

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Maria Valle, Bridgeport

File No. 2010-034

FINDINGS AND CONCLUSIONS

Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, challenging the authenticity of a petition page for a slate of candidates for the March 2, 2010 primary for the Bridgeport Democratic Town Committee ("DTC") in the 137th District circulated by Respondent Carmen R. Vargas. Complainant further challenges the authenticity of the signature of Respondent Tiana Cortes on a petition page circulated by Respondent Hector A. Diaz. Finally, Complainant alleges that Respondent Cortes was not a bona fide resident at the address in which she cast an absentee ballot in the aforementioned Town Committee Primary.

1. Respondent Vargas submitted to the Bridgeport registrar's office petition pages in support of a slate of candidates for the Bridgeport Democratic Town Committee primary held on March 2, 2010, including a petition page bearing the signature, name, birth date and street address of four individuals, Madeline Ortiz, Milagros Ortiz, Emma Morales and Patrick Ortiz. The petition page bearing the relevant information for these four individuals was certified against the last-completed enrollment list of the Democratic party in Bridgeport in the 137th District; all of the four individuals were accepted by the Registrar's Office as valid voters in the district and were counted towards the total number signatures gathered for the petitioning slate.
2. Connecticut General Statutes § 9-410 concerns the responsibilities of circulators of petitions and provides, in pertinent part:

(c) Each circulator of a primary petition page shall be an enrolled party member of a municipality in this state who is entitled to vote. . . . **Each separate sheet of such petition shall contain a statement as to the authenticity of the signatures thereon . . . and shall be signed under the penalties of false statement by the person who circulated the same,** setting forth such circulator's address and the town in which such circulator is an enrolled party member **and attesting that each person whose name appears on such sheet signed the same in person in the presence of such circulator, that the circulator either knows each such signer or that the signer satisfactorily identified the signer to the circulator** [Emphasis added.]

3. General Statutes § 9-410 (c) requires that each individual that circulates a petition must provide an attestation under the penalties of false statement that each person who signed that petition signed in the circulator's presence, and that each signatory was either known to the circulator or satisfactorily identified him or herself to the circulator.

4. An implicit requirement of General Statutes § 9-410 (c) is that the circulator's attestation be true. Accordingly, if the circulator signed a General Statutes § 9-410 (c) petition statement that he or she knew or reasonably should have known was untrue, that circulator will be deemed to have violated General Statutes § 9-410 (c).
5. That petition page contains the following statement:

I am the circulator of this petition page and I make this statement pursuant to the provisions of Chapter 153 of the General Statutes of Connecticut. . . . **Each person whose name appears on this petition signatures page signed the same in person in my presence. I either know each such signer or such signer satisfactorily identified himself or herself to me.** The spaces for candidates supported, offices sought and the political party involved was filled in prior to my obtaining signatures. . . .

I hereby declare under the PENALTIES OF FALSE STATEMENT, that the statements made in the foregoing Circulator's Statement of Authenticity of Signatures are true. [Emphasis added.]

6. That Statement was followed by Respondent Vargas' signature.
7. General Connecticut General Statutes § 9-412 concerns the responsibilities of registrars who receive petition pages and provides, in pertinent part:

Upon the receipt of any page of a petition proposing a candidacy for a municipal office or for member of a town committee, the registrar shall forthwith sign and give to the person submitting the petition a receipt in duplicate, stating the number of pages filed and the date and time of filing and *shall forthwith certify on each such page the number of signers on the page who were enrolled on the last-completed enrollment list of such party in the municipality or political subdivision, as the case may be*, and shall forthwith file such certified page in person or by mail, as described in section 9-140b, with the clerk of the municipality, together with the registrar's certificate as to the whole number of names on the last-completed enrollment list of such party in such municipality or political subdivision, as the case may be, within seven days after receipt of the page. In checking signatures on primary petition pages, *the registrar shall reject any name if such name does not appear on the last-completed enrollment list in the municipality or political subdivision, as the case may be.* . . . The registrar shall reject any page of a petition which does not contain the certifications provided in section 9-410, or which the registrar determines to have been circulated in violation of any other provision of section 9-410. . . . [Emphasis added.]

8. After investigation, the evidence shows that the four identified signatures were those of the named individuals and that those individuals were enrolled on the last-

completed enrollment list of the Democratic party as registered voters at 34 Hayes St. in Bridgeport, the address listed on the petition page, which is located within the 137th District. Moreover, the official identification cards for three out of the four individuals identified 34 Hayes St. as their address.¹ Finally, the evidence showed that all four signatures were made in the presence of Respondent Vargas. As such, the signatures were validly gathered by Respondent Vargas and validly certified by the Bridgeport Registrar's Office.²

9. As such, the Commission finds that Respondent Vargas did not violate General Statutes § 9-410 (c) by collecting the signatures of the aforementioned individuals.
10. Turning to the allegation against Respondent Diaz, the Complainant challenges the authenticity of the signature of Respondent Tiana Cortes on a petition page that Respondent Diaz circulated.
11. After investigation, the evidence shows that the signature of Tiana Cortes, Respondent Diaz's niece, was her own. Furthermore, there was insufficient evidence to show that the signature was not made in the presence of Respondent Vargas.
12. As such, the Commission finds that Respondent Diaz did not violate General Statutes § 9-410 (c).
13. Finally, turning to the allegation against Respondent Cortez, Complainant alleges that Respondent Cortez was not a bona fide resident at the address in which she cast an absentee ballot in the aforementioned Town Committee Primary. Complainant alleges that Respondent Cortez actually lived in New York State.
14. The main issue here is whether Respondent Cortez was qualified to vote in Bridgeport on March 2, 2010. 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.]

¹ The fourth identification card was a New York State drivers license for Milagros Ortiz, which was sufficient for purposes of identifying the voter.

² According to the Bridgeport Registrar's Office, the petitioning slate needed a total of 383 signatures to achieve ballot status and submitted a total of 441 certified signatures. As such, even if the petition page challenged here within was found to be invalid, its exclusion would not have affected the petitioning slate's ballot status.

15. 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.]

16. The General Statutes § 9-360, provides in pertinent part:

Any person not legally qualified who fraudulently votes in any town meeting, primary, election or referendum in which the person is not qualified to vote, and any legally qualified person who, at such meeting, primary, election or referendum, fraudulently votes more than once at the same meeting, primary, election or referendum, 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. Any person who votes or attempts to vote at any election, primary, referendum or town meeting by assuming the name of another legally qualified person shall be guilty of a class D felony and shall be disfranchised.

17. At the time of the relevant town committee primary, Respondent Cortez was registered to vote at 148 Burroughs Street in Bridgeport, which is within the 137th Town Committee District.
18. The Respondent answered to the instant Complaint and presented evidence and statements that she has lived at the Burroughs Street address, her grandparents' address, since she moved to Bridgeport from Puerto Rico. She presented statements that at the time of the aforementioned party committee primary, she was going to school in New York during the week and commuting home to the address on Burroughs St. on the weekends and that the house in Bridgeport was her home for all purposes, including voting.
19. According to the Commission, 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 Gary Amato*, File No. 2009-058 (2009); *Complaint of Cicero Booker*, 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*, File No. 2008-047 (2008); 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.”); *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).

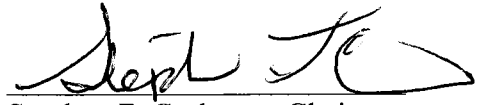
20. The Commission has consistently held that students may claim the residence of their parent or guardian as their bona fide residence while away at school. *See, e.g., Complaint of Eleanor Michaud*, File No. 2010-090 (2010) (Respondent was studying abroad during the relevant election).
21. Here, the Commission has not discovered or been offered any evidence that contradicts Respondent Cortez’s claim that the home on Burroughs Street was where she maintained a true, fixed, and principal home to which she, while transiently away at school, had a genuine intent to return and did return on a regular basis.
22. In light of the above, the Commission finds that the Respondent was a bona fide resident of Bridgeport at the time of the March 2, 2010 party primary. As such, she violated no laws within the jurisdiction of the Commission by casting a ballot therein.

ORDER

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

That the Complaint be dismissed.

Adopted this 14th day of October of 2010 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission