

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Gary Fuller,
Stratford

File No. 2017-022

FINDINGS AND CONCLUSIONS

The Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that the Trumbull town officials violated his mother's right to vote an absentee ballot prior to the November 8, 2016 election.

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

1. Complainant alleged that his mother, Ms. Jaluhi Slocum, was denied an absentee ballot by Town of Trumbull officials prior to the November 8, 2016 election. Complainant was appointed Conservator for Ms. Slocum by decree of the Court of Probate, Trumbull Probate District, on June 26, 2015.
2. By way of background, Ms. Jaluhi Slocum was deceased on December 12, 2016. The Commission received this complaint on April 24, 2017.
3. 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.]

4. General Statutes § 9-159q, provides in pertinent part:

(a) The administrator of an institution, as defined in subsection (a) of section 9-159q, a residential facility for persons with intellectual disability licensed pursuant to section 17a-227, or a community residence, as defined in section 19a-507a, shall use his or her best efforts to provide written notice pursuant to subsection (b) of this section to any conservator or guardian appointed to manage the affairs of a resident of such institution, facility or residence pursuant to sections 45a-644 to 45a-663, inclusive, or sections 45a-669 to 45a-683, inclusive, at least seven days prior to the date any voter registration or voting opportunity is presented to the resident with respect to a primary, referendum or election. As used in this section, "voter registration" or "voting opportunity" includes, but is not limited to, the solicitation or completion of: (1) An application for admission as an elector; or (2) an absentee ballot, regardless of whether supervised absentee ballot voting will take place at such institution. ... ***The notification provisions of this section shall not apply when a member of the resident's immediate family provides the resident with an absentee ballot application*** or brings the resident to a polling place to vote.

(b) ***Any such notice shall indicate that the resident is entitled to vote or register to vote unless the resident is determined incompetent to do so by a probate court,*** or unless the registrars of voters or their designees jointly conclude at a supervised voting session that the resident declines to vote the ballot or they are unable to determine how the resident desires to vote the ballot, as provided in subsection (g) of section 9-159q. The notice shall also specify that a resident who requires assistance to vote in accordance with section 9-264 by reason of blindness, disability or inability to read or write may receive assistance from a person of the resident's choosing.

[Emphasis added.]

5. 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 official who is convicted of fraud in the performance of any duty imposed upon him by any law relating to the registration or admission of electors or to the conduct of any election shall be disfranchised. 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 guilty of a class E felony.

6. The Commission finds that the June 26, 2015 Court of Probate decree pertaining to Complainant's appointment as Conservator to his mother Ms. Jaluhi Slocum indicated that "[m]edical evidence ha[d] presented," and the court found by "clear and convincing evidence" that Ms. Slocum had:

[A] mental and physical condition that results in the respondent being unable to receive and evaluate information or make or communicate decisions to such an extent that the respondent is unable, even with appropriate assistance to meet essential requirements for personal needs.

[A] mental and physical condition that results in the respondent being unable to receive and evaluate information to such an extent that the respondent is unable, even with appropriate assistance, to perform his/her affairs ...

7. The Commission finds, after investigation, that Trumbull town officials, after meeting with Ms. Slocum, determined that she was not eligible to receive an absentee prior to the November 8, 2016 election.
8. Further, the Commission notes that the aforementioned decision does not appear to contradict the Probate Court decree that appointed Complainant Conservator of his mother as of July 26, 2016, which indicated that Ms. Slocum did not exhibit the necessary mental and physical condition to "evaluate information" or "communicate decisions" even with assistance.

9. The Commission concludes, in light of the parameters of fitness to be an elector, as well as the discretion to determine an individual's fitness to exercise the vote delineated in General Statutes and 9-12 and § 9-159q, Trumbull town officials reasonably exercised their statutory discretion in determining that Ms. Slocum was not fit to exercise her franchise by absentee ballot at the November 8, 2016 election.
10. Therefore, the Commission concludes that the totality of circumstances, as detailed herein, do not support the Complainant's allegation that Trumbull town officials, in violation of their duties and responsibilities pursuant to General Statutes § 9-355, refused to provide his mother Ms. Slocum an absentee ballot in connection to the November 8, 2016 election.
11. The Commission therefore dismisses Complainant's allegation as it was not supported by the facts or the law after investigation under these narrow and specific circumstances.

ORDER

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

That the matter is dismissed.

Adopted this 17th day of MAY, 2017 at Hartford, Connecticut.



~~Anthony J. Castagno, Chairperson~~

By Order of the Commission

Salvatore A. Bramante, Vice-Chair