

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Denise Lagasse, Wolcott

File No. 2017-083B

FINDINGS AND CONCLUSIONS

The Complainant alleged that Jan King, the moderator for the Wakelee School polling place in Town of Wolcott during the 2017 municipal general election was impermissibly electioneering within 75 feet of the outside entrance to the polling place, in possible violation of General Statutes § 9-236 (a).¹

Allegations

1. The Complainant here alleges that Wakelee School polling place moderator Jan King:

was heard by various individuals outside of the Wakelee School polling station on Election Day, between the hours of 6:00p.m. and 7:00p.m., where she was the election Moderator, speaking to Sean Mowad, husband of [Town Clerk candidate] Karen Mowad. Ms. King was very loudly voicing a statement that ‘Karen Mowad is the best choice for Town Clerk and experience matters.’ Witnesses to this action state that Ms. King was speaking very loudly and that voters passing by to enter the polls could easily hear her and may have been influenced by her statements.

¹ The following are the Commission’s findings and conclusions based on those portions of the Complainant’s statement of complaint which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission’s jurisdiction. Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission’s jurisdiction.

Law

2. General Statutes § 9-236 reads, in pertinent part:

(a) On the day of any primary, referendum or election, *no person shall solicit on behalf of or in opposition to the candidacy of another or himself or on behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach.* Nothing contained in this section shall be construed to prohibit (1) parent-teacher associations or parent-teacher organizations from holding bake sales or other fund-raising activities on the day of any primary, referendum or election in any school used as a polling place, provided such sales or activities shall not be held in the room in which the election booths are located, (2) the registrars of voters from directing the officials at a primary, referendum or election to distribute, within the restricted area, adhesive labels on which are imprinted the words "I Voted Today", or (3) the registrars of voters in a primary, election or referendum from jointly permitting nonpartisan activities to be conducted in a room other than the room in which the election booths are located. The registrars may jointly impose such conditions and limitations on such nonpartisan activity as deemed necessary to ensure the orderly process of voting. The moderator shall evict any person who in any way interferes with the orderly process of voting.

(b) *(1) The selectmen shall provide suitable markers to indicate the seventy-five-foot distance from such entrance.* Such markers shall consist of a board resting on an iron rod, which board shall be not less than twelve inches square and painted a bright color and shall bear the figures and letters "75 feet" and the following words: "On the day of any primary, referendum or election no person shall solicit in behalf of or in opposition to another or himself or peddle or offer any ballot, advertising matter or circular to another person or loiter within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway

or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach.”

...
(Emphasis added.)

Investigation

3. The Complainant here did not personally witness the events alleged, but provided names of witnesses to the events alleged
4. The investigation obtained statements from apparent witnesses Lee Ann Perino, Roger Picard, and Angela Serrano regarding the allegations.
5. Ms. Perino and Ms. Serrano, both of whom work with the Complainant at the Tynan & Iannone law firm, asserted that they heard Ms. King and confirmed the substance of what the Complainant alleged Respondent King said.
6. Mr. Picard was unable to confirm the statements attributed to Ms. King, but between the three accounts, the investigation as able to infer that such statements, if they occurred at all, more likely than not occurred just past the 75' marker required by General Statutes § 9-236 (b)(1), outside of the zone enumerated in General Statutes § 9-236 (a).

Analysis

7. General Statues § 9-236 (a) enumerates a bright line rule on what activities are prohibited in or near a polling place and exactly the zone in which such activities are prohibited. The Commission is within its authority to regulate such activities provided that it can conclude that such activities occurred within the regulated area.
8. However, if the Commission cannot conclude that it is more likely that not that such activities occurred within the regulated area, such activities fall outside the Commission's jurisdiction.
9. Here, even assuming that the statements attributed to Respondent King could be considered to have constituted “solicit[ing] on behalf of or in opposition to the candidacy of another” the Commission cannot conclude that it is more likely that not that such statements were made within the regulated area.

10. Considering the aforesaid, the Commission concludes that it cannot hold that any violation of General Statutes § 9-236 (a) occurred here by Respondent King.

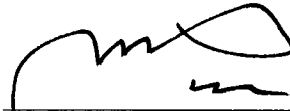
11. Accordingly, this matter should be dismissed.

ORDER

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

Dismissed.

Adopted this 17th day of July, 2019 at Hartford, Connecticut.



~~Anthony J. Castagno, Chairperson~~
By Order of the Commission
Stephen T. Penny