

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re Referral of the Greenwich Registrars of Voters

File No. 2018-006

FINDINGS AND CONCLUSIONS

The Referring officials, the Registrars of Voters of the town of Greenwich, brought this Referral pursuant to Connecticut General Statutes § 9-7b, alleging that Respondent Michael Grossman may have lacked bona fide residence at an address in the Town of Greenwich at which he was registered and at which he had cast a ballot in the 2016 Presidential Preference Primary.

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

1. At all times relevant to the instant Referral, Respondent Michael Grossman registered to vote and enrolled in the Democratic Party at an address on River Road Extension in Greenwich on or about April 18, 2016.
2. The records of the Connecticut Voter Registration System ("CVRS") indicate that Respondent cast a ballot using this address only once, at the April 26, 2016 Presidential Preference Primary for the Democratic Primary.
3. The Referring Officials alleged, and presented evidence in support, that the owners of the River Road Extension property, a residential rental property, had no record of the Respondent ever renting at that property at any point.
4. The Referring Officials submitted this Referral to the Commission to investigate the matter further and make a determination of bona fide residence pursuant to the Commission authority under General Statutes § 9-7b (a) (3) (E).
5. 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.)

6. 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 Gary Amato, North Haven*, File No. 2009-158 (2010); *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.)
7. 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. . . .”)

8. The Commission has both the authority to determine whether a person is eligible to be or remain an elector, as well as the authority to issue civil penalties were a person has either registered and/or voted improperly. General Statutes § 9-7b reads, in pertinent part:

- (a) The State Elections Enforcement Commission shall have the following duties and powers:

...

- (2) To levy a civil penalty not to exceed . . . (C) two thousand dollars per offense against any person the commission finds to have (i) improperly voted in any election, primary or referendum, and (ii) not been legally qualified to vote in such election, primary or referendum, .

..

- (3) . . . (E) To issue an order following the commission's determination of the right of an individual to be or remain an elector when such determination is made (i) pursuant to an appeal taken to the commission from a decision of the registrars of voters or board of admission of electors under section 9-311, or (ii) following the commission's investigation pursuant to subdivision (1) of this subsection;

9. The Primary at issue at here was a Presidential Preference Primary, which is largely administered the same as a state or local primary. General Statutes § 9-476 reads, in pertinent part:

Except as otherwise provided in this chapter, the provisions of chapter 145 and chapter 153 concerning absentee voting at primaries, conduct of primaries and return and tabulation of the vote at such primaries shall apply as nearly as practicable and in the manner prescribed by the Secretary of the State, to a presidential preference primary. . . .

10. General Statutes § 9-361 reads, in pertinent part:

The following persons shall be guilty of primary or enrollment violations: (1) Any person unlawfully voting or participating or

attempting to vote or participate in any primary in which he is not eligible to vote or participate; . . .

11. The Respondent here was very cooperative with the Commission's investigation. When questioned by the Commission, he did not deny that at the time that he registered to vote at the River Road Extension property, he was no longer living there. But, he asserted the year prior he had been splitting time living at his parents' home on Crane Road North in Stamford and with his then-girlfriend, had been a prior tenant of the River Road Extension property.
12. He asserted that at the time of the election, he was no longer with his girlfriend, the River Road Extension tenant, but he was still living at his parents' home on Crane Road North in Stamford.
13. However, he asserted that at the time he registered to vote, his driver's license still had the River Road Extension address. He asserted that he wanted to participate in the Democratic Presidential Preference Primary between Hillary Clinton and Bernie Sanders and that he did not understand the rules regarding registering to vote and thought that he needed to register in the town on his driver's license. He asserted that he did not realize at the time that he needed to register at the Stamford address even though the presidential preference primary was statewide.
14. As the Respondent does not generally deny that he was not a bona fide resident of in the Greenwich property, that question is straightforward, as is the question of whether he voted impermissibly. Even though he may have had a valid claim to a bona fide residence in another jurisdiction in Connecticut and even though the presidential preference primary ballots statewide were identical, the law still requires that a person register and vote only in the jurisdiction in which such voter is a bona fide resident.
15. Considering the aforesaid, the Commission concludes that the Respondent was not a bona fide resident of the property in Greenwich at the time that he registered to vote and cast a ballot in the April 26, 2016 presidential preference primary and that both actions were done impermissibly.
16. However, the Commission also finds that the Respondent's mistake had no effect on the outcome of the presidential preference primary, as he would have been eligible to cast a ballot from the Crane Road North property in Stamford. In prior similar matters in which the respondent was a first-time offender and in the respondent's ballot would not have changed had s/he been correctly registered, the Commission had chosen to take no further action on the respondent. See, e.g., *In the Matter of a Complaint of Andre Grandbois, Plainville*, File No. 2015-156 (no further action, as the respondent's registered address and actual address were in the same voting district, for which the ballots were identical.)

17. Here, the Respondent clearly had no right to cast a ballot in the Presidential Preference Primary from the address in Greenwich. However, as he was otherwise eligible and as he has no prior similar matters before the Commission, the Commission concludes that, consistent with its decision in *Granbois*, the Commission need not exercise its civil penalty jurisdiction and will take no further action in this matter other than to order the Greenwich Registrars of Voters Office to remove the Respondent from the active registry. However, in the future, should the Respondent be found liable for registering and/or voting at a Connecticut address at which he is not a bona fide resident, he will be subject to civil penalties of up to \$2000 per offense.

ORDER

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

That the Greenwich registrars of voters forthwith remove Michael S Grossman, CVRS Voter ID: 004574397, from the active registry in Greenwich.

That the Commission take no further action in this matter.

Adopted this 16th day of May, 2018 at Hartford, Connecticut.



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

Salvatore
Bramante