

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

In the Matter of a Complaint by Kathleen M. Jowdy  
Brookfield

File No. 2021-202

**FINDINGS AND CONCLUSIONS**

Complainant Kathleen M. Jowdy of Brookfield filed this complaint pursuant to General Statutes § 9-7b, alleging that Elizabeth Hagerty, the head moderator at a polling place in Brookfield, and other polling place workers 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 Jowdy alleged that when she attempted to vote in the November 2, 2021 she faced “harassment and intimidation” from voting officials as she was attempting to cast her ballot at St. Marguerite Church in Brookfield.

2. Complainant stated in her sworn complaint:

I entered St. Marguerite Church on 138 Candlewood Lake Road, Brookfield, CT 06804 at approx.. 10 a.m. on 11/2/21. I waited in a short line to enter. Upon entering, I was told by the gentleman that masks are required. I stated that I refused to put one on and that it is illegal in any voting location. Then a woman came over and was demanding that I put the mask on or I had to leave. Again, I refused and showed her on my cell phone that this was illegal. She told the people behind me that they could go in front of me and attempted to keep me from entering the room further. I then stepped forward and past her and said loudly that I was going to vote and that I’m next in line. I handed the woman my I.D. and she then announced that I could not vote until the room was cleared out. There were about 10 people in line to put their votes through the machine. She made me stand there and was loudly saying “We will have to sanitize your booth after you vote” and that all voters in front of me had to be out of the room before I could go to a booth. I voted, and left and saw some officials and candidates outside. I immediately told Tara Carr, the candidate for First Selectman, what happened. I then called the town hall. The woman stated that Elizabeth had called and said that she had the right to do what she did as monitors. This was clearly a case of harassment and voter intimidation. I called State Enforcement to file a more formal complaint and spoke with William B. Smith.

3. The moderator at this location, Elizabeth Hagerty, respondent in this matter, completed an affidavit that laid out her recollection of the events:

At or around 10:00 a.m. on Election Day, I was situated at the center of the polling station when I heard yelling from a woman near the entrance at the gatekeeper's station. I later came to learn that the woman was Kathleen Jowdy who is the complainant subject to this complaint (Hereinafter "Complainant"). ... After hearing the yelling from approximately 25 feet away, I approached the Complainant in an attempt to understand the reason for the Complainant's yelling and resolve the issue. ... After my initial discussions with the Complainant, I came to learn that she believed it to be illegal to require that a voter wear a mask or face covering while at the polling station. ... During that conversation the Complainant offered to show me her phone so that I could read a source which she believed proved her contention. ... During the initial conversation and throughout my conversations with the Complainant on Election Day, I assured her that she would be able to cast her vote. ... After our initial conversation it became clear to me that the Complainant would not wear a mask while at the polling station. ... After our initial conversation, and after determining that the Complainant would not wear a mask, I observed the polling station and determine that there were approximately four (4) remaining voters within the polling station who were finalizing casting their votes. ... I waited for the four (4) remaining voters to finish casting their ballots and continued to assure the Complainant that she would be able to cast her vote. ... While the four (4) voters completed their ballots, I proceeded to ask the prospective voters who were outside to remain outside so that the Complainant had a segregated part of the polling station to vote away from other voters. ... After the remaining voters in the polling station left the building, I made an announcement to the prospective voters outside that there would be a slight delay. ... After my announcement regarding the delay, the Complainant presented her ID, was checked off the list of voters and cast her ballot. ... I did not make the Complainant's ability to vote contingent upon her wearing a mask or facial covering. ... The Complainant continued to voice her dissatisfaction during and after she cast her vote. ... After the Complainant left the polling station, I disinfected the polls so that the remaining eligible voters could exercise their right to vote.

4. The statements from Complainant Jowdy and Respondent Hagerty recount their interaction at the polling place and largely corroborate each other. For the purposes of Connecticut's election administration statutes, the key fact is that ultimately Jowdy was able to vote, albeit under unique circumstances when compared to non-COVID years.
5. Prior to the November 2, 2021 election, the Office of 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.<sup>1</sup> 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) 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. In this instance, the moderator, Hagerty, followed the guidance given by the Office of the Secretary of the State and afforded the voter, Jowdy, the opportunity to complete her ballot in a segregated part of the polling location away from other voters.

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

9. As Hagerty stated in her affidavit, there was never a question about whether Jowdy would be able to vote. The only question was how that was going to happen under the guidelines issued by the Office of the Secretary of the State.
10. Ultimately, the elector here was able to cast her ballot and so her ability to vote was not abrogated by the moderator's actions allowing her to vote, unmasked, alone in an empty room.
11. The Commission cannot conclude that this exchange between the 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, especially when the actions of the moderator followed the guidance issued by the Secretary of the State, the chief elections officer for the state of Connecticut.

**ORDER**

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

That the Complaint be dismissed.

Adopted this 16<sup>th</sup> day of Nov. 2022, at Hartford, Connecticut.



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Stephen Penny, Chairman  
By Order of the Commission