

The Unfair Advantage that District Leaders have
to Choose Election Day Poll Workers

Victor Jordan, J.D.'s Testimony (edited version)

Wednesday, July 28, 2021, 10:00 A.M.

718-679-1940 (c)

vjord2016@gmail.com

As I visited the Poll Sites in the 42nd Assembly District (A.D.) where I was a candidate in the Primary Election Day, Tuesday, June 22, 2021, I could not help but notice the same faces that I see on just about every single Election Day. Sometimes one or two of the poll workers may change but invariably each polling sites have the same Election Day workers and exact same Poll Site Coordinators.

In theory poll workers, who are hired with taxpayer dollars to administer the elections, are supposed to be free of bias to one candidate or the other. In other words, they are supposed to administer the election fairly and free from friend or favor. However, the way that these poll workers are selected to work on Election Day is anything but being free from bias and thus favoring one candidate over another.

Election Day workers, including the Poll Site Coordinators, are hired based on the recommendation of the District Leaders for that Assembly District who are members of the County Committees. This power to choose the poll workers on Election Day comes from N.Y. Election Law § 3-226(3) reads:

“List of persons recommended to serve as inspectors of election and poll clerks shall be filed by the chairperson of the county committees of the political party entitled to representation on the board of elections.”

In the 42nd A.D., it is not unusual to see the chief of staff of the incumbent District Leader managing the Poll Site with the largest number of election districts. Now, you are

wondering: why would the incumbent District Leader want her Chief of Staff be in charge of the key Poll Site in the District? Well, I'll say one thing that it is not out of goodness of her heart. It is definitely an advantage to have "your people" managing the key polling site in the district, where you have placed the vast majority of the EDs in the District. Who knows, maybe such a person would look the other way when an overzealous supporter decided to stuff the scanner with pre-marked ballots.

Having equal numbers of Democrats and Republicans working in the polling sites, which is a requirement of Article II, § 8 of the NYS Constitution, makes no difference because (1) in the 42nd A.D there are virtually no Republicans, which results with Democratic agreeing to be Republicans for the day. And, in Primary elections in districts where there are enough Republicans to Democrats, Republicans are indifferent to what Democrats do in their primaries because they only care about the outcome in the Republican primaries. And, of course, the Democrats would only be concerned with the outcome in the Democratic primaries. Thus, there is little incentive for either party to serve as a counterweight to each other's corrupt tendencies.

The Point is: N.Y. Election Law § 3-226(3) gives the incumbent District Leader an unfair advantage. An incumbent District Leader could plant party loyalist in any polling Site with the understanding that they should do whatever is necessary to ensure that the incumbent District Leader remains in power, including scanner stuffing.

The question is: Does this power that N.Y. Election Law § 3-226(3) give the District Leader as Members of the county committees, to choose the referees in an election in which she is a candidate, amount to an unconstitutional advantage? In other words, is this advantage so unfair that it shocks the conscience? Currently, we are making this argument in the Southern District Court of New York.

Section 3-226(3) gives an incumbent District Leader as a member of the county committees the power to administer an election in which the District Leader herself is a candidate. Fundamentally it is grossly unfair to have a candidate choose the referees in a race in which she is a candidate. Because this is so grossly unfair it shocks the conscience and, thus, it violates a candidate's constitutional right to fairness in any government administered election.

Victor Jordan J.D.'s Testimony
Wednesday, July 28, 2021, 10:00 A.M.
718-679-1940 (c)
vjord2016@gmail.com