

THE STATE OF NEW HAMPSHIRE
BALLOT LAW COMMISSION

David Wheeler

v.

Douglas Shattuck

BCL-96-10

ORDER

RECEIVED

SEP 26 1996

NEW HAMPSHIRE
SECRETARY OF STATE

This is a petition requesting the Ballot Law Commission to rule that nomination papers filed by Douglas Shattuck as a nominee of the Natural Law Party for State Senate District 11 were not sufficient to qualify Douglas Shattuck for listing on the General Election ballot.

Pursuant to the provisions of RSA 655:42, 750 valid petitions must be submitted for the nomination of a candidate for the state senate. Eight hundred sixty-three nomination papers were filed by the Natural Law Party on behalf of Douglas Shattuck. David Wheeler alleged that of the 853 nomination petitions, only 285 petitions are valid. He alleged that the balance of the petitions were invalid due to a series of various defects. It was stipulated by Mr. Shattuck that 68 petitions were invalid. The validity of the remaining petitions is in dispute.

On each of the disputed ballots the name of the candidate listed for Executive Council appears to have been crossed out. The "nominating papers for the state's general election" were prepared by the Natural Law Party to include the names of the candidates

for President, Vice President, United States Senate, Governor, Executive Council, and State Senate. Each of the ballots in question appeared to be properly signed by the voter, and was certified by the appropriate checklist supervisor as required by law. In each instance, however, the candidate listed for Executive Councilor was not eligible to represent District 11 due to her place of residence.

David Wheeler alleged that these markings constituted a defacing of the nominating papers, prohibited by RSA 655:45. The Petitioner also presented four affidavits filed by individuals who had executed the nomination papers as drawn and affirmed they would not have so signed said papers had they known they would be altered subsequently. No evidence was introduced, however, that these voters would nonetheless still not have approved the nomination of Douglas Shattuck.

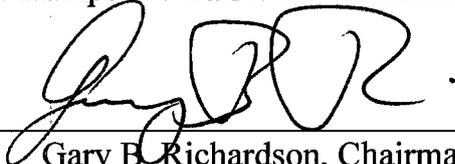
Mr. Shattuck stated that he assumed that because the signators of the nominating papers were from a different district from the Executive Council candidate's district and therefore not eligible to be elected from that district it was appropriate to cross out the candidate's name.

It is the opinion of the Ballot Law Commission that the action of the Natural Law Party in striking the name on the nomination papers of an ineligible Executive Councilor was improper but not of sufficient gravity to invalidate the nomination of Douglas Shattuck as a candidate for state senate in District 11. Further, there was no indication of fraud or intent to deceive in their crossing out the incorrect names. The Ballot Law Commission finds that the 511 ballots in question were valid. Added to the 285 other

ballots admitted as valid, there were a total of 796 valid ballots, which exceeds the statutory requirement of 750 ballots.

Accordingly, it is the unanimous decision of the Commission that the petitioner's claim be dismissed and that Douglas Shattuck has qualified for nomination as the Natural Law Party candidate for State Senate District 11.

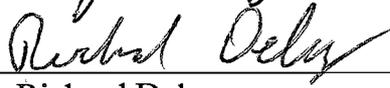
New Hampshire Ballot Law Commission

By: 

Gary B. Richardson, Chairman

By: 

Hugh Gregg

By: 

Richard Delay

September ²⁶~~19~~, 1996