

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Maria Valle, Bridgeport

File No. 2013-137A

FINDINGS AND CONCLUSIONS

The Complaint in this matter concerns three allegations that respondents voted using an improper address. Specifically the Complainant alleges that, in the 2013 Bridgeport Democratic Primary, Respondent Carla A. Gonzalez, Margarita Garcia, and Jocelyn Centeno voted from addresses other than their *bona fide* residence.¹ Additionally, the Complainant alleges that Respondent Alma Maya improperly failed to reject pages from certain nominating petitions.

LAW

1. An elector is eligible to register and vote in a particular town only if such voter is a *bona fide* resident of such town. General Statutes § 9-12, provides in pertinent part:
 - (a) Each citizen of the United States who has attained the age of eighteen years, and *who is a bona fide resident of the town to which the citizen applies for admission as an elector* shall, on approval by the registrars of voters or town clerk of the town of residence of such citizen, as prescribed by law, be an elector, except as provided in subsection (b) of this section. . . .

(Emphasis added.)
2. When registering to vote, an elector must declare under penalty of perjury, his *bona fide* residence on a form prescribed by the Secretary of the State. General Statutes § 9-20, provides in pertinent part:
 - (a) Each person who applies for admission as an elector in person to an admitting official shall, upon a form prescribed by the Secretary of the State and signed by the applicant, *state under penalties of*

¹ Allegations concerning alleged *bona fide* residence violations by Respondents Gonzalez and Garcia will be addressed in this document. Allegations concerning alleged *bona fide* residence violations by Respondent Centeno will be addressed in a separate document.

perjury, his name, bona fide residence by street and number, date of birth, whether he is a United States citizen, whether his privileges as an elector are forfeited by reason of conviction of crime, and whether he has previously been admitted as an elector in any town in this or any other state. Each such applicant shall present his birth certificate, drivers' license or Social Security card to the admitting official for inspection at the time of application. Notwithstanding the provisions of any special act or charter to the contrary, the application form shall also, in a manner prescribed by the Secretary of the State, provide for application for enrollment in any political party, including, on any such form printed on or after January 1, 2006, a list of the names of the major parties, as defined in section 9-372, as options for the applicant. The form shall indicate that such enrollment is not mandatory.

(Emphasis added.)

3. The legislative body of any municipal entity may subdivide into separate voting districts. General Statutes § 9-169, provides:

The legislative body of any town, consolidated town and city or consolidated town and borough may divide and, from time to time, redivide such municipality into voting districts. The registrars of voters of any municipality taking such action shall provide a suitable polling place in each district but, if the registrars fail to agree as to the location of any polling place or places, the legislative body shall determine the location thereof. Polling places to be used in an election shall be determined at least thirty-one days before such election, and such polling places shall not be changed within said period of thirty-one days except that, if the municipal clerk and registrars of voters of a municipality unanimously find that any such polling place within such municipality has been rendered unusable within such period, they shall forthwith designate another polling place to be used in place of the one so rendered unusable and shall give adequate notice that such polling place has been so changed. The registrars of voters shall keep separate lists of the electors residing in each district and shall appoint for each district a moderator in accordance with the provisions of section 9-229 and such other election officials as are required by law, and shall designate one of the moderators so appointed or any other elector of

such town to be the head moderator for the purpose of declaring the results of elections in the whole municipality. The registrars may also designate a deputy head moderator to assist the head moderator in the performance of his duties provided the deputy head moderator and the head moderator shall not be enrolled in the same major party, as defined in subdivision (5) of section 9-372. The selectmen, town clerk, registrars of voters and all other officers of the municipality shall perform the duties required of them by law with respect to elections in each voting district established in accordance with this section. Voting district lines shall not be drawn by a municipality so as to conflict with the lines of congressional districts, senate districts or assembly districts as established by law, except (1) as provided in section 9-169d and (2) that as to municipal elections, any part of a split voting district containing less than two hundred electors may be combined with another voting district adjacent thereto from which all and the same officers are elected at such municipal election. Any change in the boundaries of voting districts made within ninety days prior to any election or primary shall not apply with respect to such election or primary. The provisions of this section shall prevail over any contrary provision of any charter or special act.

(Emphasis added).

4. Voters are only permitted to vote within the voting district to which they are assigned. General Statutes § 9-171 provides:

In all cities, unless otherwise provided by law, *any person entitled to vote at city elections who is registered on the revised registry list last completed, and any person having a legal right to vote at such elections whose name is entered on a copy of such list before voting, may vote therein in the district for which such registry list is made*; provided those persons may vote whose names are restored to the list under the provisions of section 9-42 or whose names are added on the last week day before a regular election under the provisions of section 9-17. Each person so registered shall be permitted to vote, unless he has lost his right by removal from such city since he has registered or by conviction of a disfranchising crime. Any person offering so to vote, and being challenged as to his identity or residence, shall, before he votes, prove his identity with the person

on whose name he offers to vote or his *bona fide* residence in such city, as the case may be, by the testimony, under oath, of at least one other elector or by such other evidence acceptable to the moderator. The names of those voting shall be checked on such copy of such list, and such copy so checked shall be kept on file in the office of the town clerk, as in the case of state elections.

(Emphasis added).

5. Any person who votes in any election when not qualified to do so, faces both civil and criminal liability. General Statutes § 9-7b, provides in pertinent part:

(a) The State Elections Enforcement Commission shall have the following duties and powers: (2) To levy a civil penalty not to exceed. . . (C) two thousand dollars per offense against any person the commission finds to have (i) improperly voted in any election, primary or referendum, and (ii) not been legally qualified to vote in such election, primary or referendum,

6. General Statutes § 9-360, further provides, in pertinent part:

Any person not legally qualified who fraudulently votes in any town meeting, primary, election or referendum in which the person is not qualified to vote, and any legally qualified person who, at such meeting, primary, election or referendum, fraudulently votes more than once at the same meeting, primary, election or referendum, shall be fined not less than three hundred dollars or more than five hundred dollars and shall be imprisoned not less than one year or more than two years and shall be disfranchised. Any person who votes or attempts to vote at any election, primary, referendum or town meeting by assuming the name of another legally qualified person shall be guilty of a class D felony and shall be disfranchised.

7. General Statutes § 9-410 (c) provides, in pertinent part:

(c) Each circulator of a primary petition page shall be an enrolled party member of a municipality in this state who is entitled to vote. Each petition page shall contain a statement signed by the registrar of the municipality in which such circulator is an enrolled party member attesting that the circulator is an enrolled party member in

such municipality. Unless such a statement by the registrar appears on each page so submitted, the registrar shall reject such page. No candidate for the nomination of a party for a municipal office or the position of town committee member shall circulate any petition for another candidate or another group of candidates contained in one primary petition for the nomination of such party for the same office or position, and any petition page circulated in violation of this provision shall be rejected by the registrar. No person shall circulate petitions for more than the maximum number of candidates to be nominated by a party for the same office or position, and any petition page circulated in violation of this provision shall be rejected by the registrar. Each separate sheet of such petition shall contain a statement as to the authenticity of the signatures thereon and the number of such signatures, and shall be signed under the penalties of false statement by the person who circulated the same, setting forth such circulator's address and the town in which such circulator is an enrolled party member and attesting that each person whose name appears on such sheet signed the same in person in the presence of such circulator, that the circulator either knows each such signer or that the signer satisfactorily identified the signer to the circulator and that the spaces for candidates supported, offices or positions sought and the political party involved were filled in prior to the obtaining of the signatures. *Each separate sheet of such petition shall also be acknowledged before an appropriate person as provided in section 1-29. Any sheet of a petition filed with the registrar which does not contain such a statement by the circulator as to the authenticity of the signatures thereon, or upon which the statement of the circulator is incomplete in any respect, or which does not contain the certification hereinbefore required by the registrar of the town in which the circulator is an enrolled party member, shall be rejected by the registrar. Any individual proposed as a candidate in any primary petition may serve as a circulator of the pages of such petition, provided such individual's service as circulator does not violate any provision of this section.*

(Emphasis added)

DISCUSSION

COUNT I: *BONA FIDE RESIDENCE* – RESPONDENT GONZALEZ

8. Count I of the Complaint alleges that Respondent Gonzalez improperly voted in the September 10, 2013 Bridgeport primary.
9. Complainant alleges that the address Respondent Gonzalez used for voting was not her *bona fide* residence. Specifically, Complainant alleges that Respondent's listed address of 85 William Street, Bridgeport, could not have been Respondent's *bona fide* residence, because it was vacant.
10. The investigation into this matter revealed no evidence to support the allegations against Respondent Gonzalez, and in fact, the residence was not, and had not been vacant.
11. Accordingly, the allegations against Respondent Gonzalez should be dismissed.

COUNT II: *BONA FIDE RESIDENCE* – RESPONDENT GARCIA

12. Count II of the Complaint alleges that Respondent Garcia improperly voted in the September 10, 2013 Bridgeport primary.
13. Specifically, Complainant alleges that Respondent Garcia improperly submitted a ballot for the 137th district during the September 10, 2013 Bridgeport primary, when she resided in the 134th district.
14. The basis for the allegation is that a notation on the Record of Absentee Ballot maintained by the Town Clerk concerning Respondent Garcia indicated "D-137" rather than "D-134."
15. Evidence suggests, however, that this was a clerical error, and there is insufficient evidence to support the allegation of a violation. In fact, the Town Clerk indicated that the ballot would have been rejected if submitted for District 134 because she does not appear on the District 134 active voters list.
16. Accordingly, the allegations against Respondent Garcia should be dismissed.

COUNT III: IMPROPERLY ACCEPTING PETITIONS – RESPONDENT MAYA

17. Complaint alleges that Respondent Maya, in her capacity of Town Clerk for the City of Bridgeport, failed to reject invalid nominating petition pages.

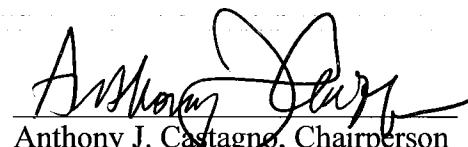
18. Specifically, Complainant claims that one page of the nominating petition that was validated by the Town Clerk should have been rejected because it lacked the “Name of Circulator” within the acknowledgement section of the petition.
19. Evidence does show that the “Name of Circulator” line on the acknowledgement section of the petition was blank on at least one petition page.
20. However, when this exact issue was brought before the Superior Court, Judge Peck held that “the omission of a space where the acknowledging officer can fill in the circulator's name and the absence of the circulator's name from the acknowledgment does not invalidate Part D of the form.” *Kirkley-Bey v. Vasquez*, No. HHD-CV-106007952-S, 2010 WL 1224763, at *11 (Conn. Super. Ct. Mar. 1, 2010).
21. Accordingly, because the name of circulator in the attribution is not required for a valid petition, this count should be dismissed.

ORDER

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

Counts I, II, and III are dismissed.

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



Anthony J. Castagno, Chairperson
By Order of the Commission