

Hillsborough,  
No. 5833.

THOMAS J. CLAVEAU

v.

ROBERT L. STARK, *Secretary of State & a.*

Argued August 15, 1968.

Decided August 15, 1968.

*Devine, Millimet, McDonough, Stahl & Branch and Matthias J. Reynolds* ( *Mr. Reynolds* orally ), for the plaintiff.

*George S. Pappagianis*, Attorney General and *Irma A. Matthews*, Assistant Attorney General ( *Mrs. Matthews* orally ), for the defendants.

PER CURIAM. Petition for mandamus arising out of the refusal of the defendant Stark, as Secretary of State, to print the plaintiff's name on the official ballot as a candidate for Governor in the Democratic primary to be held on September 10, 1968. Trial by the Court ( *Grant, J.* ) who ruled for the plaintiff and reserved and transferred the defendants' exceptions.

The Court made the following finding: "The Court finds that Claveau had undertaken and had commenced the process of filing before 5:00 P.M. [on July 25, 1968] and was within a minute or less of completing the act when the filings were closed to completion at 5:00 P.M. "

The single question raised in this appeal is whether a filing which has not been fully completed before the 5 o'clock deadline is valid and legal. The plaintiff's motion to strike part III of the State's brief is granted.

An essential act required by the statute is the filing of the declaration of candidacy. Although the plaintiff had tendered the required filing fee prior to 5 o'clock, he had not completed the essential act of filing his declaration of candidacy prior to the

deadline. We conclude, as a matter of law, that any filing with the Secretary of State must be fully completed before 5:00 P.M. on the last day of filing. RSA 56:11, 13, 13-a, 14, 25 (supp).

Accordingly the order of the Superior Court is vacated (see *Colby v. Broderick*, 96 N. H. 316, 318) and the order in this court is

*Defendants' exception sustained.*

Hillsborough,  
No. 5835.

EDMOND A. DIONNE

*v.*

WALTER A. SALVAIL & *a.*

Argued August 15, 1968.

Decided August 15, 1968.

*Leonard, Leonard & Prolman* and *Gerald R. Prunier* (*Mr. Prunier* orally), for the plaintiff.

*Walter A. Salvail* orally, pro se.

*George S. Pappagianis*, Attorney General and *Vincent A. Wenners*, Attorney (*Mr. Wenners* orally), for the Secretary of State.