

**STATE OF NEW HAMPSHIRE
BALLOT LAW COMMISSION**

Case Number BLC 2016-2

Petition of Regina Birdsell

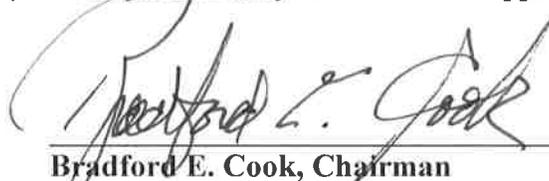
Regina Birdsell of Hampstead, is the incumbent Republican member of the New Hampshire Senate representing District 19. During the 2016 filing period, she filed to run for re-election in the September primary election, completing the Declaration of Candidacy form prescribed by RSA 655:17 properly. She also completed the Voluntary Expenditure Limitations Affidavit prescribed by RSA 664:5-a, which gives candidates the option of voluntarily limiting their expenditures to those set forth in statute, or not doing so. Senator Birdsell filled out the top portion of the form and submitted it to the Secretary of State, indicating she was voluntarily limiting expenditures. Afterwards, consulting with her campaign manager, she discovered that she had misunderstood the meaning of the form, and did not intend to limit expenditures, in the case of a state senate race, to \$20,000. Immediately upon discovering the mistake, she called the Secretary of State's office, at approximately 5:15 p.m. on June 10, fifteen minutes after the filing period ended. She was informed that the filing period had ended, and she should petition the Ballot Law Commission which has jurisdiction over filing matters after the filing period ends. She did so.

The Ballot Law Commission heard the appeal on June 23, 2016. There is no dispute about the facts of the timing, according to testimony of Senator Birdsell and the Secretary of State's Office. Also, the fact that it is a "voluntary" election to be governed by the expenditure limit, and not a required provision of law, makes Senator Birdsell's testimony that she never intended to submit to those limits, but was confused by the form and tried to change it as soon as the effect of her action was known, seems to the Commission to argue in favor of allowing the change. The Commission is concerned that in allowing her to do so in this case, based on the timing of her communication to the Secretary of State, this decision not to be cited as precedent in other kinds of filings which do not involve voluntary but required filing elements, or which involve the passage of a significant amount of time. The Commission also notes that Sen. Birdsell is not a first-time candidate, but rather an experienced candidate and legislator, which gives the Commission pause about the claims of confusion. However, it accepts her uncontested testimony.

Therefore, limited to the facts of this case only, the Commission unanimously finds that Regina Birdsell's Voluntary Expenditure Limitation Affidavit is hereby amended to indicate that she is not agreeing to limit campaign expenditures. The petition is granted.

The Commission unanimously votes to uphold the decision of the Secretary of State in rejecting the declaration of candidacy of Joseph McCaffry and denies the appeal.

So ordered.

A handwritten signature in black ink, appearing to read "Bradford E. Cook", written over a horizontal line.

8/27/16

Bradford E. Cook, Chairman

William Craig

Michael Eaton

Sheila Francoeur

Beverly Hollingworth