

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

In the Matter of)	
Seth McNayr)	Administrative
)	Order #25-004

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on March 3, 2025. It concerns a recommendation by the Board’s General Counsel that the Board take civil enforcement action against Seth McNayr based on stipulated facts concerning Mr. McNayr’s erroneously voting a mail ballot issued to another voter. Chairman Gary Thompson and Board member Karyn Greenfield presided over the hearing. The Board’s General Counsel and Mr. McNayr and his attorney, Andrew George, were also present.

Background

On May 29, 2024, a voter called the Board’s offices to report that she had been receiving electronic notifications that her D.C. 2024 Primary Election ballot had been received and was being processed through the Board’s ballot tracking system. The voter advised that she never cast a ballot in the D.C. 2024 Primary Election. The staff checked the voter’s records and determined that a mail ballot issued to the voter had been received but had not been counted because the signature on the ballot return envelope did not match the voter’s signature.

Following the conclusion of the 2024 election cycle, the Board’s Office of General Counsel (“OGC”) reviewed the ballot return envelope to ascertain whether there was sufficient evidence of voter fraud to open an investigation. The signature on the ballot return envelope was sufficiently legible to determine that it was for a person with a different name than the name of the voter to

whom the ballot was issued, but not clear enough to conclusively determine that different name. OGC staff checked the Board's voter files for voters living at the address on the ballot return envelope and found that, on April 30, 2024, Seth McNayr had updated the address at which he was registered to vote to the address on the ballot return envelope. The signature on the ballot return envelope reasonably matched a signature on file for McNayr. The hand-written date entered under the signature on the ballot return envelope was May 16, 2024.

Based on the evidence that Mr. McNayr had cast a ballot issued to another voter, OGC initiated an investigation of the matter. As a result of that investigation, Mr. McNayr executed a stipulation whereby he acknowledged that the signature on the signature line appearing above the pre-printed name of another voter on the 2024 Primary Election ballot return envelope was his signature and he stipulated to the admission into evidence of the scanned image of that ballot return envelope. Mr. McNayr stated in the stipulation that, during the D.C. 2024 Primary Election cycle, he received two mail ballots at his residence and that he voted the first ballot he received and then, assuming a second ballot had been erroneously issued to him, discarded the second. He stipulated that he had moved into the address where the ballot was sent well over a year prior to the 2024 Primary Election and, due to that length of time, no longer expected to be receiving mail for prior occupants. Mr. McNayr stipulated that he unintentionally voted a D.C. 2024 Primary Election ballot that was issued to another voter.¹ He admitted that he failed to exercise care and caution in completing and returning the ballot to the Board.

The matter was set for the March 3, 2025 Board meeting. At that meeting, the stipulation was entered into the record. The Board Chair then invited Mr. McNayr and his counsel to speak.

¹ The General Counsel's investigation did not reveal any evidence that Mr. McNayr otherwise voted in the D.C. 2024 General Election. Accordingly, there is no evidence here of double voting.

Mr. McNayr reiterated that he lacked any intent to vote another person's ballot and his counsel requested that the Board accept the stipulation. The Board Chair then asked the General Counsel for her recommendation. The General Counsel noted that, while Mr. McNayr did not intend to vote the ballot of another voter, some action should be taken. Accordingly, she recommended, consistent with the stipulation, that a \$100.00 civil penalty be imposed.

After hearing from the General Counsel and Mr. McNayr and his counsel, the Board Chair made a motion that a civil fine of \$100.00 be imposed on Mr. McNayr for his attempting to vote another person's ballot. The motion was duly seconded and passed unanimously.

Discussion

The election laws provide that it is a crime to "make any false representations as to the person's qualifications for . . . voting" or to fraudulently cast a ballot.² The Board can, upon the General Counsel's recommendation, initiate enforcement with respect to criminal matters by referral to the U.S. Department of Justice and/or to the Attorney General for the District of Columbia.³ We may also, again upon the recommendation of the General Counsel, impose civil fines of up to \$2,000 for each election law violation.⁴ Our task, therefore, is to determine whether there is sufficient proof of an attempt to vote falsely or fraudulently in violation of the election laws and, if so, to determine the appropriate enforcement action.

² See D.C. Code § 1-1001.14(a) and § 1-1001.14(a-1)(1)(D), respectively. The penalty for violating either of those provisions is a fine up to a \$10,000 and/or a term of incarceration of up to 5 years. In addition, D.C. Official Code § 22-2405(b) criminalizes willfully making false statements to D.C. government entities. The penalty for that violation is a fine of up to \$1,000 and imprisonment of not more than 180 days, or both.

³ See D.C. Code § 1-1001.18(a)-(b). Civil penalties for voter fraud may be imposed in addition to criminal ones. See D.C. Code § 1-1001.14 (c) ("The provisions of this section shall be supplemental to, and not in derogation of, any penalties under other laws of the District of Columbia.").

⁴ *Id.* (authorizing such civil penalty for a violation of "any provision" of the election laws). See also D.C. Code § 1-1001.05(a)(16) (authorizing the Board to "[p]erform such other duties as are imposed upon it by this subchapter").

In this matter, the facts are undisputed. Mr. McNayr has admitted that, contrary to the qualifications for voting specified in the instructions provided with the ballot, he signed a name on the ballot return envelope signature line that was not the “[s]ignature of voter to whom this ballot was sent[.]” He has acknowledged facts showing that he attempted to vote a ballot issued to another party.

That said, Mr. McNayr has stipulated that his conduct was erroneous and that he did not intend to attempt to vote a ballot that was issued to another voter. Mr. McNayr’s claim is supported by the fact that he did not sign the name of the intended recipient of the ballot or otherwise attempt to forge the name of the voter. Instead, the ballot return envelope evidence shows a hand-written signature that is reasonably decipherable as a name that differs from the voter’s name and that matches Mr. McNayr’s signature immediately over an entirely different type-printed voter name, which reasonably suggests that Mr. McNayr attempted to vote another’s ballot by mistake. Because Mr. McNayr did not vote in his own name in the 2024 Primary Election and the ballot at issue was never counted due to the signature mismatch issue, Mr. McNayr’s actions cost him his ability to vote in that election. Thus, there is no evidence of ill-gotten-gain or anything nefarious here. Rather, the evidence is that, because Mr. McNayr did not exercise care and caution in voting the ballot, he unintentionally completed and returned to the Board another voter’s ballot.

Based on the record before us, Mr. McNayr’s conduct essentially equates to the making of a false representation as to his qualifications for voting. We decline, however, to find that Mr. McNayr had the level of intent required for a criminal conviction. As noted, the General Counsel has recommended that a civil penalty be imposed. We concur that Mr. McNayr’s conduct should have consequences. Under the circumstances, we believe that a fine of \$100.00 is appropriate.

Conclusion

For the reasons indicated above, it is hereby:

ORDERED that the recommendation of the General Counsel is **ACCEPTED**, and that Mr. McNayr is directed to pay a civil fine of \$100.00 by no later than April 30, 2025.⁵

Date: March 7, 2025



Gary Thompson
Chairman
Board of Elections

⁵ **Payment must be made by check or money order made out to the “D.C. Treasurer.”** It may be mailed to the attention of the General Counsel at the Board’s offices (1015 Half Street, Suite 750, S.E., Washington, D.C. 20003) or hand delivered at that address.