

**STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Referral by the Clinton Registrar of Voters

File No. 2020-083A

**FINDINGS AND CONCLUSIONS**

The Referring Official asserted in her referral that Clinton elector, Jack Sheehan impermissibly cast two overseas absentee ballots in the November 3, 2020 General Election<sup>1</sup>

**Background**

1. The events here concern the November 3, 2020 General Election.

**Allegation**

2. At all times relevant to the instant Referral, the Referring Official here was the Clinton Democratic Registrars of Voters
3. The Referring Official asserted that Clinton elector Jack Sheehan, a Clinton elector who at all times relevant to the instant Referral was a resident in Spain, cast an overseas absentee ballot that was received on or about October 19, 2020 via the postal mail and a second overseas ballot that was received on or about October 30, 2020 in a drop box.

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<sup>1</sup> The following are the Commission's findings and conclusions based on those portions of the allegations which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission's jurisdiction. Any statements 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.

**Law**

4. 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,

5. General Statutes § 9-360 provides, in pertinent part:

Any person not legally qualified who fraudulently votes in any town meeting, primary, election or referendum in which the person is not qualified to vote, and **any legally qualified person who, at such meeting, primary, election or referendum, fraudulently votes more than once at the same meeting, primary, election or referendum**, shall be fined not less than three hundred dollars or more than five hundred dollars and shall be imprisoned not less than one year or more than two years and shall be disfranchised. Any person who votes or attempts to vote at any election, primary, referendum or town meeting by assuming the name of another legally qualified person shall be guilty of a class D felony and shall be disfranchised. (Emphasis added.)

6. Voting more than once in the same election is also a federal offense. 52 USC § 10307 reads, in pertinent part:

(e) Voting more than once

(1) Whoever votes more than once in an election referred to in paragraph (2) shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(2) The prohibition of this subsection applies with respect to any general, special, or primary election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United

States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(3) As used in this subsection, the term "votes more than once" does not include the casting of an additional ballot if all prior ballots of that voter were invalidated, nor does it include the voting in two jurisdictions under section 10502 of this title, to the extent two ballots are not cast for an election to the same candidacy or office.

7. The Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA") provides for, *inter alia*, expedited absentee ballot voting for members of the military and United States citizens living abroad and is codified at 42 USC 1973ff et seq.
8. Connecticut's implementation of voting absentee under UOCAVA is largely found in General Statutes § 9-158a, *et seq.*
9. While the UOCAVA absentee ballot process largely conforms to the process found for non-UOCAVA voters, additional relevant language is found in General Statutes § 9-153f which permits UOCAVA voters to vote by "alternative means" including receiving their ballot electronically:

Notwithstanding the provisions of section 9-140, any elector who is living, or expects to be living or traveling before and on election day, outside the territorial limits of the several states of the United States and the District of Columbia and any member of the armed forces who is an elector or an applicant for admission as an elector, or the member's spouse or dependent if living where such member is stationed, may apply for a blank absentee ballot to vote for all offices being contested at an election or primary. Application shall be made upon a form prescribed by the Secretary of the State or on the federal postcard application form provided pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 100 Stat. 924, 42 USC 1973ff et seq., as amended from time to time, or any other applicable law. The municipal clerk receiving such an application shall, as soon as a complete list of candidates and questions to be voted upon at such election or primary becomes available, issue the ballot either by mail or electronic means, as requested by the elector, which shall be the blank ballot prescribed

and provided by the Secretary of the State under section 9-153e. The clerk shall include with the ballot a complete list of the offices to be voted upon, the number of individuals for which each elector may vote, the candidates, and, in the case of an election, the party designation of each candidate and questions to be voted upon. **If such ballot is issued by electronic means, the clerk shall include a certification prescribed by the Secretary of the State that the elector shall be required to complete, sign and return with the completed ballot in order for such ballot to be counted.** If application for an absentee ballot is made at the time of availability of regular absentee ballots as provided in section 9-140, the provisions of section 9-140 shall prevail. **Except as otherwise provided in this section, the procedures governing the issuance of ballots under this section shall conform as nearly as may be to the procedures provided in section 9-140.** (Emphasis added.)

10. The provisions for voting an additional absentee ballot are found in General Statutes § 9-153b:

(a) If any absentee ballot applicant applies for an additional absentee ballot, he shall note on his application the reason for his applying for an additional absentee ballot and he shall return the absentee voting set formerly issued to him before another set is issued to him, provided, if he is unable to return the set formerly issued to him, his application for an additional ballot shall be accompanied by a statement signed under the penalties of false statement in absentee balloting in which he shall set forth the reason for his inability to return the set formerly issued to him. If he fails to file such a statement, no additional set shall be issued to him.

(b) Except as provided in subsection (d) of this section for members of the armed forces, the municipal clerk shall mark the serially-numbered outer envelope "rejected" and note the reasons therefor on all absentee ballots and envelopes so returned to him and shall seal such unopened ballots in a package and retain them in a safe place until delivered in accordance with section 9-140c. The municipal clerk shall keep a list of the names of each absentee ballot applicant who has applied for more than one absentee ballot, as provided in section 9-140, together with the serial number appearing on the outer

envelope of each absentee voting set issued to each such applicant including the latest one issued.

(c) When an absentee ballot applicant has applied for more than one absentee ballot, only the latest absentee ballot issued to him by the municipal clerk as determined by the serial number appearing on the outer envelope may be counted and all absentee ballots and envelopes formerly issued to that applicant shall be marked rejected as provided in subsection (b) of this section and not counted.

**(d) Subsections (a), (b) and (c) of this section shall not apply to members of the armed forces, and if more than one absentee ballot is received from any elector who is a member of the armed forces, the ballot of such elector bearing the latest postmark shall be counted if no absentee ballot of such elector has already been counted, provided that the municipal clerk shall mark all serially-numbered outer envelopes bearing earlier postmarks "rejected" and note the reasons for rejection and shall deliver such ballots in accordance with section 9-140c. (Emphasis added.)**

11. It is clear from subsection (d), above, that the restrictions and procedures concerning receipt and return of an additional ballot do not apply to members of the armed forces, who like overseas civilian voters, are permitted to receive their ballots electronically.<sup>2</sup> Subsection (d) implies that an armed forces member could submit an additional ballot without following the procedures in subsections (a), (b), and (c).
12. However, Title 9 is silent as to the procedures surrounding the submission of an additional ballot by United States civilians living overseas. As such, pursuant to General Statutes § 9-3, the Commission consulted with the Secretary of the State on the question.
13. The Secretary's interpretation was that for overseas electors submitting ballots under § 9-153f, the process of handling additional ballots is the same. The last ballot received is the one that is counted.

#### **Investigation**

14. The investigation here found that Mr. Sheehan was a Clinton elector residing temporarily in Spain at the time of the November 3, 2020 General Election.

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<sup>2</sup> See General Statutes § 9-153e

15. The investigation revealed that Mr. Sheehan applied for an overseas absentee ballot using a Federal Post Card Application Form<sup>3</sup> which was delivered upon the Clinton Town Clerk in early August 2020.
16. In an e-mail communication between Mr. Sheehan and the Town Clerk's office, they informed him that his ballot would be e-mailed out to him on or about October 2, 2020.
17. The records found during the investigation showed that Mr. Sheehan printed out his e-mailed ballot, executed it, and sent it along with all required materials on or about October 5, 2020 to Clinton via international mail with tracking and then e-mailed the Clinton Town Clerk to let her know.
18. According to Mr. Sheehan's tracking, the ballot was held up in transit at a US Airport and had not been delivered upon the Clinton Town Clerk by October 22, 2020 and he became concerned that it would not be received by the date of the General Election.
19. As such, and in the absence of any contrary guidance from either the Secretary of the State or the Town Clerk, Mr. Sheehan informed the Town Clerk via e-mail on October 22, 2020 that he would be sending her a second ballot.
20. Mr. Sheehan printed out a second copy of the ballot, executed it, and sent it via express international mail (for 35.9 Euros or approximately \$41) to his mother, Diane Kacin's house on or about October 23, 2020.
21. According to the records of the Clinton Town Clerk, the second ballot, sent via express international mail, was dropped into the Clinton Drop Box and received by her office on or about October 30, 2020.
22. According to the records of the Clinton Town Clerk, only one ballot was counted, as their understanding was to administer receipt of subsequent overseas absentee ballots in the same manner as the receipt of non-overseas absentee ballots: only count the last ballot received and void any previous ballots.
23. According to the records of the Clinton Town Clerk, Mr. Sheehan's receipt of an emailed ballot triggered a process of tracking the receipt of ballots such that their system would not have allowed the same elector to have more than one ballot counted, overseas or otherwise.

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<sup>3</sup> This was permissible for him to do under General Statutes § 9-153a, as he was an overseas voter.

Mr. Sheehan's situation was handled no differently; as such, two ballots were not counted, only one

**Conclusion**

24. Turning to the question here, the Commission concludes that the evidence supports a finding that only one ballot was counted for Mr. Sheehan.
25. Moreover, in the absence of any other guidance in the law or from the Secretary of the State's website on how he was to act in the event that his first ballot was held up in transit, the Commission cannot conclude that Mr. Sheehan violated any statute within the Commission's jurisdiction by sending the second ballot, especially where, as here, he did so with the full knowledge of the Town Clerk.
26. The mechanisms in place to make sure that only one ballot is counted worked as they should here, while also allowing Mr. Sheehan the flexibility to take necessary steps to protect the exercise of his franchise.
27. Considering the aforesaid, this matter should be dismissed.

ORDER

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

*Dismissed.*

Adopted this 30<sup>th</sup> day of August, 2022 at Hartford, Connecticut.



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Stephen T. Penny, Chairperson  
By Order of the Commission