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April 30, 2024

Mr. David J. Smith, Clerk of Court
U.S. Court of Appeals for the 11th Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Re: *Greater Birmingham Ministries v. Secretary of State, et. al.*, No. 22-13708

Dear Mr. Smith:

Greater Birmingham Ministries (“GBM”) submitted *Voter Reference Foundation, LLC v. Torrez*, Case No. 1:22-cv-0222, 2024 WL 1347204 (D.N.M. March 29, 2024), as supplemental authority. Doc. 63.

Torrez’s “equal footing” language concerns an access-versus-use argument about whether plaintiff could further disclose data it received. 2024 WL 1347204, *143-44. The court does not address whether 52 U.S.C. § 20507(i) requires electronic disclosure, which is outcome determinative here.

On the scope of § 20507(i), *Torrez* adopts a broad interpretation and concludes that the “the core voter rolls,” *i.e.*, the active registered voters list, is encompassed. 2024 WL 1347204, *135-39. GBM did not request those records. The disagreement here arises from GBM’s request for records concerning felons denied voter registration or removed from the rolls. *See* Bl. Br. at 14-15, 36-51. Following Judge Thompson’s decision below, the Secretary worked with his vendor to create customized lists, *id.* at 19-20, something it appears that the *Torrez* court would not have required.

The *Torrez* court used broad language suggesting that the plaintiff there was entitled to every record sought. *E.g.*, *Torrez*, 2024 WL 1347204, at *141. However, when it came to the request for voters who were not active, the court specifically “conclude[d] that this part of the request falls within the scope of the NVRA’s Public Inspection Provision *only* to the extent that it calls for voter data included in the file maintenance report which State law requires, in records concerning the NVRA’s

processes that govern removal of names from the voting rolls, or in a ‘canned report’ on the SERVIS database.” *Torrez*, 2024 WL 1347204, at *140 (first brackets by the court; citations omitted; emphasis added). The court was aware the Secretary could produce “non-canned” reports, sometimes with the help of the vendor, and had never declined to do so. 2024 WL 1347204, at *21, 140. The court also noted that State law only required retention of one report for a year, and so that report would not be available—or, apparently, required—for the two-year period set out in § 20507(i). 2024 WL 1347204, at *140.

This Court should reverse.

Respectfully submitted,

s/ Edmund G. LaCour Jr.
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CERTIFICATE OF COMPLIANCE

1. I certify that this document complies with the type-volume limitations set forth in Fed. R. App. P. 28(j) and 11th Cir. R. 28, I.O.P. 6. The body of the letter contains 347 words.

2. In addition, this letter complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word for Microsoft 365 MSO in 14-point Times New Roman font.

/s/ Edmund G. LaCour Jr. _____

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CERTIFICATE OF INTERESTED PERSONS

In accordance with 11th Cir. R. 26.1-1(a)(3) and 26.1-2(b), undersigned counsel certifies that the persons and entities listed in the Certificate of Interested Persons and Corporate Disclosure Statement contained in the Secretary of State's Reply Brief are all persons or entities known to undersigned counsel to have an interest in the outcome of this appeal.

/s/ Edmund G. LaCour Jr.

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Counsel for the Secretary of State

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed on April 30, 2024, using the CM/ECF Document Filing System, which will send notification of such filing to all noticed parties.

/s/ Edmund G. LaCour Jr.

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