

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Rafael Mojica, Bridgeport

File No. 2008-031

FINDINGS AND CONCLUSIONS

The Complainant brought this Complaint pursuant to Connecticut General Statutes § 9-7b and alleged that 25 individuals falsely voted by absentee ballot during the March 4, 2008 Democratic Town Committee primary for the 131st district in Bridgeport.

After an investigation of the Complaint, the Commission makes the following findings and conclusions:

1. The Constitution of the State of Connecticut, Article Sixth, Sec. 7 provides:

The general assembly may provide by law for voting in the choice of any officer to be elected or upon any question to be voted on at an election by qualified voters of the state who are unable to appear at the polling place on the day of election because of absence from the city or town of which they are inhabitants or because of sickness, or physical disability or because the tenets of their religion forbid secular activity.

2. Individuals may vote by absentee ballot in the State of Connecticut only if they satisfy one of five conditions. Voting by absentee ballot when not eligible to do so is a violation of General Statutes § 9-135 (a), which provides:

Any elector eligible to vote at a primary or an election and any person eligible to vote at a referendum may vote by absentee ballot if he is unable to appear at his polling place during the hours of voting for any of the following reasons: (1) His active service with the armed forces of the United States; (2) his absence from the town of his voting residence during all of the hours of voting; (3) his illness; (4) his physical disability; (5) the tenets of his religion forbid secular activity on the day of the primary, election or referendum; or (6) the required performance of his duties as a primary, election or referendum official at a polling place other than his own during all of the hours of voting at such primary, election or referendum.

3. Further, any individual who intentionally misrepresents his eligibility to vote by absentee ballot is subject to criminal sanctions for violating General Statutes § 9-359a, which provides:

(a) A person is guilty of false statement in absentee balloting when he intentionally makes a false written statement in or on or signs the name of another person to the application for an absentee ballot or the inner envelope accompanying any such ballot, which he does not believe to be true and which statement or signature is intended to mislead a public servant in the performance of his official function.

(b) False statement in absentee balloting is a class D felony.

4. The Complainant filed the instant Complaint alleging that “many” of the absentee ballot applications filed with the Bridgeport Town Clerk’s office for the March 4, 2008 Democratic Town Committee primary for the 131st district in Bridgeport were “false in their claims of being ill or physically disabled, religious tenets and absent from town during voting hours. Many are in the age group of 25 to 45 years old either relatives or close friends without any disabilities. Some are city workers that will be at work that day yet available to vote. Others voted at the last primary election but now claim to be disabled. And some have no idea what the reason marked on the application was.” The Complainant requested that the Commission investigate “25% of the absentee ballot applications received and handed in by the existing 131st democratic town committee to the Bridgeport Town Clerks Office.”
5. In addition to the above request, the Complainant included with his Complaint a list of 25 names that he claims were individuals who handed in absentee ballot applications that were “questionable to say the least!” However, the Complainant made no allegations that he had personal knowledge that any particular absentee ballot applicant was ineligible to vote by absentee ballot in the March 4, 2008 Democratic Town Committee primary for the 131st district in Bridgeport. Further, the Complainant submitted no other evidence that any particular voter or voters were ineligible to vote by absentee ballot.
6. Here, allegations of absentee ballot fraud have been made without claiming personal knowledge and/or presenting other specific evidence of any particular elector’s ineligibility to vote by absentee ballot. The Commission is sensitive to the imposition that an investigation of an elector’s eligibility to vote by absentee ballot can present and that such an investigation implicates, in some instances, intimately personal information about an elector. However, at the same time the Commission considers allegations concerning the impermissible use of the absentee ballot process with the utmost gravity, especially where, as here, the Complainant’s allegations implicate and organized effort.
7. In past matters, where allegations were made upon personal knowledge and belief and/or were supported by other evidence that absentee ballots were impermissibly cast, the Commission has devoted significant law enforcement resources to investigate such allegations and, as necessary, has imposed civil penalties for those individuals who voted by absentee ballot when not eligible to do so. *See, e.g., Complaints of Kevin Boyle, Bridgeport, File Nos. 2002-235, 2002-235A, 2002-235B, 2002-235C, 2002-235D, 2002-235E, 2002-235F, 2002-235G, 2002-235H, 2002-235I, 2002-235J, 2002-235K, 2002-235M, 2002-235N, 2002-235O, 2002-235P, 2002-235Q, 2002-235R, 2002-235S, 2002-235T, & 2002-235U (2003) (violations by 21 separate individuals for voting by absentee ballot when not eligible to do so).*
8. In order to balance these competing concerns, the Commission limited its inquiry into this matter as follows. Here, of the 25 specifically identified electors, the voting records indicate that only 21 actually cast an absentee ballot in the March 4, 2008 democratic town committee primary for the 131st district in Bridgeport. Of those 21 electors, 9 claimed that they were unable to cast a ballot at the polling place due to

either an illness, a physical disability or because of the elector's religious tenets forbid secular activity on the day of the primary.

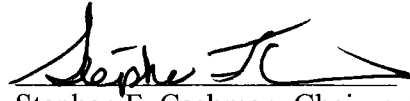
9. The remaining 12 electors claimed under the penalties of false statement in absentee balloting that they would be absent from the city of Bridgeport during all of the hours of voting. Considering the aforementioned concerns, the Commission limited its inquiry to these 12 individuals.
10. Of the 12 individuals, staff was able to locate contact information for 9. Staff made multiple attempts via telephone to reach the 9 individuals for which contact information was found, but was only able to reach 1 of the 9 individuals. Subsequently, staff made investigatory visits to the addresses of the individuals in Bridgeport and attempted to reach them in person in order to interview them about their whereabouts on the date in question. Staff was able to make contact with 7 of the 9 individuals either in person or subsequently via telephone after leaving contact information at a known address.
11. Three of the voters with whom staff made contact generally denied the allegations that they falsified their application; these voters provided statements substantiating their claims that they were not present in the city of Bridgeport during all the hours of voting. The remaining voters neither denied nor admitted liability in the matter, but could not recall whether or not they were present in the city of Bridgeport during all the hours of voting.
12. Of the voters interviewed during the investigation of the matter, one recalled being solicited to cast an absentee ballot. Such voter made statements that canvassers visited her home prior to the town committee primary and asked her if she would be casting a ballot in the primary. She asserted that she informed them that she would be out of town for the primary and that they gave her an application for an absentee ballot and told her that she could vote by absentee ballot because of her planned absence from town on that day. She asserted that the canvassers did not inform her that she was required to vote in person if she ultimately ended up being in town on the date in question. However, she had no memory of ever being solicited to cast an absentee ballot for reasons other than those that are allowed by law.
13. After aforementioned limited inquiry, the Commission finds that the evidence in this matter is insufficient to substantiate a further investigation of the Complainant's allegations. Of the 12 electors who claimed that they would be absent from the city of Bridgeport during all of the hours of voting, there is insufficient evidence to establish that such electors did not have a right to vote by absentee ballot pursuant to the Constitution of the State of Connecticut, Article Sixth, Sec. 7 and General Statutes § 9-135 (a). Of those individuals who were interviewed, evidence of a canvassing effort was found in only one instance; in that instance, no evidence was found of an effort to solicit an individual voter to falsely claim an absentee ballot. Accordingly, the Commission will take no further action in the matter.

ORDER

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

That no further action be taken.

Adopted this 16th day of March, 2011 at Hartford, Connecticut.

A handwritten signature in black ink, appearing to read "Stephen F. Cashman". The signature is stylized with a large initial 'S' and a long horizontal stroke at the end.

Stephen F. Cashman, Chairperson
By Order of the Commission