

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Barbara K. Rockwell, Plymouth

File No. 2008-143

FINDINGS AND CONCLUSIONS

The Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b and challenges the authenticity of an absentee ballot application submitted in the name of the Brenda Luther in September of 2008.

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

1. The Complainant is the Town Clerk for the Town of Plymouth. In September of 2008, she received an absentee ballot application in connection with the November 4, 2008 election bearing the name, purported signature, and accurate date of birth of Brenda Luther as the applicant. That application also bears the distribution no. 000300 and was purportedly signed on September 24, 2008. Finally, the application bears Post Office Box 45, Pequawk, Connecticut as the mailing address.
2. That application was signed under the penalties of false statement in absentee balloting.
3. According to public records, however, the named applicant died on March 26, 2007, approximately six months prior to the submission of application at issue. She was survived by her husband, Robert Luther, her son, Stephen Luther, and her daughter, Heather Luther.
4. The Complainant maintains that she was familiar with Brenda Luther and was aware that she died in 2007. As such, she identified the application as fraudulent and did not send out an absentee ballot set. No ballot was, therefore, cast or submitted in connection with the application at issue.
5. General Statutes § 9-140 (a) provides in relevant part as follows:

Application for an absentee ballot shall be made to the clerk of the municipality in which the applicant is eligible to vote or has applied for such eligibility. . . . **The application shall be signed by the applicant under the penalties of false statement in absentee balloting** [Emphasis added.]
6. In addition, General Statutes § 9-359a (a) further provides that:

A person is guilty of false statement in absentee balloting when he . . . signs the name of another person to the application for an absentee ballot . . . which he does not believe to be true and which . . . signature is intended to mislead a public servant in the performance of his official function.
7. Finally, General Statutes § 9-8 provides that:

Any person who makes a false statement in any statement required to be signed under the penalties of false statement under this title and, except as otherwise provided by law, **any person who signs the name of another to any such statement shall be guilty of false statement**, which shall be deemed to have been committed in the town where such statement is filed and shall be subject to the penalties provided for false statement. [Emphasis added.]

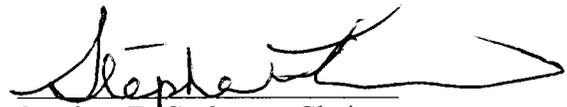
8. The Complainant, Robert Luther, and Heather Luther have all indicated that they have no information concerning the identity of the individual that signed and submitted that application. Both Robert and Heather Luther maintain that they had no knowledge that an application was even submitted bearing Brenda Luther's name. They also deny signing or submitting that application.
9. The evidence does, however, establish that the post office box referenced on the application was registered to Wanda Alvarez, a resident of Pequabuck, Connecticut during the time at issue. Ms. Alvarez has a regular voting record and has never cast an absentee ballot since her voter registration became effective in February of 2004. Ms. Alvarez also voted in person in the November 4, 2008 election. The handwriting on Ms. Alvarez's voter registration card appears dissimilar to that on the application at issue.
10. At this time, the evidence is insufficient evidence to establish that Ms. Alvarez signed and submitted the application at issue. Moreover, the Commission has not been provided nor uncovered any additional evidence connecting Ms. Alvarez or any other specific individual to the application at issue.
11. The Commission therefore concludes that there is insufficient evidence to determine the identity of the individual that signed Brenda Luther's name to the absentee ballot application that is the subject of the Complaint.
12. For that reason, the matter will be dismissed without prejudice but will be reopened in the event further evidence identifying the responsible individual is obtained.

ORDER

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

That matter is dismissed without prejudice

Adopted this 14th day of October, 2010 at Hartford, Connecticut.



Stephen F. Cashman, Chairperson
By Order of the Commission