

Opinion No. 60-61

March 30, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mrs. Betty Fiorina Secretary of State Santa Fe, New Mexico

QUESTION

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In the event a candidate for an office withdraws prior to the printing of the ballot but after the drawing for position on the ballot, will the remaining candidates' names be placed in the original positions drawn leaving a blank space where the withdrawn candidate's name would have been, or will the names be printed one immediately following the other with the space created by the withdrawal eliminated?

CONCLUSION

You should eliminate the space created by the withdrawal and place the remaining candidates' names in the sequence resulting from the elimination of the withdrawn candidates, one under another.

OPINION

{*420} ANALYSIS

Statutes are to be construed in a manner so as to prevent absurdity, **State v. Llewellyn**, 23 N.M. 43, Section 3-11-47, N.M.S.A., 1953 Compilation (P.S.) provides in part:

A. (2) . . . "Following and below the designation shall be printed the position number drawn by each candidate **if applicable . . .**" (Emphasis Supplied) * * * The names of candidates shall be printed on an equal margin **one under another . . .**" (Emphasis Supplied)

A. (4) "The names of the candidates for each office upon the ballot shall be arranged upon the ballot **in an order** to be determined by lot. . ." (Emphasis Supplied).

The names of candidates should be placed on the ballot, one under another, with equal spacing between them in the order remaining after all withdrawn candidates have been stricken from the list. To hold otherwise would be errant formalism and patently absurd.

By: B. J. Baggett

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