

**STATE OF NEW HAMPSHIRE
BALLOT LAW COMMISSION**

Case Number BLC 2014-4

Petition of human

On August 11, 2014, the Ballot Law Commission received a petition from a man in Rochester who had filed nomination papers to run for state representative in the Strafford County District 22 Democratic Party primary. The man, whose legal name had been changed by decree of the Strafford County Probate Court to "human," complained in the petition about treatment of his candidacy by the Secretary of State's Office in several respects. First, petitioner contends that his name should be placed on the ballot in all capital letters, as that was the form of name he had filed in his nomination filing with the Rochester City Clerk. Second, in the alternative, petitioner requests that the first letter of his name be capitalized, with the remaining letters in lower case, as that is the way the names of other candidates are listed. Third, he complains that his candidacy has been the victim of discrimination, as his name was omitted from at least some sample ballots. The petition alleges violations of various state election laws, and requests fourteen specific actions or findings, and a hearing on the matter.

The Ballot Law Commission held a hearing on the petition on August 27, 2014. The petitioner and representatives from the Secretary of State's Office attended and presented evidence. At the hearing, petitioner made arguments supporting his allegations of discrimination and violation of state law and both the New Hampshire and United States Constitutions. The Deputy Secretary of State, David Scanlan, explained the actions and reasoning of that office in handling the nomination and its placement on the ballot, and presented a copy of the Strafford County Probate Court order granting the name change of the petitioner.

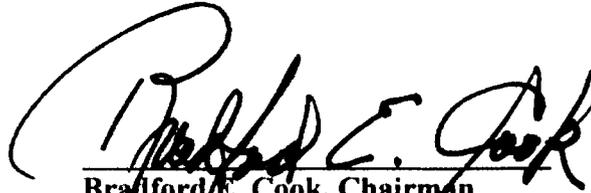
After hearing, the members of the Ballot Law Commission unanimously voted to uphold the actions of the Secretary of State's Office, meaning that petitioner's name will remain on the ballot in second position in the two person race, and will remain in all lower case letters. In so deciding, the Commission finds that the name change order by the Probate Court specifically limited its use to the form granted, and made additional findings supporting the right of petitioner to have his named changed as requested, and petitioner confirmed in testimony that he requested the name be all lower case letters. The Commission rejects petitioner's contention that RSA 655:14-b I, which allows candidates to specify the form of name to be used on the ballot, allows candidates to decide which letters of their names will be capitalized. Indeed, the Commission notes that the cited statute allows using a nickname or contraction, such as "Bob" or "Jimmie," rather than a given name, such as "Robert" or "James." Further, the Commission rejects petitioner's claim that a recent amendment to statute, in Chapter 112 of the Laws of 2014, requires all capital or all lower-case letters. Such a reading misinterprets the intention and clear meaning of the amendment.

Petitioner requested his name be listed first on the Ballot. Deputy Secretary of State Scanlan explained the process of determining the order placement, by lot, as required by statute, and the Commission finds that petitioner was treated fairly and was not the subject of discrimination in having his name printed second on the ballot.

The Commission accepts the explanation of the Deputy Secretary of State as to the inclusion or exclusion of petitioner's name on various sample ballots, and also notes that this case presented the Secretary of State's Office with a novel situation, due to the one-word name and capitalization decision, and it did the best it could do in dealing with the situation, so any error, if any exists, was inadvertent, and impossible to correct at this time in the election calendar, in any event.

Because of its findings on these matters, the other requests contained in the petition either need not be considered, or are beyond the jurisdiction of the Ballot Law Commission to decide.

So ordered.

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

Bradford E. Cook, Chairman

Michael Eaton

Dean Eggert

Beverly Hollingworth

Roger Wellington

August 29, 2014