

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Ramon Arroyo, Hartford

File No. 2007-404

FINDINGS AND CONCLUSIONS

The Complainant brings this complaint pursuant to §9-7b, General Statutes, alleging "improper actions by election officials in polling places throughout Hartford."

After an investigation of this matter, the following findings and conclusions are made:

1. Complainant submitted five "statements" of purported voters or relatives of voters, describing problems that the voters experienced at various polling places at the November 2007 municipal election in Hartford.
2. One such statement was from a woman, Luz Santiago, who claimed that she was not permitted to assist her mother, Olga Martir, and that an election official insisted on helping her mother and counseled her to vote for Eddie Perez instead of Minnie Gonzalez.
3. Connecticut General Statutes § 9-264 provides:

An elector who requires assistance to vote, *by reason of blindness, disability or inability to write or to read the ballot, may be given assistance by a person of the elector's choice*, other than (1) the elector's employer, (2) an agent of such employer or (3) an officer or agent of the elector's union. The person assisting the elector may accompany the elector into the voting machine booth. *Such person shall register such elector's vote upon the machine as such elector directs. Any person accompanying an elector into the voting machine booth who deceives any elector in registering his vote under this section or seeks to influence any elector while in the act of voting, or who registers any vote for any elector or on any question other than as requested by such elector*, or who gives information to any person as to what person or persons such elector voted for, or how he voted on any question, shall be fined not more than one thousand dollars or imprisoned not more than five years or both. [Emphasis added.]

4. Connecticut General Statutes § 9-236 provides, in pertinent part:

On the day of any primary, referendum or election, no person shall solicit in behalf of or in opposition to the candidacy of another or himself or in behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach, except as provided in section 9-294. . . . Any person who violates any provision of this section or, while the polls are open for voting, removes

or injures any such distance marker, shall be fined not more than fifty dollars or imprisoned not more than three months or both. [Emphasis added.]

5. Connecticut General Statutes § 9-363 provides:

Any person who, with intent to defraud any elector of his vote or cause any elector to lose his vote or any part thereof, gives in any way, or prints, writes or circulates, or causes to be written, printed or circulated, any improper, false, misleading or incorrect instructions or advice or suggestions as to the manner of voting on any machine, the following of which or any part of which would cause any elector to lose his vote or any part thereof, or would cause any elector to fail in whole or in part to register or record the same on the machine for the candidates of his choice, shall be fined not more than five hundred dollars or be imprisoned not more than five years or be both fined and imprisoned.

6. Connecticut General Statutes § 9-261 provides, in relevant part:

(e) If not challenged by anyone lawfully present in the polling place, the elector shall be permitted to pass to the separated area to receive the ballot. The elector shall give any receipt the elector has received to a ballot clerk who shall give the elector a ballot to vote only in the primary of the party specified by the receipt. The elector shall be permitted into the voting booth, and shall then register his or her vote in secret. Having voted, the elector shall immediately exit the voting booth and deposit the ballot in the voting tabulator and leave the room. . . . If any elector, after entering the voting booth, asks for further instruction concerning the manner of voting, the election officials shall give such instructions or directions to the elector; ***but no election official instructing or assisting an elector, except as provided in section 9-264, shall look at the ballot in such a way as to see the elector's markings or in any manner seek to influence any such elector in the casting of the elector's vote.*** [Emphasis added.]

7. Ms. Martir qualified for assistance in voting in that she was unable to read or write the ballot. However, when she was interviewed by the Commission staff, she indicated that the election official assisting her was her choice and did not indicate a preference for her daughter's assistance over such official. There is furthermore no evidence that she requested the assistance of her daughter at the polling place and was denied. Ms. Martir also stated during an in person interview that she voted the way that she wanted and did not indicate that the election official assisted her in any manner contrary to her instructions. Accordingly, no violation of Conn. Gen. Stat. §§ 9-261 or 9-264 occurred.
8. Another "statement" was purportedly from a Juana Torres Acevedo who claimed to have voted at Bulkely High School, and alleged that an election official filled in her ballot contrary to her wishes. While this is a very serious and disturbing allegation, no address or other identifying information was provided with the Acevedo "statement," and no such individual appeared on the Connecticut Voter Registration system at that time, or could be identified or located to support the allegations in the complaint. Investigators located and interviewed a Juana Torres, who indicated that she did not have any problems voting. Accordingly, the allegations with respect to Juana Torres Acevedo are dismissed.

9. A third statement was submitted from Marta Cotto alleging that when she took her father, Clemente Cotto, a resident of 25 Laurel Street, to the Burn School polling place to vote, he was already crossed off as having voted by absentee ballot.
10. In fact, Mr. Cotto had submitted an absentee ballot application, as had more than twenty individuals residing at 25 Laurel Street, so the Registrars of Voters conducted supervised absentee balloting at that location, in accordance with the provisions of Conn. Gen. Stat. § 9-159q(1).
11. Connecticut General Statutes § 9-159s provides:

(a) The administrator of an *institution*, as defined in subsection (a) of section 9-159q, *a residential facility for the mentally retarded* licensed pursuant to section 17a-227, or a *community residence*, as defined in section 19a-507a, ***shall use his or her best efforts to provide written notice pursuant to subsection (b) of this section to any conservator or guardian appointed to manage the affairs of a resident of such institution, facility or residence*** pursuant to sections 45a-644 to 45a-663, inclusive, or sections 45a-669 to 45a-684, inclusive, at least seven days prior to the date any voter registration or voting opportunity is presented to the resident with respect to a primary, referendum or election. As used in this section, "voter registration" or "***voting opportunity***" ***includes, but is not limited to, the solicitation or completion of: (1) An application for admission as an elector; or (2) an absentee ballot,*** regardless of whether supervised absentee ballot voting will take place at such institution. The administrator of such institution, facility or residence shall also use his or her best efforts to provide written notice to any such conservator or guardian at least seven days prior to the date when the resident may be brought to a polling place to vote in person. The notification provisions of this section shall not apply when a member of the resident's immediate family provides the resident with an absentee ballot application or brings the resident to a polling place to vote.

(b) Any such notice shall indicate that the resident is entitled to vote or register to vote unless the resident is determined incompetent to do so by a probate court, or unless the registrars of voters or their designees jointly conclude at a supervised voting session that the resident declines to vote the ballot or they are unable to determine how the resident desires to vote the ballot, as provided in subsection (g) of section 9-159q. The notice shall also specify that a resident who requires assistance to vote in accordance with section 9-264 by reason of blindness, disability or inability to read or write may receive assistance from a person of the resident's choosing.

(c) The administrator of any such institution, facility or residence may also provide such notice to a person with a power of attorney for a resident of the institution, facility or residence.

12. Clemente Cotto's residence at 25 Laurel Street is an apartment complex and not an institution, community residence or residential facility for the mentally retarded, within the meaning of Conn. Gen. Stat. § 9-159s. Accordingly, although Ms. Cotto maintains that she is her father's legal guardian, and she handles all of his papers, there was no

requirement of notice to Ms. Cotto as Mr. Cotto's guardian of a voting opportunity presented to Mr. Cotto, pursuant to Conn. Gen. Stat. § 9-159s. Accordingly, that allegation is dismissed.

13. A fourth statement from a Marta Texador was submitted alleging that an election official at Sands Elementary School polling place pointed her towards ballot position 9B when she told the election official that she wanted to vote for Minnie Gonzalez. The candidate at ballot position 9B was Mamie Bell, who was running for Constable, not Mayor.
14. Again, this would be a very serious allegation, implicating §§ 9-261, 9-264 and 9-363, if it could be established. However, there is no Marta Texador on the voter registry list in Hartford. Investigators located and interviewed a Marta Texidor, who disavowed the statement and claims it is not hers. Marta Texidor claimed to have felt rushed when she voted, but did not make any claim she had been directed to vote for a candidate other than her choice. Accordingly, the fourth allegation could not be substantiated and is dismissed.
15. Finally, a fifth statement was submitted by Ana Lugo indicating that when her husband, Modesto Lugo, went to vote at John C. Clark School polling place, an election official pointed to the top two rows on the sample ballot and told Mr. Lugo that that was who he had to vote for. Again, this is a very serious allegation potentially implicating §§ 9-236 and 9-363. Unfortunately, Mr. Lugo passed away during the course of the investigation, and is not available to substantiate what may have occurred, and Mrs. Lugo has been non responsive. Accordingly, the final allegation in this matter could not be substantiated and is dismissed.
16. The investigator on more than one occasion, requested additional information from the Complainant in an effort to corroborate the allegations, but no additional information was forthcoming.

ORDER

The following order is issued on the basis of the aforementioned findings and conclusions:

That the complaint be dismissed.

Adopted this 1st day of September of 2009 at Hartford, Connecticut.


Stephen F. Cashman, Chairman
By Order of the Commission