

STATE OF NEW HAMPSHIRE

BALLOT LAW COMMISSION

IN RE:  
Appeal of Fletcher M. DeWolf

This matter comes before the New Hampshire Ballot Law Commission on the Appeal of Fletcher M. DeWolf. Mr. DeWolf declared himself as a candidate for the House of Representatives from District 11 in the forthcoming primary election. He filled out his application with the assistance of and in the presence of Charlotte Platts, Town Clerk of Alexandria, New Hampshire, his place of residence. The Town Clerk erroneously advised Mr. DeWolf that the Voluntary Expenditure Limitation Affidavit (RSA 664:5-a) did not apply to him, and further that he did not have to fill out the Declaration of Intent (RSA 655:17-a). In addition, the Town Clerk advised Mr. DeWolf that he only had to pay a \$2.00 filing fee rather than \$25.00 as required by statute under the circumstances of his failure to fill out the Voluntary Expenditure Limitation Affidavit. Compounding these problems, Mrs. Platts, in violation of RSA 655:18 which requires that declarations of candidacy be forwarded to the Secretary of State "on the day of filing of the same", waited eight days until June 15, 1990 before mailing Mr. DeWolf's papers to the Secretary of State's Office. As it happens, for reasons unclear to this Commission, the forwarding envelope bears a Manchester, New Hampshire, postmark dated June 20. Mrs. Platts explained that

this phenomenon occasionally occurs with respect to material mailed in Alexandria. The Ballot Law Commission accepts this explanation as accurate, but this does not solve the problem.

The Commission finds and rules that the Secretary of State's Office acted properly in declining to accept Mr. DeWolf's candidacy papers which arrived after the filing period had closed. Nevertheless, we are disposed under our general grant of authority in these matters in RSA 665:6-b to allow Mr. DeWolf's late filing.

Town Clerks, like other officials, have an obligation to familiarize themselves with the laws, rules and regulations governing their activities. The Commission finds that Charlotte Platts is a dedicated and generally knowledgeable Town Clerk having served in that capacity for 20 years. The statutes with respect to filing fees and the requirement of filling out the missing affidavits were new, and Mrs. Platts had never in her 20 years previously had an occasion to handle such a filing. Candidates like Mr. DeWolf have an equal obligation to be familiar with the filing requirements and cannot wholly absolve themselves of this responsibility by relying upon Town Clerks or other officials. In the limited circumstances of this case, however, Mr. DeWolf had absolutely no control over the forwarding of his application to the Secretary of State's Office. Had the application been sent to the Secretary of State on the same day in accordance with RSA 655:18, the other problems would have been detected and he would have had an opportunity to correct them. Accordingly, the Ballot Law Commission finds and rules

within the scope of its discretionary powers that Fletcher M. DeWolf's filing may be accepted late subject to his payment of the appropriate fees and his prompt completion of the missing portions of his declaration.

SO ORDERED.

BALLOT LAW COMMISSION

  
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Dort S. Bigg, Chairman

  
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Robert D. Calamari, Commissioner

  
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James D. O'Neill, Commissioner

DATED: August 14, 1990