

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Jane Miller,  
Brookfield

File No. 2016-019

**FINDINGS AND CONCLUSIONS**

The Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Thomas Dunkerton unlawfully removed her from the Republican party in the Town of Brookfield pursuant to General Statutes § 9-61 and § 9-355 and refused to restore her party enrollment status upon her filing of an amended voter registration application. After an investigation of the Complaint, the Commission makes the following findings and conclusions:

1. Thomas Dunkerton, at all times relevant to this complaint, was the Republican Registrar of Voters in the Town of Brookfield.
2. Complainant alleged that Mr. Dunkerton unlawfully refused to add her to the voter registry list in Brookfield as an enrolled Republican party member after she filed a March 4, 2016 amended voter registration application seeking to change her registration from “Unaffiliated.”
3. By way of background, Complainant was informed, on or about April 23, 2015, that she had been “disaffiliated” as a Republican party member after an April 9, 2015 hearing pursuant to General Statutes § 9-61 that was conducted by Mr. Dunkerton and Brookfield Republican Town Committee (“BRTC”) Chairman Matthew Grimes. Consequently her name was also removed from the Republican enrollment list in Brookfield by Mr. Dunkerton as Brookfield Republican Registrar of Voters.
4. General Statutes § 9-61, provides:

Enrollment in any other political party or organization, active affiliation with any other political party or organization, knowingly being a candidate at any primary or caucus of any other party or political organization, or being a candidate for office under the designation of another party or organization, within a period of two years prior to the date of the notice as provided in section 9-60 shall be prima facie evidence that any elector committing any such act is not affiliated with, or in good faith a member of, and does not intend to support the principles or candidates of the party upon the enrollment list of which his name appears or in which his application for enrollment is pending; and, upon reasonable proof of

the commission of any one of such acts, the name of any such elector may be stricken or excluded from such list and such erasure or exclusion shall be effective for a period of two years from the date of any such act. The same procedure as to notice to appear thereon, return and hearing shall be followed as provided in section 9-60. If, after full hearing, such registrar and chairman or party member or such deputy registrar and chairman or party member, as the case may be, find that the name of any such elector has been wrongfully or improperly stricken or excluded from such list, such name shall be forthwith placed upon the enrollment list. [Emphasis added.]

5. General Statutes § 9-355, provides:

Any person who, without reasonable cause, neglects to perform any of the duties required of him by the laws relating to elections or primaries and for which neglect no other punishment is provided, and any person who is guilty of fraud in the performance of any such duty, and any person who makes any unlawful alteration in any list required by law, shall be fined not more than three hundred dollars or be imprisoned not more than one year or be both fined and imprisoned. Any official who is convicted of fraud in the performance of any duty imposed upon him by any law relating to the registration or admission of electors or to the conduct of any election shall be disfranchised. Any public officer or any election official upon whom any duty is imposed by part I of chapter 147 and sections 9-308 to 9-311, inclusive, who wilfully omits or neglects to perform any such duty or does any act ~~prohibited therein for which punishment is not otherwise provided~~ shall be guilty of a class E felony. [Emphasis added.]

6. The Commission, after investigation, finds that Complainant was excluded from the Republican party in Brookfield after a hearing pursuant to General Statutes § 9-61 conducted by Mr. Dunkerton and BRTC Chairman Grimes. Complainant in attendance and represented by counsel at the April 9, 2015 hearing.

7. According to the April 9, 2015 findings by The BRTC Chairman and the Brookfield Republican Registrar, Complainant pursuant to General Statutes § 9-61 was no longer “affiliated” with the Republican party because her “name was on the ballot as a Democrat” and she appeared in Brookfield Democratic party campaign literature supporting their candidates that was paid for by the Democratic party and indicated that it was “approved by the candidates.” Further, the aforementioned findings indicated that Complainant was “actively affiliated” with the Democratic party and that because there was “reasonable proof” that she had committed “one or more” of the acts for party exclusion pursuant to § 9-61, that Complainant’s name would therefore be “discretionarily erased from the Republican enrollment list.”
8. The Commission notes that Complainant sued Mr. Dunkerton in Superior Court regarding her removal from the Republican party and enrollment list in Brookfield. Specifically, in *Miller v. Dunkerton* the Superior Court found on August 18, 2015 that:

*[T]he plaintiff has not carried her burden by a preponderance of the evidence that the defendant’s actions in erasing her name from the enrollment list of the Brookfield Republican Party were unlawful and improper, and that she [had] a clear right to be restored to the party’s enrollment list. The court [found] sufficient evidence that the plaintiff [was] not in good faith a member of the Brookfield Republican Party. Her petition for a writ of mandamus is, therefore, respectfully denied.*
9. The Commission finds that Complainant was denied an appeal in *Miller* by the Appellate Court on September 23, 2016. Further the Commission finds that ~~prior to the aforementioned denial,~~ that Complainant was reinstated as an enrolled Republican party member in Brookfield by Mr. Dunkerton on July 19, 2016.

10. The Commission, for purposes of this complaint and investigation, considers whether Mr. Dunkerton was negligent or failed to comply with his duties as a Registrar of Voters pursuant to General Statutes § 9-355 by originally removing her from the Republican party pursuant § 9-61.
11. The Commission finds, in light of the Superior Court's decision in *Miller v. Dunkerton*, that a conclusion against Mr. Dunkerton pursuant to General Statutes § 9-355 pertaining to his application of § 9-61 is not warranted under these circumstances where there are factual findings by the court that Complainant's claim was not supported and therefore dismissed by the court.
12. Furthermore, the Commission declines to reconsider the very facts at issue in *Miller v. Dunkerton*, which would be necessary based on alleged violations of General Statutes § 9-61 and § 9-355 in this instance.
13. The Commission stresses that in *Miller v. Dunkerton* the court found that the plaintiff had "not carried her burden by a preponderance of the evidence" to establish that the defendant's actions in erasing her name from the enrollment list of the Brookfield Republican Party "were unlawful and improper." Further, the court determined that she had not established that she had a "clear right to be restored to the party's enrollment list."
14. The Commission, for the reasons detailed herein, concludes that Complainant's allegations pertaining to violations of General Statutes § 9-61 and § 9-355 are not supported by the facts under these narrow and specific circumstances. The Commission therefore dismisses Complainant's allegations.

**ORDER**

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

That the matter is dismissed.

Adopted this 19<sup>th</sup> day of April 2017, Hartford, Connecticut.



Anthony J. Castagno, Chairman  
By Order of the Commission