

July 18, 2007

The Honorable Randy Scott
Member, South Carolina Senate
107 Cleveland Street
Summerville, South Carolina 29483

Dear Senator Scott:

In your recent letter to Attorney General Henry McMaster you requested an opinion on the following: “If an individual votes in the presidential primaries as a Democrat, can the same individual vote Republican in the general election?”

Section 7-13-1010 of the South Carolina Code (1976) requires voters to take the following oath when voting in primary elections:

I do solemnly swear or affirm that I am duly qualified to vote at this primary election and that I have not voted before at this primary election or in any other party’s primary election or officially participated in the nominating convention for any vacancy for which this primary is being held.

(emphasis added).

As we concluded in past opinions, this statute prohibits a voter from voting in more than one party’s primary election if both primaries are for the same general election. Ops. S.C. Atty. Gen., August 27, 1984; June 6, 1980. Section 7-13-1010 is located under article 9 of chapter 13 of title 7. Article 9 is entitled “Voting Provisions Applicable to Primary Elections Only.” Thus, just as this title suggests, we believe section 7-13-1010 only pertains to primary elections.” McInnis v. McInnis, 348 S.C. 585, 592, 560 S.E.2d 632, 636 (Ct. App. 2002) (“Although the title and headings of a statute may not be construed to limit the plain language of a statute, they may be used to shed light on an ambiguous word or phrase.”). Accordingly, we do not believe this provision prohibits a voter who votes in a presidential primary as a Democrat from voting for a Republican candidate in the

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general election. Furthermore, we do not find any other provision contained in the statutes governing elections that would prohibit a voter from subsequently voting in a general election for a Republican candidate if that individual previously voted in a Democratic presidential primary.

Very truly yours,

Henry McMaster
Attorney General

By: Cydney M. Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General