

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by
Registrar of Voters, Ridgefield

File No. 2010-009

FINDINGS AND CONCLUSIONS

The Ridgefield Registrars of Voters, Cynthia A. Bruno and Hope S. Wise (hereinafter the "Ridgefield Registrars") referred this matter to the Commission pursuant to Connecticut General Statutes § 9-7b and state that Nancy A. Hill (hereinafter the "Respondent") attempted to vote in both Ridgefield and Norwalk on November 3, 2009 (hereinafter "Election Day").

After the investigation of the complaint, the Commission makes the following findings and conclusions:

1. The Ridgefield Registrars contacted the Commission on January 28, 2010 and indicated that the Respondent presented herself to vote in both Ridgefield and Norwalk on November 3, 2009, claimed residence in both towns but, ultimately, only voted in Ridgefield.
2. The evidence establishes that, on Election Day, the Respondent presented herself to vote at a polling place in Ridgefield but the election officials could not locate her name on the Official List of Voters. As such, the Respondent left the polling place thinking she may still have been registered to vote in Norwalk.
3. According to the evidence, the Respondent was once registered to vote in Norwalk but had been removed as a voter there in June of 2006 based on a notification from the Department of Motor Vehicles that she changed her address to 26 Lawson Lane in Ridgefield.
4. In Norwalk, the Respondent sought to vote but, once again, election officials could not find her name on the Official Voter List. The Norwalk Registrars suggested the Respondent register to vote in Norwalk for the purposes of future referendums and/or elections. Thereafter, the Respondent completed a Voter Registration Card in Norwalk and claimed thereon a bona fide residence at 196 Strawberry Hill Avenue, Norwalk.
5. While in Norwalk but after completing the aforementioned registration card, the Respondent was contacted by the Ridgefield Registrars who indicated that they had found the Respondent's name on the list of inactive voters and informed her that she could return to Ridgefield, be restored to the active voter list if she still lived in Ridgefield, and cast a vote there.
6. At 6:45 p.m., the Respondent returned to Ridgefield, completed an Application for Restoration of Elector to Official Check List and cast her vote. On that Application the Respondent stated under the penalties of false statement that she was a bona fide resident of Ridgefield and maintained a bona fide residence address at 26 Lawson Lane.

7. The Respondent asserts that she was a bona fide resident of Ridgefield when she voted there and that the only reason she went to Norwalk to vote was because she got confused after the Ridgefield Registrars could not find her name on the Ridgefield voter's list. She admits that since she had been registered and voted in Norwalk in the past, maybe she was supposed to vote there.
8. She further stated that on Election Day she maintained dwelling units in both Ridgefield and Norwalk.
9. The main issue in the present case is whether the Respondent was qualified to vote in Ridgefield on November 3, 2009. General Statutes § 9-12 (a) concerns elector qualifications and, as of October 1, 2007, § 9-12 provides that:

Each citizen of the United States who has attained the age of eighteen years, **and who is a bona fide resident of the town to which the citizen applies for admission as an elector** shall, on approval by the registrars of voters or the town clerk of the town of residence of such citizen, as prescribed by law, be an elector. . . . **For the purposes of this section . . . a person shall be deemed to be a bona fide resident of the town to which the citizen applies for admission as an elector if such person's dwelling unit is located within the geographic boundaries of such town. . . .**[Emphasis added.]

10. General Statutes § 9-7b (a)(2) concerns unlawful voting and provides that the State Elections Enforcement Commission has the following duties and powers:

To levy a civil penalty not to exceed . . . (A) two thousand dollars per offense against any person the commission finds to be in violation of . . . 9-170 . . . 9-172, . . . (C) two thousand dollars per offense against any person the commission finds to have (i) **improperly voted in any election**, primary or referendum, and (ii) **not been legally qualified to vote in such election**, primary or referendum [Emphasis added.]

11. General Statutes § 9-170 also states that only individuals who are bona fide residents of the town in which they are offering to vote will be permitted to vote in *town* elections. It specifically provides in part that:

At any regular or special town election any person may vote who is registered as an elector on the revised registry list of the town last completed and he shall vote only in the district in which he is so registered, . . . **Each person so registered shall be permitted to vote unless he is not a bona fide resident of the town . . .** holding the election [Emphasis added.]

12. Furthermore, § 9-360 provides in relevant part as follows:

Any person not legally qualified who fraudulently votes in any . . . primary, election or referendum in which the person is not qualified to vote . . . shall be fined not less than three hundred dollars or more than five hundred

dollars and shall be imprisoned not less than one year or more than two years and shall be disfranchised. . . .

13. No one contests that the Respondent was a citizen of the United States and had attained the age of eighteen years by November 3, 2009. As such, the determinative issue is whether the Respondent was a “bona fide resident” of Ridgefield at that time. If not, the Respondent may face liability for violating to General Statutes § 9-360. Furthermore, she may face civil penalty liability pursuant to General Statutes § 9-7b.
14. The Commission has previously held that an individual’s bona fide residence is the place where that individual maintains a true, fixed, and principal home to which they, whenever transiently relocated, have a genuine intent to return. See, e.g., Complaint of Cicero Booker, Waterbury, File No. 2007-157 (2007). In other words, “bona fide residence” is generally synonymous with domicile. Id.; cf. Hackett v. The City of New Haven, 103 Conn. 157 (1925). The Commission has concluded, however, that “[t]he traditional rigid notion of ‘domicile’ has . . . given way somewhat but only to the extent that it has become an impractical standard for the purposes of determining voting residence (i.e., with respect to college students, the homeless, *and individuals with multiple dwellings*).” [Emphasis added.] Complaint of James Cropsey, Litchfield, File No. 2008-047; see also Farley v. Louzitis, Superior Court, New London County, No. 41032, October 4, 1972 (considering issue of voter residency with respect to college students and stating that “a student, *and a nonstudent as well*, who satisfies the . . . residence requirement, may vote where he resides, without regard to the duration of his anticipated stay or the existence of another residence elsewhere. It is for him alone to say whether his voting interests at the residence he selects exceed his voting interests elsewhere.”); Sims v. Vernon, Superior Court, Fairfield County, Docket No. 168024 (Dec. 22, 1977, Levine, J.) (a case with similar facts to those presented here and concluding that an absentee ballot of an individual should be counted as that individual was a bona fide resident of the town in which the ballot was cast.); Wit v. Berman, 306 F.3d 1256, 1262 (2d Cir. 2002)(stating that under certain circumstances the domicile rule for voting residency can give rise to administrative difficulties which has led to a pragmatic application of that rule in New York).
15. The Commission has previously concluded that “[a]n individual does not, therefore, have to intend to remain at a residence for an indefinite period for that residence to qualify as that individual’s bona fide residence. Complaint of James Cropsey, Litchfield, File No. 2008-047. Rather, the individual only has to possess a present intention to remain at that residence. Id.
16. As such, where an individual truly maintains two residences to which the individual has legitimate, significant, and continuing attachments, that individual can choose either one of those residences to be their bona fide residence for the purposes of election law so long as they possess the requisite intent. Id., see also Wit, 306 F.3d 1262 (quoting People v. O’Hara, 96 N.Y.2d 378, 385 (2001) for this principle.)


17. In the present matter, witness statements, public and non-public records establish that the Respondent was a bona fide resident of Ridgefield on Election Day. The Commission therefore further concludes that the Respondent did not commit any violations of election law by voting there on Election Day.
18. The Commission notes, however, that the Respondent did fill out a new Voter Registration Card in Norwalk on Election Day indicating that she was a bona fide residence of Norwalk; specifically, 196 Strawberry Hill Avenue.
19. General Statutes § 9-357 provides as follows:
- Any person who fraudulently procures himself . . . to be registered as an elector shall be fined not more than five hundred dollars or imprisoned not more than one year or be both fined and imprisoned.
20. While there is some evidence connecting the Respondent 196 Strawberry Hill Avenue, as well as the City of Norwalk, the Commission declines to take further action concerning her registration in Norwalk given that registration resulted from the confusion created by the Ridgefield election officials after they failed to locate the Respondent's name on the inactive voter list and turned her away from the polls. Simply put, the Respondent would not have appeared in Norwalk on Election Day but for the Ridgefield election officials' initial failure to locate her on the inactive voters list. Finally, the evidence is insufficient to establish that in registering to vote in Norwalk, the Respondent intended to defraud the Norwalk Registrars.
21. Finally, the Commission notes that its staff has and will continue to work with the Respondent, the Office of the Secretary of the State and/or the Ridgefield and Norwalk Registrars to correct any confusion created by the Respondent's registration in Norwalk. Currently, the Respondent is not actively registered to vote in either Ridgefield or Norwalk. The Respondent maintains that this is her preference.

ORDER

The following Order is recommended on the basis of the aforementioned findings:

No further action is taken.

Adopted this 22nd day of September, 2010 at Hartford, Connecticut.



Stephen F. Cashman, Chairperson
By Order of the Commission