

**STATE OF NEW HAMPSHIRE  
BALLOT LAW COMMISSION**

**In Re: Nicholas Sarwark**

**BLC 2020-4**

**BACKGROUND**

By letter dated August 28, 2020, Robert M. Fojo, Esq., of Bedford, New Hampshire, challenged the qualifications of Nicholas Sarwark to be a candidate for Hillsborough County Attorney. Mr. Sarwark's filing for that office, as a candidate of the Libertarian Party, had been accepted by the Secretary of State. The letter alleged that Mr. Sarwark was not a member of the New Hampshire Bar, and that one of the necessary qualifications for the office of county attorney was being a New Hampshire attorney in good standing. The letter cited *New Hampshire Bar Association v. LaBelle*, 109 N.H. 184 (N.H. 1968). Based on this, the letter requested that the candidacy be declared invalid under NHRSA 655:4, which requires a candidate to meet all of the qualifications for an office for which the candidate seeks election.

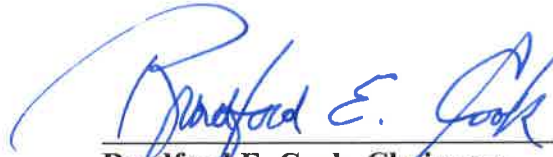
The Ballot Law Commission considered the matter at its hearing on September 17, 2020. Mr. Fojo did not attend or submit any evidence. Nicholas Sarwark attended, and produced evidence that he was an attorney in good standing in the state of Colorado, had applied for admission to the New Hampshire Bar under the reciprocity process, that the application was complete, and was awaiting only final action by the appropriate committee. He testified that he expected to be admitted as a New Hampshire attorney prior to the date on which he would be sworn into office in January, 2021, should he win the election. He questioned whether NHRSA 655:4 applies to the office to which he aspired, and answered the questions posed by members of the Ballot Law Commission.

**DECISION**

The law requires that a candidate for office have all of the qualifications required for that office at the time the candidate assumes the office, unless the law states otherwise as to the date the qualifications must be met. For example, if a person is younger than the age the Constitution requires for assuming an office, but will reach that age prior to being sworn into office, the person meets the qualifications for office. In this instance, Mr. Sarwark admittedly did not meet the qualifications for county attorney when he filed for office, but the Commission accepts his testimony regarding the status of his application for admission to the Bar. No contrary evidence was presented concerning this matter. Should Mr. Sarwark be elected, and has been admitted to the New Hampshire Bar and sworn in, he would qualify as Hillsborough County Attorney. If he is elected, and has not become a member of the New Hampshire Bar, he would not qualify, and could not assume the office. However, at the present time, his candidacy is valid and the Commission will not overturn the decision of the Secretary of State to have his name appear on

the ballot as a candidate for Hillsborough County Attorney. The Commission does not need to deal with the question of the applicability of NHRSA 55:4, given its decision on the merits.

**SO ORDERED.**



**Bradford E. Cook, Chairman**

**David Campbell**

**Michael R. Eaton**

**Kathleen Sullivan**

**Robert LeTourneau**

9-21-2020