

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint of Matthew Feshler, New Haven

File No. 2016-025

FINDINGS AND CONCLUSIONS

The Complainant alleged that Respondent New Haven Registrars Delores Knight and Shannel Evans improperly enrolled him in the incorrect party at the time of his registration, which denied him the ability to participate in the April 26, 2016 presidential preference primary of his choice.

1. The Complainant alleges that on or about 9:30am on April 25, 2016, one day before the April 26, 2016 presidential preference primary, he appeared at the office of the New Haven Registrars of Voters to register to vote and enroll in the Democratic Party in order to participate in the primary between candidates Hillary Clinton and Bernie Sanders.
2. The Complainant alleges that an unidentified employee of the New Haven Registrar of Voters' Office filled out his voter registration application ("VRA") for him based on the information in his drivers' license, which he provided in order to prove his identification and his residency.
3. The Complainant alleges that in addition to providing his name and residency information, he told the individual that he wished to enroll in the Democratic Party.
4. The Complainant alleges that once the unidentified individual completed his voter registration application, she gave it to him to review and sign, which he did, at which point he observed this individual place the VRA on a pile with other applications.
5. According to the Complaint, on the day of the presidential preference primary, he checked his registration status on the website of the Secretary of State only to discover that he was registered with the Republican Party.
6. The Complainant alleges that he attempted to fix what he alleges was an error by the unidentified employee, but was informed by New Haven Registrars' Office staff that his enrollment status could not be changed until after the election. He asserts that he was told that he would be permitted to vote in only the Republican presidential preference primary.

7. General Statutes § 9-20 enumerates the process of admitting electors and reads:

(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 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.

(b) The applicant's statement shall be delivered to the registrars immediately and shall be kept by the registrars as a public record in a safe depository, except that no Social Security number obtained by the registrars prior to January 1, 2000, may be disclosed to the public or to any governmental agency. Any such statement of an elector whose name has been removed from the registry list for a period of at least five years may be placed on microfilm, destroyed or otherwise disposed of by such registrars, in the manner provided in section 7-109. Upon the request of any elector, or if the applicant does not present a birth certificate, drivers' license or Social Security card as required by subsection (a) of this section, at the time an application is made in person to an admitting official or prior to the approval of such an application, any admitting official shall require the applicant to prove his identity, place of birth, age and bona fide residence by the testimony under oath of at least one elector or by the presentation of proof satisfactory to such admitting official. Each person found qualified shall thereupon be admitted as an elector, except as provided in sections 9-12, 9-19e, 9-19g and 9-30. The registrars may request an elector whose date of birth is missing from their records to voluntarily furnish his date of birth. Any admitting official may administer oaths in any matter coming before him under section 9-12, 9-17, 9-19b, subsection (a) of

section 9-19c, section 9-19e, 9-19g, 9-23, 9-23a, 9-25, 9-31a, 9-31b, 9-31l, 9-40a or this section. Said admitting official shall prohibit any activity which interferes with the orderly process of admission of electors.

(c) The application for admission as an elector shall include a statement that (1) specifies each eligibility requirement, (2) contains an attestation that the applicant meets each such requirement, and (3) requires the signature of the applicant under penalty of perjury. Each registrar of voters and town clerk shall maintain a copy of such statement in braille, large print and audio form. The Department of Rehabilitation Services shall produce a videotape presenting such statement in voice and sign language and provide the videotape to the Secretary of the State who shall make copies of the videotape and provide a copy to the registrars of voters of any municipality, upon request and at a cost equal to the cost of making the copy. If a person applies for admission as an elector in person to an admitting official, such admitting official shall, upon the request of the applicant, administer the elector's oath. (Emphasis added.)

8. General Statutes § 9-57 speaks to the process and privileges of enrolling in a party and reads:

Notwithstanding the provisions of any special act or charter to the contrary, whenever any person makes application for admission as an elector in person to an admitting official, he may, on an application for admission as an elector, make application for enrollment on the list of the political party of his preference. Any such elector who has so applied for enrollment shall, upon acquisition of electoral privileges, immediately be entitled to all the privileges of enrollment in the party named in his application, unless (1) he ceases to be an elector in the town or voting district in which he is entitled to vote, as the case may be, (2) he makes application for erasure or transfer or enrollment on the list of another party in accordance with the provisions of section 9-59, (3) he files his application for enrollment with the registrars of voters of his town of residence after twelve o'clock noon on the last business day before a primary, in which case he shall be entitled to the privileges of party enrollment immediately after the primary, or (4) he files his application for enrollment with the registrars of voters of his town of residence on the day of a caucus or convention, in which case he shall be entitled to the privileges of party enrollment immediately after the

caucus or convention. The registrars of voters or assistant registrars shall add the names of all persons making such application to the enrollment list or supplementary enrollment list of the political party of each such applicant's preference, provided, if a caucus or convention is to be held, such registrars or assistant registrars shall prepare separate lists of such names according to party, on the day before such caucus or convention.

9. General Statutes § 9-59 enumerates the procedures and limitations for unenrolling from a party or moving enrollment to another party and reads:

Any elector whose name appears on any enrollment list or who has made application for enrollment may, at any time, make a written application, on an application form for admission as an elector, which shall be signed by such elector, to either registrar for erasure of his name from such list or for transfer of his name to the enrollment list of another party. If an elector makes an application for erasure, his name shall be erased from said enrollment list and, if a municipality is having a primary in which unaffiliated electors are authorized to vote, under section 9-431, such elector's name shall be placed on the list of unaffiliated electors together with the date he is eligible to vote in a primary. *If an elector makes an application for transfer, his name shall be transferred to the enrollment list of another party, together with the effective date of such transfer. Any elector whose name has been transferred from one enrollment list to another or who has applied for erasure or transfer of his name from an enrollment list shall not be entitled to participate or vote in a caucus or primary of any party, participate in the appointment of members to any board or commission that is political in nature, be appointed as a member of any board or commission that is political in nature or be entitled to the privileges accompanying enrollment in any party for a period of three months from the date of the filing of his application for transfer or for erasure.* Any elector who removes his name from the registry list and from an enrollment list in accordance with the provisions of section 9-35b shall not be entitled to enroll in any political party or vote in any primary for three months after such removal. The registrars of voters shall state, on the notice of acceptance sent under sections 9-23g, 9-19b and 9-19e, the date enrollment privileges take effect, if delayed.

10. As an initial matter, the Commission notes that while an employee of the New Haven Registrar of Voters Office is alleged to have been responsible for incorrectly enrolling the

Complainant, the Registrars of Voters themselves are ultimately responsible. It is understandable that a registrar would delegate her duties to a subordinate, but the responsibility for making sure that those duties are performed and performed correctly always rests with the registrars.

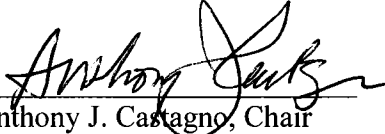
11. Turning to the issue in this matter, the investigation was fairly straightforward and did not yield conclusive evidence supporting a claim that the VRA may have been altered after the fact.
12. The handwriting on the VRA appears to be consistent, aside from the signature of the applicant. The mark selecting the Republican Party does not appear to have been done in any different writing style or with some other writing instrument than that which was used for the other portions of the VRA.
13. Moreover, the Commission notes that ultimately it was the Complainant's responsibility to assure that his VRA was accurate to his specifications. While the Complainant asserts that he did scrutinize portions of the VRA for accuracy, he could not state with certainty that he paid attention to the party selection at the time that he reviewed and signed his application.
14. Considering the aforesaid, the Commission concludes that this matter should be dismissed.

ORDER

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

Dismissed

Adopted this 12th day of October, 2016 at Hartford, Connecticut.



Anthony J. Castagno, Chair
By Order of the Commission