

STATE OF MAINE
SUPREME JUDICIAL COURT

SJC DKT. NO. _____

**IN RE BALLOT CHALLENGE IN ELECTION OF TOWN OF
CLIFTON SELECT BOARD MEMBER**

**PETITION FORWARDING
ENVELOPE CONTAINING CHALLENGE CERTIFICATE AND
SIGNED AFFIDAVIT PURSUANT TO 21-A M.R.S. § 696(1)**

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To the best knowledge of the Town of Clifton (the “Town”), the basis for this filing, made pursuant to 21-A M.R.S. § 696(1), is as follows:

1. This is the second petition filed with respect to the same municipal election. This Court dismissed the first petition on May 4, 2026. *See In re Ballot Challenge in Election of Town of Clifton Select Board Member*, 2026 ME 42, ___ A.3d ___.

2. To assist the Court in its review, this petition first sets forth the facts already before the Court in considering the first petition, followed by additional facts relevant to this second petition.

Facts Previously Before the Court

3. The Town conducted a municipal secret ballot election on March 24, 2026.

4. Article 2 of said election was for a “Select Board Position” of a “1 Year Term,” for which two candidates were listed: Steve Armenia and Cynthia Grant.¹

¹ See paragraph 30 for a complete summary of Article 2.

5. Two particular absentee ballots were received prior to the close of polls on March 24, 2026.

6. Said two absentee ballots were dated, time-stamped, and initialed by the Town Clerk and Election Warden, who are one and the same person.

7. The morning after the election, said two absentee ballots were located, unopened, in a binder used at the election by the Town of Clifton election officials when checking in voters and collecting absentee ballots.

8. Review of the video security footage of the municipal office where the election was conducted revealed the ballots were dropped off to election officials in person and mistakenly not removed from the binder and put with the other absentee ballots for processing.

9. The election results determined and announced on March 24, 2026, listed in pertinent part 113 votes for Steve Armenia and 114 votes for Cynthia Grant.

10. The Town declared Cynthia Grant the prevailing candidate.

11. The election results were announced and certified on election night, before the two misplaced absentee ballots were discovered the next morning.

12. The Clerk/Warden discovered this anomaly when processing election materials for purpose of securing them as required by titles 21-A and 30-A.

13. In consultation with the undersigned Town Attorney and the Bureau of Corporations, Elections & Commissions of the Secretary of State, the Clerk/Warden was advised to and did, after consulting with the above-referenced candidates, set a date and time for resuming the counting of these two ballots only. *See also Marden v. Waterville*, 226 A.2d 369 (Me. 1967) (“Any qualified absent voter who returns his ballot to the (circuit court) clerk’s office in time for it to be delivered to the voting place in the precinct before the polls are closed on election day, and has satisfied all the statutory requirements with which he must comply, is entitled to have his vote counted, and if because of the failure of the county clerk or any other election official to do his duty, such ballot is not delivered to the inspector of the precinct in time for it to be counted by the precinct election board it will be counted by the court in an election contest proceeding.”) (internal quotation marks and citations omitted).

14. That proceeding was set for Friday, March 27, at 5 p.m.

15. The public was notified by the usual means for notice of municipal proceedings in Clifton.

16. Cynthia Grant submitted a written request to inspect the absentee ballot materials.

17. To ensure the integrity of the election and prevent disturbances, the above-referenced candidates were permitted to sit near the area where the election officials would resume counting the ballots, while the public was sectioned off from said area but able to hear and observe the proceedings.

18. Before proceeding to open and count the two absentee ballots, with guidance of the Town Attorney, the Clerk/Warden began the process of verifying that the absentee ballots were validly submitted.

19. Cynthia Grant inspected the absentee ballot envelopes and applications for said ballots and alleged a number of deficiencies that in her opinion invalidated the ballots and insisted therefore that they should not be counted.

20. The Town Attorney advised the alleged deficiencies were not grounds for invalidating the ballots but could be valid grounds for raising a challenge pursuant to 21-A M.R.S. §§ 673, 757.

21. Gregory Newell, a member of the public in attendance, made a challenge to the ballots.

22. The undersigned, on behalf of the Town, believes that the basis of the challenge was that, pursuant to 21-A M.R.S. § 753-B(2)(A), the absentee ballot was improperly issued to a third party who was a candidate or a member of a candidate's immediate family.

23. The undersigned understood that to be grounds for a challenge; the undersigned believed that such a challenge did not automatically void the ballots; and the undersigned advised the challenger to make out an affidavit pursuant to 21-A M.R.S. § 673(1)(A)(5) if he desired to pursue the challenge.

24. The challenger made out a single challenge affidavit challenging both ballots, as guided by the Clerk/Warden, with assistance from the Town Attorney, in accordance with 21-A M.R.S. § 673.

25. At the instruction of the Town Attorney, the Clerk/Warden assigned unique identifying numbers to the unopened absentee ballots and challenge affidavit. The unopened absentee ballots and challenge affidavit were secured together with the remaining election materials.

26. The Town Attorney advised those in attendance that because the number of ballots challenged may affect the results of one race of the election, pursuant to 21-A M.R.S. § 696(1), the Town was required to present the challenge to the Supreme Judicial Court of the State of Maine for resolution.

27. The Town Attorney advised that unless and until the Supreme Judicial Court ruled otherwise, the results of the election as announced March 24, 2026, remained in effect.

28. The Clerk then proceeded to swear in the candidates that prevailed, per the election results announced on March 24, 2026, including Cynthia Grant.

29. The Town received no timely request for an inspection or recount.

Additional Facts

30. Article #2 in its entirety, which also included elections for two additional Select Board positions and one School Board Member position, appeared on the March 24, 2026, warrant as follows:

ARTICLE # 1 To choose a moderator to preside at said meeting.

ARTICLE #2 To elect all necessary officers by secret ballot as follows:

VOTE for 1
Select Board Position
(1 - One-year term)
Steve Armenia
Cynthia Grant

Select Board Position
(2 - Three-year terms)
Leroy (Lee) Bryant
Gerald Folster
Gregory Newell
Rebecca Vignaly

School Board Member Position
(1 - One year term)

Write In: _____

Note

***A person who is not registered as a voter may not vote in any town election. ***

The First Petition

31. On April 2, 2026, pursuant to 21-A M.R.S. § 696(1), the Town submitted to this Court a petition forwarding, along with related materials, the affidavit from Gregory Newell challenging the two absentee ballots.

32. On May 4, 2026, this Court issued a judgment dismissing the petition “because the affidavit does not contain sufficient information that, if true, could invalidate a ballot.” *In re Ballot Challenge in Election of Town of Clifton Select Board Member*, 2026 ME 42, ¶ 1, ___ A.3d ___.

33. The Court therefore “decline[d] to invalidate the ballots, which must be counted,” citing 21-A M.R.S. § 696(1).

Proceedings Following Court’s Decision

34. In accordance with the Court’s judgment, the Moderator opened the resumption of the counting of the two absentee ballots from the March 24 election on May 6, 2026, at 6 p.m.

35. The public was notified by the usual means for notice of municipal proceedings in Clifton.

36. With the assistance of legal counsel, election staff began the process of counting the ballots.

37. Before that process began, the Moderator allowed Jeffery F. Niles Jr., who had previously submitted a timely request to inspect the absentee ballots, the incoming voter list, and the application for the absentee ballots, to inspect said materials.

38. Following the inspection, the staff then resumed counting, including reading the name of the absentee voters that cast the two ballots.

39. At that time, a challenge was made by Jeffery F. Niles Jr. (the “Challenger”).

40. For purposes of a municipal election, the moderator is the presiding officer and receives challenges to ballots. *See* 21-A M.R.S. § 1(50) (defining “warden” as “the presiding officer at a voting place”); 21-A M.R.S. § 673(1) (providing that challenges to ballots are made to the warden, and warden administers oath to challenger and signs challenge certificate); 30-A M.R.S. § 2501 (providing that municipal elections are governed by Title 21-A “[e]xcept as otherwise provided by this Title or by charter”); 30-A M.R.S. § 2524(3) (providing that moderator “shall preside over and supervise the voting” at municipal elections); see also Maine Municipal Association, *Town Meeting and Elections Manual* at 10, 140, 146-47, 212-16 (Jan. 2020 rev. ed.) (noting that moderator presides over municipal elections, including challenges to ballots, in place of “warden” in state elections).

41. The Challenger completed an affidavit challenging both ballots.

42. The Moderator and Challenger signed a challenge certificate.

43. The affidavit and challenge certificate were sealed in an envelope.

44. Prior to the envelope being sealed, in accordance with statute, the challenge certificate and ballots were marked with unique identifying numbers, and those numbers placed on the sealed envelope.

45. Staff then proceeded with opening and counting the ballots.

46. Both ballots were cast in favor of Steve Armenia. Steve Arrmenia was identified as the winner of the election, with a total of 115 votes for Steve Armenia and 114 votes for Cynthia Grant.

47. Because it was determined that the challenged ballots affected the result of the election, the validity of the challenge must be submitted to and determined by this Court in accordance with 21-A M.R.S. § 696(1).

48. Based in part on the advice of counsel, the Clerk/Warden suspended certification of the new election result, pending resolution of the challenge.

49. The Town received no request for an inspection or recount prior to submitting this petition.

50. This Court has original jurisdiction in this matter, sitting as the trial court. 21-A M.R.S. § 696(1); *In re Ballot Dispute in Election of Town of Winslow*, 2018 ME 2, ¶¶ 1-2, 176 A.3d 1290.

WHEREFORE, pursuant to 21-A M.R.S. § 696(1), the Town is delivering to this Court the envelope containing the challenge certificate and the signed affidavit under 21-A M.R.S. § 673(1), together with other relevant materials in the interest of efficiency, and the Town respectfully asks that the Court determine the validity of the challenged ballots, the effect of that determination on the election results, and inform the Town what, if anything further, is needed or desired by the Court for it to do so, such as requesting the Town file the remaining election materials or requesting additional briefing from the Town or as-of-yet-unnamed parties in interest.

Respectfully submitted, dated at Bangor, Maine this 7th day of May,
2026.

/s/ Stephen W. Wagner
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CERTIFICATE OF SERVICE

I, Stephen W. Wagner, certify that while 21-A M.R.S. § 696(1) does not require the naming of parties in interest, and the Maine Rules of Appellate Procedure do not appear to apply to this matter, service of this petition (excluding challenge materials) has been made to Cynthia Grant, Steve Armenia, and Jeffery F. Niles Jr. in accordance with M.R. Civ. P. 4(c)(1).

Dated: May 7, 2026

/s/ Stephen W. Wagner
Stephen W. Wagner, Esq. (Bar No. 5621)