

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by John Grasso, Middlebury

File No. 2022-015

FINDINGS AND CONCLUSIONS

The Complainant, an elector in the Town of Middlebury, alleged that he was unlawfully moved from the “active” registry list to the “inactive” registry list in 2021 by the Middlebury Registrars of Voters.

Allegations

1. The Complainant alleged that he appeared at his polling place in Middlebury to cast his ballot in the February 22, 2022 Special Election to fill a vacancy in the 71st Assembly District in the Connecticut House of Representatives.
2. The Complainant alleged that he was told by the election officials in his polling place that his name was not on the active voter registry list, but rather was on the inactive registry list and that he would need to fill out a VRA at the polling place in order to activate his registration and vote.
3. The Complainant alleged that his registration should have been active since he had last voted in November 2020, less than four years from when he appeared at his polling place in February 2022.
4. The Complainant further alleged that his registration should have been active since he moved within town in December 2020 and the National Change of Address System (“NCOA”) should have notified the Middlebury Registrars of Voters.
5. The Complainant further alleged that his wife Catherine Grasso’s registration was successfully moved through the NCOA and remained active so his registration should also have been successfully moved and remained active.
6. The Complainant alleged that his removal from the active registry list was unlawful.

Law

7. General Statutes § 9-32 reads, in pertinent part::

(a) In each municipality the registrars, between January first and May first, annually, shall cause either (1) a complete house to house canvass to be made in person of each residence on each street, avenue or road within such municipality, (2) a complete canvass to be made by mail of each residence located on each street, avenue or road within such municipality, provided, upon agreement of both registrars, the National Change of Address System of the United States Postal Service may be used instead of such mailing, (3) a complete canvass to be made by telephone of each residence located on each street, avenue or road within such municipality, or (4) a complete canvass of each residence within such municipality by any combination of such methods, for the purpose of ascertaining the name of any elector formerly residing on such street, avenue or road who has removed therefrom; provided in the odd-numbered years, no canvass need be conducted by the registrars in a town which holds its regular municipal election on the first Monday of May in odd-numbered years. The Secretary of the State shall adopt regulations in accordance with the provisions of chapter 54 setting forth the procedure to be followed in conducting any such canvass by either mail or telephone.

(b) No elector's name shall be removed from the registry list, pursuant to section 9-35, unless (1) the elector confirms in writing that the elector has moved out of the municipality, or (2) the elector has been sent, by forwardable mail, a notice and a postage prepaid preaddressed return card in accordance with the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time, four years prior to removal from the registry list and such elector has failed to respond and has not restored the elector's name to the active registry list under section 9-42 or voted in an election or primary in the municipality during the period beginning on the date of the notice and ending four years later. If a registrar or a registrar's designee conducts a telephone canvass, a telephone call by any such person shall constitute an attempt to contact the elector only if the elector's household has a published telephone number and the telephone is in operating order. If a registrar, or a registrar's

designee, during a telephone canvass contacts a telecommunication device for the deaf in an elector's household, such call shall not constitute an attempt to contact the elector unless the registrar, or the registrar's designee, uses a similar device or uses a message relay center. No elector's name shall be removed from the active registry list pursuant to said section 9-35 as a result of information obtained during a telephone canvass, unless the registrar believes such information is reliable and sufficient to enable the registrar to determine if the elector is entitled to remain on the list under the provisions of this chapter. . .

8. General Statutes § 9-35 (e) reads:

(e) In any case in which the registrars have obtained reliable information of an elector's change of address within the municipality, the registrars shall enter the name of such elector on the registry list at the place where the elector then resides, provided, if such reliable information is the National Change of Address System of the United States Postal Service, the registrar shall change the registry list and send the elector a notice of the change by forwardable mail and a postage prepaid preaddressed return form by which the elector may verify or correct the address information. If during the canvass the registrars determine that an elector has moved out of the municipality and such elector has not confirmed in writing that the elector has moved out of the municipality, the registrars shall, not later than May first, send to the elector, by forwardable mail, a notice required by the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time, together with a postage prepaid preaddressed return card on which the elector may state the elector's current address. In the year of a presidential preference primary, the registrars shall send such notice not earlier than the date of such primary. If the registrar does not receive the return card within thirty days after it is sent, the elector's name, including the name of an elector who has not voted in two consecutive federal elections, shall be placed on the inactive registry list for four years. At the expiration of such period of time on the inactive registry list, such name shall be removed from the registry list. If such elector applies to restore the elector's name to the active registry list or votes during such period, the elector's name shall be restored to the active registry list. Such registrars shall retain a

duplicate copy or record of each such notice in their office or, if the registrars do not have a permanent office, in the office space provided under section 9-5a, and shall note on such duplicate copy or record the date on which such notice was mailed. In each municipality, any elector, upon change of residence within the municipality, may cause the elector's registration to be transferred to the elector's new address by presenting to the registrars a new application for voter registration. The registrars shall thereupon enter the elector's name on the list at the elector's new residence; provided no transfer of registration shall be made on the registry list on election day without the consent of each registrar. (Emphasis added.)

9. General Statutes § 9-42 enumerates the process by which an elector on the inactive registry list may be restored to the active registry list and reads:

(a) If it appears at any time that the name of an elector who was formerly admitted or registered as an elector in a town and who is a bona fide resident of such town has been omitted from the active registry list compiled under section 9-35 by clerical error, the registrars of voters shall add such name to such list; provided no name shall be added to the active registry list on election day without the consent of both registrars of voters.

(b) If it appears at any time that the name of an elector who was formerly admitted or registered as an elector in a town and who is a bona fide resident of such town has been omitted from the active registry list, the registrars of voters shall, upon submission of a new application for voter registration signed by the elector under penalties of false statement, add such name to the active registry list, provided no name shall be added to the active registry list on election day without the consent of both registrars of voters.

(c) The registrars of voters shall cause the inactive registry list compiled under section 9-35 to be completed and printed and available to the public. The registrars of voters shall provide copies for use in the polling place on election day. If on election day the name of an elector appears on such inactive registry list, including the name of an elector who has not responded to a confirmation of voting residence notice under subsection (e) of section 9-35 and has

not voted in two consecutive federal elections, such name shall be added to the active registry list upon submission of a new application for voter registration signed by the elector, under penalties of false statement, before an election official at the polling place and upon the consent of both registrars of voters or assistant registrars of voters, as the case may be, in the polls.

(d) The name of no elector shall be added to the active registry list under the provisions of this section, unless the elector's name or some name intended for his name was on the active registry list for at least one of the four years previous. (Emphasis added.)

Investigation

10. The investigation here revealed that the Complainant first registered to vote in Middlebury in 2017 at an address on Ridgewood Drive.
11. The records of the Middlebury Registrars of Voters corroborate the Complainant's assertion that their office received notice (in January 2021) from the NCOA that he moved within town to a different address on Ridgewood Drive.
12. The records of the Middlebury Registrars of Voters indicate that they sent a notice of a change of address to the Complainant on or about February 3, 2021, as required by General Statutes § 9-35 (e).
13. The records of the Middlebury Registrars of Voters indicate that the aforementioned notice was returned undelivered on or about March 9, 2021, at which time the Complainant's registration address defaulted back to the prior address and he was moved to the inactive list, also per § 9-35 (e).
14. The records of the Middlebury Registrars of Voters corroborate the Complainant's assertion that the registration of his spouse, Catherine Grasso, was successfully moved to the new address through the NCOA notification to the registrars.
15. The records of the Middlebury Registrars of Voters indicate that they sent a notice of a change of address to the Complainant's spouse on or about February 3, 2021, the same day as the one sent to the Complainant.

16. However, the records of the Middlebury Registrars of Voters indicate that Mrs. Grasso returned the confirmation on or about February 11, 2021, at which point her registration was moved to the new address and she remained on the active voter list.

Analysis

17. The analysis here is straightforward, as the records of the Middlebury Registrars of Voters confirmed that they met their responsibilities under General Statutes §§ 9-32 and 9-35 regarding sending the proper notice after an NCOA notification and moving the Complainant to the inactive list when such notice was returned undelivered.

18. Fortunately, as the Complainant was only on the inactive list and not completely off the rolls, he was able to move his name back to the active registry list pursuant to General Statutes § 9-42 and cast his ballot in the February 22, 2022 Special Election.

19. Considering the aforesaid, this matter should be dismissed.

ORDER

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

DISMISSED

Adopted this 20th day of April, 2022 at Hartford, Connecticut.



Stephen T. Penny, Chairperson
By Order of the Commission