

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Jeffrey Hall, Somers

File No. 2015-003

AGREEMENT CONTAINING A CONSENT ORDER

The Agreement, by and between Scott Semple, Commissioner, Department of Correction, State of Connecticut and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177 (c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

ALLEGATIONS

1. The Complainant alleges, *inter alia*, that he was denied the ability to vote in the November 4, 2014 general election while he was being held as an inmate at the Northern Correctional Institution in Somers, Connecticut, despite having not been convicted of a felony.¹

LAW

2. General Statutes § 9-14a provides:

Any person in the custody of the state being held at a community correctional center or a correctional institution, whose voting rights have not been denied, shall be deemed to be absent from the town or city of which he is an inhabitant for purposes of voting, notwithstanding that such center or institution may be situated within such town or city.

3. General Statutes § 9-46 (a) provides, in pertinent part:

A person shall forfeit such person's right to become an elector and such person's privileges as an elector *upon conviction of a felony* and committal to the custody of the Commissioner of Correction for confinement in a

¹ This Agreement Containing Consent Order addresses those portions of the Complainant's statement of complaint which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission's jurisdiction. Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission's jurisdiction.

correctional institution or facility or a community residence, committal to confinement in a federal correctional institution or facility, or committal to the custody of the chief correctional official of any other state or a county of any other state for confinement in a correctional institution or facility or a community residence in such state or county.

(emphasis added).

4. General Statutes § 9-135 (b) further provides:

No person shall misrepresent the eligibility requirements for voting by absentee ballot prescribed in subsection (a) of this section, to any elector or prospective absentee ballot applicant.

AGREED FINDINGS AND CONCLUSIONS

5. The Respondent, as Commissioner of the Department of Correction, State of Connecticut, oversees the unified prison and jail systems of the State of Connecticut, including the Northern Correctional Institution (hereinafter "NCI") in the town of Somers.
6. At all times relevant hereto, Complainant, Jeffery Hall, was an inmate being held at NCI pending trial for a felony, but had not been convicted of a felony.
7. The evidence in this case confirms that in August of 2014, Complainant made a written request to his counselor at NCI for the materials required to vote in the upcoming election in November.
8. In response to this request, the counselor stated, erroneously, that Complainant was ineligible to vote.
9. Upon receiving this denial, Complainant asked the counselor's supervisor for the materials required to vote in the November election.
10. The counselor's supervisor also denied the Complainant's request, stating, erroneously, that Complainant was ineligible to vote.
11. On September 12, 2014, Complainant filed an internal grievance with the staff at NCI, claiming that they had wrongly denied him the ability to register to vote and vote.

12. After receiving conflicting information from various town clerks, staff at NCI learned that the Complainant, as an individual being held pending trial for, but not convicted of, a felony was entitled to vote.
13. Based on that newly learned information, staff at NCI provided the Complainant an absentee ballot application on October 24, 2014.
14. It could not be determined exactly when Complainant completed and returned the application for absentee ballot, though Complainant claims it was on October 25, 2014. The absentee ballot application was post marked October 29, 2014.
15. On November 4, 2014, Election Day, Complainant received the absentee ballot set.
16. On November 5, 2014, the Somers Town Clerk, received Complainant's absentee ballot.
17. Complainant's absentee ballot for the November 4, 2014 election was not counted because it was not received until after the election.
18. The General Statutes are clear that only those convicted of a felony and committed to custody shall lose their status as an elector in the state of Connecticut. General Statutes § 9-46 (a).
19. The General Statutes are further clear that it is a violation to "misrepresent the eligibility requirements for voting by absentee ballot[.]" General Statutes § 9-135.
20. A person in the custody of the State of Connecticut is entitled to vote by absentee ballot in the town for which he is an inhabitant, notwithstanding his incarceration. General Statutes § 9-14a.
21. By informing the Complainant that he was ineligible to vote by absentee ballot, agents of the Respondent misrepresented the eligibility requirements for voting by absentee ballot in violation of General Statutes § 9-135.
22. Though the agents of the Respondent attempted to rectify their error prior to the institution of the instant Complaint, the two month delay in providing Complainant the application to register to vote resulted in the Complainant having insufficient time to register to vote and vote in the November 4, 2014 election.
23. Having considered the various factors prescribed by § 9-7b-48 of the Regulations of the Connecticut State Agencies, the Commission elects to forgo a civil penalty in this instance.

24. However, in lieu of a civil penalty, the Respondent agrees to the following:

- a. Respondent agrees to henceforth comply with the provisions of Chapters 143 and 145 of the General Statutes.
- b. Respondent agrees to educate staff in all Department of Correction facilities on the laws governing the right to vote of inmates in the custody of the Department of Correction (hereinafter "Inmates").
- c. Respondent agrees to treat all mail between Inmates and the Secretary of the State, the State Elections Enforcement Commission, any Town Clerk, and any Registrar of Voters as "privileged communication" pursuant to Regs., Conn. State Agencies § 18-81-28.
- d. Respondent agrees to maintain a log of all incoming correspondence from the Secretary of State, the State Elections Enforcement Commission, any Town Clerk, and any Registrar of Voters to Inmates pursuant to Regs., Conn. State Agencies § 18-81-28.
- e. Respondent agrees to post all outgoing mail from Inmates to the Secretary of the State, the State Elections Enforcement Commission, any Town Clerk, and any Registrar of Voters without unnecessary delay pursuant to Regs., Conn. State Agencies §§ 18-81-30 and 18-81-35.
- f. Respondent agrees to deliver that all incoming mail from the Secretary of State, the State Elections Enforcement Commission, any Town Clerk, and any Registrar of Voters to any Inmate in accordance with the requirements of Regs., Conn. State Agencies §§ 18-81-30 and 18-81-36 and without unnecessary delay.
- g. Respondent agrees to deliver absentee ballot materials addressed to Inmates in accordance with the requirements of Regs., Conn. State Agencies §§ 18-81-30 and 18-81-36 and immediately upon receipt.
- h. Respondent agrees to ensure that no absentee ballots completed by Inmates shall be opened, reviewed, or marked by staff of the Department of Correction in accordance with Regs., Conn. State Agencies § 18-81-35.
- i. Respondent agrees to post all Inmates' absentee ballots in accordance with Regs., Conn. State Agencies § 18-81-35 and immediately upon receipt.

- j. Respondent agrees to maintain a log of all absentee ballots completed by Inmates and given to staff or agents of the Department of Correction to be posted.
- k. Respondent agrees to maintain a log of all voter registration applications supplied directly to Inmates by the Department of Correction indicating the date such items were provide to an Inmate.

TERMS OF GENERAL APPLICATION

- 25. The Respondent admits all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and Order entered into after a full hearing and shall become final when adopted by the Commission.
- 26. The Respondent waives:
 - a) Any further procedural steps;
 - b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this Agreement.
- 27. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her concerning this matter.
- 28. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if the same becomes necessary.

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall to henceforth comply with the provisions of Chapters 143 and 145 of the General Statutes.

IT IS FURTHER ORDERED THAT the Respondent shall educate staff in all Department of Correction facilities on the laws governing the right to vote of inmates in the custody of the Department of Correction (hereinafter "Inmates").

IT IS FURTHER ORDERED THAT the Respondent shall treat all mail between Inmates and the Secretary of the State, the State Elections Enforcement Commission, any Town Clerk, and any Registrar of Voters as "privileged communication" pursuant to Regs., Conn. State Agencies § 18-81-28.

IT IS FURTHER ORDERED THAT the Respondent shall maintain a log of all incoming correspondence from the Secretary of State, the State Elections Enforcement Commission, any Town Clerk, and any Registrar of Voters to Inmates pursuant to Regs., Conn. State Agencies § 18-81-28.

IT IS FURTHER ORDERED THAT the Respondent shall post all outgoing mail from Inmates to the Secretary of the State, the State Elections Enforcement Commission, any Town Clerk, and any Registrar of Voters without unnecessary delay pursuant to Regs., Conn. State Agencies §§ 18-81-30 and 18-81-35.

IT IS FURTHER ORDERED THAT the Respondent shall deliver all incoming mail from the Secretary of State, the State Elections Enforcement Commission, any Town Clerk, and any Registrar of Voters to any Inmate in accordance with the requirements of Regs., Conn. State Agencies §§ 18-81-30 and 18-81-36 and without unnecessary delay.

IT IS FURTHER ORDERED THAT Respondent shall deliver absentee ballot materials addressed to Inmates in accordance with the requirements of Regs., Conn. State Agencies §§ 18-81-30 and 18-81-36 and immediately upon receipt.

IT IS FURTHER ORDERED THAT Respondent shall ensure that no absentee ballots completed by Inmates shall be opened, reviewed, or marked by staff of the Department of Correction in accordance with Regs., Conn. State Agencies § 18-81-35.

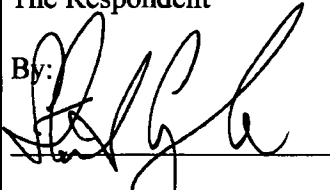
IT IS FURTHER ORDERED THAT the Respondent shall post all completed absentee ballots completed by Inmates in accordance with Regs., Conn. State Agencies § 18-81-35 and immediately upon receipt.

IT IS FURTHER ORDERED THAT Respondent shall maintain a log of all absentee ballots completed by Inmates and given to staff or agents of the Department of Correction to be posted indicating the date such items were received and posted.

IT IS FURTHER ORDER THAT Respondent shall maintain a log of all voter registration applications supplied directly to Inmates by the Department of Correction indicating the date such items were provide to an Inmate.

The Respondent

By:

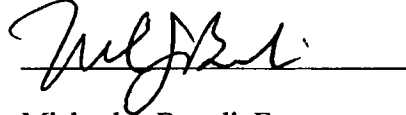


Scott Semple
Commissioner
Department of Correction
24 Wolcott Hill Road
Wethersfield, CT 06109

Dated: 9/28/16

For the State of Connecticut

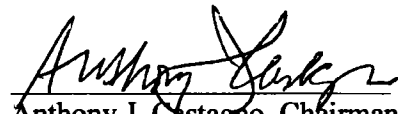
By:



Michael J. Brandi, Esq.
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT 06106

Dated: 10/4/16

Adopted this 12 day of OCT, 2016 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission

RECEIVED
STATE ELECTIONS

OCT 4 2016

ENFORCEMENT COMMISSION

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Jeffrey Hall, Somers

File No. 2015-003

REVISED AGREEMENT CONTAINING A CONSENT ORDER

ORDER

It is hereby ordered that the Consent Order concerning *In the Matter of a Complaint by Jeffrey Hall, Somers*, File No. 2015-003 shall be amended as follows.

Notwithstanding anything contained in the Consent Order dated October 12, 2016, The Department of Correction may make Voter Registration Applications publicly available to Inmates by placing them in areas accessible to inmates. The Department of Correction shall not be required to log Voter Registration Applications that Inmates take from these areas. Nevertheless, the Department of Correction shall still be required to log all voter registration applications supplied directly in hand to an inmate upon request.

The Respondent

For the State of Connecticut

By:



By:



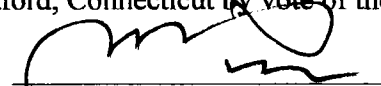
Department of Correction
24 Wolcott Hill Road
Wethersfield, CT 06109

Michael J. Brandi, Esq.
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT 06106

Dated: 4/29/21

Dated: 5/12/2021

Adopted this 5th day of May, 2021 at Hartford, Connecticut by vote of the Commission.


Stephen T. Penny, Chairman
By Order of the Commission