

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Diwanda Johnson, Hartford
In the Matter of a Complaint by Keith Johnson, Hartford

File No. 2019-148
File No. 2019-149

FINDINGS AND CONCLUSIONS

The Complainants alleged in separate Complaints that the Hartford Registrars of Voters improperly moved them to the inactive voter list.¹

Background

1. At all times relevant to the instant Complaint, the Complainants were husband and wife and registered electors in the City of Hartford who appeared on the inactive list of electors enrolled in the Democratic Party on the day of the September 10, 2019 Democratic Party Primary in that city.

Allegation

2. In their Complaints, the Complainants alleged that they showed up at Parkville School polling place and were informed that their names were not on the official registry list of active voters and that the elections officials there could not explain to them why they were removed.
3. Complainant Diwanda Johnson asserted that she complained about not being on the list and was allowed to vote only after the polling place officials called Town Hall and only after she was required to fill out a new Voter Registration Application ("VRA").

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.

4. Complainant Keith Johnson asserted that he left the polling place after being told he was not on the official registry list of active voters and then returned later and was allowed to cast a ballot under similar circumstances to his wife.
5. The Complainants allege that they were improperly removed from the active voter list and almost disenfranchised.

Law

6. General Statutes § 9-32 concerns the annual canvass to ascertain changes of residence in each municipality and reads, in pertinent part

(a) In each municipality the registrars, between January first and May first, annually, shall cause either (1) a complete house to house canvass to be made in person of each residence on each street, avenue or road within such municipality, (2) a complete canvass to be made by mail of each residence located on each street, avenue or road within such municipality, provided, upon agreement of both registrars, the National Change of Address System of the United States Postal Service may be used instead of such mailing, (3) a complete canvass to be made by telephone of each residence located on each street, avenue or road within such municipality, or (4) a complete canvass of each residence within such municipality by any combination of such methods, for the purpose of ascertaining the name of any elector formerly residing on such street, avenue or road who has removed therefrom; provided in the odd-numbered years, no canvass need be conducted by the registrars in a town which holds its regular municipal election on the first Monday of May in odd-numbered years. The Secretary of the State shall adopt regulations in accordance with the provisions of chapter 54 setting forth the procedure to be followed in conducting any such canvass by either mail or telephone.

(b) No elector's name shall be removed from the registry list, pursuant to section 9-35, unless (1) the elector confirms in writing that the elector has moved out of the municipality, or (2) the elector has been sent, by forwardable mail, a notice and a postage prepaid preaddressed return card in accordance with the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time, four years prior to removal from the registry list and such elector

has failed to respond and has not restored the elector's name to the active registry list under section 9-42 or voted in an election or primary in the municipality during the period beginning on the date of the notice and ending four years later. If a registrar or a registrar's designee conducts a telephone canvass, a telephone call by any such person shall constitute an attempt to contact the elector only if the elector's household has a published telephone number and the telephone is in operating order. If a registrar, or a registrar's designee, during a telephone canvass contacts a telecommunication device for the deaf in an elector's household, such call shall not constitute an attempt to contact the elector unless the registrar, or the registrar's designee, uses a similar device or uses a message relay center. No elector's name shall be removed from the active registry list pursuant to said section 9-35 as a result of information obtained during a telephone canvass, unless the registrar believes such information is reliable and sufficient to enable the registrar to determine if the elector is entitled to remain on the list under the provisions of this chapter.

(c) During any such canvass, a canvasser may distribute nonpartisan literature, prescribed by the Secretary of the State, which describes opportunities for voter registration. No Social Security number obtained by the registrars during the canvass prior to January 1, 2000, may be disclosed to the public or to any governmental agency. Each municipality shall provide its registrars of voters with funds sufficient to conduct the annual canvass in accordance with the requirements of this section. Not later than the thirtieth day following each regular election held in a municipality, the registrars of the municipality shall file with the Secretary of the State a certificate that the canvass was conducted prior to the election in accordance with the requirements of this section. The certificate shall be on a form prescribed by the Secretary of the State, shall specify the method or methods by which, and the date or dates on which, the canvass was conducted, and shall be signed under penalty of false statement by all registrars of voters of the municipality (Emphasis added.)

7. General Statutes § 9-35 concerns the making and arrangement of a preliminary list, active and inactive registry lists, the removal of names, and changes of address within municipalities, and reads, in pertinent part:

...

(e) In any case in which the registrars have obtained reliable information of an elector's change of address within the municipality, the registrars shall enter the name of such elector on the registry list at the place where the elector then resides, provided, if such reliable information is the National Change of Address System of the United States Postal Service, the registrar shall change the registry list and send the elector a notice of the change by forwardable mail and a postage prepaid preaddressed return form by which the elector may verify or correct the address information. *If during the canvass the registrars determine that an elector has moved out of the municipality and such elector has not confirmed in writing that the elector has moved out of the municipality, the registrars shall, not later than May first, send to the elector, by forwardable mail, a notice required by the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time, together with a postage prepaid preaddressed return card on which the elector may state the elector's current address.* In the year of a presidential preference primary, the registrars shall send such notice not earlier than the date of such primary. *If the registrar does not receive the return card within thirty days after it is sent, the elector's name, including the name of an elector who has not voted in two consecutive federal elections, shall be placed on the inactive registry list for four years.* At the expiration of such period of time on the inactive registry list, such name shall be removed from the registry list. If such elector applies to restore the elector's name to the active registry list or votes during such period, the elector's name shall be restored to the active registry list. Such registrars shall retain a duplicate copy or record of each such notice in their office or, if the registrars do not have a permanent office, in the office space provided under section 9-5a, and shall note on such duplicate copy or record the date on which such notice was mailed. In each municipality, any elector, upon change of residence within the municipality, may cause the elector's registration to be transferred to the elector's new address by presenting to the registrars a new

application for voter registration. The registrars shall thereupon enter the elector's name on the list at the elector's new residence; provided no transfer of registration shall be made on the registry list on election day without the consent of each registrar. (Emphasis added.)

8. General Statutes § 9-42 concerns the restoration of names to the active registry list under certain circumstances and the requirements regarding completion and use of inactive registry list, and reads:

(a) If it appears at any time that the name of an elector who was formerly admitted or registered as an elector in a town and who is a bona fide resident of such town has been omitted from the active registry list compiled under section 9-35 by clerical error, the registrars of voters shall add such name to such list; provided no name shall be added to the active registry list on election day without the consent of both registrars of voters.

(b) If it appears at any time that the name of an elector who was formerly admitted or registered as an elector in a town and who is a bona fide resident of such town has been omitted from the active registry list, the registrars of voters shall, upon submission of a new application for voter registration signed by the elector under penalties of false statement, add such name to the active registry list, provided no name shall be added to the active registry list on election day without the consent of both registrars of voters.

(c) The registrars of voters shall cause the inactive registry list compiled under section 9-35 to be completed and printed and available to the public. The registrars of voters shall provide copies for use in the polling place on election day. If on election day the name of an elector appears on such inactive registry list, including the name of an elector who has not responded to a confirmation of voting residence notice under subsection (e) of section 9-35 and has not voted in two consecutive federal elections, such name shall be added to the active registry list upon submission of a new application for voter registration signed by the elector, under penalties of false statement, before an election official at the polling place and upon the consent of both registrars of voters or assistant registrars of voters, as the case may be, in the polls.

(d) The name of no elector shall be added to the active registry list under the provisions of this section, unless the elector's name or some name intended for his name was on the active registry list for at least one of the four years previous.

Investigation

9. By way of background, the records of the Connecticut Voter Registration System (“CVRS”) reveal that on or about October 11, 2016 and October 26, 2016, Complainant Diwanda Johnson and Keith Johnson, respectively, became registered electors at an address on Newton Street in Hartford.
10. The CVRS records indicate that both of the Complainants are regular voters—their last vote prior to the events of this case was at the November 6, 2018 General Election.
11. The investigation here found that the records of the City of Hartford indicate that the Registrars of Voters Office, pursuant to their responsibilities under General Statutes § 9-32, sent canvass postcards to the Complainants on or about March 1, 2019.
12. The records also indicate that such cards were returned by the United States Postal Service as undeliverable on or about May 14, 2019.
13. The records indicate that on or about May 14, 2019, the Hartford Registrars of Voters moved the Complainants to the inactive list due to the card being returned as undeliverable.
14. The investigation did not reveal any evidence of the events alleged here in the moderator’s diary. However, the assistant registrar’s log confirms that the Complainants and one other voter were moved from active to inactive at the Parkville School polling place on the date of the September 10, 2019 Democratic Party Primary.
15. In a follow up interview with Complainant Diwanda Johnson she did confirm that she was informed that she was on the inactive list and that she was restored to the active list and voted, but that the process of restoring her to the active list took approximately 35-45 minutes.

Analysis

16. Turning to the main question here, based on the records available from the Hartford Registrar's Office, it appears that the canvass cards were sent to the correct address, but the United States Postal Service was unable to make delivery and they were returned. It is unclear from the evidence available in this case why this occurred.
17. However, based on the aforesaid, the Complainants appear to have been properly moved by the Registrars of Voters from the active to the inactive voter list in this instance due to the failed delivery.
18. While Complainant Diwanda Johnson's assertion of the time she had to wait was not part of her initial allegations, it was nonetheless unfortunate, if accurate, but not in and of itself a violation.
19. Based on the evidence available here, the elections officials followed the proper procedure by first calling the Registrar's Office to confirm the Complainants' requests to move from inactive to the active list was permissible.² Once the Complainants' status was confirmed by the Registrars of Voters, they were properly allowed to fill out a new VRA and vote.
20. Considering the aforesaid, these matters should be dismissed.

² Section 9-42-1 of the Regulations of Connecticut State Agencies reads, in pertinent part:

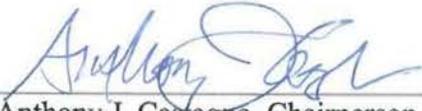
(c) An application for restoration by an elector to the registry list may be made in person at a polling place on election or primary day. Such application shall be submitted to the registrar(s) (singly in a primary), or assistant registrar(s) (singly in a primary) if the registrar(s) is not present at the polling place, provided the assistant registrar(s) shall contact the registrar(s) to determine whether the elector's name appeared on the registry list for one of the four previous years or on one of the preliminary lists for the year in which such application is made. The elector shall include with such application documentary or testimonial evidence as set forth in subsection (b) of this section. If such evidence is determined by such registrar(s) or assistant registrar(s) of voters to satisfactorily prove continued bona fide residence from the date such elector's name last appeared on the registry list for one of the four previous years or on one of the preliminary lists for the year in which such application is made to the date of the primary or election, such official(s) shall add the applicant's name to the registry list, attach the completed application thereto and the elector shall be permitted to vote.

ORDER

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

Dismissed.

Adopted this 20 day of JAN, 2021 at Hartford, Connecticut.


Anthony J. Castagno, Chairperson
By Order of the Commission