

STATE OF NEW YORK
NEW YORK STATE BOARD OF ELECTIONS

In the Matter of:
MICHEL FOURNELLE,

Complainant,

HAVA Complaint No. 19-01
Determination

-v-

MONROE COUNTY BOARD OF ELECTIONS,

Respondent.

Procedural Background

On February 6, 2019, the New York State Board of Elections (hereinafter SBOE) received a written, sworn, signed, and notarized Complaint dated February 1, 2019 filed by Michel Fournelle (the "Complainant"). Generally, the Complaint alleges that on Election Day, November 6, 2018, the Complainant witnessed a person voting twice. Upon inquiry, a poll worker told the Complainant that the voter's first ballot was spoiled, put into an envelope, and the voter was merely getting a replacement ballot; however, the poll worker was "unable to produce" the envelope with the spoiled ballot. Further, the Complainant alleges to have seen the voter insert a ballot into the voting machine twice.

Jurisdiction

Section 402 of the Help America Vote Act of 2002 requires New York State to create a state-based administrative complaint procedure to assure compliance with Title III of the Help America Vote Act of 2002 (hereinafter HAVA). Title III has three substantive sections: 1) voting system standards; 2) provisional voting and voting information requirements; and 3) computerized statewide voter registration list requirements and requirements for voters who register by mail. Nothing in Title III

discusses issues such a double voting. Title III of HAVA was designed to address systematic voting issues a voter may encounter, not alleged criminal conduct of other voters.

Determination

Nothing in Title III of HAVA addresses issues such as double voting. Primarily, Title III of HAVA was designed to address troubles voters may have when casting their vote; such as: a) not being able to cast a ballot in private; b) not being afforded an opportunity to verify voting selections before casting a ballot; c) not being able to determine whether an affidavit ballot was counted; d) not being provided assistance to accommodate a disability; e) not being able to vote on a Ballot Marking Device; etc. Title III of HAVA was not designed to address the conduct of other voters.

For the reasons stated above, the Complaint is hereby dismissed. However, the Complaint will be forwarded to the Division of Election Law Enforcement and the Division of Election Operations for appropriate follow up.

William J. McCann, Jr.
Deputy Counsel, New York State Board of Elections

Nicholas R. Cartagena
Deputy Counsel, New York State Board of Elections

Dated: February 20, 2019