

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA



FILED
OSAH

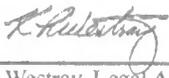
DEC 4 2012

STATE ELECTION BOARD
Petitioner,

v.

ROBBIE SULLIVAN,
Respondent.

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Kevin Westray, Legal Assistant

Docket No.: OSAH-ELE-LV-1315920-44-
Malihi

INITIAL DECISION

Respondent filed this matter seeking sanctions for alleged violations of election laws by Respondent.

A hearing was held today, December 3, 2012. The facts are not in dispute.

Stipulated Facts

1.

Respondent submitted an absentee ballot application in the name of her mother on or about December 12, 2011. Respondent signed the ballot application under oath. (Exhibits A and B.)

2.

Respondent's mother had passed away in January 2011. (Exhibit C.)

Conclusions of Law

1.

The Board bears the burden of proof in this matter. Ga. Comp. R. & Regs. r. 616-1-2-.07. The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. r. 616-1-2-.21.

2.

The State Election Board is charged with maintaining the integrity of elections in the State of Georgia. *See generally*, O.C.G.A. § 21-2-31. To that end, it is the duty of the Board to investigate or authorize the Secretary of the State to investigate potential fraud and irregularities in all primaries and elections. O.C.G.A. § 21-2-31(5). The Board also has the duty to take any other action, consistent with the law, to ensure the fair, legal, and orderly handling of primaries and elections. O.C.G.A. § 21-2-31(10).

3.

Upon a finding that an individual has violated one of the election laws contained in Chapter 2 of Title 21, the Board has the power to pursue civil enforcement of the election laws by issuing orders requiring the violator:

- (1) To cease and desist from committing further violations;
- (2) To pay a civil penalty not to exceed \$5,000.00 for each violation of [Chapter 2] or for each failure to comply with any provision of this chapter or of any rule or regulation promulgated under [Chapter 2] . . . ;
- (3) To publicly reprimand any violator found to have committed a violation;
- (4) To require that restitution be paid by any violator to a state, county, or city governing authority when it has suffered a monetary loss or damage as the result of the violation;
- (5) To require violators to attend training as specified by the [B]oard; and
- (6) To assess investigative costs incurred by the [B]oard against any violator found to have committed a violation.

O.C.G.A. § 21-2-33.1.

4.

O.C.G.A. § 21-2-562 makes it unlawful for an individual to insert a false statement or fraudulent entry onto a statement, an oath, or other record or document to be signed or returned for any public purpose in connection with any primary or election.

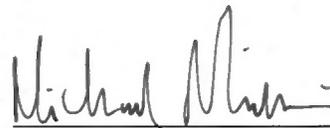
5.

O.C.G.A. § 21-2-571 makes it unlawful for an individual to knowingly give false information to poll officers in an attempt to vote in an election.

Decision

Violations of the election laws are not to be treated as mere technicalities. Rather, these laws are a vital part of preserving the sanctity of the electoral process. *McCranie v. Mullis*, 267 Ga. 416, 417 (1996). Respondent admits that she violated the Election Code. Accordingly, the parties having agreed, the Court orders the following penalties: Respondent should be required to pay a civil penalty in the amount of \$250.00.¹ The Court finds such a penalty necessary to deter individuals, like Respondent, from violating the election laws. For these same reasons, the Court further finds that Respondent should be publicly reprimanded. Finally, the Court directs Respondent to cease and desist from committing further violations of election laws.

SO ORDERED, this 3rd day of December, 2012.



MICHAEL MALIHI
Administrative Law Judge

¹ Respondent may make five (5) bi-monthly payments in the amount of \$50 until the penalty is paid in full with the first payment being due January 30, 2013.