

Peter Bearse for Congress

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BLC 2008-2

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RECEIVED

SEP 16 2008

NEW HAMPSHIRE
SECRETARY OF STATE

Ballot Law Commission, State of New Hampshire
c/o the Secretary of State, William M. Gardner
State House, Room 204
107 North Main St.
Concord, NH 03301

Dear Honorable Members of the Ballot Law Commission:

Gentlemen: I am today appealing the rejection of ballot position for my candidacy by the Secretary of State's Office. I ask your immediate attention to this matter. I am prepared to initiate a legal suit in support of my appeal. During our drive to obtain valid signatures drive, I and my campaign volunteers worked nearly non-stop for five months. We gathered signatures throughout the district. The cavalier handling of our petitions by the Office of the Secretary of State is not only an insult to a remarkable set of campaign volunteers but also, more generally, to the grassroots, participatory democracy that is a hallmark of the First State.

The following sections provide the main features of my campaign's case documenting mis-handling of our petitions.

- Background

The afternoon of Sept. 4, 2008, via a message left on my cell phone by Karen Ladd, I learned that I did "not qualify" for ballot position as an Independent Candidate for Congress in New Hampshire's 1st Congressional District. I had dropped off a carton of 1500 nominating petitions, organized alphabetically in sets from 62 cities and towns, at about 1 p.m. the day prior (Sept. 3rd). Ms. Ladd's message was recorded at 5:51 later that day. The number in the carton was supplemented by 174 petitions that 9 towns had sent directly to the office of the Secretary of State (Room 204). [Note: Ms. Ladd reported the receipt of 147 but another 27 had been sent from Greenland, Belmont and Chester.] The total number of petitions submitted, therefore, was 1655. We had collected 1725 but culled 60 ourselves. 50 were found to be from towns out of the district and 10 were incomplete.

Upon my arrival to Room 204 with the petitions, Ms. Ladd asked me whether I would like to stay and wait while she counted them. I told her no; I could not because of an appointment. In retrospect, I wish that I had cancelled my appointment and accepted her invitation, as her numbers and ours differ greatly. We were unable to reconcile the differing counts by telephone early last week. These differences and their components provide the basis for this letter which, in turn, provides the basis for an appeal that I be put on the ballot for the general election on Nov. 4, 2008.

In sum, I and my campaign staff have found a number of problematic issues that need to be raised and resolved with regard to the handling of our petitions. These include errors, inconsistencies, anomalies, lost items, miscounting and mishandling. Let me provide summary highlights of our results and findings as follows, with details to be provided during our testimony and in response to any questions at a proceeding of the Ballot Law Commission (hereafter, abbreviated BLC) scheduled for Friday, Sept. 26, 2008, if not sooner.

- **Errors of Misclassification:**

We have discovered many voters whose petitions were mistakenly disqualified. Some of them will appear with me at the BLC hearing.

- **Failure of the majorities of Supervisors of the Checklists [SoC's] of some towns and of some city clerks to sign petitions**

Petitions with signatories from some cities had no certification whatsoever; a majority of SoC's from several towns did not sign petitions after (presumably) completing their review of them.

- **Missing Petitions; Possible mishandling**

214 petitions are missing from the total delivered to Room 204. This is the difference between the number delivered according to our records and the number received as reported to me over the telephone by Ms. Ladd. Where are the missing petitions?

- **Counting errors**

There is at least one serious error in the count of the number of petitions that have been disqualified, amounting to a difference of over 300. There is another significant difference in the number reported as qualified or certified. According to Ms. Ladd, only 1111 qualified. Our records show 1183 certified, but this is an undercount. It does not include all of those counted as certified among the submissions that were sent directly to the Secretary of State rather than picked up by us.

"Unable to Process"

- **Four types of mistakes have been found under this heading, in eight cities or towns, leading to 13 questionable outcomes.**
- **Concluding Remarks and Observations**

The total number of petitions implicated in these errors, inconsistencies, anomalies, lost items, miscounting and mishandling amounts to over 600. If added to the more than 1183 already certified, the total would be about 1800. For this and other reasons to be set forth during the forthcoming BLC hearing, we appeal for placement on the ballot.

"Other reasons" include:

**** NH Constitutional:** The errors, inconsistencies, anomalies, lost items, miscounting and mishandling we have discovered appear to undermine a key provision of Art. 11: that "Every inhabitant of the state, having the proper qualifications, has equal right to be elected into office." There is no "equal right" if the factors that condition that right do not weigh equally among political candidates who are potential officeholders. One obvious differential factor is the difference of 500 in numbers of valid petitions to be filed by those who would contest for nomination via a primary election vs. those who do not qualify to contest in primaries.

Other variances with the law regarding nominating petitions that we have uncovered, moreover, suggest that uneven administration and enforcement of the law provides an idiosyncratic factor inconsistent with the provision of Art. 11 of the NH Constitution.

**** State Election Law:** The handling of many of our petitions and, therefore, the petitions themselves, do not "conform with the law" pursuant to RSA 665:7 "Filing Disputes".

**** Consistency with public values and political traditions of the "First State":** I was led to move to NH because of the strength of its grassroots politics – also a major reason why the primacy of the NH primary must be maintained. The grassroots have been drying up elsewhere; here, they at least are still being watered even if not fertilized often or well enough. My campaign has been a grassroots labor of love, just as my book on grassroots political participation, **WE THE PEOPLE**, was a labor of love. This year, the labor of love comes with added devotion. My campaign is dedicated to my late wife, Brande McLean, whom I met as a volunteer to help her campaign for State Representative in 2006. Volunteerism is the core of NH politics. Volunteers are not "pro's". If we want to honor volunteerism, we need to cut them some slack.

So, I can say to you: There is no campaign for Congress in our First State that demonstrates the "Live Free or Die" public values and grassroots political traditions better than my own.

The implication of all that you see in this letter is that the BLC should grant our appeal. When in doubt, especially in light of the variance in the administration and enforcement of the law that we have observed, one should lean in favor of a decision that honors the grassroots traditions of political volunteerism, openness and competition.

With great respect for your stewardship of our shared electoral values and traditions, I am...

PETER BEARSE, Ph.D., Independent Candidate for Congress in NH CD 1

cc. William M. Gardner, Secretary of State

A handwritten signature in black ink, appearing to read "Peter Bearse", is written over the typed name and extends to the right margin.