

**STATE OF NEW HAMPSHIRE
BALLOT LAW COMMISSION**

Case Number BLC 2016-3

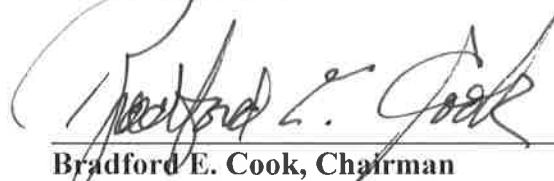
Petition of Joseph McCaffrey

Joseph McCaffrey is a resident of Northwood, New Hampshire. During the 2016 filing period, he filled out a Declaration of Candidacy to run in the Republican primary for New Hampshire House of Representatives. RSA 655:17 requires that a person filing for office declare a number of facts, among which are residency in the district to be represented, and registration in the party the primary of which the candidate wishes to run. In a discussion with a town employee, he raised the question of how he could file as he was registered “unaffiliated” and not Republican, and the period for changing party registration had already closed. The conclusion he and the town official came to was he should fill out the RSA 655:17 declaration form, which he did, and make a notation next to his statement that he was “that I am a registered member of the Republican party...” indicating he was not in fact so registered, so his declaration would not be false. He did this instead of filing a “declaration of intent” to run in the general election as an independent, which is a separate filing which starts the process of collecting signatures to be placed on the ballot, as provided in RSA 655:17-a. When the Secretary of State’s office learned of the filing, Mr. McCaffrey’s declaration was not accepted, as he did not meet the requirements to run in the Republican primary in September. He appealed to the Ballot Law Commission, seeking to have his declaration form considered to have been a Declaration of Intent under RSA 655:17-a, rather than the 655:17 form, so he would be able to collect signatures and be placed on the November ballot as an independent.

The Ballot Law Commission heard the appeal on June 23, 2016. Mr. McCaffrey is to be commended on his honesty and his discomfort in declaring on a form something which was not consistent with fact, namely that he was a registered Republican. The Commission is sympathetic with the confusion which he and the town employee encountered when trying to figure out how he could file, and accepts his testimony that it was on her advice that he proceeded as he did. It notes that a call to the Secretary of State might have cleared up the confusion, and that Mr. McCaffrey testified that the “declaration of intent” option may have been mentioned by the town official, although he was not sure. The Commission also notes that the period set for changing registration presents those who are registered as “unaffiliated” a difficult situation if they decide after the period ends to run for office in a political party’s primary. However, the Legislature has set those periods and the Commission must follow them. The Commission has no power to change one statutory form into another, and the filing period ended without Mr. McCaffrey having discovered the issue and course of action which would have allowed him to pursue office as an independent.

The Commission unanimously votes to uphold the decision of the Secretary of State in rejecting the declaration of candidacy of Joseph McCaffry and denies the appeal.

So ordered.

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

8/27/16

Bradford E. Cook, Chairman
William Craig
Michael Eaton
Sheila Francoeur
Beverly Hollingworth