

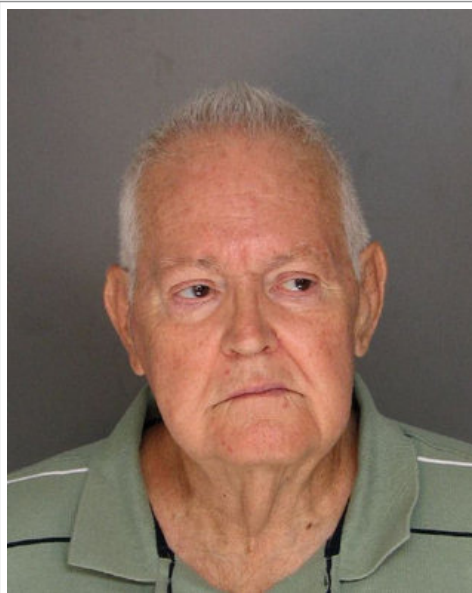
Posted on Tuesday, 08.27.13

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ELECTIONS

Hialeah man, 75, expects to plead guilty in voter fraud case



In return for Miami-Dade prosecutors dropping felony charges, Sergio 'El Tio' Robaina, 75, is expected to agree to one year of probation in the absentee-ballot case, a sentence that could be shortened if he stays trouble free.

BY DAVID OVALLE
DOVALLE@MIAMIHERALD.COM

An elderly Hialeah man will accept probation and plead guilty Wednesday to misdemeanor charges he illegally possessed absentee ballots, setting up a legal showdown challenging a Miami-Dade County law governing ballot collection.

Sergio "El Tio" Robaina, 75, was arrested last year during a much-publicized police investigation into absentee ballots.

The use of the ballots, which voters can turn in by mail or in person to the elections department, has skyrocketed in Miami-Dade in recent years. Allegations of absentee-ballot fraud shook the August 2012 primary as police investigators arrested two ballot brokers, or *boleteros*, on voter-fraud charges.

That included Robaina, who was accused of illegally collecting absentee ballots, a misdemeanor, and of felony voter fraud charges for allegedly filling out a ballot against the wishes of two voters, one of them a woman with dementia.

Robaina has long admitted to collecting the ballots but merely as a way to help elderly citizens, but he denied filling them out. The felony portion of the case was hampered after the woman with dementia died late last year, leaving only her reluctant adult son to testify against Robaina.

The ballot broker, who is the uncle of former Hialeah Mayor Julio Robaina, will agree Wednesday morning in court to one year probation, which could be shortened to six months if he stays trouble free.

Miami-Dade prosecutors, in turn, will drop the felony charges.

Robaina's plea will now allow his lawyers to ask an appeal court to strike down a Miami-Dade County ordinance governing the collection of absentee ballots.

County commissioners, worried about the perception of election fraud, passed the ordinance two years ago. The law states that a person may turn in only two absentee ballots in addition to their own: one belonging to an immediate family member and another belonging to a voter who has signed a sworn statement designating that person as responsible.

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His legal team also claimed the ordinance was fundamentally unfair because it applies only in Miami-Dade, while some ballots include races for state or congressional districts that stretch into neighboring counties.

But Hirsch ruled that Robaina did not have standing to challenge the constitutionality of the ordinance — and also that Florida in 1885 granted Miami-Dade unique powers to legislate its own affairs.

The judge agreed with county attorneys, who said absentee ballot fraud had become a “cottage industry” unique to Miami-Dade. The ordinance, the judge said, still does not prevent a Miami voter from filling out an absentee ballot and mailing it.

Miami’s Third District Court of Appeals declined to hear an appeal from Robaina while the case was still pending.

With “adverse ruling” guilty plea, Robaina can now ask the higher court to weigh in on the county ordinance, said lawyer Tom Cobitz.

“It’s a brilliant test case because we have to find the limits Miami-Dade County has when it comes to interfering with the right to vote,” Cobitz said Tuesday.

The probe started after authorities discovered 164 absentee ballots dropped off at a North Miami-Dade post office.

The bundle was dropped off by a then-aide to Miami-Dade Commissioner Esteban “Steve” Bovo, who was cleared of any wrongdoing.

The former aide, Anamary Pedrosa, told prosecutors that Robaina and other ballot brokers would drop off ballots at the commissioner’s Hialeah district office for her to take to the post office. She was given immunity and listed as a witness against Robaina.

In a simultaneous but unrelated probe, Miami-Dade public corruption detectives, spurred by a tip from a private eye, also arrested Deisy Cabrera, of Hialeah.

She too is charged with illegally possessing absentee ballots. The most serious allegation against her: a felony count of voter fraud for allegedly forging the signature of an elderly woman who was bed-ridden and unresponsive in a Miami Springs nursing home.

Cabrera, whose case is being handled by Broward prosecutors, has pleaded not guilty. Her case is set for a possible plea on Oct. 8.



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