

**STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Joel Gonzalez, Bridgeport

File No. 2019-136

**FINDINGS AND CONCLUSIONS**

The Complainant brought this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Marilyn Moore falsely signed the circulator statement on a primary petition in support of her candidacy for Mayor.

**Law**

1. General Statutes § 9-410 enumerates the form and procedural requirements for a primary petition municipal office and town committee member, including but not limited to the requirements for a circulator, and reads as follows:

(a) The petition form for candidacies for nomination to municipal office or for election as members of town committees shall be prescribed by the Secretary of the State and provided by the registrar of the municipality in which the candidacy is to be filed or duplicate petition pages shall be produced in accordance with section 9-409, and signatures shall be obtained only on such forms or such duplicate petition pages. Such form shall include, at the top of the form and in bold print, the following:

WARNING

IT IS A CRIME TO SIGN THIS PETITION

IN THE NAME OF ANOTHER PERSON

WITHOUT LEGAL AUTHORITY TO DO SO

AND YOU MAY NOT SIGN THIS PETITION

IF YOU ARE NOT AN ELECTOR.

The form shall include thereon a statement of instructions to persons using the form and shall indicate the date and time by which it shall be filed and the person with whom it shall be filed. The form shall provide spaces for the names and addresses of the candidates, the offices to which nomination is sought or the positions to which election is sought and the political party holding the primary, and shall provide lines for the signatures, street addresses, dates of birth and the printing of the names of enrolled party members supporting the person or persons on behalf of whose candidacy the petition is used. Only as many candidates may be proposed in any one primary petition for the same office or position as are to be nominated or chosen by such party for such office or position; but any one primary petition may propose as many candidates for different offices or positions as there are nominations to be made or positions to be filled.

(b) The names of enrolled party members signing a primary petition need not all be on one sheet but may be on several sheets, but no person shall sign more than one petition page for the same candidate or candidates. Any person who signs a name other than the person's own to a primary petition filed under the provisions of this section or who signs a name other than the person's own as circulator of such a petition shall be fined not more than one hundred dollars or imprisoned not more than one year or both. Each such sheet shall indicate the candidate or candidates supported, the offices or positions sought and the political party the nomination of which is sought or which is holding the primary for election of town committee members. No page of such a petition shall contain the names of enrolled party members residing in different municipalities and any page thereof which has been certified by the registrars of two or more municipalities shall be rejected by the registrar. Withdrawal of petition signatures shall not be permitted.

(c) Each circulator of a primary petition page shall be an enrolled party member of a municipality in this state who is entitled to vote. Each petition page shall contain a statement signed by the registrar of the municipality in which such circulator is an enrolled party member attesting that the circulator is an enrolled party member in such municipality. Unless such a statement by the registrar appears on each page so submitted, the registrar shall reject such page. No candidate for the nomination of a party for a municipal office or the position of town

committee member shall circulate any petition for another candidate or another group of candidates contained in one primary petition for the nomination of such party for the same office or position, and any petition page circulated in violation of this provision shall be rejected by the registrar. No person shall circulate petitions for more than the maximum number of candidates to be nominated by a party for the same office or position, and any petition page circulated in violation of this provision shall be rejected by the registrar. *Each separate sheet of such petition shall contain a statement as to the authenticity of the signatures thereon and the number of such signatures, and shall be signed under the penalties of false statement by the person who circulated the same, setting forth such circulator's address and the town in which such circulator is an enrolled party member and attesting that each person whose name appears on such sheet signed the same in person in the presence of such circulator, that the circulator either knows each such signer or that the signer satisfactorily identified the signer to the circulator and that the spaces for candidates supported, offices or positions sought and the political party involved were filled in prior to the obtaining of the signatures. Each separate sheet of such petition shall also be acknowledged before an appropriate person as provided in section 1-29. Any sheet of a petition filed with the registrar which does not contain such a statement by the circulator as to the authenticity of the signatures thereon, or upon which the statement of the circulator is incomplete in any respect, or which does not contain the certification hereinbefore required by the registrar of the town in which the circulator is an enrolled party member, shall be rejected by the registrar. Any individual proposed as a candidate in any primary petition may serve as a circulator of the pages of such petition, provided such individual's service as circulator does not violate any provision of this section. (Emphasis added.)*

### **Background**

2. The allegations here concern the 2019 municipal election for Mayor of Bridgeport.
3. Respondent Marilyn Moore challenged the incumbent candidate in the Democratic Party Primary by gathering a sufficient number of petitions to qualify for the primary ballot.
4. Ms. Moore was one of the circulators of the primary petitions benefitting her campaign for mayor.

### **Allegation**

5. The Complainant alleged, and provided evidence in support, that Marilyn Moore did not witness at least two signatures on a primary petition page on which she signed as circulator.
6. Specifically, the Complaint alleged that the Respondent did not properly meet the requirements of a circulator for primary petition signatures collected at Respondent Moore's campaign headquarters.
7. The Complainant submitted a video recording of Jennifer Valle and Jonathan Rodrigues affixing their signatures to a primary petition page and asserted that the video established that Respondent Moore was not sufficiently "present" for the signature, which made her attestation false.

### **Investigation**

8. As the Complainant's basis for his allegations is the video, the investigation here was straightforward.
9. As alleged, the video establishes that the primary petition pages were laid out at campaign headquarters for any individual to sign with campaign volunteer Sauda Baraka taking primary responsibility over the collection.
10. However, while it is unclear from the video whether Respondent Moore was close enough to affirmatively observe the signature, the video does establish that Respondent Moore was in the same room when the signatures were being affixed to the document.
11. Moreover, the investigatory review of the video established that Respondent Moore approached at least Mr. Rodrigues and spoke to him after he signed the primary petition.
12. The video was inconclusive as to whether Respondent Moore spoke with Ms. Valle.

## Response

13. The Respondent here was prompt in her reply and cooperative with the Commission's investigation.
14. In her reply to the instant Complaint, Respondent Moore generally denied that she knowingly signed a petition as circulator on a page for which she did not witness every signature.
15. Respondent Moore specifically asserted that the video is at worst, inconclusive, and in fact established that Respondent Moore was sufficiently "present," which she asserts is not a requirement so specific as to demand that she actually be standing even within arm's length of the signers when they execute their signature.

## Analysis

16. General Statutes § 9-410 requires that each individual who circulates a petition must provide an attestation under the penalties of false statement that each person who signed such petition did so in the circulator's presence, and that each signatory was either known to the circulator or satisfactorily identified him or herself to the circulator.
17. An implicit requirement of General Statutes § 9-410 is that the circulator's attestation be true. Accordingly, if the circulator signed a petition statement that he or she knew or reasonably should have known was untrue, that circulator will be deemed to have violated the statute concerning that particular petition. See *In the Matter of a Complaint by Maritza Gant, New Haven*, File No. 2018-047; *In the Matter of a Complaint by Harry A. Gagliardi, Jr., Hamden*, File No. 2017-042.
18. Intentional misrepresentation of the contents of a petition is a criminal violation of General Statutes § 9-368c.<sup>1</sup>

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<sup>1</sup> General Statutes § 9-368c reads:

(a) No person shall intentionally misrepresent the contents of a petition circulated under title 9.

(b) Any person who violates any provision of this section shall be guilty of a class D felony."

19. Turning to the question here, the Commission holds that as an initial matter, it is not *per se* impermissible for a circulator to receive assistance in completing their task. That is, a circulator need not necessarily be the one to actually make the solicitation and/or hand the document to the elector to sign, provided the circulator is “present” when this occurs and can otherwise meet her responsibilities of witnessing the signature and identifying the signatory.
20. As such, the mere fact that Ms. Baraka was involved does not mean that Respondent Moore could not have met her responsibilities.
21. The questions here are whether or not the Respondent was “present” to witness the signature and identify the signers.
22. The question of what constitutes “presence” for the purposes of satisfying that requirement for petition circulation has not been explored in detail.<sup>2</sup>
23. However, *In the Matter of a Referral by Greenwich Republican Registrar of Voters Fred DeCaro*, File No. 2018-049 is relevant here. *DeCaro* involved, *inter alia*, an individual circulating petition pages in the parking lot of a supermarket along with other individuals who assisted him in the effort.
24. Video surveillance in *DeCaro* established that the circulator and his assistants fanned out in the parking lot to collect the signatures.
25. In *DeCaro*, the video covered the entire transaction—from solicitation to the departure of the signatories—and clearly established that at least 3 of the signatures collected by the assistants were solicited and executed well out of range of the circulator, who had no involvement with the individual signers during any part of the transaction from solicitation through to when the signers got into their vehicles and exited the premises.
26. The Commission in *DeCaro* held that the video established that the circulator did not have the opportunity to properly meet his responsibilities given the conditions laid out in the video, which provided a complete picture of the transactions.

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<sup>2</sup> However, in *In the Matter of a Complaint by Michael Barry, Hartford*, File no 2006-286 the Commission considered what constituted “presence” as that term is utilized in the prohibition on candidates and committees being “present” when an absentee ballot is being executed. The candidate stood in the same room in the Town Clerk’s office on the opposite side of a half-wall with a line-of-sight to electors executing their absentee ballots. The Commission concluded, after a hearing, that this was sufficient to establish “presence” for the purposes of General Statutes § 9-140b (e),

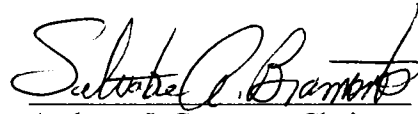
27. Here the video evidence appears to establish that the Respondent at least had the *opportunity* to meet her responsibilities. The events of this case occurred not in a public location, but rather at the *campaign headquarters for the candidate*, to which the signers here *came of their own volition* and executed the petition signature with the Respondent in the same room in her own headquarters.
28. As established in *DeCaro*, the mere opportunity to witness the signature and identify the signer isn't enough to meet the statutory requirements of a circulator if the evidence establishes that a circulator never actually followed through.
29. However, the available evidence in this case, especially the video, did not yield the same clear picture as in *DeCaro*. The Commission here agrees with the Respondent that the available evidence is at most, inconclusive, and on its face at least establishes that Respondent Moore had the opportunity to witness the signature and even establishes that she spoke, on camera, to at least one of the signatories. Without more, the Commission cannot determine that it was more likely than not that Respondent Moore failed to meet her responsibilities as a circulator in this instance.
30. Certainly, this would have been a cleaner question if Respondent Moore had taken a more active circulator role (or simply had Ms. Baraka sign the statement), but considering the aforesaid, the facts available here do not rise to the level of a violation.
31. Considering the aforesaid, this matter should be dismissed.

ORDER

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

Dismissed.

Adopted this 16<sup>th</sup> day of December of 2020 at Hartford, Connecticut



Anthony J. Castagno, Chair  
By Order of the Commission

*Silvatore A. BRAMANTE Vice Chair*