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OCT 22 2008

**STATE OF NEW HAMPSHIRE**

**BALLOT LAW COMMISSION**

**NEW HAMPSHIRE  
DEPARTMENT OF STATE**

**Petition of Jason Bedrick**

**BLC 2008-3**

**ORDER**

On September 22, 2008 the Secretary of State received a written request from Jason Bedrick (“the Petitioner”) stating he wished to appeal the recount results with respect to one ballot, from the Town of Salem, for Rockingham House District 4.

The Petitioner was an unsuccessful candidate nomination as one of thirteen candidates to appear on the ballot in November as a Republican candidate running for re-election in District 4 for the N.H. House of Representatives. Another candidate had been successful in securing the thirteenth seat based on the recount of ballots cast in the Republican primary for the District 4 seat.

The Ballot Law Commission (“the Commission”) held a hearing on September 26, 2008. The Petitioner appeared *pro se*.

The Commission reviewed one ballot from Salem identified as Ballot A. Both the Petitioner and the Secretary of State testified as to what they believed was the voter’s intent. The Petitioner argued that the voter intended only to vote for those candidates where either both a checkmark and the oval was fully filled in or the oval was fully filled in with no checkmark. The Secretary of State testified that because voter intent was not clear he determined it was an “overvote” with the voter voting for 14 candidates when only 13 could be voted for.

After hearing from both parties the Commission voted to override the Secretary of State's determination that Ballot A was an "overvote." Noting that voter intent is critical, the Commission determined that the voter's intent with respect to Ballot A was to vote for those candidates that either had both a checkmark and the ovals filled in or those with just the ovals fully filled in. The Commission voted 4-1<sup>1</sup> to override the Secretary of State's decision, ordering that the ballot be counted but the votes for John Ouellette and Mark A. Pearson not be counted.

As a result of the Petitioner Bedrick's petition, the Secretary of State's Office submitted two other ballots which were similarly situated in order for the Commission to review in the same light.

After reviewing the House of Representatives votes in Ballot B, which had been protested by Candidate Mark Pearson, the Commission voted to also override the Secretary of State's ruling in this case because of the similarities to Ballot A. Specifically, the Commission found that the voter's intent was to vote for those candidates in which the circle was completely filled in and noted the consistency in which this voter voted in the other races on the ballot. The Commission voted 4-1<sup>2</sup> in favor of the override and ordered the ballot be counted, but that the vote for John Ouellette not be counted.

With respect to Ballot C, James Holland appeared as the individual who had protested the Secretary of State's ruling with respect to the House of Representatives race in Ballot C. After hearing the Commission's ruling on Ballots A and B, Mr. Holland withdrew his protest to Ballot C noting that a ruling by the Commission on this ballot would not change the outcome of the race.

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<sup>1</sup> & <sup>2</sup> Commissioner Paul McGuirk voted to uphold the Secretary of State's decision.

Wherefore, the Ballot Law Commission overrides the Secretary of State's "overvote" ruling of Ballot A and confirms that John Ouellette and Mark Pearson should not receive a vote for State Representative on that ballot.

With respect to Ballot B, the Commission overrides the Secretary of State's ruling of this ballot as an "overvote" and rules that John Ouellette should not receive a vote from this ballot. The Commission did not rule on Ballot C as James Holland, who had protested the determination by the Secretary of State, withdrew his protest orally on the day of the hearing.

SO ORDERED.

New Hampshire Ballot Law Commission

Date:

10/14/08

A handwritten signature in cursive script, appearing to read "Gary Francoeur", written over a horizontal line.

Gary Francoeur, Chairman

Charles Chandler

Bradford E. Cook

Paul McGuirk

Gregory Martin