

STATE OF NEW HAMPSHIRE

BALLOT LAW COMMISSION

**Petition of George B. Roberts, Jr.
Town Moderator and
School District Moderator
Gilmanton, New Hampshire**

RECEIVED

MAR 26 2003

**NEW HAMPSHIRE
SECRETARY OF STATE**

ORDER DISMISSING PETITION

On March 21, 2003, George B. Roberts, Jr., Town Moderator and School District Moderator for the Town of Gilmanton, filed a Petition with the Ballot Law Commission (the "Commission") pursuant to RSA 665:7. The Petition requested that the Commission resolve a matter regarding recounts which took place with respect to both a town and school district vote.

According to the Petition, on March 11, 2003 a town election was held and as a result of two of the issues voted upon, a recount was requested.

The Petition states that during the recount of these two questions, it was discovered that the Town Clerk's "test" ballots had been included in the ballots that were actually counted. Because of this issue, the moderator did not declare the results that evening.


Subsequent to the filing of this petition, on March 22, 2002, the Gilmanton School District Board of Recount met and voted to adopt the decision declared by the moderator after the original vote tally taken election night. Likewise, on March 22, 2003, the Board of Recount for the Town of Gilmanton met and upheld the election results of March 19, 2003.

As such, the Commission hereby dismisses this Petition on the grounds that the Commission does not have jurisdiction to hear this matter. RSA 665:7 allows the Commission jurisdiction to resolve disputes involving alleged violations of New Hampshire election laws that are of a non-criminal nature, and for which "no specific statutory procedure has been provided." In the case presented here, an appeal procedure is statutorily in place at RSA 669:35 which states "Any person aggrieved by a ruling of the board of recount with respect to any ballot may, within 5 days thereafter, appeal to the superior court for the county in which such town is located; and such court shall have jurisdiction in equity to hear and determine the questions presented".

Therefore, the Petition is hereby dismissed.

New Hampshire Ballot Law Commission

Date: 3/26/03



Paul Donovan, Alternate Chairman

for

Hugh Gregg, Commissioner

Emily Gray Rice, Commissioner