

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Linda Szyrkowicz,  
Middletown

File No. 2021-082B

**FINDINGS AND CONCLUSIONS**

Complainant, Linda Szyrkowicz, filed a series of complaints with the Commission pursuant to Connecticut General Statutes § 9-7b. Complainant alleged that individuals were permitted to vote in the November 3, 2020 state election despite their status as incarcerated felons in violation of Connecticut Elections Law. Further, Complainant alleged that the municipal election officials that allowed these ineligible individuals to vote violated election laws. The following are the Commission's findings of fact and conclusions of law:

1. Complainant alleged that Lamar Fluker was permitted to vote in the November 3, 2020 state election despite being ineligible to do so because he was an incarcerated felon, and therefore he violated election laws.
2. Further, Complainant alleged that the Town of Montville officials who allowed Mr. Fluker to vote at the November 3, 2020 state election violated election laws.
3. The Commission identified the Montville Registrars of Voters Robin Marquand and Jeffrey Rogers as Respondents in Complainant's complaint docketed in this matter.<sup>1</sup> Mr. Lamar Fluker, who allegedly voted at the November 3, 2020 election when he was ineligible to do so was also identified as a Respondent. Any settlement with Respondent Fluker is treated under a separate disposition.
4. Specifically, General Statutes § 9-46 provides:

***(a) A person shall forfeit such person's right to become an elector and such person's privileges as an elector upon conviction of a felony and committal to the custody of the Commissioner of Correction for confinement in a correctional institution or facility or a community residence, committal to confinement in a federal correctional institution or facility, or committal to the custody of the chief correctional official of any other state or a county of any***

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<sup>1</sup> Additionally, Secretary of the State Denise Merrill, Attorney Ted Bromley of the Office of the Secretary of the State and Montville Town Clerk Katie Sandberg were identified as potential Respondents, by the Commission. After investigation, this matter is dismissed as to these individuals.

other state for confinement in a correctional institution or facility or a community residence in such state or county.

(b) No person who has forfeited and not regained such person's privileges as an elector, as provided in section 9-46a, may be a candidate for or hold public office.  
[Emphasis added.]

5. General Statutes § 9-45 provides, in pertinent part:
- (a) The Commissioner of Correction shall, on or before the fifteenth day of each month, ***transmit to the Secretary of the State a list of all persons who, during the preceding calendar month, have been convicted in the Superior Court of a felony and committed to the*** custody of the Commissioner of Correction for confinement in a correctional institution or facility or a community residence. Such lists shall include the names, birth dates and addresses of such persons, with the dates of their conviction and the crimes of which such persons have been convicted. ***The Secretary of the State shall transmit such lists to the registrars of the towns in which such convicted persons resided at the time of their conviction and to the registrars of any towns where the secretary believes such persons may be electors. The registrars of such towns shall compare the same with the list of electors upon their registry lists*** and, after written notice mailed by certified mail to each of the persons named at the last-known place of address of such person, shall erase such names from the registry lists in their respective towns or voting districts.  
[Emphasis added.]

#### Legal Background

6. Under Connecticut law, an individual that is being held in custody or is on parole due to a conviction for a felony is not permitted to vote for or stand as a candidate for public office.<sup>2</sup>
7. As detailed in the Agreement Containing a Consent Order for *In the Matter of a Complaint by Jeffrey Hall, Somers*, File No. 2015-003, individuals being held in custody for misdemeanors and those being held pretrial for felonies retain their rights as electors.

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<sup>2</sup>See PA 21-2, Section 98 (b) (1), which has since changed the process by which electoral privileges are restored. Pursuant to that section, when an individual is released from confinement from a correctional institution or facility, and electoral privileges have previously been forfeited based on felony conviction and confinement, such privileges are now automatically restored upon release.

8. Similarly, once an individual has been released from confinement and parole and has paid all fines in conjunction with the conviction, such individual's rights to act as an elector and candidate for public office are restored. General Statutes § 9-46a.<sup>3</sup>
9. Pursuant to General Statutes § 9-140, applications for absentee ballots are made to the office of the town clerk, which processes such applications against the most recent voter registry list. Such lists are updated and provided by the registrars of voters and the most recent lists are utilized for the respective election.

#### Facts After Investigation

10. On or about September 16, 2020, Respondent Fluker was convicted and sentenced to a term of incarceration after conviction of a felony.
11. On or about September 14, 2020, Respondent Fluker completed and signed an absentee ballot application regarding the November 3, 2020 general election.
12. On or about September 21, 2020, the Montville Town Clerk received Respondent Fluker's absentee ballot application regarding the November 3, 2020 general election.
13. On or about September 23, 2020, the Montville Town Clerk issued an absentee ballot set to Respondent Fluker regarding the November 3, 2020 general election.
14. On or about October 1, 2020, Respondent Fluker's name was included on the list of names of newly disenfranchised individuals transmitted from the Department of Corrections to the Secretary of the State.
15. The Commission finds that the Respondents Marquand and Rogers would not have had any way, based on the above sequence regarding the receipt of Respondent Fluker's absentee ballot application and the updated Department of Corrections October 1, 2021 list of newly ineligible individuals, to have relied on the latter in considering his application.
16. Prior to November 3, 2020, Respondent Fluker's absentee ballot set for the November 3, 2020 general election was received by the Montville Town Clerk and was counted.

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<sup>3</sup> The Connecticut legislature amended this provision in Public Acts 2001, No. 01-11 to eliminate the requirement that those that had lost their rights as an elector due to confinement for a felony conviction be discharged from probation before their electoral privileges could be restored. *See also* footnote 2, *infra*.

17. The Commission finds that based on the compressed time period of the applicant's conviction, his making of an application for an absentee ballot, the receipt and processing of that application by the Town of Montville, as well as the historic volume of absentee ballots processed due to the Covid 19 pandemic, it is more likely than not that human error contributed to the processing and counting of his absentee ballot, which should have been rejected.
18. The Commission dismisses the allegations pertaining to the local election officials Respondents Marquand and Rogers.

**ORDER**

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

That the Commission dismisses allegations pertaining to Respondent Marquand and Respondent Rogers.

Adopted this 16<sup>th</sup> day of March, 2022 at Hartford, Connecticut by vote of the Commission.



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Stephen T. Penny, Chairman  
By Order of the Commission