

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Constance Berardi, North Stonington

File No. 2019-125

FINDINGS AND CONCLUSIONS

The Complainant brought this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Respondent Brett Mastroianni may have lacked bona fide residence in the Town of North Stonington at which he was registered and from he had cast multiple ballots.¹

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

1. At all times relevant to the instant Complaint, Respondent Brett Mastroianni first registered to vote in North Stonington in 2007.
2. The records of the Connecticut Voter Registration System (“CVRS”) indicate that the Respondent is a regular voter in the Town of North Stonington.
3. 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

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.

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. 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.
5. 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.
6. 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;

Investigation

9. The Complainant here alleged more specifically that:

Mr. Mastroianni has falsified his residency in order to remain an elected official in the town of North Stonington. Mr. and Mrs. Mastroianni have filed at least three different addresses and were not legal residents of North Stonington for numerous years. He did not reside in the town of N. Stonington, while holding the elected positions and current nomination for First Selectman. Mr. Mastroianni is the current Chair for Economic Development, the Chair for North Stonington Republican Committee, and a Justice of the Peace.

10. While the Complaint included documents establishing the Respondent's candidacy for municipal office for the November 2019 General Election, she did not provide evidentiary support for her assertions that the Respondent lacked bona fide residence. When asked to

supplement the Complaint, the Complainant provided what appeared to be an invitation to the Respondent's wedding ceremony held in the Town of Mystic.

11. The Respondent here generally denied the allegations and asserted that he has been a bona fide resident in North Stonington since 2006. He provided the purchase agreement for his first home in Stonington
12. The Respondent admitted that there was a short period in which he needed to move out of the marital home to an adjoining municipality during the divorce proceedings involving his first wife, but he asserted that the property remained in his name and it was always his present intent to promptly remove back to North Stonington.
13. He provided evidence that he did physically move back to a residence inside the Town of North Stonington in the form of a lease agreement in his name. His address record in CVRS reflects this move.

Analysis

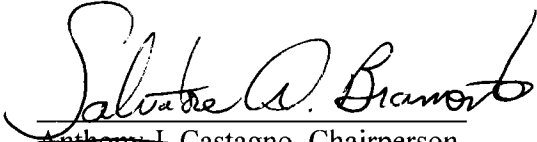
14. Turning to the question here the Complainant alleges that the Respondent was not a bona fide resident in North Stonington "for numerous years." This allegation is supported by neither information provided by the Complainant nor information developed during the instant investigation. Moreover, while by his own admission the Respondent needed to temporarily move out of North Stonington due to his marital situation, this is not grounds for automatic loss of bona fide resident status. Given the temporary nature of the move and Respondent's prompt return, the Commission concludes that his intent to return was genuine and that he had not abandoned his bona fide residence in Stonington during the interregnum between North Stonington homes.
15. Considering the aforesaid, the matter should be dismissed.

ORDER

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

That the matter is dismissed.

Adopted this 18 day of November 2020 at Hartford, Connecticut.


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