

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by Olga Iris Vazquez, Hartford

File No. 2012-009

FINDINGS AND CONCLUSIONS

The Referring Official, the Hartford Democratic Registrar of Voters alleged that Minnie Gonzalez impermissibly urged voters at supervised absentee balloting locations to vote at the polling place on Primary Day instead of utilizing the supervised absentee balloting process.¹

1. On Tuesday September 13, 2011, a Democratic Primary was held in the City of Hartford to selection candidates for the November municipal elections.
2. Pursuant to the supervised absentee balloting rules contained within General Statutes §§ 9-159q and 9-159r, the Referring Official held supervised absentee balloting prior to the primary in those locations that qualified under the statutes.
3. The Referring Official alleged that State Representative Minnie Gonzalez showed up at the supervised absentee balloting location at 25 Laurel St. while supervised absentee balloting was taking place and proceeded to attempt to convince voters to eschew voting by absentee ballot and instead vote in person at their polling places on Primary Day.²
4. The eligibility criteria for voting by absentee ballot are enshrined in the Connecticut Constitution, as well as General Statutes § 9-135, which reads, in pertinent part:

(a) 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 or she is unable to appear at his or her polling place during the hours of voting for any of the following reasons: (1) His or her active service with the armed forces of the United States; (2) his or her absence from

¹ The Referring Official originally filed this referral alleging that Town Clerk John Bazzano impermissibly shared supervised absentee locations with Ms. Gonzalez, however this is not a violation on its face.

² The Referring Official also submitted statements from two supervised absentee balloting officials asserting that Ms. Gonzalez was telling the voters that their votes would not count and that their social security benefits would be taken away. These allegations, while serious, were unsubstantiated by any of the voters and will not be addressed herein.

the town of his or her voting residence during all of the hours of voting; (3) his or her illness; (4) his or her physical disability; (5) the tenets of his or her religion forbid secular activity on the day of the primary, election or referendum; or (6) the required performance of his or her duties as a primary, election or referendum official, including as a town clerk or registrar of voters or as staff of the clerk or registrar, at a polling place other than his or her own during all of the hours of voting at such primary, election or referendum. (Emphasis added.)

5. General Statutes § 9-363 bars the circulation of misleading instructions on the manner of voting and reads, as follows:

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. (Emphasis added.)

6. General Statutes § 9-364 bars any person from influencing an elector to refrain from voting, as follows:

Any person who influences or attempts to influence any elector to stay away from any election shall be fined not more than five hundred dollars and imprisoned not more than one year nor less than three months. (Emphasis added.)

7. General Statutes § 9-364a reads:

Any person who influences or attempts to influence by force or threat the vote, or by force, threat, bribery or corrupt means, the speech, of any person in a primary, caucus, referendum convention or election; or wilfully and fraudulently suppresses or destroys any vote or ballot properly given or cast or, in counting such votes or ballots, wilfully

miscounts or misrepresents the number thereof; and any presiding or other officer of a primary, caucus or convention who wilfully announces the result of a ballot or vote of such primary, caucus or convention, untruly and wrongfully, shall be guilty of a class C felony. (Emphasis added.)


8. On its face, the Referral raises the question of whether the act of encouraging someone to vote in a different manner (as opposed to not voting at all) can be considered the same as attempting to deprive a voter of his/her vote under General Statutes §§ 9-363, 9-364, and/or 9-364a.
9. As an initial matter, while the Commission does not believe that such activity could *never* be considered a violation under the above statutes, the facts alleged here do not appear to rise to the level of actively attempting to disenfranchise a voter.
10. Indeed, if these voters were not so impaired that they were reasonably capable of casting their ballots on the day of the Primary, then they were *ineligible* for absentee balloting in the first place. Only those voters who are “unable to appear at his or her polling place during the hours of voting” for the reasons enumerated in the Connecticut Constitution and General Statutes § 9-135 are eligible to take advantage of absentee balloting (whether supervised or unsupervised).
11. Moreover, turning to the investigation into these allegations, the Commission investigation revealed that the Referring Official’s allegations were insufficiently substantiated to support a finding of a violation.
12. The Referring Official included statements from two supervised absentee balloting officials at the 25 Laurel St. location, both of which alleged that Ms. Gonzalez actively discouraged voters from using the supervised absentee balloting process and encouraged them to vote in the primary in person.
13. However, no individual voter was found during the investigation who could substantiate these assertions. Without more, these unsupported allegations are not sufficient to maintain that the activity even occurred in the first place.
14. Accordingly, and for the reasons set forth above, this matter should be dismissed.

ORDER

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

That the matter is dismissed.

Adopted this 13th day of April, 2016 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission