

STATE OF NEW HAMPSHIRE
BALLOT LAW COMMISSION

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NEW HAMPSHIRE
SECRETARY OF STATE

Petition
of
Thomas P. Stawasz

DECISION

Thomas Stawasz, who was a 1998 candidate in the primary race for Executive Council in District Five, filed a complaint with the Ballot Law Commission (the "Commission") on November 23, 1998. Mr. Stawasz's basic complaint was that the New Hampshire Attorney General's Office failed to timely respond to and appropriately act upon his claim that his political signs were being taken down prior to the election.

The Commission held a hearing on December 11, 1998. Mr. Stawasz testified that on September 3, 1998, just prior to the State primary, he sent a letter to the Attorney General's Office, pursuant to RSA 664:18, complaining that his signs were being removed and that he believed John Coughlin was responsible for this occurrence. Mr. Stawasz testified that he did not receive a response from the Attorney General's Office until days after the primary and that the response was inadequate.

Mr. Stawasz testified that the Attorney General should have enforced RSA 664:17 by timely issuing a Cease and Desist Order against Mr. Coughlin pursuant to RSA 664:18, instead of simply sending a letter to Mr. Coughlin, dated after the primary, quoting the sign removal statute.

Senior Assistant Attorney General Martin Honigberg appeared on behalf of the Attorney General's Office and also filed a written memorandum claiming the Commission does not have

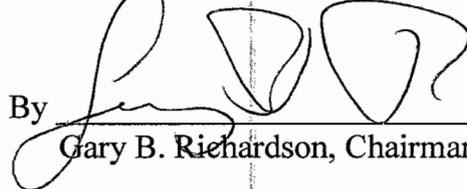
jurisdiction to hear this complaint. Attorney Honigberg argued that RSA 7:6-c vests exclusive jurisdiction to the Attorney General to enforce election laws. He further argued that RSA 664:18 allows the Attorney General discretion in how to handle election law complaints.

Although the Commission disagrees with the Attorney General's jurisdictional argument, the Commission recognizes the Attorney General's discretion under RSA 664:18 and RSA 7:6-c and finds that the Attorney General did not act inappropriately under the circumstances of this particular case.

In this case the Attorney General responded to Mr. Stawasz's complaint in an appropriate fashion by sending a letter to Mr. Coughlin informing him that it is illegal to remove campaign advertising. Although a more timely response by the Attorney General might have been more helpful, there was no evidence presented that the delay caused Mr. Stawasz any further harm. It is worth noting that the Milford Police Department also investigated Mr. Stawasz's claim and determined there was insufficient probable cause to pursue the matter criminally, further corroborating the Attorney General's decision.

Accordingly, the Commission finds no reasonable basis to overturn the decision of the Attorney General's Office and the Petition is dismissed.

NEW HAMPSHIRE BALLOT LAW COMMISSION

By  _____
Gary B. Richardson, Chairman

By  _____
Hugh Gregg, Commissioner

By Emily G. Rice
Emily Rice, Commissioner