

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by the Secretary of the State

File No. 2019-026

FINDINGS AND CONCLUSIONS

The Complainant brought this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Respondent James Finn may have lacked bona fide residence at an address in the City of Bristol at which he were registered and from they had cast multiple ballots.

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

1. At all times relevant to the instant Complaint, Respondent James Finn has been registered to vote at an address on Buckboard Lane in the City of Bristol since October 2000.
2. The records of the Connecticut Voter Registration System (“CVRS”) indicate that the Respondent is regular voter in the City of Bristol, casting ballots in 14 elections and 1 primary since 2004, all of them in person.
3. The Secretary alleged that her office received a letter from Mr. Finn in which he may have admitted to lacking bona fide residency in Connecticut.
4. The Secretary 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.
7. In other words, "bona fide residence" is generally synonymous with domicile. *Hackett v. The City of New Haven*, 103 Conn. 157 (1925); *In the Matter of an Appeal of Gerald J. Porricelli and Marianne Porricelli against the Board for Admission of Electors and Registrars of the Town of Greenwich*, File No. 2007-054.
8. 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.)
9. 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. . . .”)

10. 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;

Investigation

Letter to the Secretary

11. The Secretary of the State's Office received a letter signed by Respondent Finn in which Respondent Finn expressed his concern after receiving a Confirmation of Voting Residence ED-642 form from the Bristol Registrar of Voters Office pursuant to the National Change of Address system's requirements. In the letter, Respondent Finn asserted that he and his wife had submitted a form to the local post office in Bristol to temporarily forward mail, which apparently triggered the inquiry as to his registration status.

12. In the letter, Respondent Finn stated, in pertinent part:

My wife and I have domiciled in Connecticut since 1992 when I was transferred to Connecticut due to military service. My wife was born and grew up in Connecticut. The other reasons we frequent Connecticut are related to my wife's extended family and Veterans Administration requirements for treatment. I am a disabled veteran and I have been a Texas resident since 1976 when I entered active military service with the Department of Defense. I have never been a Connecticut resident. If we were not annually residing in Connecticut every November we would be registered voters in another state.

13. In her Referral, forwarded on her behalf by Staff Attorney Lewis Button, the Secretary asked the Commission to review the Respondent's bona fide residency in Bristol based largely on his potentially contradictory statements in this paragraph regarding domicile and residence variously in Connecticut and Texas.

Evidence of Residences in Both Connecticut and Texas

14. The investigation revealed that Respondent Finn is the co-owner of the Buckboard Lane property with his wife, which they purchased in April 2000.
15. The investigation revealed at least one vehicle currently registered at the Bristol property to Respondent Finn's wife.
16. The investigation also revealed a property in Harker Heights, Texas purchased by the Finns in March 2012.
17. Additionally, the investigation revealed that Respondent Finn filled out a voter registration form in Bell County Texas at the Harker Heights address in March 2013.
18. The form on which Mr. Finn registered to vote in Texas contained no field for indicating a prior registered address for purposes of cross-jurisdictional voter-list consistency. As such, the investigation revealed that Connecticut never received notice of the Texas registration for the purposes of removal pursuant to the National Voter Registration Act
19. However, the records of Bell County Elections also revealed that Respondent Finn has never cast a ballot using this registration and has voted only in Connecticut.
20. Further, the records of Bell County Elections revealed no voter record for Mr. Finn's spouse.

Response

21. Mr. Finn provided a response to the instant Referral and the Commission investigators' request to clarify his written statements regarding residency status.
22. Mr. Finn confirmed that he and his wife split their time between homes in Connecticut and Texas. Mr. Finn asserted that he has lived in homes in the City of Bristol since 1992 and that his wife's family are in that area. He stated that he also has lived in and owned homes in Texas starting in 1976 when he was stationed there for the United States Air Force during his military service.¹ He clarified that he was a resident of Texas, but a domiciliary of Connecticut. The seasonal cycle takes he and his wife between the states, but always in Connecticut during the months surrounding the General Election.
23. As concerns the Texas registration, Mr. Finn confirmed that he believed he had a right to remain registered in Texas and to participate in local elections there. He confirmed that he was well aware that he was not permitted to vote in the same election from two different locations and had taken pains not to do so.

Analysis

24. Turning to the question here the evidence is clear that Mr. Finn is a dual-property owner in both Connecticut and Texas. He is a longtime elector at the same address in Bristol and pays property taxes in town. He has a long history of voting, mainly in person, in the city. Whether or not Mr. Finn spends a majority and/or plurality of his time in Connecticut versus Texas need not be determined here, as in Connecticut, a person is not required to spend a plurality of time at a particular address for that address to remain such person's bona fide residence. There is no evidence here either provided by the Secretary or discovered during the investigation that Mr. Finn abandoned his bona fide residence in Connecticut merely by his ownership of a property in another jurisdiction. As such, the matter should be dismissed against this Respondent.

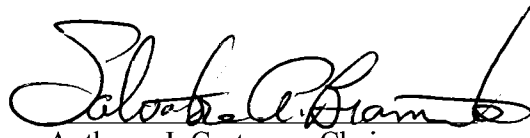
¹ Mr. Finn was discharged from active service in 2011.

ORDER

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

That the matter is dismissed.

Adopted this 7th day of October, 2020 at Hartford, Connecticut.

A handwritten signature in cursive script, appearing to read "Salvatore A. Bramante".

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