

STATE OF NEW HAMPSHIRE

BALLOT LAW COMMISSION

Petition of Jean Max Darbouze

BLC 2010-4

ORDER

BACKGROUND

On August 27, 2010, Jean Max Darbouze filed a request for a hearing with the New Hampshire Ballot Law Commission (the "Commission"). Mr. Darbouze requested a determination that he had collected sufficient signed nominating petitions to place his name on the November ballot as an independent candidate for the position of Commissioner of Hillsborough County for District 1. Mr. Darbouze stated that the Clerk for the City of Manchester improperly disqualified many of the petitions, resulting in an insufficient number of qualified petitions to allow Mr. Darbouze to become a candidate. Mr. Darbouze asks the Commission to allow him to provide affidavits signed by the same voters who the City Clerk disqualified in which those voters swear that they are duly registered voters in Manchester, or that they were at the time that they signed the petitions offered by Mr. Darbouze. Mr. Darbouze further asks the Commission to place his name on the ballot after review of these affidavits.

N.H. RSA 655:40 states:

**655:40 General Provisions.** – As an alternative to nomination by party primary, a candidate may have his or her name placed on the ballot for the state general election by submitting the requisite number of nomination papers. Such papers shall contain the name and domicile of the candidate, the office for which the candidate is nominated, and be signed by such persons only as are registered to vote at the state general election. No voter shall sign more than one nomination paper for each office to be voted for, and no nomination paper shall contain the names of more candidates than there are offices to be filled. Each voter shall

sign and date an individual nomination paper. Nomination papers shall be dated in the year of the election.

Mr. Darbouze states that he has collected 200 signed nominating petitions, but following disqualification by the City Clerk of Manchester, he has fewer than the number needed to place his name on the ballot.

RSA 655:42 states:

**655:42 Number.** – [ . . . ] II. It shall require the names of 1,500 registered voters to nominate by nomination papers a candidate for United States representative; 750 to nominate a candidate for councilor or state senator; and 150 to nominate a candidate for state representative or county officer. [ . . . ].

#### FINDINGS OF FACT

The petitioner appeared *pro se*, with his signed nominating petitions. The Commission found that of the nominating petitions submitted to the City Clerk, the Clerk certified only 64. The Commission found that subsequently, the Secretary of State identified 14 more nominating petitions that should be valid, totaling 78 valid petitions. Thus, the Commission found that 72 more certified nominating petitions would need to be submitted in order for the petitioner to take his place on the ballot.

The petitioner presented signed but not notarized affidavits purporting to verify that the signatories to the nominating petitions were registered voters in the city of Manchester, and that their disqualification was unfounded. Yet, when the affidavits related to the disqualified nominating petitions were counted, the Commission found that there were no more than 35. Thus, even if the Commission were to accept as valid each and every nominating petition that was accompanied by an affidavit, there would result an insufficient number of nominating petitions to allow the petitioner's name to be placed on the ballot.

RULINGS OF LAW

150 valid nominating petitions must be submitted in order for a candidate's name to be placed upon the ballot for the office of County Commissioner. RSA 655:42, II. The Petitioner did not produce a sufficient number of valid nominating petitions to allow his name to be entered onto the ballot for the November election. He did not produce enough purported "affidavits" to reach the number, whether or not the Commission allows such a process in lieu of the statutory requirement, and therefore the Commission does not have to reach the question of whether such documents are proper or should be considered to counter the decision of the City Clerk.

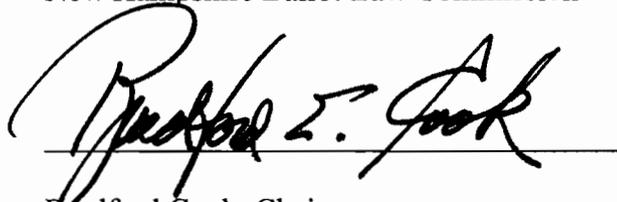
ORDER

The petition of Jean Max Darbouze to add his name to the ballot is DENIED.

SO ORDERED

New Hampshire Ballot Law Commission

Date: 10-6-10

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

Bradford Cook, Chairman  
Jane Clemons  
Gregory Martin  
Sheila Roberge  
Martha VanOot