

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Julie A. Beaman,
Hartford

File No. 2013-158

FINDINGS AND CONCLUSIONS

The Complainant, brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that City of Hartford Democratic Registrar of Voters Olga Iris Vazquez and other election officials including Ms. Brittany Hall (hereinafter "Respondents"), failed to verify Complainant as a registered voter and provide the location of her polling place during the City of Hartford at November 5, 2013 election. The Complainant also alleged that there were various violations regarding the three ballot questions appearing on the November 5, 2013 Hartford municipal ballot and that Ms. Vazquez advocated regarding those ballot questions in the Registrars of Voters' office during the election.

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

1. Respondent Vazquez was at all times relevant to this complaint, the Hartford Democratic Registrar of Voters.
2. Respondent Hall served as the official Moderator at the Hartford Seminary polling place location at 77 Sherman Street during the November 5, 2013 municipal elections.
3. Three ballot questions appeared on the November 5, 2013 ballot in Hartford. The ballot questions generally pertained (1) approval of a Charter Revision; (2) approval and adoption of a resolution to establish local public financing of certain municipal campaigns; and, (3) approval and adoption of revisions regarding the operations and appointments pertaining to the Office of Registrars of Voters.
4. Complainant alleged the following:
 - (1) Respondent Vazquez while in her office "disparaged" an item included in a ballot question and pointed to ballot questions 1 and 3 when asked by Complainant about the ballot questions.
 - (2) Complainant Vazquez admitted there was a "typo" on the ballot pertaining to the three ballot questions.
 - (3) Respondent Hall incorrectly informed Complainant that her street and her name were not on the voter registry list at the Hartford Seminary polling place.

- (4) Complainant was incorrectly informed by various polling place officials regarding her voter registration status and misdirected to several polling places before ultimately being able to vote at the November 5, 2013 municipal election in Hartford.

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

(a) ***On the day of any primary, referendum or election, no person shall solicit on behalf of or in opposition to the candidacy of another or himself or on 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.*** Nothing contained in this section shall be construed to prohibit (1) parent-teacher associations or parent-teacher organizations from holding bake sales or other fund-raising activities on the day of any primary, referendum or election in any school used as a polling place, provided such sales or activities shall not be held in the room in which the election booths are located, (2) the registrars of voters from directing the officials at a primary, referendum or election to distribute, within the restricted area, adhesive labels on which are imprinted the words “I Voted Today”, or (3) the registrars of voters in a primary, election or referendum from jointly permitting nonpartisan activities to be conducted in a room other than the room in which the election booths are located. The registrars may jointly impose such conditions and limitations on such nonpartisan activity as deemed necessary to ensure the orderly process of voting. The moderator shall evict any person who in any way interferes with the orderly process of voting.
[Emphasis added.]

6. The “Voter’s Bill of Rights” at General Statutes § 9-236b provides, that:
Every registered voter in the state has a right to:

- (6) Cast a ballot using voting equipment that accurately counts all votes; . . .

7. General Statutes § 9-261, provides in pertinent part:

In each primary, election or referendum, when an elector has entered the polling place, the elector shall announce the elector's street address, if any, and the elector's name to the official checkers in a tone sufficiently loud and clear as to enable all the election officials present to hear the same. Each elector who registered to vote by mail for the first time on or after January 1, 2003, and has a "mark" next to the elector's name on the official registry list, as required by section 9-23r, shall present to the official checkers, before the elector votes, either a current and valid photo identification that shows the elector's name and address or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the elector. ... If the elector presents a preprinted form of identification under subdivision (1) of this subsection, ***the official checkers shall check the name of such elector on the official checklist.*** If the elector completes the form under subdivision (2) of this subsection, the registrar of voters or the assistant registrar of voters, as the case may be, shall examine the information on such form and either instruct the official checkers to check the name of such elector on the official checklist or notify the elector that the form is incomplete or inaccurate.

...

(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.*** ...

[Emphasis added.]

8. General Statutes § 9-364 provides:

Any person who, with intent to disenfranchise any elector, influences or attempts to influence by force or threat, bribery or corrupt, fraudulent or deliberately deceitful means any elector to stay away from any election shall be guilty of a class D felony.

[Emphasis added.]

9. General Statutes § 9-355 provides:

Any person who, without reasonable cause, neglects to perform any of the duties required of him by the laws relating to elections or primaries and for which neglect no other punishment is provided, and any person who is guilty of fraud in the performance of any such duty, and any person who makes any unlawful alteration in any list required by law, shall be fined not more than three hundred dollars or be imprisoned not more than one year or be both fined and imprisoned. ... Any public officer or any election official upon whom any duty is imposed by part I of chapter 147 and sections 9-308 to 9-311, inclusive, who wilfully omits or neglects to perform any such duty or does any act prohibited therein for which punishment is not otherwise provided shall be fined not more than two thousand dollars or imprisoned not more than three years or both.
[Emphasis added.]

10. General Statutes § 9-369a provides, in pertinent part:

...
(c) When action is taken for submission of a question, from the time of such action through the day of the election, the clerk of the municipality shall make the full text of the question and the designation which is to appear upon the ballot available for public inspection. If the designation is not prescribed by law, *the clerk shall phrase the designation of the question in a form suitable for printing on the ballot.* The warning of the election shall include a statement that the question is to be voted upon, the designation of the question to appear on the ballot, and a statement that the full text of the question is available for public inspection in the clerk's office.
[Emphasis added.]

11. General Statutes § 9-369b provides, in pertinent part:

(a) Except as provided in subsection (b) of this section, any municipality may, by vote of its legislative body, authorize the preparation and printing of concise explanatory texts of local proposals or questions approved for submission to the electors of a municipality at a referendum. ... Except as provided in subsection (d) of this section, *no expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question.*

Any municipality may, by vote of its legislative body and subject to the approval of its municipal attorney, authorize the preparation and printing of materials concerning any such proposal or question in addition to the explanatory text if such materials do not advocate the approval or disapproval of the proposal or question. This subsection shall not apply to a written, printed or typed summary of an official's views on a proposal or question, which is prepared for any news medium or which is not distributed with public funds to a member of the public except upon request of such member.

[Emphasis added.]

12. Allegation One

Respondent Vazquez while in her office "disparaged" an item included in the ballot questions and pointed to ballot questions 1 and 3 when asked by Complainant about the ballot questions.

13. While disparaging remarks regarding a ballot question may raise issues of electioneering if made within a polling place or within 75 feet of the entrance to a polling place pursuant to General Statutes § 9-236, no such issue pertaining to Allegation One.

14. Further, upon investigation, Respondent Vazquez denied that she made any such comments, which remain uncorroborated. Further, the claim that Respondent Vazquez pointed to questions 1 and 3 on a sample ballot for the November 5, 2013 Hartford municipal election, in response to an inquiry remains unsubstantiated.

15. The evidence upon investigation does not satisfy a minimum threshold to apply General Statutes § 9-369b, as detailed in paragraphs 12 and 13 above, in that it was not established that a public expenditure was made by Respondent Vazquez to advocate for or against the November 5, 2013 ballot questions appearing on the Hartford municipal ballot.

16. After investigation, the Commission finds that the available evidence does not support a finding that it was more likely than not that Respondent Vazquez violated General Statutes § 9-236 by electioneering regarding pending ballot questions or § 9-369b by expending public funds to advocate for such ballot questions. The Commission therefore dismisses Allegation One.

17. Allegation Two

Complainant Vazquez admitted there was a "typo" on the ballot pertaining to the three ballot questions.

18. Pursuant to General Statutes § 9-369a the Town Clerk is responsible for phrasing the designation of the question in a form suitable for printing on the ballot.
19. Further, General Statutes § 9-369a (c) prescribes the requirements pertaining to the form of a ballot question, which includes being able to be answered “yes” or “no,” and beginning with “Shall.”
20. Complainant and Respondent Vazquez do not dispute there was a typographical error on the ballot pertaining to the three ballot questions that appeared on the November 5, 2013 ballot for the Hartford municipal election.
21. Upon investigation, the Commission finds that one of the three ballot questions submitted to electors at the November 5, 2013 election misspells “electors” as “electros.” The ballot questions are otherwise answerable by “yes” or “no” and begin with “Shall” as required by General Statutes § 9-369a (c).
22. The Commission therefore concludes, after investigation, and for the reasons detailed in paragraphs 17 through 20 above, that a single transcription error appearing in the word “electors” in one of three ballot questions on the November 5, 2013 Hartford ballot, does not in this instance constitute a violation of the requirements for the form of a ballot question pursuant to General Statutes § 9-369a (c). The Commission therefore dismisses Allegation Two, as it relates either to Respondent Vazquez or the Town Clerk in this instance.
23. Allegation Three
Respondent Hall incorrectly informed Complainant that her street and her name were not on the voter registry list at the Hartford Seminary polling place.
24. Complainant alleged that she went to three polling places and was turned away by election officials who explained that she did not appear on the voter registry lists at any of the three polling place locations where she first attempted to vote. Subsequently, upon visiting the Hartford Office of Registrars of Voters, Respondent Vazquez confirmed Complainant’s voter registration status and instructed her that she was registered to vote at the polling place in District 4. Upon investigation, it was determined that Respondent Hall was the Moderator of the District 4 polling place.

25. Complainant, as instructed by Respondent Vazquez, returned to the District 4 polling place where, as detailed herein, she had earlier been turned away as she was informed that she did not appear on the voter registration list. Upon returning, Respondent Hall initially informed her that Complainant's street and address were not on the voter registry list for District 4. Upon further review Respondent Hall, with Complainant's assistance, found Complainant's name and address on the voter registry list. There is no dispute that Complainant was allowed to vote and cast her ballot at the District 4 polling place.
26. Connecticut election law requires that a registered voter be allowed to cast a ballot and that polling place Moderators are responsible for ensuring the *process of voting* at their respective polling places. See General Statutes § 9-236a (6) and § 9-261, respectively.
27. Upon investigation, it was determined that the 59 page voter registry list for the District 4 polling place grouped each list of electors by street name which included at the top left hand corner the street name corresponding with the names and residence numbers of the electors who were listed below by name and street number. However, Complainant's street was the only one that started several spaces down the voter registry list page on which it appeared, as well as the only street not to appear at the top left hand corner of a page in the Hartford Seminary polling place voter registry list.
28. It is reasonable to conclude that Respondent Hall's failure to immediately identify the page containing the name of Complainant's street was due to the fact that it was the only street on the District 4 voter registry list that did not appear at the top of the page as its starting point and did not appear on any other page. The formatting of the voter registry therefore may have contributed to the confusion and delay that Complainant met with when announcing her name and address to Respondent Hall when she returned to her polling place on November 5, 2013 at the direction of Respondent Vasquez.
29. Prior Commission cases have resulted in a finding of no denial of voting rights where and elector ultimately casts a ballot despite long delays and/or incompetent elections officials and owing to their own persistence. See *Complaint by Sandra Kush*, West Hartford, File No. 2008-068; *Complaint by Eileen Torow*, Milford, File No. 2009-005; *Complaint by Claude L. Holcomb*, Hartford, File No. 2009-029 (voter cast a ballot after a *four-hour delay* due to a failure by elections officials to properly install a vote-by-phone system); *Complaint by Thomas J. Ryder*, West Haven, File No. 2010-041; and *Complaint by Martha S. Epstein-Semega*, Bridgeport, File No. 2010-153 (elector cast a ballot after a *two-hour delay* due to disorganization of elections official at polling place).

30. The Commission concludes that because the elector was able to ultimately cast her ballot and assert her rights despite delays contributed to by polling place officials, however unreasonable, irritating or inconvenient her voting at the Hartford November 5, 2013 election proved to be, no violations of General Statutes § 9-236 (a) and § 9-261 under these facts and circumstances. The Commission therefore dismisses Allegation Three.

31. Allegation Four

Complainant was incorrectly informed by various polling place officials regarding her voter registration status and misdirected to several polling places before ultimately being able to vote at the November 5, 2013 municipal election in Hartford.

32. Upon investigation, the Commission finds that Complainant's attempts to vote were frustrated by misinformation or misdirection by various polling place officials at the November 5, 2013 election. The Commission notes that polling place officials at two polling locations visited by Complainant correctly determined that Complainant was not eligible to vote at such locations. However, when Complainant arrived in the morning at the Hartford Seminary polling place, and prior to visiting Respondent Vazquez at her office, the Commission finds credible evidence that she was turned away by a polling place official who indicated that Complainant's name and address did not appear on the voter registry list. Finally, the Commission finds Respondent Vazquez as Registrar of Voters *did* facilitate Complainant's in exercising her rights to vote by directing her to the correct polling place location and confirming her eligibility to vote.

33. General Statutes § 9-261 required that Complainant be permitted to vote upon identifying herself and presenting appropriate identification when she initially presented herself to vote at the Hartford Seminary polling place on November 5, 2013. The failure by an unidentified polling place official to allow her to vote at that time did not satisfy the requirements of § 9-261.

34. Upon investigation, and despite the circumstances of Complainant being turned away at the polls as detailed in paragraphs 32 and 33 above, because the checker or polling place official who misinformed Complainant cannot be identified with certainty, the Commission dismisses Allegation Four as it pertains to the *process of voting* and General Statutes § 9-261 as applied to these narrow circumstances.

35. General Statutes § 9-364 makes it a felony for any person, with *intent to disenfranchise any elector*, to influence or attempt to influence by "force or threat, bribery or corrupt, fraudulent or deliberately deceitful means" any elector to "stay away from any election." The Commission notes under these narrow circumstances that evidence of an intent or scheme to keep Complainant from voting was not supported by the facts after investigation.

Rather, the evidence contributes to the finding that by carelessness and/or confusion Hartford polling place officials on November 5, 2013, caused undue delay and substantial inconvenience in Complainant's ability to cast her ballot.

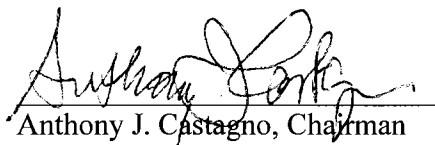
36. The Commission concludes that the evidence does not support a finding that there was an intent to disenfranchise Complainant through influencing her to stay away from the polls in violation of General Statutes § 9-364 pertaining to the facts and circumstances surrounding Complainant's experience in casting her ballot at the November 5, 2013 Hartford municipal election. The Commission therefore dismisses Allegation Four.
37. The Commission does not condone any carelessness or inattention by election officials that appears to have contributed to the delay and effort demanded of Complainant to exercise her right to vote at the November 5, 2013 municipal election in Hartford.
38. The Commission greatly values the Complainant's concerns regarding her experiences during the November 5, 2013 Hartford municipal election pertaining to the integrity of Connecticut elections, as well as the need for a meaningful review of such elections administration issues that her Complaint raises and invites.

ORDER

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

That the matter is dismissed.

Adopted this 16th day of December, 2014 at Hartford, Connecticut.


Anthony J. Castagno, Chairman
By Order of the Commission