

**STATE OF NEW HAMPSHIRE  
BALLOT LAW COMMISSION**

BLC 2012-4

**Appeal of Stuart Cooper**

This matter is an appeal by Stuart Cooper of Sutton, New Hampshire from the action of the Secretary of State disqualifying him from running for the Republican nomination for State Representative from Merrimack District 4. The Secretary of State was represented at the hearing by Deputy Secretary of State David M. Scanlon and Attorney Matthew Mavrogeorge of the office of the Attorney General. The petitioner represented himself.

**FACTS:** The facts are that petitioner has been a New Hampshire resident and voter for a number of years, and a registered Republican duly listed on the checklist in the Town of Grantham. He testified that he voted there in 2010. In 2012, petitioner and his family moved to Sutton in June. After the filing period, he was approached by the Republican Party and asked to run for State Representative in the Republican primary in September, no Republicans having filed for that office in Merrimack District 4. He filed a Declaration of Candidacy on June 20, 2012, in which he made the required statements saying, in part, "...I am domiciled in...the Town...of Sutton, County of Merrimack, State of New Hampshire and am a qualified voter herein; that I am a registered member of the Republican party," (etc.). After examination and questioning, the Secretary of State disqualified petitioner since he was not a registered voter in the town of Sutton at the time he filed. Petitioner testified that he has since registered to vote. Petitioner appealed the decision to the Commission, believing himself to be qualified.

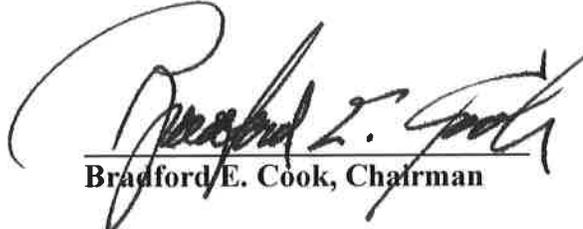
**DISCUSSION:** The question in this case appears to be one of first impression. There have been many cases in which candidates have been disqualified as not registered to vote at the time their declarations are filed, and therefore not able to declare that they are registered members of the party in which they intend to run for office. See, for example, *Roger Francoeur v. Secretary of State*, NHBLC August 2, 1996. The Commission believes they are decided correctly. In the case before the Commission, however, the petitioner was legally registered in Grantham as a Republican, held all of the qualifications to be a voter in Sutton, the town to which he was in the process of moving, having been a New Hampshire domiciliary for two years, is over eighteen years of age, and at the time of the election will be an inhabitant of the district he seeks to represent. See RSA 655:8. The question for decision, then, is whether the statute requires a candidate filing for office to be a registered voter in the place he or she seeks to represent when the declaration is filed, or merely be qualified to be such a voter, if he or she is legally registered somewhere else in New Hampshire.

There was no dispute about the facts in this case, and the statute appears to be silent on the requirement. Indeed, it would be helpful if the legislature were to clarify whether the intent is to require candidates to be registered voters in the district they seek to represent at the time of filing, but it does not. Therefore, petitioner/appellant appears to meet all of the qualifications set forth in the statute and in the filing declaration found in statute, RSA 655:17. The Commission recognizes that the Secretary of State's Office acted in good faith and consistent with its past understanding of the statute, in taking the action it did.

**DECISION:** Therefore, the Ballot Law Commission holds that under these circumstances, Stuart Cooper validly submitted a declaration of candidacy and is qualified to run in the Republican primary for state representative from Sutton (Merrimack District 4) and his name will be placed on the ballot.

So ordered.

7/11/12

  
Bradford E. Cook, Chairman

Commissioners Cook, Van Oot, Shumaker and Eaton voting yes. Commissioner Clemons voting no.