

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

In the Matter of Ballots)	
Cast in the Name of)	Administrative
Kelechi Ahaghotu)	Order #24-009
)	

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on April 5, 2024. It concerns a recommendation by the Board’s General Counsel made pursuant to D.C. Official Code § 1–1001.18(a) that the above-captioned matter be closed without a referral to prosecutorial authorities for investigation into possible illegal voting activity. Chairman Gary Thompson and Board member Karyn Greenfield presided over the hearing. The Board’s General Counsel and Office of General Counsel (“OGC”) 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 Kelechi Ahaghotu in the D.C. 2020 General Election (“GE”) and that a ballot was cast in the name of Kelechi Ahaghotu in the 2020 GE in Texas. This evidence suggested a violation of prohibitions on voting twice.¹ Upon a recommendation by the General Counsel, the Board is authorized to take enforcement action for

¹ Federal laws against illegal voting activity such as double voting are set forth at 52 U.S.C. § 10307. D.C. law prohibits conduct similar to that proscribed by federal law. D.C. Official Code §1–1001.14 and §1–1001.09(g).

such a violation of the election laws, including making a referral for prosecution or imposing civil fines.²

In response to this information, OGC launched an investigation into the 2020 GE ballots cast in the name of Kelechi Ahaghotu. As part of its investigation, OGC obtained voter records from Texas and pursued any leads that might elucidate the cause of the apparent double voting incident. After reasonably exhausting any investigative leads, the General Counsel notified the Board that this matter should be set for a hearing before the Board.

When the hearing date was confirmed, Ms. Ahaghotu was notified that the General Counsel would be presenting to the Board a recommendation as to whether this matter should be referred to prosecutorial authorities for further investigation and prosecution. The notice, *inter alia*, advised that the General Counsel's recommendation would be presented at the Board's April 5, 2024 meeting.

At the April 5, 2024 hearing, OGC staff presented images of voter file materials from the Board's records and from the Office of Elections Administration in Fort Bend County, Texas.³ Each jurisdiction's file was for an individual using the name of Kelechi Uluma Ahaghotu, and having the same date of birth. General Counsel's staff also presented an image of an October 22, 2020 poll book check-in signature from Texas for Kelechi Ahaghotu and an image of an October

² See D.C. Official Code §1-1001.18(a)-(b).

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*.

27, 2020 D.C. Turkey Thicket Recreation Center electronic poll book check-in signature for Kelechi Ahaghotu.⁴

OGC staff further advised the Board that Kelechi Ahaghotu appeared at a pre-hearing conference and stated that she voted in the 2020 GE in Texas but that she did not vote in D.C. OGC staff explained that Kelechi Ahaghotu and two other individuals representing themselves as her siblings had provided statements during the investigation that, at the time of the 2020 GE, Kelechi Ahaghotu lived in Texas and was not physically able to travel to D.C. In addition, OGC staff noted that the signature for Kelechi Ahaghotu that was entered in the Turkey Thicket Recreation Center electronic poll book did not match the poll book check-in signature from Texas.

As the evidence indicated that a third party might have cast the D.C. ballot attributed to Kelechi Ahaghotu, OGC staff reported on efforts made to identify that person to the Board at the hearing. OGC staff explained, however, that those efforts were inconclusive.⁵ After having conducted a reasonable investigation and given the evidence of a voting irregularity, OGC staff noted that the issue before the Board was whether to refer the matter to prosecutorial authorities for further investigation. To provide some context for the Board, OGC staff noted recent cases where the evidence indicated that a third party, and not the voter, had cast the voter's ballot and the circumstances relevant to whether the Board decided to refer the matter to prosecutorial

⁴ To authenticate the D.C. records evidence, Mohammed Maeruf, Supervisory Information Technology Specialist, averred in an affidavit that the documentation described above consisted of business records obtained from the Board's voter files. OGC staff explained that she personally obtained the Texas records.

⁵ Specifically, OGC staff stated that, in order to discount the possibility of the D.C. ballot having been mistakenly attributed to Kelechi Ahaghotu, the Board's voter files were checked for voters who might have voted under the name Ahaghotu. That check revealed numerous individuals with the surname Ahaghotu who are or were previously registered to vote at the same D.C. address in the Board's voter files for Kelechi Ahaghotu. In addition, the check showed several other individuals with the last name Ahaghotu living at a residence around the corner from the D.C. address for Kelechi Ahaghotu. Only one of these other voters (a sibling of Kelechi Ahaghotu), however, had a signature that was similar in some respects to the D.C. signature on file for Kelechi Ahaghotu. That sibling was interviewed, but, according to OGC staff, the available evidence was insufficient to attribute the D.C. 2020 GE ballot cast in Kelechi Ahaghotu's name to that sibling.

authorities.⁶ During the hearing, OGC staff clarified that, unlike those other cases which involved ballots mailed to the voter, the ballot in this case was voted in person at a vote center proximate to the residences of several persons with the last name Ahaghotu.

Following the presentation of the case, the Board heard the General Counsel's recommendation. Noting that there was a possibility that an error (such as attributing a ballot for another Ahaghotu to the voter at issue in the pending matter) was made at check-in at the vote center, the General Counsel recommended that the Board decline to refer the matter for prosecution. The Board Chair made a motion to follow the General Counsel's recommendation and the Board voted unanimously to decline to refer the case to prosecutorial authorities.

Discussion

D.C. Official Code § 1–1001.18(a) provides that criminal referrals by the Board be made upon recommendation by the Board's General Counsel.⁷ Our task is to determine whether there is sufficient proof of criminal activity to conclude that referral is supported by reliable, probative, and substantial evidence. 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. We also note that, as a general matter, criminal statutes tend to include an element of intent.

The evidence shows that a ballot was issued by the Office of Elections Administration in Fort Bend County, Texas in the 2020 GE to Kelechi Ahaghotu, that a ballot was issued by the D.C. Board of Elections in the 2020 GE to Kelechi Ahaghotu, and that the intended recipient of those

⁶ OGC staff also added that Ms. Ahaghotu had contacted her prior to the Board hearing to let her know that she would not be able to attend and that Ms. Ahaghotu's brother had joined the Board meeting that day. As the proceedings prior to the *Ahaghotu* matter being called had been lengthy, however, it appeared that Mr. Ahaghotu was unable to continue to attend.

⁷ See also D.C. Official Code § 1–1001.05(a)(16) (authorizing the Board to “[p]erform such other duties as are imposed upon it by this subchapter”).

ballots was the same person. The evidence further shows that both of the ballots were indeed cast. At the hearing, the Board Chair commented, however, that there is “zero” possibility that Ms. Ahaghotu voted the D.C. ballot. Based on the record before us, we find that the D.C. ballot was voted by a third party.⁸ The issue, then, is whether there is sufficient evidence that the third party intended to vote a ballot that was issued to Ms. Ahaghotu. Given that the D.C. ballot was cast in-person and the possibility that Ms. Ahaghotu’s D.C. ballot was mistakenly issued to the wrong person (especially when other individuals having the surname Ahaghotu who resided at the same address would likely check in to vote at the vote center where the ballot at issue was cast), we find that there is insufficient evidence that whoever cast the D.C. ballot intended to vote a ballot intended for Ms. Ahaghotu.

Conclusion

Based on the lack of evidence that a third party intentionally cast a D.C. ballot issued for Kelechi Ahaghotu in 2020, we find that referral of this matter to the prosecutorial authorities is not appropriate. It is therefore hereby:

ORDERED that the recommendation of the General Counsel is **ACCEPTED** and, subject to the discovery of further information, this matter is closed.

The Board issues this written order today, which is consistent with our oral ruling announced at the hearing on April 5, 2024.

Date: May 6, 2024



Gary Thompson
Chairman
Board of Elections

⁸ We have addressed other situations where the evidence showed that the ballot issued to a D.C. voter was cast by a third party. *See, e.g., In the Matter of Ballots Cast in the Name of David Linfield*, BOE Case No. 23-014 (issued December 15, 2023). The facts in those other cases, however, differed in that they involved mailed ballots that could not have been erroneously cast because the third party had to sign the voter’s name (as opposed to the third party’s own name) in a field on the ballot return envelope that included warnings that only the voter should be voting the ballot.