

**FILED**

15 MAR 23 PM 9:51

STATE OF FLORIDA  
ELECTIONS COMMISSION

**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,  
Petitioner,**

v.

**Michael R. Whitlock,  
Respondent.**

---

**Agency Case No.: FEC 13-084  
F.O. No.: FOFEC 15-014W**

**FINAL ORDER**

**THIS MATTER** was heard at an informal hearing held before the Florida Elections Commission (Commission) on February 24, 2015

**APPEARANCES**

For Commission	Jaakan A. Williams Assistant General Counsel 107 West Gaines Street Collins Building, Suite 224 Tallahassee, FL 32399
For Respondent	No appearance

**STATEMENT OF THE ISSUE**

Whether Respondent violated Section 104.011(1), Section 104.011(2), and Section 104.15, Florida Statutes, as alleged in the Order of Probable Cause.

**PRELIMINARY STATEMENT**

On March 4, 2013, the Commission received a sworn complaint alleging violations of

Florida's election laws. Staff of the Commission conducted an investigation to determine whether the facts alleged in the complaint constituted probable cause to believe that Respondent violated the Florida Election Code.

On June 23, 2014, staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. On October 28, 2014, the Commission entered an Order of Probable Cause finding that there was probable cause to charge Respondent with the following violations:

**Count 1:**

On or about November 6, 2012, Michael R. Whitlock violated Section 104.011(1), Florida Statutes, when he submitted a voter registration application affirming that he was not a convicted felon or, if he was, that his right to vote had been restored; and that he was qualified to register as an elector.

**Count 2:**

On or about November 6, 2012, Michael R. Whitlock violated Section 104.011(1), Florida Statutes, when he signed a Voter's Certificate and Affirmation, affirming that he was a qualified elector, in order to cast a provisional ballot for the 2012 general election.

**Count 3:**

On or about November 6, 2012, Michael R. Whitlock violated Section 104.011(2), Florida Statutes, when submitted a voter registration application in which he affirmed that he was not a convicted felon or, if he was, that his right to vote had been restored; and that he was qualified to register as an elector.

**Count 4:**

On or about November 6, 2012, Michael R. Whitlock violated Section 104.15, Florida Statutes, when he voted in the November 6, 2012 general election while knowing he was not a qualified elector.

Respondent did not timely elect to have a formal administrative hearing before an administrative law judge from the Division of Administrative Hearings and, therefore, the matter was set for an informal hearing before the Commission. At the informal hearing, the

Commission adopted the undisputed facts set forth in the Staff's Recommendation as its findings of fact

Respondent did not appear at the informal hearing.

### FINDINGS OF FACT

1. Respondent was convicted of a 3<sup>rd</sup> degree felony offense in 2012 in Clay County, Florida.

2. On November 6, 2012, Respondent completed and submitted a Florida Voter Registration Application for the 2012 general election. Respondent placed a hand-written checkmark in the box next to the statement, "I affirm that I am not a convicted felon, or if I am, my right to vote has been restored"

3. On November 6, 2012 while at his polling place, Respondent swore or affirmed to an oath on the Provisional Ballot Voter's Certificate and Affirmation form that he was registered and qualified to vote in Putnam County, Florida, and that he was a qualified voter of the county

4. According to the Florida Parole Commission, Office of Executive Clemency's prisoner database, Respondent has not had his civil rights restored, and Respondent does not have an application pending for clemency at this time

5. Despite being a convicted felon and not having his civil rights restored, Respondent voted in the 2012 general election on November 6, 2012

### CONCLUSIONS OF LAW

6. The Commission has jurisdiction over the parties to and subject matter of this cause, pursuant to Section 106 26, Florida Statutes.

7. Respondent's conduct was willful. Respondent committed the acts while

knowing that, or showing reckless disregard for whether the acts were prohibited, or failed to commit an act while knowing that or showing reckless disregard for whether the acts were required.

8. Respondent committed 1 count of violating Section 104.011(1), Florida Statutes, when he submitted a voter registration application affirming that he was not a convicted felon or, if he was, that his right to vote had been restored, and that he was qualified to register as an elector; Respondent committed 1 count of violating Section 104.011(1), Florida Statutes, when he signed a Voter's Certificate and Affirmation, affirming that he was a qualified elector, in order to cast a provisional ballot for the 2012 general election; Respondent committed 1 count of violating Section 104.011(2), Florida Statutes, when he submitted a voter registration application in which he affirmed that he was not a convicted felon or, if he was, that his right to vote had been restored; and that he was qualified to register as an elector; and Respondent committed 1 violation of Section 104.15, Florida Statutes, when he voted in the November 6, 2012, general election while knowing he was not a qualified elector.

9. In determining the amount of the civil penalty, the Commission considered the mitigating and aggravating circumstances set forth in Section 106.265, Florida Statutes.

### **ORDER**

The Commission finds that Respondent has violated the following provisions of Chapter 104, Florida Statutes.

A. Respondent violated Section 104.011(1), Florida Statutes, on 2 occasions when he willfully swore or affirmed falsely to an oath or affirmation in connection with voting or elections.

B. Respondent violated Section 104.011(2), Florida Statutes, on 1 occasion

when he submitted false voter registration information

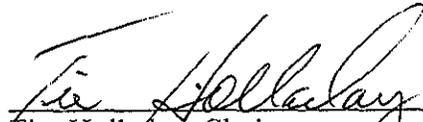
C. Respondent violated Section 104.15, Florida Statutes, on 1 occasion when he willfully voted in the 2012 general election while knowing he was not a qualified elector.

D. The Commission imposes a fine of \$4,000 for these violations.

Therefore it is

**ORDERED** that Respondent shall remit a civil penalty in the amount of \$4,000, inclusive of fees and costs. The civil penalty shall be paid to the Florida Elections Commission, Collins Building, Suite 224, 107 West Gaines Street, Tallahassee, Florida 32399, within 30 days of the date this Final Order is filed with the Commission and must be paid by money order, cashier's check or attorney trust account check.

**DONE AND ORDERED** by the Florida Elections Commission on February 24, 2015.

  
\_\_\_\_\_  
Tim Holladay, Chairman  
Florida Elections Commission

Copies furnished to:  
Jaakan A. Williams, Assistant General Counsel  
Michael R. Whitlock, Respondent  
Putnam County Supervisor of Elections, Complainant

### NOTICE OF RIGHT TO APPEAL

This order is final agency action. Any party who is adversely affected by this order has the right to seek judicial review pursuant to Section 120.68, Florida Statutes, by filing a notice of administrative appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Florida Elections Commission at 107 West Gaines Street, Suite 224, Collins Building, Tallahassee, Florida 32399-1050 and by filing a copy of the notice of appeal with the appropriate district court of appeal. The party must attach to the notice of appeal a copy of this order and include with the notice of appeal filed with the district court of appeal the applicable filing fees. **The notice of administrative appeal must be filed within 30 days of the date of this order is filed with the Commission.** The date this order was filed appears in the upper right-hand corner of the first page of the order.