

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by John Flynn, Norwalk

File No. 2021-032

FINDINGS AND CONCLUSIONS

The Complainant alleged that on Election Day, November 3, 2020, incumbent state representative and candidate Travis Simms and unnamed individuals associated with Rep. Simms loitered and/or solicited on behalf of his candidacy within the 75' zone demarcated outside the Columbus School polling place in Norwalk, in violation of General Statutes § 9-236 (a). The candidate made numerous other allegations outside of the Commission's jurisdiction that were not addressed in this matter and/or were addressed by another entity with jurisdiction.¹

Law

1. General Statutes § 9-236 (a) reads, in pertinent part:

(a) On the day of any primary, referendum or election, no person shall solicit on behalf of or in opposition to the candidacy of another or himself or on behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach. . . .

¹ For example, the Complainant's allegation of physical and verbal assault of Elizabeth Greenwood by unnamed individuals was not directly investigated by the Commission. However, the Commission notes that in the course of investigating the potential violation of § 9-236 (a), Commission investigators did interview Ms. Greenwood. Ms. Greenwood confirmed in her interview that there was shouting between her and unknown individuals carrying "Black Lives Matter" signs, but asserted that there was no physical assault. She also asserted that Norwalk Police Officer Lepore intervened and resolved the issue by deescalating the conflict and moving the parties to different sections of the polling place

(b) (1) The selectmen shall provide suitable markers to indicate the seventy-five-foot distance from such entrance. Such markers shall consist of a board resting on an iron rod, which board shall be not less than twelve inches square and painted a bright color and shall bear the figures and letters "75 feet" and the following words: "On the day of any primary, referendum or election no person shall solicit in behalf of or in opposition to another or himself or peddle or offer any ballot, advertising matter or circular to another person or loiter within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach."

(2) Notwithstanding the provisions of subdivision (1) of this subsection, the selectmen may provide the markers required by the provisions of this subsection in effect prior to October 1, 1983, except that in the case of a referendum which is not held in conjunction with an election or a primary, the selectmen shall provide the markers required by subdivision (1) of this subsection.

(3) The moderator and the moderator's assistants shall meet at least twenty minutes before the opening of a primary, referendum or an election in the voting district, and shall cause to be placed by a police officer or constable, or such other primary or election official as they select, a suitable number of distance markers. Such moderator or any police officer or constable shall prohibit loitering and peddling of tickets within that distance. (Emphasis added.)

...

2. The Complainant here specifically alleged that Respondent Travis Simms placed a sign advocating to "Vote Row A all the way" within the demarcated 75' zone, just inside where the 75' marker was placed and clearly visible to electors queuing outside to vote.
3. The Complainant submitted a photograph of the "Vote Row A" sign in question, which appeared to be placed consistent with his description, on the restricted side of where the 75' marker was placed. However, in the picture, the sign was being held by an individual with long hair who did not appear to be Rep. Simms.

4. As an initial matter, Commission investigators conducted a review of the placement of the 75' marker to confirm that the alleged activity actually occurred within the 75' protected radius.
5. Any activity that occurs outside the 75' radius from the outside entrance serving as the entrance to the polling place is not covered by General Statutes § 9-236 (a), even if such activity occurs behind a 75' marker that has been inaccurately placed. See *In the Matter of a Complaint by Daniel Garrett, Plainville*, File No. 2009-088 (“an individual attempting to ‘loiter or peddle or offer any advertising matter, ballot or circular to another person’ does not violate General Statutes § 9-236 (a) unless such individual does so within the actual 75’ distance from the outside door to the polling place, regardless of where such markers are placed”)
6. Utilizing the pictures provided by the Complainant, Commission investigators conducted a virtual review using digital measurement tools in Google Maps. Such review yielded a measurement of approximately 105' from the apparent placement of the 75' marker in the picture to the outside entrance to the polling place (the travel distance on the outside paths was longer, but a radius measurement is made on a straight line).
7. To verify the virtual measurement, Commission investigators conducted an on-site inspection at the Columbus school and confirmed by using a standard measuring tape that the 75' marker was approximately 111' from the outside entrance using a straight-line measurement.
8. Communications with Norwalk registrars of voters Brian Smith and Stuart Wells confirmed that the 75' marker portrayed in the photograph was not placed in its usual spot at the 75' foot mark. They were unaware of why it came to be moved into that spot or by whom.
9. Considering the aforesaid, the evidence here does not support that it is more likely than not that Respondent Travis Simms violated General Statutes § 9-236 (a) by loitering or soliciting on behalf of his campaign within the restricted area.
10. Accordingly, this matter should be dismissed.

ORDER

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

Dismissed.

Adopted this 21st day of July, 2021 at Hartford, Connecticut.



Stephen Penny, Chairperson
By Order of the Commission

032