

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by the Wilton Registrars of Voters

File No. 2016-109

FINDINGS AND CONCLUSIONS

The Referring Officials made this referral pursuant to Connecticut General Statutes § 9-7b, alleging that that the Respondent Katherine A. Tarbox registered to vote and voted in the November 8, 2016 general election in Wilton when she was not a *bona fide* resident of that town.

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:

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.)

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 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. General Statutes § 9-172 further provides:

At any regular or special state election any person may vote who was registered on the last-completed revised registry list of the town in which he offers to vote, and he shall vote in the district in which he was so registered; 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 weekday before a regular election under the provisions of section 9-17. Each person so registered shall be permitted to vote if he is a bona fide resident of the town and political subdivision holding the election and has not lost his right 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 the town and political subdivision holding the election, as the case may be, by the testimony, under oath, of at least one other elector or by such other evidence as is acceptable to the moderator.

4. The Commission has previously held that an individual's *bona fide* residence is the place where that individual maintains a true, fixed, and principal home to which he or she, whenever transiently located, has a genuine intent to return. *See, e.g., Complaint of Cicero Booker, Waterbury*, File No. 2007-157. In other words, "*bona fide* residence" is generally synonymous with domicile. *Id.*; *cf. Hackett v. 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)." *Complaint of James Cropsey, Tilton, New Hampshire*, File No. 2008-047. *See also, Wit v. Berman*, 306 F.3d 1256, 1262 (2d Cir. 2002) (stating that under certain circumstances domicile rule for voting residency can create administrative difficulties that might lead to its pragmatic application in New York); *Sims v. Vernon, 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.)

5. The evidence in this matter supports the following findings:

- a. Prior to of July 2016, the Respondent resided at 201 Millstone Road, Wilton, CT.
- b. In July of 2016, the Respondent terminated her lease at 201 Millstone Road, Wilton, CT.
- c. From July of 2016 until after November 8, 2016, the Respondent did not have a possessory interest in any real property.
- d. From July of 2016 until after November 8, 2016, the Respondent traveled for work an average of 25 days per month.
- e. During the period between July of 2016 and November 8, 2016, when not traveling for work, the Respondent stayed at the homes of family and friends.
- f. During the period between July of 2016 and November 8, 2016, the Respondent had her mail forwarded to her parent's vacation home located at 15 Seaside Sparrow Road, Hilton Head Island, SC.
- g. During the period between July of 2016 and November 8, 2016, the Respondent never resided at 15 Seaside Sparrow Road, Hilton Head Island, SC.
- h. During the period between July of 2016 and November 8, 2016, the Respondent states that she believed herself to be a resident of Wilton because she had not yet established residency anywhere else.
- i. On November 8, 2016, the Respondent registered to vote and voted in the Town of Wilton pursuant to the election day registration procedures detailed in General Statutes § 9-19j.
- j. The Respondent stated her address was 201 Millstone Road, Wilton, CT, on the voter registration she completed on November 8, 2016.
- k. The Respondent stated she used this address because, as she had no other address to claim.
- l. Respondent is awaiting responses to her graduate school applications before obtaining a permanent residence.

- m. The Respondent has represented to Commission staff that she will update her voter registration upon establishing a permanent residence.
 - n. The Respondent did not cast any votes in the November 8, 2016 election other than the one she cast in Wilton.
6. From July of 2016, through November 8, 2016, the Respondent had no fixed residence, and while not indigent, was effectively homeless.
 7. The Secretary of the State has provided the following guidance concerning homeless voters:

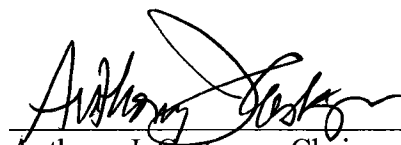
Courts have said that an individual is a resident of a town if they have some nexus to that particular town, and there is an intention to return to that town when absent from it. This could be some town that you have spent time in, slept in, and intend to go back to even if you are not presently there.
 8. While the Respondent should not have listed an inaccurate address on her voter registration, it is not clear that the Respondent had more contacts with any town other than Wilton.
 9. What the Respondent should have done, in this situation, is advise the Registrar of her unique situation and coordinate a way to complete her registration more accurately.
 10. Under these circumstances, the Commission declines to take any further action with regard to this complaint.

ORDER

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

The Commission shall take no further action with regard to this complaint.

Adopted this 19th day of April, 2017 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission