

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re: Referral of the Greenwich Registrars of Voters

File No. 2016-058

FINDINGS AND CONCLUSIONS

The Referring Officials bring this Referral pursuant to Connecticut General Statutes § 9-7b, alleging that Respondent Joan Kent lacked bona fide residence at an address in the Town of Greenwich, but falsely restored her privileges under General Statutes § 9-42 at the November 4, 2014 General Election and impermissibly voted in the Town of Greenwich.

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

1. At all times relevant to the instant Referral, Respondent Joan Kent was a registered voter at an address on Putnam Green in Greenwich. She had been registered at that address since July 2012.
2. The Referring Officials submitted evidence that in May 2013 canvass letters to the Putnam Green address were returned undeliverable, indicating a new address at Havenmeyer Lane in Greenwich. After receiving this information, the Referring Officials moved the Respondent to the inactive list.
3. The Referring Officials submitted evidence, that on or about Election Day November 4, 2014, the Respondent appeared at her polling place in Greenwich and pursuant to General Statutes § 9-42, filled out a new voter registration application swearing that she was a bona fide resident at the Putnam Green address and cast a ballot in that General Election.
4. The Referring Officials submitted evidence that the December 2014 confirmation letter generated by the Connecticut Voter Registration System ("CVRS") was returned undeliverable. After receiving this information, the Referring Officials again moved the Respondent to the inactive list.
5. The Referring Officials submitted evidence that on April 23, 2016 the Respondent appeared at her polling place in Greenwich and, pursuant to General Statutes § 9-42, filled out a new voter registration application swearing that she was a bona fide resident at the Putnam Green address and cast a ballot in the Presidential Preference Primary.

6. The Referring Officials submitted evidence, that the May 2016 confirmation letter generated by CVRS was returned undeliverable. After receiving this information, the Referring Officials moved the Respondent to the inactive list for the third time referred the question of the Respondent's bona fide residency to the Commission.
7. An elector is eligible to register to 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. For purposes of this section a person shall be deemed to have attained the age of eighteen years on the day of the person's eighteenth birthday and a person shall be deemed to be a bona fide resident of the town to which the citizen applies for admission as an elector if such person's dwelling unit is located within the geographic boundaries of such town. No mentally incompetent person shall be admitted as an elector. . . .(Emphasis added.)
8. In addition to the statutory prongs of age, citizenship and geographic location identified above, an individual's bona fide residence must qualify as the place where that individual maintains a true, fixed, and principal home to which he or she, whenever transiently relocated, has a genuine intent to return. See, e.g., *Referral by Manchester Registrars of Voters, Manchester*, File No. 2013-077; *In the Matter of a Complaint by Cicero Booker, Waterbury*, File No. 2007-157. In other words, "bona fide residence" is generally synonymous with domicile. *Id.*; cf. *Hackett v. The City of New Haven*, 103 Conn. 157 (1925). The Commission has concluded, however, that "[t]he traditional rigid notion of 'domicile' has . . . given way somewhat but only to the extent that it has become an impractical standard for the purposes of determining voting residence (i.e., with respect to college students, the homeless, and individuals with multiple dwellings)." (Emphasis added.) *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047 (Emphasis added.). See also *Wit v. Berman*, 306 F.3d 1256, 1262 (2d Cir. 2002) (stating that under certain circumstances the domicile rule for voting residency can give rise to administrative difficulties which has led to a pragmatic application of that rule in New York); *Sims v. Vernon*, Superior Court, Fairfield County, No. 168024 (Dec. 22, 1977) (concluding that an absentee ballot of an individual should be counted as that individual was a bona fide resident of the town in which the ballot was cast.); *Farley v. Louzitis*, Superior Court, New London County, No. 41032 (Oct. 4, 1972) (considering issue of voter residency with respect to college students and stating that "a student, and a nonstudent as well, who satisfies the . . .

residence requirement, may vote where he resides, without regard to the duration of his anticipated stay or the existence of another residence elsewhere. It is for him alone to say whether his voting interests at the residence he selects exceed his voting interests elsewhere.”) (Emphasis added.)

9. The Commission has previously concluded that “[a]n individual does not, therefore, have to intend to remain at a residence for an indefinite period for that residence to qualify as that individual’s bona fide residence.” *Referral by Manchester Registrars of Voters*, Manchester, File No. 2013-081; (quoting *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047). Rather, the individual only has to possess a present intention to remain at that residence. *Id*; see also *Maksym v. Board of Election Com'rs of City of Chicago*, Illinois Supreme Court, Docket No. 111773 (January 27, 2011), 2011 WL 242421 at *8 (“[O]nce residency is established, the test is no longer physical presence but rather abandonment. Indeed, once a person has established residence, he or she can be physically absent from that residence for months or even years without having abandoned it. . . .”)

10. General Statutes § 9-42 reads, in pertinent part:

(b) If it appears at any time that the name of an elector who was formerly admitted or registered as an elector in a town and who is a bona fide resident of such town has been omitted from the active registry list, the registrars of voters shall, upon submission of a new application for voter registration signed by the elector under penalties of false statement, add such name to the active registry list, provided no name shall be added to the active registry list on election day without the consent of both registrars of voters.

11. The investigation in this matter confirmed the Referring Officials’ allegations insofar as the evidence supported a finding that the Respondent did not appear to have a claim to bona fide residence at the Putnam Green property at the time that she restored her privileges and voted on April 23, 2016, and perhaps also when she voted on November 3, 2014. Investigators received a statement from the current occupant of the Putnam Green property who asserts that she has lived there since December 2015 and that the Respondent does not reside there.
12. However, after significant efforts, including but not limited to multiple letters to all known addresses, as well as background checks, Commission staff have been unable to locate the Respondent and/or to make any contact with her in order to give her notice of the present matter and to give her the opportunity to respond to the allegations here and to be heard according to the provisions of General Statutes § 9-7b.

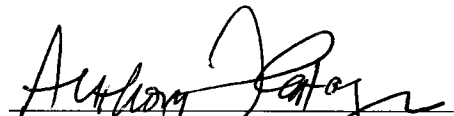
13. Until such time as the Commission is able to serve the Respondent with notice of this matter and the allegations against her, the Commission cannot proceed. As nearly a year has passed since the initiation of this matter and as the Commission has exhausted the resources at its disposal, the Commission will dismiss this matter, without prejudice.
14. Should the Referring Officials obtain reliable information as to the Respondent's location or should they make positive contact with the Respondent, they may re-file their allegations at that time.

ORDER

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

That the matter is dismissed without prejudice.

Adopted this 21st day of June, 2017 at Hartford, Connecticut.


Anthony J. Castagno, Chairperson
By Order of the Commission