

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Kuzara v. Ponte No. COPP 2017-CFP-001	DISMISSAL OF COMPLAINT
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On January 19, 2017, Joseph K. Kuzara, a Roundup resident filed a complaint with the Office of the Commissioner of Political Practices (COPP) against David A. Ponte, a Roundup resident.

SUBSTANTIVE ISSUES ADDRESSED

The substantive area of campaign finance reporting and disclosure law addressed by this Decision are Mr. Ponte's obligations under a previous COPP determination.

FINDINGS OF FACT

The Complaint alleges that Mr. Ponte appeared on a ballot and was subsequently elected as Precinct Committeeman for Musselshell County when Mr. Ponte was banned from running for and holding public office by a previous COPP Decision. The following findings of fact are necessary for this Decision.

Finding of Fact 1: Mr. Ponte filed for Precinct Committeeman for Musselshell County on 2-29-2016. (Commissioner's Records)

Finding of Fact 2: Previous Commissioner of Political Practices Decision "*O'Hara v. Ponte*" No. COPP 2014-CFP 014 (herein the 2014 Decision) ¹ prohibited Mr. Ponte from running for public office "may not appear as a candidate ... until he files the missing report for the 2012 election." (Commissioner's Records)

Finding of Fact 3: Mr. Ponte has not filed the missing 2012 report as described in the 2014 Decision. (Commissioner's Records)

Finding of Fact 4: A complaint was filed with the COPP on 1-19-2017 alleging Mr. Ponte violated the previous order. (Commissioner's Records)

Finding of Fact 5: In response to the COPP's inquiry dated 1-26-2017, Mr. Ponte responded by letter on 2-13-17 stating he resigned as Precinct Committeeman for Musselshell County effective 2-01-2017. (Commissioner's Records)

DISCUSSION

The Commissioner finds Mr. Ponte did not violate the 2014 Decision as the office Mr. Ponte sought and was subsequently duly elected to, Precinct Committeeman, is not considered a public office.

Sufficiency Finding No 1: A candidate for precinct committeeman or committeewoman is not a candidate for public office, Mont. Code Ann. §§ 13-1-101(8)(a) and(30). "'Public office' means a state, county, municipal, school or other district office that is filled by the people at an election". Rather the selection of the committeepersons are a function of the political party itself, Mont. Code Ann. § 13-38-201(2). A political party may choose to elect a

¹ <http://www.politicalpractices.mt.gov/content/2recentdecisions/OHaravPonteDecision>

committeeperson on the primary election ballot, or to elect their committeepersons through appointment, *id.*

Sufficiency Finding No 2: As such, a candidate for political party committeeperson is not a candidate for public office, and therefore not required to report and disclose pursuant to the Montana Campaign Finance and Practices Act, Mont. Code Ann. Title 13, Chapters 35 and 37. Further, the COPP is not required to, nor has historically certified any political party committeeperson for the ballot to the local election administrators, Mont. Code Ann. § 13-37-126.

Sufficiency Finding No 3: By running for election as a committeeman for Musselshell County, Mr. Ponte was not running for a public office, and was not in violation of the Commissioner's previous determination in "*O'Hara v. Ponte*" No. COPP-2014-CFP-014.

DETERMINATION

Mr. Ponte has not committed a campaign practices violation. Additionally, Mr. Ponte has resigned as Committeeman for Musselshell County effective 2-1-2017. The Complaint is hereby dismissed. The previous order, COPP 2014-CFP-014, remains in effect.

DATED this 24th day of May, 2017.

A handwritten signature in black ink, appearing to read 'Jeffrey A. Mangan', is written over a horizontal line. The signature is stylized and somewhat cursive.

Jeffrey A. Mangan
Commissioner of Political Practices
of the State of Montana
P.O. Box 202401
1208 8th Avenue
Helena, MT 59620