

**STATE OF NEW HAMPSHIRE
BALLOT LAW COMMISSION**

Decision BLC 2023-4

Appeal of Cenk Uygur

BACKGROUND

Cenk Uygur, of California, submitted a Declaration of Candidacy for President to run in the Democratic 2024 New Hampshire Primary, which was received in the office of Secretary of State David M. Scanlan on October 18, within the filing period. Also received was the filing fee. By letter dated the same day, Secretary Scanlan rejected the filing and returned the fee. In his letter of rejection, Scanlan stated, “The document we received has language struck out that is statutorily required language citing the Constitutional requirement that to be qualified to be elected as President of the United States a person must be a natural born citizen. This document fails to conform to the requirements of New Hampshire RSA 655:47.” Mr. Uygur is a naturalized citizen of the United States.

Mr. Uygur appealed the decision of the Secretary of State to the Ballot Law Commission under the provisions of RSA 655:14-b IV and 665:9. The Commission heard the appeal in a hearing held November 2, 2023.

Mr. Uygur and counsel appeared at the hearing, presenting argument and evidence which they contended established Mr. Uygur’s right to be a candidate for President. First, they argued that the Declaration of Candidacy form and RSA 655:47 were defective in that they cite Article II, Section 1, Clause 4 of the United States Constitution, whereas the proper clause is Clause 5, notwithstanding the fact that the language in the form and statute accurately contain the Constitutional qualifications for President, as follows, “No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.”

Next, they claim that other provisions of the Constitution, such as the Fourteenth Amendment, and decisions of courts or the Federal Elections Commission, have allowed naturalized citizens to **file and run** for President, even though there has been no final decision by any court, including the United States Supreme Court, that a naturalized citizen can **hold the office**. They urge the Ballot Law Commission to overturn the decision of the Secretary of State and allow Mr. Uygur the opportunity to run in the New Hampshire Primary, ostensibly while courts are deciding the ultimate question of whether he would be able to hold the office. They cite decisions of the Commission and an opinion of the Attorney General to indicate that the Commission is not an appropriate body to make rulings on the Constitution, and claim upholding the rejection of the filing would be such a ruling.

Finally, Mr. Uygur presented argument regarding the equality of naturalized and natural born citizens, and the inherent unfairness he believed would exist should naturalized citizens not be afforded all the rights of all citizens, including the right to run for and hold the office of President of the United States.

Representatives of the Secretary of State's Office responded that the filing was rejected because the statutorily required form had been altered, and Mr. Uygur, by his own admission, did not meet the statutory criteria to file for the office, and had been denied appropriately.

DECISION

Clearly, naturalized citizens and citizens born in the territory of the United States have equal status and rights as citizens, and have contributed greatly to this country. Also, clearly, the criteria for declaring as a candidate for President in the New Hampshire Primary are set forth in New Hampshire statute, as quoted above. Cenk Uygur, admittedly a naturalized citizen, forthrightly amended the statutory form to reflect his status as a naturalized citizen, when attempting to file to run. The Secretary of State rejected the filing since the form had been altered and the candidate did not have the statutorily required qualifications. The issue for the Ballot Law Commission is to consider whether the action of the Secretary of State was reasonable and legal. The Commission finds that it was.

It takes no Constitutional interpretation to make a decision in this case. The statutory form was not filed in the form required. The candidate did not possess the required statutory qualifications. The Secretary of State properly rejected the filing. If, in the future, a final court decision invalidates the requirement that to run for President a person be a "natural born citizen," or changes the common and traditional understanding of that term, the result may be different.

The fact that the statute and form have a reference to the wrong number of the clause in the Constitution which contains the language setting forth the qualifications, while the qualifications themselves are set forth correctly, does not invalidate either the form or the statute, although it would be appropriate for a correction to be made in the reference.

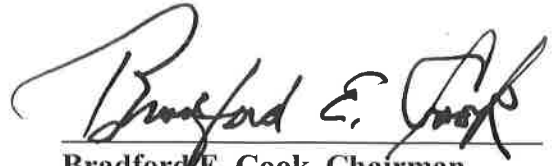
Finally, as referenced at the hearing, the Federal District Court for the District of New Hampshire, in the case *Hassan v. State of NH, et al* (D.N.H 2012), Judge Joseph DiClerico found the following, after considering arguments that the "natural born citizen" clause had somehow been repealed by subsequent Constitutional amendments, "Because the Natural Born Citizen Clause has not been implicitly repealed, New Hampshire state laws requiring all presidential candidates to affirm that they are natural born citizens are constitutional."

Until and unless the law is changed, this is the state law applicable to this matter.

The appeal is denied, and the ruling of the Secretary of State is upheld.

So ordered.

11/2/2023



Bradford E. Cook, Chairman

David B. Campbell

Michael Eaton

Robert LeTourneau

Donald Manning