

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re Complaint by Ramon Espinosa

RESPONDENT:
Minnie Gonzalez
97 Amity St.
Hartford, CT 06106

File No. 2006-144

December 16, 2009

Final Decision

At its November 17, 2007 regular meeting, the State Elections Enforcement Commission designated the undersigned to serve as Hearing Officer in this matter. The undersigned Hearing Officer heard this matter as a contested case on June 10, 2009 pursuant to Chapter 54 of the Connecticut General Statutes, §9-7b of the Connecticut General Statutes, and §9-7b-35 of the Regulations of Connecticut State Agencies. Attorneys Marc Crayton and Kevin Ahern appeared on behalf of the State of Connecticut; Attorney Thomas J. Weihsing represented the Respondent Minnie Gonzalez, who was also present at the hearing. Both sides were given the opportunity to present evidence and testimony for inclusion in the hearing record. The Hearing Officer also afforded each party the opportunity to draft post-hearing briefs in this matter. Neither the State nor the Respondent submitted briefs.

This Report of the Hearing Officer, which contains findings of fact and conclusions of law, was prepared by the Hearing Officer after a careful consideration of all of the evidence presented at hearing. Each of the parties will have an opportunity to review and comment on the report as required by Chapter 54 of the Connecticut General Statutes. The Commission will review the report and consider its adoption at a Commission meeting, at which both parties will have the chance to comment on any amendments they believe may be warranted.

Based on his examination of the case record, the Hearing Officer finds the following facts and makes the ensuing conclusions of law:

1. Respondent Minnie Gonzalez was a candidate for the City of Hartford's Democratic Town Committee in the March 7, 2006 town committee primary.
2. Complainant Ramon Espinosa filed a notarized complaint with the Commission on March 9, 2006 alleging that Respondent violated state statutes related to absentee ballots completed by electors in an apartment building at 25 Laurel Street in Hartford for the town committee primary.
3. Following its investigation, the State Elections Enforcement Commission notified Respondent that she was being charged with a single violation of Section 9-140b (e), which states:

No (1) candidate or (2) agent of a candidate, political party or committee, as defined in section 9-601, shall knowingly be present when an absentee ballot applicant executes an absentee ballot, except (A) when the candidate or agent is (i) a member of the immediate family of the applicant or (ii) authorized by law to be present or (B) when the absentee ballot is executed in the office of the municipal clerk and the municipal clerk or an employee of the municipal clerk is a candidate or agent.

4. The State identified Gwendolyn Kidd as a potential witness in this matter and provided notice to the Respondent on four occasions¹ that the primary allegation against the Respondent was that she was knowingly present while Ms. Kidd executed an absentee ballot in violation of Section 9-140b (e) (1) of the General Statutes.
5. The Hearing Officer takes judicial notice of the fact that Ms. Kidd died on Nov. 11, 2008, as evidenced by a certified copy of her death certificate, which the State produced but did not move into the record as a full exhibit.
6. The Hearing Officer accepted into the hearing record six documents, all of which were offered by the State.²
7. The State called Douglas Jowett, an inspector with the Connecticut Division of Criminal Justice, who interviewed Ms. Kidd in 2006 on matters in this case. Mr. Jowett identified a certified copy of an application for an absentee ballot that Ms. Kidd purportedly completed. This document was admitted for the limited purpose of showing that Ms. Kidd applied for an absentee ballot.
8. The Respondent proffered no evidence and presented no witnesses.

¹ This case was scheduled for hearing on three previous occasions: Jan. 30, 2008; March 26, 2008; and Feb. 3, 2009. Each instance was continued. The hearing finally occurred on June 10, 2009. Notices of hearing were sent to Respondent before each of the scheduled hearing dates.

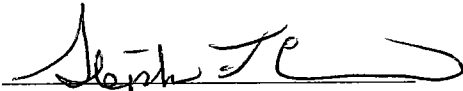
² The evidence admitted into the record included: *State's Exhibit A* – Certified copy of complaint filed by Ramon Espinosa (March 9, 2006) (alleging violations of Connecticut's election laws by Respondent in relation to electors at 25 Laurel Street in Hartford) (3 pages); *State's Exhibit B* – Certified copy of letter from Jeffrey B. Garfield, Executive Director and General Counsel of the State Elections Enforcement Comm., to Christopher J. Morano, Chief State's Attorney (March 22, 2006) (referring Espinosa's complaint against Respondent to Chief State's Attorney's office for possible criminal prosecution) (1 page); *State's Exhibit D* – Certified Copy of Application for Absentee Ballot from Gwendolyn Kidd (Feb. 8, 2006) (showing that Ms. Kidd submitted an application for an absentee ballot in relation to March 7, 2006 primary) (1 page); *State's Exhibit F* – Certified Copy of Notice of Primary For Town Committee of Democratic Party (Feb. 3, 2006) (listing candidates running in March 7, 2006 primary, including Respondent) (4 pages); *State's Exhibit J* – Certified copy of State of Connecticut Public Act No. 97-176 (March 17, 2008 (date certified)) (amending Gen. Stat. § 9-140b to its current wording) (3 pages); *State's Exhibit K* – Certified copy of State of Connecticut House Roll Call Vote S.B. No. 1026 (March 17, 2008 (date certified)) (reflecting legislators' recorded vote on Public Act 97-176) (3 pages).

9. Based on the documentary and testimonial evidence received into the record, the Hearing Officer finds insufficient evidence to support the State's allegation that Respondent violated Section 9-140b (e) of the Connecticut General Statutes by knowingly being present when an absentee ballot applicant completed an absentee ballot packet on or about March 7, 2006.

The following order is recommended on the basis of the record of the above-captioned complaint:

That the complaint be dismissed.

12-16-09


Stephen F. Cashman
Commissioner and Hearing Officer