

**THE STATE OF NEW HAMPSHIRE**

**BALLOT LAW COMMISSION**

**RE: MICHAEL J. CLARK**

**vs.**

**PLYMOUTH VILLAGE WATER & SEWER DISTRICT**

This case comes before the New Hampshire Ballot Law Commission (Commission) upon complaint of Michael J. Clark (Clark), P.O. Box 435, 2 Armory Road, Plymouth, New Hampshire 03264.

In his complaint, Mr. Clark alleges violations of election law relative to the conduct of the election of the Plymouth Village Water and Sewer District (PVWSD) on March 12, 1991, in which he was a candidate for the office of District Commissioner and was defeated by one (1) vote.

He (Clark) alleges improprieties during the election, principally the amending and changing of the voter checklist during the election itself, by the Supervisors of the Checklist. Mr. Clark testified, under oath and in detail, to four (4) specific allegations stated in his letter-complaint dated March 18, 1991. He admitted that he did not know whether all persons/voters cited in the specific allegations (4) were favorable to and would have voted for him, but indicated that two (2) of same told him that they had voted for him. In summary, he did not know what the ultimate result of the election would have been. Mr. Clark further stated that he did not seek order for new election since same would probably not be held until February, 1992, and the

regular election of PVWSD will be in March of 1992. Finally, Mr. Clark stated that he had brought suit in Grafton County Superior Court in this matter, but that he had terminated same before resolution via voluntary nonsuit.

Sworn testimony of officials of PVWSD, namely Marlene Stuart (Supervisor of Checklist); Nancy Bird (Supervisor of Checklist); Carol Kennison (Administrative Assistant - PVWSD); and Kenneth Anderson (Commissioner - PVWSD), indicated:

a) That the boundaries of PVWSD had recently been enlarged and all citizens had been appropriately notified;

b) That checklists for subject election were timely posted;

c) That statute (NHRSA Chapter 654) for updating and amending of checklists was not strictly complied with; and

d) That procedure for determination of eligible voters in district election was practical and logical under conditions and circumstances existing, and was intended to permit all voters resident in recently enlarged district to vote.

However, even though checklists for subject election were properly and timely posted, method for identification of eligible voters on checklists and means for amending of checklist were not set out in clear fashion prior to election. The result was confusion on election day with changes in checklists being made at that time through good faith efforts of Supervisors of the Checklists in conjunction with Administrative Assistant of the District (PVWSD).


Relative to future elections, it is recommended by the Commission that, in addition to strict compliance with NHRSA Chapter

654 for the amending and updating of all checklists, said checklists bear clear designation of eligible voters in the Town of Plymouth, and in addition contain appropriate information advising voters of their eligibility to vote in district (PVWSD) elections.

No action is taken in this case, other than the recommendations cited for guidance and implementation by PVWSD and the Supervisors of the Checklist.


SO ORDERED.

**NEW HAMPSHIRE BALLOT LAW COMMISSION**



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Dort S. Bigg, Chairman



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James D. O'Neill, Commissioner



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Robert Calamari, Commissioner