

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Michele Chamberlain
Lisbon

File No. 2021-198

FINDINGS AND CONCLUSIONS

Complainant Michele Chamberlain of Lisbon filed this complaint pursuant to General Statutes § 9-7b, alleging that Stephen Barret and Cindy Palmer had intimidated her as she attempted to vote in the election on November 2, 2021. After its investigation, the Commission makes the following findings and conclusions:

1. Complainant Chamberlain alleged that when she attempted to vote in the November 2, 2021 election she was turned away from the polls by polling place workers, including Stephen Barrett, the Democratic Registrar of Voters in Lisbon, and Cindy Palmer, head moderator at the Lisbon Senior Center.

2. Complainant stated in her sworn complaint:

On 11/2/21, at approximately 4:45 p.m., I arrived at the Lisbon Senior Center, the identified polling location in my town. Upon entering the building I was stopped from proceeding to the room to cast my vote, as I was not wearing a facial mask and I verbalized that I would not be doing so. Shortly after, Stephen Barrett, the Registrar of Voters for the Town approached me offering a facial shield as an option to use, for which I declined. I explained to Mr. Barrett that I have medical reasons for not wearing a mask, as well as a constitutional right to be there to cast my vote as a U.S. Citizen. Cindy Palmer, the Election Moderator, also joined in on the conversation. Mr. Barrett indicated that his hands were tied and that he was told that anyone entering the building had to wear a mask and that they were given procedures to follow if this was not adhered to. Mr. Barrett indicated that these requirements/procedures were coming down from the State Office of Denise Merrill. Ms. Palmer reported that they could allow for me to cast my vote outside the building if I refused to wear the mask. My ballot would then be carried in by someone other than myself. Ms. Palmer assured me that my vote would be handled according to their procedures and not result in my vote being invalidated. I clearly was not willing to agree to this, expressing feelings of being discriminated against and denied my right to vote for refusing to wear the mask. Both Ms. Palmer and Mr. Barrett denied that this was the case.

I informed the two of them that I would be filing a complaint, given their refusal to allow me to cast my own vote, for the reasons forementioned. Upon leaving the

building and entering my car, I observed what appeared to be another resident in their car having a ballot brought to him to fill out and Ms. Palmer waiting for him to complete. I proceeded to leave and called the State Elections Enforcement Committee to learn that they could not deny me the right to vote for not wearing a mask. I later returned to the polling site and observed Mr. Barrett outside. Upon informing him that I was back to cast my vote, he acknowledged knowing that he would need to allow me entry without wearing a facial mask.

3. Stephen Barrett, respondent in this matter, responded to the complaint:

On Election Day November 2, 2021, I Stephen Barrett, Lisbon Democratic Registrar of Voter, was in my office at Lisbon Town Hall, 1 Newent Road, Lisbon CT. I received notification from the Head Moderator (Cindy Palmer) of an issue where an elector was refusing to put on a mask to go through the process of voting in polling location #2 at the Lisbon Senior Center, 11 Newent Rd, Lisbon. Masks per the First Selectman are required in all Town-owned public buildings in Lisbon. As I arrived at polling location #2 an elector was with the Head Moderator. Cindy was offering the elector a mask, face shield and then offered her curb side voting. The elector was adamant on going through the voting process in the building. It was my understanding with the Governor's executive order on COVID that all literature we had received and with the posting of masks required in the building and the Secretary of State's guidance, to offer curb side voting, that a mask or face shield was required they could come in and vote. We had taken all the precautions of setting up the tables, plastic barriers, maintaining a six-foot distance, wipe the areas down with cleaning supplies to keep everyone safe in these COVID times. The elector continued to say The Moderator and I were refusing her the right to vote. Both the Moderator and I continued to say we were not refusing her the right to vote, we were offering an alternative to keep everyone safe. We told her that two of us from different parties would get her identification check her name off the list, take her out a ballot, give her time to vote in private, put her ballot in a protective sleeve and without looking at her ballot and deposit it in the ballot box and go back to tell her it when through. the process. Once again we were not denying her right to vote we were giving her another option to keep everyone safe.

I believe since the COVID epidemic it has been my responsibility to keep my poll workers and citizens of the Town as safe as possible, which is why. we continue to follow the guidelines set. We were not denying her the right to vote. She refused to give me her name and said she was going to turn us in for refusing her the right to vote and she left.

At approximately 7:15 pm, I received a call from Attorney Kevin Ahearn (sic), from State Election Enforcement. I have met Kevin and know him through his speaking at the Registrar of Voters Conferences. I acknowledge I knew why he was calling and explained to him what had transpired. He said to me that I did ok, but after she wasn't willing to do curbside voting he stated that in election laws there is nothing about wearing or not wearing a mask. I was supposed to isolate an area where the elector was able to vote, and I was elected to follow Election Laws not the Governor's orders.

The First Selectman, Thomas Sparkman, orders the posting on the building, again follow Election Laws and give her the opportunity to vote. He said hopefully the next 45 minutes would go well without any more incidents. We hung up.

I then presided to the Senior Center to make sure they were set and ready to close the polls. As I was walking up thought the parking lot I heard my name being called. It was the same citizen. I asked her if she was here to vote and to give me a few minutes to set up a secure area so she could vote. I told the moderator and I escorted her to the check off table, the ballot table, the privacy booth and the tabulator (staying six feet from her), then she placed her ballot in the tabulator and she left the building. Then we wiped down every area to follow the protocol.

4. As the statements from Complainant Chamberlain and Respondent Barrett show, Chamberlain was able to return to the polling place before the polling place closed at 8 p.m. and vote in person without a mask.
5. Prior to the November 2, 2021 election, the Secretary of the State, the chief elections officer for the state of Connecticut, issued guidance regarding the use of facemasks in the polling place.¹ That advice was based on Executive Order 13A, which was issued by Gov. Lamont on August 5, 2021, and directed unvaccinated individuals to wear masks when indoors where socially distancing was not possible. Executive Order 13A expired on September 30, 2021, before the November 2, 2021 election. The Secretary of the State's advice allowed unmasked individuals to vote with some accommodations:

It is the opinion of this office that if a person appears at a polling place and is not in compliance with Executive Order No. 13A, the moderator and/or poll workers should offer the voter options to vote in a manner that does not endanger the health of other individuals in the polling place. Those options include (but are not limited to) the following:

¹ See Memorandum of Opinion: Face mask requirements on Election Day (Secretary of the State, September 30, 2021).

- (1) Offer the voter an opportunity to return to their car without losing their space in line to obtain a mask;
- (2) Offer the voter a mask;
- (3) Offer the voter the option to complete their ballot outside of the polling place;
- (4) Offer the voter a provisional ballot that they can complete in their car and leave the ballot with a poll worker upon completion; or
- (5) Offer the voter the opportunity to complete their ballot in a segregated part of the polling location away from other voters.


6. There is no doubt that the COVID-19 pandemic and its masking requirements created tension in the polling place. The guidance from the Secretary of the State reflected the uncertainty surrounding the use of masks in the polling place given that the memorandum relied on Executive Order 13A, which expired on the day the memorandum was released.
7. Connecticut's general statutes afford electors the right to vote free of intimidation or coercion. General Statutes § 9-236b lays out the "Voter's Bill of Rights" in Connecticut. The rights defined in that provision include the right to "[v]ote free from coercion or intimidation by election officials or any other person."
8. The conduct at issue here stemmed not from an intention by a polling worker to intimidate an individual from casting her ballot, but rather, from the requirement that poll workers enforce not only election laws in the polling place but also masking directions that were in place stemming from the COVID-19 pandemic. As Barrett said he told Chamberlain at the time, the polling place workers were not denying her the right to vote but were trying to keep everyone safe while allowing them to vote.
9. Ultimately, the elector here was able to cast her ballot and so her ability to vote was not abrogated by the actions of the poll workers.
10. The Commission cannot conclude that this exchange between the registrar and head moderator at the polling place and Complainant resulted in "coercion or intimidation" regarding an individual's right to vote at the polling place such that the Complainant's rights were violated under General Statutes § 9-236b.

ORDER

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

That the Complaint be dismissed.

Adopted this 16th day of NOV. 2022, at Hartford, Connecticut.



Stephen Penny, Chairman
By Order of the Commission