

STATE OF VERMONT
WASHINGTON COUNTY, SS.

FILED
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2003 FEB -5 P 3: 21

In Re: Petition of)
EVA M. MORSE,)
Town Clerk, Town of Calais)

Docket No. 61 SUPERIOR COURT
WASHINGTON COUNTY

FINDINGS, CONCLUSIONS, AND ORDER

This matter came before the court on a Petition of Eva M. Morse, Town Clerk for the Town of Calais, for an order permitting her to unseal the ballot bags from the November 5, 2002 general election to remove the list of persons who applied for absentee ballots for that election.


Pursuant to 17 V.S.A. §2590, the Town Clerk is required to seal certain election materials after an election. Pursuant to 17 V.S.A. §2534, the Town Clerk is required to make a list of early or absentee voters, and to make that list available upon request at the town clerk's office. Such list is not on the list of election materials to be placed under seal after the election. Eva M. Morse states that when she sealed the election materials in the ballot bags after the November 5, 2002 general election, she inadvertently enclosed the list of persons in one of the sealed ballot bags. She has had a request to provide the list, and cannot do so without unsealing the ballot bags. Under 17 V.S.A. §2590(c), the Town Clerk may not permit the sealed ballot bags to be tampered with in any way except under court order. There is no specific provision authorizing the Town Clerk to open the ballot bags to retrieve a document inadvertently sealed inside. 17 V.S.A. §2617 authorizes this court to determine matters relating to elections and fashion appropriate relief in cases for which no other provision has been made.

The Town Clerk cannot comply with ongoing requirements to maintain as a public record and provide upon request a list of the early and absentee voters unless she is permitted to retrieve such list from the ballot bags. This is a lawful purpose, based on a specific statutory duty, and supports her request to open and reseal the sealed ballot bags.

Based on the foregoing, relief is provided as follows:

IT IS HEREBY ORDERED that the Calais Town Clerk is authorized to open the sealed ballot bags from the November 5, 2002 general election for the sole purpose of retrieving the list of early and absentee voters and maintaining it in the town clerk's office as a public record. She is further required to reseal the ballot bags without removing any other items.

Dated at Montpelier this 5th day of February, 2003.



Hon. Mary Miles Teachout
Superior Judge, presiding