

1976 WL 30942 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 17, 1976

*1 Mr. James B. Ellisor
Executive Director
State Election Commission
Post Office Box 5987
Columbia, South Carolina 29250

Dear Mr. Ellisor:

You have informed me that the Democratic Party has requested you to print the name of Jimmy Carter on the general election ballot. You have requested an opinion from this Office as to whether or not Mr. Carter's name should be placed upon the ballot as Jimmy Carter or James Earl Carter.

South Carolina Code of Laws, 1962, as amended, Section 23-400.12(C) states in part that . . . in the case of candidates for presidential and vice-presidential electors, the names of the candidates for President and Vice-President whom they are nominated to vote for in the electoral college may be printed above their names if so requested in the certification or petition under which they are placed on the official ballot . . .

Under the provisions of this Section, a request must be made for the name of the presidential and vice-presidential candidate to be placed on the ballot. Whether or not the name of the presidential candidate is placed on the ballot is therefore discretionary and not mandatory. If the party does choose to require the nominee's name to be printed above the slate of presidential electors, his name is printed as the Democratic candidate for President. The statute specifically states that the 'name of the candidate for President and Vice-President' (emphasis added) will be printed.

At 65 C.J.S. Names, Section 3 it is stated that by common law, since very early time, a legal name, has consisted of one Christian or given name, and of one surname, patronymic, or family name, the given name being used first and the surname last.

Section 3(b) states the Christian or given name is an essential part of the name of a person, and generally at common law, a person is not properly identified unless described by his Christian or given name in addition to his family or surname.

See also 57 Am. Jur. 2d Names, Section 1, Section 3; BLACK'S Law Dictionary, 'Name'.

A nickname is not a person's true name. It is instead a short name; one nicked or cut off for the sake of brevity, without conveying an idea of approbrium, and frequently evincing the strongest affection or the most perfect familiarity. BLACK'S Law Dictionary, 'Nickname'

See also 57 Am. Jur. 2d Names, Section 7; 65 C.J.S. Names, Section 1.

A person may be commonly known by another name, but that does not make that name one's true name. 65 C.J.S. Names, Section 10. In a 1963 South Carolina case the Federal Court stated that 'a person's 'name' consists of one or more Christian or given names and one surname or family name.' [Nappier v. Jefferson Standard Life Insurance Co.](#), 213 F. Supp. 174 (D.C.S.C. 1963) rev. on other grounds 322 F.2d 502. This Office has consistently held that neither a candidate's title nor nickname may be printed on the general election ballot. 1959-60 Op. Att'y. Gen. No. 93 p. 200; 1963-64 Op. Att'y. Gen. No. 1741 p. 239; 1967-68 Op. Att'y. Gen. No. 2489, p. 161.

*2 As noted, this Office has consistently ruled that the proper name to be placed on the ballot is the name of the candidate as reflected in birth records which are in this State filed in the Bureau of Vital Statistics. (If birth records should not be available, then access should be made to secondary sources such as the name used in baptism records, social security records, military records, etc.) I assume that the name of Mr. Carter is James Earl Carter and that he is given that name in his birth certificate in Georgia. In accordance with previous opinions of this Office, that is the name by which he should appear on the ballot.

As a consequence of this position, Mr. A. W. Bethea of Dillon, South Carolina, was advised that he could not have placed on the ballot 'Red', although he was universally known by that name rather than by the name which was given to him at his birth. Subsequently, Mr. Bethea followed statutory procedure and had his name changed to A. W. 'Red' Bethea, and he has appeared on ballots since that time by that name. Other instances of a similar nature have precluded the use of other names by which candidates may be known being placed on the ballot in this State, and it is the opinion of this Office that this procedure should be followed in this particular instance. Consistent adherence to the practice which has been followed for many years by this Office requires this to be done. Moreover, it appears to be the fairest method, as well as the one which will lead to the least confusion. And, one which I conclude is the proper legal answer.

I advise therefore that, in the opinion of this Office, the name of Mr. Carter is to appear as a candidate for President, it should appear as James Earl Carter, and not as Jimmy Carter.

Very truly yours,

Daniel R. McLeod
Attorney General

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