

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Peter J. Gostin,
New Britain

File No. 2016-100

FINDINGS AND CONCLUSIONS

Complainant filed this complaint, pursuant to General Statutes §9-7b, alleging that Mr. Christopher J. Desmangles violated elections law by voting an absentee ballot and then appearing to vote in person at the November 8, 2016 election. After the investigation of the complaint, the Commission makes the following findings and conclusions:

1. Complainant, at all times relevant to this complaint, was the Republican Registrar of Voters of the City of New Britain.
2. Complainant alleged that Mr. Desmangles violated General Statutes § 9-159o by failing to request at the Town Clerk's office prior to 10:00 a.m. that his absentee ballot be withdrawn prior to voting in-person at his polling place that same day. Further, Complainant alleged that Mr. Desmangles violated § 9-360 by voting twice at the November 8, 2016 election in New Britain.
3. Complainant provided a copy of a November 8, 2016 checkers' list that was from the central counting book for absentee ballots for District 15 in New Britain. The list has Mr. Desmangles' name marked off with an "A," next to his name signifying that he voted by absentee ballot. Additionally, Complainant provided a copy of the checkers' list from the District 15 polling place in New Britain from November 8, 2016 that appears to have Mr. Desmangles' name marked off as voting in-person. There is no "A" next to his name on the checkers' list used at the District 15 polling place location.
4. General Statutes § 9-135b, provides:
Any elector who has returned an absentee ballot to the clerk and who finds he is able to vote in person shall proceed before ten o'clock a.m. on election, primary or referendum day to the municipal clerk's office and request that his ballot be withdrawn.
The municipal clerk shall remove the ballot from the sealed package and shall mark the serially-numbered outer envelope, which shall remain unopened, "rejected" and note the reasons for rejection. The elector shall also endorse the envelope. The rejected

ballot shall then be returned to the sealed package until delivered on election, primary or referendum day to the registrars of voters in accordance with section 9-140c. The clerk shall then give the elector a signed statement directed to the moderator of the voting district in which the elector resides stating that the elector has withdrawn his absentee ballot and may vote in person. Upon delivery of the statement by the elector to the moderator, the moderator shall cause the absentee indication next to the name of the elector to be stricken from the official checklist and the elector may then have his name checked and vote in person. In the case of central counting, the clerk shall make a similar notation on the duplicate checklist to be used by the absentee ballot counters. [Emphasis added.]

5. General Statutes § 9-360, provides:

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. [Emphasis added.]

6. In response to this complaint and investigation, Mr. Desmangles denied that he voted twice in at the November 8, 2016 election in New Britain. Further, he provided a detailed explanation with supporting documents and witness testimony to indicate that he was out-of-state during the hours of voting. Accordingly, Mr. Desmangles asserts therefore that he was not required to withdraw his absentee ballot and did not vote in-person as alleged.
7. The Commission finds, after a thorough investigation, that detailed records as well as witness testimony establish a reliable timeline to establish that Respondent was absent from New Britain during the hours of voting on November 8, 2016. More specifically, the Commission finds evidence that supports Mr. Desmangles' assertion that he was not available during the hours of voting in New Britain on November 8, 2016. Specifically, the Commission finds the following evidence to support his assertions and denials pertaining to Complainant's allegations:
 - (1) A 8:00:16 a.m. receipt from the New Jersey Turnpike Authority for use of for toll entering highway;
 - (2) A receipt from McDonald's restaurant in North Brunswick, New Jersey on November 8, 2016;
 - (3) A letter from his employer confirming that company records indicated Mr. Desmangles had three on-site assignments at three different locations in New Jersey from 9:00 AM to 6:00 PM on November 8, 2016;
 - (4) A 7:13:32 p.m. receipt form the George Washington Bridge for use of the bridge crossing from New Jersey into New York; and,
 - (5) A sworn statement from a third-party that Mr. Desmangles was his house guest in New York State on the evenings of November 7 and 8, 2016.

8. The Commission finds that the evidence that Mr. Desmangles entered the New Jersey Turnpike at 8:16 a.m. on the morning of the November 8, 2016 election in New Britain precludes the likelihood, based on the time and distance necessary to travel between New Jersey and New Britain, Connecticut, that an individual in his circumstance's would have had the time to vote in-person at the 6:00 a.m. opening of the polls.
9. Moreover, the Commission finds it reasonable to infer that Mr. Desmangles, having accessed the George Washington Bridge from New Jersey at just after 7:00 p.m. on the evening of the November 8, 2016 election any attempt to at returning to his home in New Britain *via* New York, would have made it extremely unlikely for him to arrive back in time to vote in New Britain in-person.
10. More specifically, the Commission can reasonably calculate that approximately 100 miles and two hours of travel would have remained in Mr. Desmangles' trip back to New Britain on November 8, 2016 when he used the George Washington Bridge just after 7:00 p.m. proceeding from New Jersey to New York on his way back to his home in New Britain. Finally, the Commission determines that the aforementioned circumstances mean that Mr. Desmangles, if he had attempted to make it back to vote in-person, would more than likely have arrived at his home in New Britain shortly after 9 p.m. and therefore *after* the 8:00 p.m. close of the polls on November 8, 2016.
11. The Commission finds that the facts after investigation satisfactorily establish that Mr. Desmangles' claim to have been absent from the State of Connecticut during the hours of voting in New Britain on November 8, 2016 is plausible. Moreover, the Commission finds that the established timeline is consistent with Mr. Desmangles' stated purpose for using an absentee ballot in this instance.


12. The Commission finds, to the extent that Mr. Desmangles' work schedule and commitments in New Jersey on November 8, 2016, as verified by records and testimony, as well as the third-party corroboration as to his presence in New York on the evenings of November 7 and November 8, lend credibility to his claim that he was not in a position to return to New Britain to vote-in person and support his denial of voting more than once as alleged.
13. Finally, while not dispositive, the Commission notes the fact that a third-party, by sworn statement, was willing to attest to Mr. Desmangles' spending the nights of November 6, 7 and 8, 2016 as his house guest in New York, adds credence to Mr. Desmangles' stated purpose for voting absentee ballot. On balance, the cumulative weight after investigation supports the finding of Mr. Desmangles' absence from New Britain during the hours of voting on November 8, 2016.
14. The Commission concludes, under these narrow and specific circumstances, that the facts pertaining to Mr. Desmangles activities on November 8, 2016 do *not* support the conclusion that he violated General Statutes § 9-159o by failing to request the withdrawal of his absentee ballot for the November 8, 2016 election in New Britain.
15. Further, the Commission concludes that the facts did not substantiate the allegation that Mr. Desmangles voted twice in the same election in New Britain and therefore violated § 9-360. The Commission therefore dismisses the allegations that served as the basis for this complaint and investigation.

ORDER

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

That the matter is dismissed.

Adopted this 22nd day of March 2017, Hartford, Connecticut.



Anthony J. Castagno

Chairman

By Order of the Commission