

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

In the Matter of Ballots)	
Cast in the Name of)	Administrative
Marcella Gooding)	Order #23-011
)	

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on December 6, 2023. It concerns the Board’s General Counsel’s recommendation that the Board take enforcement action in the above-captioned matter. Chairman Gary Thompson and Board members Karyn Greenfield and J.C. Boggs presided over the hearing. The Board’s General Counsel and BOE staff were also present.

Background

As a result of a Voter Participation Project report issued by the Election Registration Information Center (“ERIC report”), the Board’s Office of General Counsel (“OGC”) became aware of evidence that a ballot was cast in the name of Marcella M. Gooding in the D.C. 2020 General Election (“GE”) and that a ballot was cast in the name of Marcella Marie Gooding in the 2020 GE in Maryland. This evidence suggested a violation of D.C. Code §1-1001.09(g)(1) (“No person shall vote more than once in any election[.]”). Such a violation would fall under the Board’s authority to impose, upon recommendation of the General Counsel, civil fines of up to \$2,000 for each violation of “any provision” of the elections laws.¹

¹ See D.C. Code §1-1001.18(a)-(b) (civil penalty authority and procedures).

In response to this information, OGC investigated the casting of 2020 GE ballots in the name of Marcella Gooding. As part of its investigation, OGC reviewed voter file materials from D.C. and the Maryland Board of Elections that indicated that an individual named Marcella Gooding may have cast ballots in D.C. and in Maryland during the 2020 GE. The signatures contained on the documents reviewed, all of which were associated with an individual named Marcella Gooding, appeared to be consistent with one another and with other signatures associated with the voter in the Board's records. After reviewing these materials, OGC conducted a prehearing conference with Ms. Gooding on August 29, 2023. At the prehearing conference, Ms. Gooding was presented with a copy of a Maryland ballot return enveloped bearing a signature, and she confirmed that that signature was hers. While she acknowledged that she was always registered to vote in DC, she denied voting in the 2020 GE in D.C.

After completing its investigation, the General Counsel notified the Board that this matter should be set for a hearing before the Board. The hearing was set for December 6, 2023. OGC sent notice of the hearing to Ms. Gooding at her email address and by certified and regular mail to addresses the Board had for her in both Maryland and D.C.

Ms. Gooding did not appear at the December 6, 2023 hearing. The Board proceeded with the hearing in Ms. Gooding's absence.² The General Counsel requested admission into the record of the voter file materials from D.C. and the Maryland Board of Elections.³ The evidence showed

² Pursuant to 3 D.C.M.R § 403.4, "If any person or party ... fails to appear at the hearing, the Board may proceed ex parte, unless the Board extends the time of the hearing or unless their appearance is required by statute."

³ The voter records offered at hearing by the General Counsel's staff contained confidential information (partial SSNs, DOBs, and signatures) and therefore were offered for the Board's review *in camera*.

that an individual by the name of Marcella Gooding voted by mail in Maryland on October 25, 2020 and in person in D.C. on November 3, 2020.⁴

After hearing the evidence, the Board recessed and went into executive session. When the Board reconvened on the record, the members unanimously voted in favor of imposing a \$100 civil fine on Gooding.

Discussion

D.C. Code § 1–1001.18(b) authorizes the Board to impose civil penalties for violations of D.C.’s elections laws.⁵ Our task is to determine whether there is reliable, probative, and substantial evidence to support a finding of a violation of the prohibitions on voting twice in any election. In that regard, we take judicial notice of the fact that ballots cast in the 2020 GE in each of the relevant jurisdictions covered the election for U.S. President.

The evidence shows that a ballot was issued by Maryland in the 2020 GE in Maryland to Marcella Gooding, that a ballot was issued by the D.C. Board of Elections in the 2020 GE to Marcella Gooding, and that the intended recipient of those ballots was the same person. The evidence further shows that those two ballots were indeed cast. The signatures associated with the ballots were consistent. There is little on the record to refute the evidence that Ms. Gooding also voted in Maryland and in D.C. in the 2020 GE.

⁴ To authenticate this evidence, the General Counsel presented an affidavit whereby Mohammed Maeruf, Supervisory Information Technology Specialist, averred that the documentation described above consisted of business records obtained from the Board’s voter files and from the Maryland Board of Elections. Mr. Maeruf was available at the hearing to answer any questions by the parties.

⁵ 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”).

Conclusion

Based on the evidence regarding the casting of ballots in the District of Columbia 2020 GE in the name of Marcella M. Gooding and in Maryland's 2020 GE in the name of Marcella Marie Gooding, we find sufficient record evidence of Gooding voting twice in the 2020 GE.

Accordingly, based on the record before us of a violation of the elections laws, it is hereby:

ORDERED that Marcella Gooding pay a \$100 fine by no later than January 8, 2024.⁶

Date: December 15, 2023



Gary Thompson
Chairman
Board of Elections

⁶ The fine may be paid by check made out to the D.C. Treasurer and remitted to the Board's Office of General Counsel.