

## Opinion No. 60-42

March 11, 1960

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

**TO:** Mr. John Humphrey, Jr. Assistant District Attorney Tenth Judicial District Fort Sumner, New Mexico

### QUESTION

#### QUESTION

An individual registered as a Republican in 1952 and voted in the general election that year. She did not vote in either the Primary or General Elections of 1954 or 1956. In January, 1956, she changed her registration to the Democratic Party. In November, 1957, her name was purged from the voting list for failure to vote in 1954 and 1956. In July, 1959, she re-registered as a Democrat. In view of Sec. 3-11-43, N.M.S.A., 1953 Comp. (PS), can this person be allowed to become a candidate and file a declaration of candidacy on March 1, 1960 for the forthcoming Primary Election?

#### CONCLUSION

No.

### OPINION

#### {\*396} ANALYSIS

Sec. 3-11-43, N.M.S.A., 1953 Comp. (PS), reads, as pertinent to this question, as follows:

"No person shall become a candidate for nomination for any office who has not been affiliated with the party in which he seeks office, **as shown by his registration affidavit**, for a period of not less than twelve [12] months prior to the issuance of the proclamation herein required by the Governor of the State of New Mexico, or since his initial registration to vote in the State of New Mexico . . ."

The proclamation referred to in the above quoted section is the proclamation required of the Governor by Sec. 3-11-42, N.M.S.A., 1953 Comp., to be issued by him and filed with the Secretary of State on the first Monday in February of each even numbered year. Thus, a person intending to become a candidate for nomination in the Primary Election must either have been affiliated with the party in which he seeks office, as shown by his registration affidavit for not less than one year prior to the issuance of the proclamation, or since his initial registration to vote in New Mexico.

The individual mentioned in the fact situation preceding your question has neither been affiliated with the Democratic Party, **as shown by her registration affidavit, for** a year prior to the proclamation nor has she been affiliated with the Democratic Party since her initial registration to vote in New Mexico. Her initial registration was that of a Republican and her present party affiliation as shown by her last valid registration affidavit was less than 12 months from the date of the proclamation.

Therefore, we must conclude that the individual you are referring to may not become a candidate for nomination in the forthcoming Primary Election since she has not met the requirements of Sec. 3-11-43.

By: Philip R. Ashby

Assistant Attorney General