, which is whether the absentee ballot manager can accept more than one ballot from any individual. Of course, if each person must either mail or hand deliver his own ballot, this would necessarily prohibit anyone from delivering more than one ballot. You should not accept more than one absentee ballot from any person.

Your last question is to ask what steps you should take if an affidavit is not correctly or fully made. Section 6 of Act 80-732, which amends Section 17-10-10, Code of Alabama 1975, provides, in part:

"Upon receipt of the absentee ballot, the absentee election manager shall record its receipt thereof on the absentee list as provided in 17-10-5 and shall safely keep the ballot without breaking the seal of the affidavit envelope. On the day of the election, beginning at 12:00 Noon, the absentee election manager shall deliver the sealed affidavit envelopes containing absentee ballots to the election officials provided for in section 17-10-11, and such election officials shall call the name of each voter casting an absentee ballot with poll watchers present as may be provided under the laws of Alabama and shall open each affidavit envelope, review the affidavit to certify that such voter is entitled to vote and deposit the plain envelope containing the absentee ballot into a sealed ballot box."

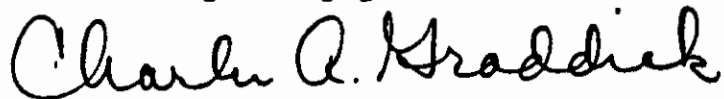
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This section indicates that the election officials are charged with the duty of reviewing the affidavits to certify that the voter is entitled to vote. If, upon examination, the affidavit obviously does not comply with Alabama law; that is, if it is not properly witnessed or notarized, is not signed by the voter, or does not otherwise contain sufficient information to determine that the person is a qualified elector and is entitled to vote absentee, the ballot should not be counted. Otherwise, the ballot should be deposited into a sealed ballot box. If the absentee ballot is challenged but does not appear to be invalid on the face of the affidavit, the ballot should be counted; the affidavit, however, should be marked challenged with the basis of the challenge listed and turned over to the District Attorney for investigation.

All applications and affidavits for an absentee ballot should be preserved in case of a contest or in the event that an investigation by the District Attorney reveals evidence which would warrant some prosecutorial action.

I hope that I have answered your question sufficiently. If this office can be of further help, please let me know.

Very truly yours,



CHARLES A. GRADDICK
Attorney General