



State of Tennessee
Department of State

Division of Elections
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VIA

February 4, 2008

Ray Barrett, Administrator of Elections
Davidson County Election Commission
Howard School Office Building, Rm. 153
P. O. BOX 650
Nashville, TN 37202

RE: Application of Felony Purge Laws to a Federal Felony Conviction

Dear Ray:

Based upon a letter from Mr. Lionel Barrett of your office, Mr. William H. Kraus, was convicted of a felony in a federal court in California. Citing the applicable California law at the time of the conviction, Mr. Kraus claims that he did not lose his voting rights when he was convicted of the federal felony. In light of Mr. Kraus's assertions, your office questions whether a felony conviction in a federal court has the same disenfranchising effect as a felony conviction out of a state court.

In short, a felony conviction from any court with proper jurisdiction operates to automatically remove the person's voting rights in Tennessee until the person has had his or her voting rights restored. TCA § 40-20-112 provides, in pertinent part, that:

Upon conviction for **any** felony, it shall be the judgment of the court that the defendant be infamous and be immediately disqualified from exercising the right of suffrage. (Emphasis added)

The words "any felony" signify that a conviction from any one of the courts which have the jurisdiction to convict a person of a felony causes the person to forfeit his or her right to vote. Consequently, TCA § 40-20-112 includes a felony conviction that occurred in a federal court.

Even more specifically, TCA 2-19-143(2) states that:

No person who has been convicted in federal court of a crime or offense which would constitute an infamous crime under the laws of this state, regardless of the sentence imposed, shall be allowed to register to vote or vote at any election unless such person has been pardoned or restored to the full rights of citizenship by the president of the United States, or the person's full rights of citizenship have otherwise been restored in accordance with federal law, or the law of this state.

The language in TCA § 2-19-143(2) removes any doubt that a person convicted of a felony conviction in a federal court loses his or her right to vote in Tennessee until such person has those voting rights restored.

For the sake of completion, I would point out that TCA § 40-29-201(a), the applicable statute governing the restoration of voting rights, states that the voter restoration process applies "to any person who has been disqualified from exercising that right [right of suffrage] by reason of a conviction in any state or federal court of an infamous crime."

Each of these statutes demonstrates and proves the intent of the Tennessee general assembly to remove the voting rights of a person who has been convicted of a felony by any court. The fact that the felony conviction occurred in a different state court or in a federal court does not diminish its effect of removing the person's right to vote until the person has those voting rights restored.

Thus, although Mr. Kraus may not have lost his voting rights in California when he was convicted of a felony in federal court, when he moved to Tennessee, the laws of this state went into effect and applied to his conviction. The federal felony conviction caused Mr. Kraus to lose his voting rights in Tennessee until he has those voting rights restored.

I hope that this information proves helpful to you. If you have any further questions regarding the process for restoring the person's voting rights, please contact me.

Sincerely,

Brook K. Thompson
Coordinator of Elections