

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TENNESSEE CONFERENCE OF THE)	
NATIONAL ASSOCIATION FOR THE)	
ADVANCEMENT OF COLORED)	
PEOPLE, et al.,)	
)	
Plaintiffs,)	No. 3:20-cv-01039
)	
v.)	Judge Campbell
)	Magistrate Judge Frensley
)	
WILLIAM LEE, et al.)	
)	
Defendants.)	

**MEMORANDUM IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

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INTRODUCTION

Like most States, Tennessee disenfranchises convicted felons. But Tennessee also provides disenfranchised felons with an avenue to regain their voting rights once they serve their sentence and satisfy certain financial obligations. Re-enfranchisement exists as a matter of legislative grace—not constitutional imperative. And until recently, the procedures for re-enfranchisement “differ[ed] depending on the year in which the person was convicted.” HB 1722, Summary (last visited August 2, 2023), <https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB1722&GA=104>.

That changed in 2006 when the General Assembly enacted legislative changes to the re-enfranchisement process. In that legislation, the General Assembly vested specific officers with responsibility for issuing certificate-of-restoration forms which disenfranchised felons need to regain the right to vote. Tenn. Code § 40-29-203(a). Once a disenfranchised felon has a restoration certificate, he or she must submit it to an administrative official who then transmits it to the Coordinator of Elections. *Id.* § 40-29-203(d). The Coordinator reviews the certificate to verify that it was issued in compliance with Tennessee law. *Id.*

Less than two months ago, the Tennessee Supreme Court issued its decision in *Falls v. Goins*, --- S.W.3d ----, 2023 WL 4243961 (Tenn. June 29, 2023). The Court clarified that to regain the right to vote in Tennessee, convicted felons must comply with *both* an exception to the prohibition on voting for individuals with felony convictions pursuant to Tenn Code Ann. § 2-19-143 and the additional requirements set forth in section Tenn. Code Ann. § 40-29-202. *Id.* at *6-8. In doing so, the Tennessee Supreme Court found that voting rights restoration statutes created a “two-step statutory process that is necessary to complete in its entirety before the right of suffrage is restored.” *Id.* at *7. In other words, a individuals may only restore their right to vote by (1) obtaining a pardon or restoration of their full rights of citizenship, Tenn. Code Ann. § 2-19-143,

and (2) obtaining a certificate of restoration, Tenn. Code Ann. § § 40-29-201 through -205. *See Falls*, 2023 WL 4243961, at *7.

The plaintiffs in this case attack the constitutionality of the re-enfranchisement regime. Although they have not established their eligibility to receive restoration certificates, and in some cases they have not even *applied* for restoration certificates, they nevertheless claim a liberty interest in those certificates that is protected by the Due Process Clause. They also claim that the re-enfranchisement framework violates the Equal Protection Clause and that Tennessee's voter registration practices violate the Constitution and federal statutes.

None of those claims can survive summary judgment. To begin, the plaintiffs lack standing to bring any of the six causes of action alleged in the Amended Complaint. Neither the individual plaintiffs nor the organizational plaintiff have been injured in any legally cognizable way. Plaintiffs' standing deficiencies are especially problematic because they seek the forward-looking remedy of an injunction. Based on the evidence in the record, the plaintiffs have not and cannot demonstrate that they satisfy the injury-in-fact requirement created by Article III.

On merits, the plaintiffs' claims fare no better. Count One asserts that Tennessee has deprived the plaintiffs of their constitutionally protected liberty interest in receiving restoration certificates under state law without due process. But the plaintiffs have no legitimate claim of entitlement to restoration certificates because they have not proven they are *eligible* for those certificates. And in any event, they are not entitled to additional process in connection with whatever liberty interests they do have.

The other constitutional claims are likewise meritless. Concerning Claim Two, which alleges a deprivation of a constitutionally protected interest in the right to vote without due process, plaintiffs' claim fails as a matter of law because disenfranchised felons have no fundamental right

to vote. Claim Three alleges that the defendants violate the Equal Protection Clause by administering the re-enfranchisement statute inconsistently. But that claim is subject to rational-basis review, which the law as administered easily passes. The final constitutional claim, Count Five, alleges that Tennessee's voter registration practices deny eligible felons their constitutional right to vote. The discriminatory practices that the plaintiffs allege lack evidentiary support. There is no genuine dispute that Tennessee processes voter applications from felons in a manner consistent with federal law.

Next, the plaintiffs claim that Tennessee's voter registration forms and practices violate the National Voter Registration Act of 1993 ("NVRA"). In addition to the standing problems with those claims, the plaintiffs cannot muster enough evidence to prove that there is even a trialworthy dispute on the legality of Tennessee's forms and practices.

Finally, the plaintiffs seek sweeping injunctions that would effectively re-write Tennessee's re-enfranchisement system and its voter registration forms and practices. Those requested injunctions are improper as a matter of law.

For all those reasons, the court should grant summary judgment for the defendants on all the claims and on the requested relief.

BACKGROUND

Plaintiffs include the Tennessee Conference of the National Association of the National Association for the Advancement of Colored People ("NAACP") and six disenfranchised felons acting on their own behalf and on behalf of a class of allegedly similarly situated individuals. (Amended Complaint, R. 102, PageID# 610.)

Plaintiffs assert six claims in the Amended Complaint:

Count One. Plaintiffs allege that Defendants deprive the class of their constitutional right to procedural due process in connection with their statutory interest in obtaining certificates of restoration.

Count Two. Plaintiffs allege that Defendants deprive the class of their constitutional right to procedural due process in connection with their constitutional interest in the fundamental right to vote.

Count Three. Plaintiffs allege that Defendants subject the class to unequal treatment in violation of the Equal Protection Clause.

Count Four. Plaintiffs allege that Tennessee's voter registration forms violate the National Voter Registration Act.

Count Five. Plaintiffs allege that Tennessee's voter registration practices deprive eligible voter applicants of their constitutional right to vote.

Count Six. Plaintiffs allege that Tennessee's voter registration practices violate the National Voter Registration Act.

(Amended Complaint, R. 102, PageID# 648–57.) The parties engaged in discovery, which closed on May 28, 2023. (Joint Mot. to Amend Sched. Order, R. 125, PageID# 837–38; Order Granting Mot. in Part, R. 128, PageID# 847–48.)

On July 21, 2023, the Tennessee Secretary of State and the Division of Elections announced policy revisions for the processing of voter-registration applications for individuals with felony convictions before January 15, 1973, and for individuals with felony convictions between January 15, 1973, and May 17, 1981. (Ex. 1, Goins Dec., at 1–4.) The Division of Elections issued guidance to the county election commissions in Tennessee to provide clarity and avoid rejection of voter-registration applications for individuals who did not lose their voting rights. (Ex. 2., Memo on Older Felonies, at 1.) This guidance instructs county election commissions to process voter-registration applications for individuals in two categories: (1) individuals with pre-January 15, 1973, convictions that did not commit an infamous crime; and (2) individuals with convictions between January 15, 1973, and May 17, 1981. (*Id.* at 1-2.) The memorandum also provides a list of infamous crimes for the county election commissions to reference when reviewing a voter-registration application listing a pre-January 15, 1973, felony conviction. (*Id.* at 2.) The guidance further describes an updated Voter Registration Rejection

Appeal Form that allows an applicant to file an appeal from a denial of a voter registration application. (*Id.* at 2; Ex.3, Rejection Appeal Form, at 1.)

Tennessee's voter-registration application provides the following information about applying to vote with a felony conviction:

If you have had a felony conviction, your eligibility to register and vote depends upon the crime you were convicted of and the date of your conviction. To assist in processing your application, provide the required information in box 4 and any responsive documents you have. For more information about this process, call 1-877-850-4959 or visit sos.tn.gov/restoration.

Tennessee Mail-In Application for Voter Registration, Tennessee Secretary of State, <https://sos-tn-gov-files.tnsosfiles.com/forms/ss-3010.pdf> (last visited July 23, 2021). Box 4 of the voter-registration application is labeled "Felony Conviction," and it asks, "Have you ever been convicted of a felony?" *Id.* It provides a parenthetical explaining, "If expunged, answer 'no.'" *Id.* Then, the form provides check boxes for "Yes" and "No." *Id.* It further states, "If yes, provide the following information (if known)." *Id.* Then, the form provides space for the applicant to list the crimes, dates, and place relating to the felony conviction. *Id.* Additionally, the form asks, "Have you received a pardon or had your voting rights restored?" *Id.* Immediately following, the form provides check boxes for "Yes" and "No." *Id.* Adjacent to the check boxes is an instruction stating, "If yes, provide copy of document." *Id.* The form requires an oath or affirmation and a signature of the applicant. *Id.* On the "Go Vote TN" online registration portal, an applicant cannot continue to fill out the voter-registration application after checking "Yes" in response to the felony question. (Ex. 3, Lim Dep., at 163.) However, the individual will be automatically directed to use the paper voter-registration application.

On July 21, 2023, the Tennessee Secretary of State and the Division of Elections also announced policy revisions regarding the certificate-of-restoration process. (Ex. 1, Goins Dec., at 1-4.) Based on the Tennessee Supreme Court's decision in *Falls v. Goins*, No. M2020-01510-SC-

R11-CV, 2023 WL 4243961 (Tenn. 2023), policies were revised to require applicants for certificates of restoration to follow new procedures:

A person convicted of a felony in a Tennessee court, an out-of-state court, or a federal court must:

1. Have been pardoned by a Governor, U.S. President, or other appropriate authority of a state *or* have had full rights of citizenship restored as prescribed by law, **and**
2. Have paid all restitution to the victim or victims of the offense order by the court as part of the sentence, if any; **and**
3. Have paid all court costs assessed, if any, unless the court made a finding of indigency; **and**
4. Is current in all child support obligations, if any.

(Ex. 5, COR Memo, at 1.) Additionally, the certificate-of-restoration form has been updated to reflect this policy change. (Ex. 7, COR Form, at 1.) The Division of Elections also issued a frequently asked questions document to further inform Tennesseans. (Ex. 6, FAQs, at 1.)

The NAACP assists individuals with voter restoration or voting registrations, regardless of whether the individual requesting assistance is a member of the NAACP. (Ex. 4, Morris Dep., at 10-11.) The NAACP goes to events and sets up a table to do voter registration. (*Id.* at 27.) The table is staffed with a NAACP member who volunteers to work the event. (*Id.* at 27.) The NAACP has a tablet at their table where an individual can use Tennessee voter-registration online portal to register to vote. (*Id.* at 28.) However, if an individual is unable to use the tablet to register to vote and the individual discloses that they need information about voting rights, the NAACP provides them with a worksheet created by the Free Hearts organization and a certificate-of-restoration form. (*Id.* at 29, 33.) The NAACP noted that the costs associated with a voter-registration event are only the volunteers' time and the gas getting to the location. (*Id.* at 66.) The NAACP also holds public education workshops on the certificate of restoration process, where they disseminate

publicly available information. (*Id.* at 61-63.) The NAACP has only held two workshops, and the noted expenses were time and gas money. (*Id.* at 62.)

However, the NAACP does not keep track of whether any of its members have a felony conviction or document the voting status of its members. (*Id.* at 24.) More specifically, the NAACP does track if members were convicted of a felony during the grace period. (*Id.* at 60.)

STANDARD OF REVIEW

Summary judgment is appropriate when a party establishes that there is no genuine issue of material fact and that the party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). To survive a motion for summary judgment, the non-moving party must go beyond the pleadings and come forward with specific facts to show that there is a genuine issue for trial. *Chao v. Hall Holding Co.*, 285 F.3d 415, 424 (6th Cir. 2002). The non-moving party “must do more than show that there is some metaphysical doubt as to the material facts;” rather, it must “present significant probative evidence in support of its opposition to the motion for summary judgment in order to defeat the motion for summary judgment.” *Id.* A fact is “material” if it might affect the outcome. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). If a reasonable juror could not return a verdict for the non-movant, the Court should grant summary judgment. *Id.* at 251–52.

ARGUMENT

I. Plaintiffs Lack Standing On All Six Causes Of Action

“Article III of the Constitution limits federal courts’ jurisdiction to certain ‘Cases’ and ‘Controversies.’” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 408 (2013). One case-and-controversy requirement is that plaintiffs must establish they have standing to sue. *Id.* The burden to establish standing reaches “each claim” that plaintiffs assert along with “each form of relief that is sought.” *Town of Chester v. Laroe Estates, Inc.*, 581 U.S. 433, 439 (2017). Plaintiffs lack standing to bring any of their claims or to secure the relief that they seek.

A. The Individual Plaintiffs suffered no injury in fact in connection with Counts One through Three.

The Supreme Court has established three elements that Plaintiffs must satisfy to meet the constitutional requirements for standing. First, Plaintiffs must demonstrate an “injury in fact,” which is “concrete,” “distinct and palpable,” and “actual or imminent.” *Whitmore v. Arkansas*, 495 U.S. 149, 155 (1990) (quotation and internal quotation marks omitted). Second, they must establish “a causal connection between the injury and the conduct complained of—the injury has to be ‘fairly trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] some third party not before the court.’” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992) (quotation omitted). Third, they must show a “‘substantial likelihood’ that the requested relief will remedy the alleged injury in fact.” *Vt. Agency of Nat. Res. v. United States ex rel. Stevens*, 529 U.S. 765, 771 (2000) (quotation omitted).

The Tennessee Supreme Court recently clarified the process that felons must go through to restore their voting rights. In *Falls v. Goins*, --- S.W.3d ---, 2023 WL 4243961, at *6 (Tenn. June 29, 2023), the court interpreted two statutory provisions addressing the same subject—the restoration of voting rights for felons. The court held that, to regain the right to vote under Tennessee law, felons generally must go through a two-step process. *Id.* at *7. First, they must comply with Tenn. Code Ann. § 2-19-143 by securing an order restoring their rights of citizenship—at least, if they have not been pardoned. But that alone is insufficient for felons to regain their voting rights. Under *Falls*, felons must also obtain a certificate of restoration under Tenn. Code Ann. §§ 40-29-202 through -205 before they may vote. *Id.* A felon cannot vote until both steps are complete.

None of the individual plaintiffs complied with the first step of the process. As described in *Falls*, plaintiffs must have their full citizenship rights restored or receive a pardon. The

undisputed material facts are that, at the time the Amended Complaint was filed, the individual plaintiffs had not been pardoned or had their full rights of citizenship restored for all their convictions. (Amended Complaint, R. 102, PageID# 621-26; Ex. 8, Weare Dep. at 1-56; Ex. 9, Tournier Dep., at 1-74; Ex. 10, Scott Dep., at 1-97; Ex. 11, Perry Dep., at 1-50; Ex. 12, Hendrix Dep., Vol. I and II, 1-73; Exhibit 13, Gray Dep., at 1-35).¹

Because the individual plaintiffs are not eligible for restoration of the right to vote, they lack standing to assert Claims One through Three and their injuries are conjectural and hypothetical. They have not shown that they suffered an injury in fact or are substantially likely to suffer one. They have not been deprived of the right to have their right to vote restored because they are ineligible for restoration, *Falls*, 2023 WL 4243961 at *7 (“Reading sections 2-19-143(3), 40-29-201, and 40-29-202 *in pari materia* creates a two-step statutory process that is necessary to complete in its entirety before the right of suffrage is restored.”), and because they are ineligible to vote. They have not satisfied the requirements of Tennessee Code § 2-19-143. Nor have Plaintiffs shown any substantial likelihood that they will be injured by the application of § 40-29-202—and thus could receive relief under this lawsuit—when they have not shown that they have first fulfilled the requirements of § 2-19-143. Any injury is thus remote, contingent, and hypothetical. It is not concrete, actual, or imminent.

B. The NAACP lacks organizational standing to bring Counts One through Six.

An organizational plaintiff must follow “th[e] same black-letter rules” that apply to individual plaintiffs. *Waskul v. Washtenaw Cnty. Cmty. Mental Health*, 900 F.3d 250, 255 (6th Cir. 2018). The NAACP does not satisfy those rules for any of the six causes of action.

¹ While John Weare had his citizenship rights restored with regard to one of his convictions, he has not had his citizenship rights restored for both of his convictions. (Ex. 8, Weare Dep., at 50.)

1. The NAACP cannot show an injury in fact sufficient to support standing on Claims One through Three.

The NAACP lacks organizational standing. Allegations of shifting resources from the certificate of restoration process to the restoration of citizenship rights or an alleged effect on its political power—as it asserts, (Amended Complaint, R. 102, PageID# 620-21)—do not demonstrate injuries that confer standing. *See Fair Elections Ohio v. Husted*, 770 F.3d 456, 459–61 (6th Cir. 2014) (holding that specific facts are required to support an injury due to diversion of resources at the summary judgment stage and that harm to abstract social interests do not confer standing). Nor has the organization shown that any of its members fully complied with Tennessee Code § 2-19-143 and then were deprived of a voting-restoration right due to an allegedly infirm application of Tennessee Code § 40-29-202. (See Ex. 4, Morris Dep., at 24-25, 44-66; Ex. 14, NAACP First Interrogatory Response, at 1-22; Ex. 15, Attachments to NAACP Third Interrogatory Response, 1-8; Ex. 16, NAACP Third Interrogatory Response, at 1- 15.) The NAACP consequently lacks standing to assert Claims One through Three.

2. The NAACP cannot show that an injury in fact sufficient to support its request for injunctive relief in connection with Counts Four through Six.

On Counts Four through Six, Plaintiffs seek to enjoin allegedly unlawful voter registration practices. At the pleadings stage, the court found that the NAACP had standing to bring these claims based on a diversion-of-resources theory of injury. The court accepted as true the NAACP's allegation that it was “injured when a person it helps register to vote is rejected despite being eligible because such denials cause it to divert significant time and resources to correct the error.” (Memorandum Opinion, R. 83, PageID# 460.) But mere allegations do not establish injury at summary judgment. Because Plaintiffs cannot satisfy the injury requirements necessary for injunctive relief, the court should grant the Defendants judgment for lack of standing.

Plaintiffs seeking “the forward-looking remedy of an injunction,” *Reform Am. v. City of Detroit*, 37 F.4th 1138, 1148 (6th Cir. 2022), “must show a present ongoing harm or imminent future harm” to satisfy the injury-in-fact requirement, *Shelby Advocates for Valid Elections v. Hargett*, 947 F.3d 977, 981 (6th Cir. 2020) (per curiam). “The ‘threat’ of a prospective injury must be real and immediate and not premised upon the existence of past injuries alone.” *Gaylor v. Hamilton Crossing CMBS*, 582 F. App’x 576, 579 (6th Cir. 2014) (quotation omitted).

Although “[p]ast may be precedent,” “the Supreme Court has not been sympathetic to claims that past occurrences of unlawful conduct create standing to obtain an injunction against the risk of future unlawful conduct.” *Shelby Advocates*, 947 F.3d at 981. The foundational case addressing standing in the context of injunctive relief is *City of Los Angeles v. Lyons*, 461 U.S. 95 (1974). There, the plaintiff sought to enjoin police officers who had committed past constitutional violations from doing so again. The Court held that the plaintiff could establish standing only if he alleged “(1) that *all* police officers in Los Angeles *always*” engage in the challenged misconduct, or “(2) that the City ordered or authorized police officers to act in such manner.” *Id.* at 105–06. But the plaintiff had nothing more than “conjecture” that “in every instance of a traffic stop, arrest, or other encounter between the police and a citizen, the police will act unconstitutionally and inflict injury without provocation or legal excuse.” *Id.* at 108. So the Court agreed that the plaintiff lacked standing for injunctive relief. *See id.* at 110.

The Sixth Circuit recently applied *Lyons* in the context of a voting rights dispute in Tennessee. An organizational plaintiff—Shelby Advocates for Valid Elections (“SAVE”)—and individual plaintiffs sued Tennessee election officials. *Shelby Advocates*, 947 F.3d at 979. They alleged that, “in future elections, the defendants will burden their right to vote, dilute their votes, and disenfranchise them” in violation of the Constitution. *Id.* To prove those concerns were valid,

the plaintiffs pointed to past mistakes that had been made during Tennessee's elections. *Id.* at 979–81. The plaintiffs then sought an injunction requiring state and local officials to implement various measures designed to make future elections more secure. *Id.* at 980.

Those plaintiffs suffered no injury in fact. Importantly, “[t]he complaint’s allegations with respect to injury all boil[ed] down to prior system vulnerabilities, previous equipment malfunctions, and past election mistakes.” *Shelby Advocates*, 947 F.3d at 981. But that past harm stemmed from “human error”—and the “[f]ear that individual mistakes will recur, generally speaking, does not create a cognizable imminent risk of harm.” *Id.* Relying on *Lyons*, the court found no standing because the plaintiffs could not plausibly allege that “Shelby County election officials *always* make [the injury-inflicting] mistakes, and they [did] not allege that the government entities ordered the election workers to make any such mistakes.” *Id.* SAVE could not establish organizational standing for similar reasons. *Id.* at 982. Although it complained about needing to divert resources to address future problems, those expenditures were based on “speculative fears of future harm” that provided no basis for forward-looking relief. *Id.*

The NAACP suffers from the same problem. It claims the allegedly unlawful practices will force the organization to redirect its resources in the future when a person that it helps register to vote is improperly rejected. If that happens, the NAACP says, it “must conduct extensive follow up” to correct the erroneous denial. (Amended Complaint, R. 102, PageID# 621.) Just like in *Shelby Advocates*, that injury occurs because of human error—that is, when an administrator mistakenly rejects an application that they should have approved. 947 F.3d at 981. That an erroneous denial (and the accompanying diversion of resources) may have happened before does not prove that it will occur again, much less that it will happen “imminent[ly].” *Bannister v. Knox Cnty. Bd. of Educ.*, 49 F.4th 1000, 1017 (6th Cir. 2022). There is no evidence that administrators

“always” deny registration applications from felons. Nor is there evidence that election workers were ordered to deny those applications. *See Infra*, Argument V.

To the contrary, Tennessee recently issued detailed policy revisions to ensure that felons are not improperly deprived of the right to vote. That updated guidance provides “greater clarity” about treatment of voter registration applications from felons in an express effort “to avoid the unnecessary rejection of voter registration applications of individuals who had not lost their voting rights due to a felony conviction.” (Ex. 1, Goins Dec., at 3; *See* Ex. 2., Memo on Older Felonies, at 1-2.) As explained, the guidance instructs that many applications from felons are treated the same as an application from those without felony convictions. (*id.*) Other felons who have restored their rights must simply check a box and provide proof of eligibility for state voter registration applications. The Coordinator of Elections sent that guidance to Tennessee’s 95 County Election Administrators. (Ex. 1, Goins Dec., at 3.)

The Sixth Circuit’s decision in *Memphis A. Philip Randolph Institute v. Hargett*, 978 F.3d 378 (6th Cir. 2020), confirms the NAACP lacks standing. There, the plaintiffs asserted as the basis for their injury the possibility that Tennessee would erroneously reject absentee ballots in future elections. *See id.* at 387. The plaintiffs claimed that the prospect of future erroneous denials justified injunctive relief. *See id.* at 382. The Sixth Circuit rejected that argument, reasoning that the plaintiffs failed to prove they faced “an actual, concrete, particularized, and imminent threat of harm.” *Id.* at 387. The asserted injury rested on “two layers of speculation about the upcoming election”—first, that Tennessee would reject absentee ballots; and second, that some of those rejections would be improper. *Id.* Yet the plaintiffs had no “official data to support their theory that some of the absentee ballots will be incorrectly rejected,” nor did they submit adequate proof

of past erroneous rejections. *Id.* Because Tennessee had safeguards to prevent improper denials, it was “far from inevitable that an absentee ballot will be incorrectly rejected.” *Id.* at 388.

That reasoning applies here with equal force. As in *Memphis*, the NAACP’s theory of injury rests on two levels of speculation. It first speculates that Tennessee will erroneously deny voter registration applications from individuals with felony convictions. And then it speculates that the applications that are erroneously denied will be ones with which the NAACP assisted. Despite bearing the burden of establishing standing, Plaintiffs make the same mistake discussed in *Memphis* by failing to establish the extent of past harm or provide “official data” to support the assertion that future denials are imminent. *Id.*

Given Tennessee’s recent guidance and the dearth of evidence from Plaintiffs about future erroneous rejections, “the possibility of future harm” is “conjectural at best,” and thus is “not within the purview of disputes that the federal courts are permitted to adjudicate.” *Hyman v. City of Louisville*, 53 F. App’x 740, 744 (6th Cir. 2002).

II. Plaintiffs Have Not Been Deprived Due Process In Connection With Their Alleged Statutory Right To A Certificate Of Restoration.

The Fourteenth Amendment guarantees “due process of law” before the government deprives any person of “liberty or property.” *Bazzetta v. McGinnis*, 430 F.3d 795, 801 (6th Cir. 2005). But Plaintiffs have no “liberty or property interest” at stake, *Phillips v. McCollom*, 788 F.3d 650, 653 (6th Cir. 2015), nor can they show that Tennessee’s “procedures” provide inadequate protection, *Bazetta*, 430 F.3d at 801 (citation omitted). Accordingly, the court should grant judgment for Defendants on Count One.

A. Plaintiffs have no liberty interest in receiving restoration certificates.

“The first inquiry in every due process challenge is whether the plaintiff has been deprived of a protected interest in ‘property’ or ‘liberty.’” *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40,

59 (1999). Whether a liberty interest exists “is a question of law,” *Walker v. Hughes*, 558 F.2d 1247, 1260 (6th Cir. 1977), and here that question turns on state law because Plaintiffs argue that they have been deprived of their “statutory right to a COR.” (Amended Complaint, R. 102, PageID# 648.) But as mere applicants for restoration certificates, Plaintiffs have no liberty interest in them whatsoever. And even if applicants *could* have a liberty interest in those certificates, Plaintiffs lack any protected interest here because they have not shown they satisfy the applicable eligibility criteria.

Applicants for state-created benefits are treated differently than recipients. The Due Process Clause protects interests “that a person has already acquired in specific benefits.” *Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 576 (1972). But the Supreme Court has “never held that applicants for benefits, as distinct from those already receiving them, have a legitimate claim of entitlement protected by the Due Process Clause of the Fifth or Fourteenth Amendment.” *Lyng v. Payne*, 476 U.S. 926, 942 (1986); *see also Am. Mfrs. Mut. Ins.*, 526 U.S. at 61 n.13 (1999) (reserving question). Drawing on that applicant-versus-recipient distinction, the Sixth Circuit has held in various contexts that “first-time applicants” for state-created benefits have “no property or liberty interest” in those benefits. *Women’s Med. Prof’l Corp. v. Baird*, 438 F.3d 595, 611 (6th Cir. 2006), *abrogated on other grounds by Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228 (2022); *see also Clair v. N. Ky. Indep. Health Dist.*, 239 F. App’x 997, 998 (6th Cir. 2007) (per curiam) (agreeing that “plaintiffs—first-time applicants for a food-service permit—did not possess a constitutionally protected property right for purposes of a due process . . . analysis”).

As applicants rather than recipients, Plaintiffs likewise lack any protected interest in restoration certificates. Just like in *Sanderson v. Village of Greenhills*, 726 F.2d 284, 286 (6th Cir. 1984), Plaintiffs here are “initial applicant[s]” for a state-created individual benefit and are thus

“analogous to the original applicant for a liquor license, or the new applicant for food stamps, in that [they] ha[ve] no ‘claim’ upon the [benefit].” They are “not comparable to that of the welfare recipient who is cut from the rolls, the parolee facing revocation of his parole, or the driver confronting cancellation of his license” because those interests have already vested. *Id.* Plaintiffs’ status as applicants belies any present entitlement to restoration certificates. *Cf. Jon Jon’s, Inc. v. City of Warren*, 700 F. App’x 436, 444 (6th Cir. 2017) (“Hakim does not have a recognized property interest in the liquor license because she was a new applicant with no existing ownership of the liquor license.”); *Wojcik v. City of Romulus*, 257 F.3d 600, 610 (6th Cir. 2001) (“first-time applicants for an entertainment permit are likewise not entitled to due process”).

But even if applicants *could* have a liberty interest in restoration certificates, Plaintiffs have none here. “The due process clause only protects those interests to which one has a legitimate claim of entitlement.” *Waeschle v. Dragovic*, 576 F.3d 539, 545 (6th Cir. 2009); *see Gojcaj v. Gonzales*, 175 F. App’x 720, 725 (6th Cir. 2006) (per curiam) (“In order to have a liberty interest in a benefit, there must be a legitimate claim of entitlement thereto.”). That happens when someone has “a present and legally recognized substantive entitlement” rather than a “judicially unenforceable substantial hope.” *Kerry v. Din*, 576 U.S. 86, 98 (2015) (plurality opinion). And so, to prove that present entitlement, Plaintiffs must show they satisfy the certificate-of-restoration eligibility criteria. That much is clear from the relevant statute: the re-enfranchisement law provides that only “a person *eligible*” to “have the right of suffrage restored” “may request”—and “then shall be issued”—a certificate of restoration. Tenn. Code § 40-29-203(a) (emphasis added). Plainly, then, no legitimate claim of entitlement exists absent an affirmative eligibility determination because that is what triggers the obligation to issue the certificate.

There is no genuine dispute that Plaintiffs failed to make that eligibility showing. Throughout this litigation, Plaintiffs have insisted that the court need not consider whether they or the class are entitled to restoration certificates. They argued during class-certification proceedings that their “claim is *not* that each individual class member has been wrongfully denied a COR based on their specific circumstances.” Plaintiffs’ Response to Defendants’ Motion to Stay Pending Appeal at 8, *In re William Lee*, No. 23-0502 (6th Cir. July 21, 2023), ECF No. 15 (emphasis added). They do not seek an order declaring that the class is entitled to restoration certificates or an order requiring certificates to be issued. It is too late in the day for Plaintiffs to argue that they—and the class—are entitled to certificates because they satisfy the eligibility criteria. Even if Plaintiffs want to make that showing, they cannot do so on this record. Plaintiffs argued that “Defendants do not need to conduct discovery on the individual circumstances of each class member” because those circumstances were irrelevant. (*See* Plaintiffs’ Response to Motion to Stay, R. 134, PageID# 878.) Unsurprisingly, then, the record does not contain the facts the court would need to consider when deciding whether the entire class meets the statutory eligibility criteria.

Moreover, the record affirmatively demonstrates that some plaintiffs are *ineligible* to receive certificates. Some named plaintiffs have not paid all the necessary financial obligations. *See* Tenn. Code § 40-29-202(b); (Ex. 9, Tournier Dep., at 50 (indicating that restitution had not been paid); Ex. 10, Scott Dep., at 59, 61 (indicating that court costs are owed); Ex. 11, Perry Dep., at 10, 45-46 (indicating that child support is owed); Exhibit 13, Gray Dep., at 21, 24-25 (indicating that court costs are owed); Ex. 8, Weare Dep. at 40, 48 (indicating a lack of documentation that court costs had been paid). Other named plaintiffs testified that they have not even applied for a restoration certificate at all. (Ex. 8, Weare Dep. at 22.) And for whatever it is worth, when

Defendants asked the NAACP to identify individuals who had been erroneously deprived of their statutory right to restoration certificates, they identified only seventeen individuals who “may” have been so deprived—none of whom are named plaintiffs. (Ex. 14, NAACP First Interrogatory Response, at 1-22; Ex. 15, Attachments to NAACP Third Interrogatory Response, 1-8; Ex. 16, NAACP Third Interrogatory Response, at 1- 15.) But, the NAACP provided no evidence that those individuals complied with Tenn. Code Ann. § 2-19-143. (*Id.*) Moreover, Of course, it makes little sense to say that individuals who do not satisfy the eligibility criteria or who have not applied for a certificate nevertheless have a vested liberty interest in those certificates that the Constitution protects.

The Sixth Circuit’s decision in *Hasanaj v. Detroit Public Schools Community District*, 35 F.4th 437 (6th Cir. 2022), illustrates why Plaintiffs’ failure to make that eligibility showing warrants summary judgment. Mr. Hasanaj worked as a teacher in Michigan. When the school terminated his employment, he brought a lawsuit alleging that the school unlawfully deprived him of his property interest in tenure. *Id.* at 442. The Sixth Circuit disagreed. It explained that, “[i]f a plaintiff is not entitled to tenure under a governing statute, [then] he has no ‘legitimate claim’ to job tenure.” *Id.* at 448. Mr. Hasanaj did not allege that he satisfied the statutory tenure requirements. *See id.* at 448. Because he did not make that eligibility showing, the court concluded that he lacked a constitutionally protected interest in his job. *Id.* at 451. Here, too, Plaintiffs did not show that they satisfied the criteria required to be issued restoration certificates. Their due process claim thus suffers from the same legal defect as the plaintiff in *Hasanaj*.

B. Plaintiffs received constitutionally adequate process in connection with whatever protected interests they may have.

Even assuming Plaintiffs have a protected interest, they cannot prove that interest was deprived without adequate process. Plaintiffs challenge the constitutional adequacy of the re-enfranchisement framework as enacted. Thus, Plaintiffs deserve no additional process.

“In deciding what the Due Process Clause requires,” the “Supreme Court has long distinguished between legislative and adjudicative action.” *Jones v. Governor of Florida*, 975 F.3d 1016, 1048 (11th Cir. 2020) (en banc). “The State often deprives persons of liberty or property through legislative action—general laws that apply ‘to more than a few people.’” *Id.* (quoting *Bi-Metallic Inv. Co. v. State Bd. of Equalization*, 239 U.S. 441, 445 (1915)). And when that happens, “the affected persons are not entitled to any process beyond that provided by the legislative process.” *Id.* That is because “the legislative process provides all the process that is constitutionally due when [an] alleged injury results from a legislative act of general applicability.” *Smith v. Jefferson Cnty. Bd. of Sch. Comm’rs*, 641 F.3d 197, 216 (6th Cir. 2011) (en banc) (cleaned up); see, e.g., *Kaminski v. Coulter*, 865 F.3d 339, 347–48 (6th Cir. 2017) (adequate process when the state terminated healthcare benefits through “broad determinations” about recipients “as a whole” rather than “individualized determinations about specific [beneficiaries]”); *Smith*, 641 F.3d at 216–17 (adequate process where the county terminated teachers by making the “legislative” decision to shut down the school); *Neinast v. Bd. of Tr. of Columbus Metro. Library*, 346 F.3d 585 (6th Cir. 2003) (adequate process where the board of trustees deprived the plaintiff of a liberty interest via a policy “of general applicability”).

Because of that distinction between legislative and adjudicative action, the court must determine whether the conduct “involve[s] the kind of individualized determination that triggers due-process protections in the first place.” *Kaminski*, 865 F.3d at 347. Certain “hallmarks” set

legislative conduct apart from adjudication. *Smith*, 641 F.3d at 216 (quotation omitted). Legislative actions are “general in [their] scope rather than targeted on a specific individual.” *Id.* (quotation omitted). And they often involve “discretionary, policymaking decision[s]” that implicate political priorities about the benefits a government “provides to its constituents.” *Id.* (quotation omitted). Such rules of “general applicability” simply do not “trigger due process concerns.” *Pickney Bros., Inc. v. Robinson*, 1999 WL 801514, at *4 (6th Cir. Sept. 30, 1999) (unpublished). Adjudicative actions, by contrast, concern a “relatively small number of persons” who are “exceptionally affected, in each case upon individual grounds,” by state action. *Bi-Metallic Inv. Co. v. State Bd. of Equalization*, 239 U.S. 441, 446 (1915).

Plaintiffs raise “system-wide concerns” about how the General Assembly designed the re-enfranchisement framework. R. 134 at 882. They argue that Tennessee’s generally applicable process for issuing restoration certificates is inadequate for every single applicant. R. 102, ¶¶ 135–36. But those procedures are “general in [their] scope” because they apply to all applicants, *Smith*, 641 F.3d at 216 (quotation omitted), and the decision about how to structure those generally applicable processes implicates the legislature’s “discretionary, policymaking decision” about how to allocate a political privilege that it provides as a matter of legislative grace, *id.* (quotation omitted). Plaintiffs essentially launch a facial challenge on the generally applicable re-enfranchisement regime as enacted by the General Assembly. Their injury thus derives from the legislative decision not to include additional procedures for the re-enfranchisement framework. Because that alleged injury does not stem from any individualized determinations, Plaintiffs are not entitled to additional process. *Id.*

The Eleventh Circuit’s decision in *Jones v. Governor of Florida*, 975 F.3d 1016 (11th Cir. 2020) (en banc), is instructive. There, disenfranchised felons sued Florida because its re-

enfranchisement law required them to satisfy certain financial obligations before regaining the right to vote. *Id.* at 1025. They specifically alleged that Florida deprived them of their interest in regaining the right to vote without due process by creating a system in which they “cannot determine the amount of their outstanding financial obligations with diligence,” *id.* at 1046—in other words, their statutory interest had been extinguished without due process because Florida’s procedures did not provide adequate safeguards. Writing for the en banc court, Judge William Pryor rejected the procedural due process argument. The court concluded that “[t]he felons were deprived of the right to vote through legislative action, not adjudicative action.” *Id.* at 1048. And even accepting the argument that the law “deprive[d] felons of the right to vote by conditioning reenfranchisement on the completion of all terms of sentence,” the court concluded that “those laws also qualify as legislative acts,” and thus the felons received all the process to which they were entitled. *Id.* at 1048–49. Likewise, Plaintiffs here challenge the legislative decision made by the General Assembly to enact an application process that lacks the procedural safeguards to which they believe they are entitled. They too have no right to any additional process.

* * *

At its core, Plaintiffs complain that state officials are not adequately performing their state-law duties. (*See, e.g.*, Amended Complaint, R. 102, PageID# 651 (alleging that “TDOC agencies have abdicated [their] responsibility” to administer the felon re-enfranchisement statute).) But the “[m]ere violation of a state statute does not infringe the federal Constitution,” *Snowden v. Hughes*, 321 U.S. 1, 11 (1944), and state-law violations are not cognizable in § 1983 actions, *Huron Valley Hosp., Inc. v. City of Pontiac*, 887 F.2d 710, 714 (6th Cir. 1989). There is no genuine dispute that Count One fails.

III. Plaintiffs Have Not Been Deprived Due Process In Connection With Their Alleged Constitutional Interest In The Right To Vote.

Count Two alleges that Plaintiffs have been denied “the fundamental right to vote without procedural due process.” R. 102 at 652. But disenfranchised felons do not have a fundamental right to vote. *See Wesley v. Collins*, 791 F.2d 1255, 1261 (6th Cir. 1986); *Johnson v. Bredesen*, 624 F.3d 742, 746 (6th Cir. 2010); *see also Harvey v. Brewer*, 605 F.3d 1067, 1079 (9th Cir. 2010) (O’Connor, J.) (felons “cannot complain about their loss of a fundamental right to vote because felon disenfranchisement is explicitly permitted”). Because Plaintiffs have no “legitimate claim of entitlement” to the fundamental right to vote, *Waeschle*, 576 F.3d at 545, their due process claim necessarily fails, *e.g.*, *Jones v. McKinney*, 172 F.3d 48 (6th Cir. 1998) (unpublished) (dismissing a procedural due process claim when the plaintiff had no constitutional liberty interest).

That Plaintiffs assert a statutory interest in Count One is irrelevant. Count One alleges that Plaintiffs have been deprived of a liberty interest created by state statute. R. 102 at 648–51. Count Two, by contrast, alleges that Plaintiffs have been deprived of an interest created by the *Constitution*—namely, the fundamental interest in the right to vote. R. 102 at 651–52. Count Two cannot proceed unless Defendants deprived Plaintiffs of a constitutional liberty interest. Because no such interest exists, the claim fails no matter what the court does with the state-created interest asserted in connection with Count One.

IV. Plaintiffs Have Not Been Denied Equal Protection Of The Law.

Count Three alleges that Defendants are violating the Equal Protection Clause by inconsistently administering Tennessee’s re-enfranchisement statute. That claim is subject to rational-basis review. Because “summary judgment is an apt vehicle for resolving rational-basis claims,” *Tiwari v. Friedlander*, 26 F.4th 355, 369 (6th Cir. 2022), and because the law as administered satisfies that standard, the court should grant Defendants judgment on Count Three.

A. The equal protection claim is subject to rational-basis review.

Plaintiffs insist that the re-enfranchisement system is subject “to intermediate scrutiny” because it “implicates an individual’s fundamental right to vote.” (Amended Complaint, R. 102, PageID# 653.)

That is incorrect for reasons already explained. Tennessee’s law does not burden disenfranchised felons’ fundamental right to vote because they have no such right. *See Johnson*, 624 F.3d at 746. Nor does a certificate of restoration confer that right. Obtaining a certificate is a necessary-but-not-sufficient step in the process that disenfranchised felons must follow to regain their voting rights. *See Falls*, 2023 WL 4243961, at *7 (explaining that felons who have not been pardoned must have their full citizenship rights restored before they are eligible to vote); Tenn. Code § 40-29-203(d) (requiring additional layers of review before individuals with restoration certificates are approved to vote). So, as the Sixth Circuit has already decided with respect to this very statutory framework, rational-basis review applies. *Johnson*, 624 F.3d at 746 (applying rational-basis review to Tennessee’s re-enfranchisement law).

For similar reasons, the court need not apply the heightened standard from *Bush v. Gore*, 531 U.S. 98 (2000) (per curiam). That case examined whether Florida’s recount procedures arbitrarily valued one person’s fundamental right to vote over another person’s fundamental right. The Court decided that “[t]he recount mechanisms” implemented by Florida did “not satisfy the minimum requirement for nonarbitrary treatment of voters *necessary to secure the fundamental right.*” *Id.* at 105 (emphasis added). The non-arbitrariness principle thus derives from the need to safeguard the constitutional interest in the right to vote. But because felons do not have that interest, *Bush* is not on point. In any event, the Supreme Court made clear that its “consideration [was] limited to the present circumstances, for the problem of equal protection in election

processes generally presents many complexities.” *Id.* at 109. *Bush* therefore does not regulate how Tennessee allocates restoration certificates among disenfranchised felons.

B. Tennessee’s re-enfranchisement framework satisfies rational-basis review.

The “highly deferential” rational-basis test is easy to satisfy—laws flunk that standard “only in rare or exceptional circumstances.” *Liberty Coins, LLC v. Goodman*, 748 F.3d 682, 694 (6th Cir. 2014) (quotation omitted). So long as the law “rationally relate[s] to legitimate government interests,” it withstands scrutiny. *Doe v. Mich. Dep’t of State Police*, 490 F.3d 491, 501 (6th Cir. 2007) (quotation omitted). Plaintiffs must prove the lack of a rational basis “either by negating every conceivable basis which might support the government action, or by demonstrating that the challenged government action was motivated by animus or ill will.” *Johnson*, 624 F.3d at 747 (quotation omitted). Even a law with a “tenuous” justification or that “works to the disadvantage of a particular group” will be upheld “if it can be said to advance a legitimate government interest.” *E. Brooks Books, Inc. v. Shelby County*, 588 F.3d 360, 364 (6th Cir. 2009) (quotation omitted).

Tennessee’s re-enfranchisement law divides responsibility for processing restoration certificates among various officials. By statute, the “incarcerating authority” and the “supervising authority” are the primary officers responsible for issuing CORs. Tenn. Code § 40-29-203(a).² Those officers work in the Tennessee Department of Corrections (“TDOC”) and regularly interface with felons as they begin their reintegration process. Parole and probation officers (“PPOs”) fill out and issue certificate of restoration forms to eligible offenders. (Ex. 18, Exhibit 4 to Ricci Dep. at 1-3.) PPOs have detailed instructions about how to fulfill their responsibility to

² “The pardoning authority” also has authority to issue restoration certificates, Tenn. Code § 40-29-203(a)(1), but most applications are handled by agents of the supervising or incarcerating authority.

“assis[t] eligible offenders in the restoration of their voting rights.” (*Id.*) TDOC guidance instructs that “[a]ll offenders” must be provided with a blank certificate-of-restoration form “upon discharge.” (Ex. 17, Ricci Dep. at 40, 46.) Applicants who are not immediately eligible upon discharge may later obtain a form once they become eligible. (*See* Ex. 17, Ricci Dep. at 40.) Once an applicant submits the completed certificate to the county election commission, the Elections Division reviews the certificate “to verify that [it] was issued in compliance with” Tennessee law. Tenn. Code § 40-29-203(d).

Structuring the re-enfranchisement framework that way advances legitimate government interests. For starters, it saves taxpayer resources. Tennessee’s voting rights restoration process piggybacks off TDOC’s preexisting framework—PPO officers already on the government’s payroll and operating within TDOC execute certificate-of-restoration responsibilities. By administering the program in that manner, Tennessee avoids the costs that would accompany creating and maintaining a new administrative apparatus to process restoration applications. There is no question Tennessee has a “legitimate interest in reducing its administrative costs.” *Armour v. City of Indianapolis*, 566 U.S. 673, 684 (2012); *see City of Mayfield Heights v. Woodhawk Club Condo. Owners Assoc.*, 205 F.3d 1339 (6th Cir. 2000) (per curiam) (unpublished) (“control of the costs in the City’s sanitation department amounts to a legitimate government objective”). And although Plaintiffs believe that a centralized process is better policy, the government advances a legitimate interest in avoiding costs by choosing the current system. *See Racine Charter One, Inc. v. Racine Unified Sch. Dist.*, 424 F.3d 677, 686 (7th Cir. 2005) (recognizing the avoided cost of busing students is a rational basis for a school district to choose to not offer busing services).

Besides saving resources, the current framework also eases administrative burdens on statewide officials and ensures that restoration certificates are handled by officers that regularly

assist felons. PPOs interface with felons and assist with their discharge, so it makes sense for them to be responsible for filling out the restoration certificates. After all, those officers—not an employee working in some centralized agency—are more familiar with the felon’s circumstances and are more accessible to the felon if any question about the application process arises. The decentralized framework likewise reduces administrative burdens on officials, including those in the Elections Division, who already must discharge many important statewide responsibilities. See *Strehlke v. Grosse Pointe Pub. School System*, 654 F. App’x 713, 721 (6th Cir. 2016) (“administrative convenience can serve as a rational basis”); *Beaumont v. FEC*, 278 F.3d 261, 27 (4th Cir. 2002) (“administrative convenience constitutes a legitimate state interest”), *overruled on other grounds by FEC v. Beaumont*, 539 U.S. 146 (2003).

Those reasons amply justify Tennessee’s re-enfranchisement framework. And because there are “plausible reason[s]” for the law, it “must stand, no matter how unfair, unjust, or unwise the judges may see it as citizens.” *Tiwari*, 26 F.4th at 361.

V. Tennessee’s Voter Registration Practices Comply with Federal Law.

Counts Four and Six allege violations of the National Voter Registration Act (“NVRA”). Both claims are deficient as a matter of law, so the court should enter judgment for Defendants.

A. Tennessee’s voter registration forms adequately notify applicants about state voting eligibility requirements.

Congress enacted the NVRA to increase voter turnout and “protect the integrity of the electoral process.” 52 U.S.C. § 20501(b)(3). To advance those goals, States must “inform applicants” of “voter eligibility requirements.” *Id.* § 20507(a)(5). Likewise, state mail-in forms must “include a statement” that “specifies each eligibility requirement.” *Id.* § 20508(b)(2)(A).

Tennessee’s voter registration form accomplishes both goals. As is true for most states, Tennessee forbids individuals convicted of certain felonies from registering to vote. The absence

of a disqualifying felony is thus a “voter eligibility requiremen[t].” 52 U.S.C. § 20507(a)(5). Without question, Tennessee “specifies” that eligibility requirement and “inform[s]” applicants that certain felons are ineligible to vote. *Id.* §§ 20507(a)(5), 20508(b)(2)(A). The mail-in form lists that eligibility requirement and directs applicants towards additional resources:

If you have had a felony conviction, your eligibility to register and vote depends upon the crime you were convicted of and the date of your conviction. To assist in processing your application, provide the required information in box 4 and any responsive documents you have. For more information about this process, call 1-877-850-4959 or visit sos.tn.gov/restoration.

Tennessee Mail-In Application for Voter Registration, Tennessee Secretary of State, <https://sos-tn-gov-files.tnsosfiles.com/forms/ss-3010.pdf> (last visited August 1, 2023). The link provided on the form includes thorough guidance about the disqualifying felonies requirement—including details about which felonies are permanently disqualifying, the dates between which felons were never disenfranchised (and are thus eligible to vote), and the process for disqualified felons to restore their eligibility to vote. And in case those instructions were not sufficiently clear, the form includes a toll-free number for applicants to call and request help.

The NAACP alleges in Count Four that Tennessee’s registration form is inadequate because it does not describe “the blanket exception for felony convictions between January 15, 1973 and May 17, 1981” or enumerate the (nearly two dozen) “offenses punishable by disenfranchisement prior to January 15, 1973.” R. 102 at 654. Put differently, although the registration form specifies that the absence of a disqualifying felony is an eligibility requirement, the NAACP believes that the form is nevertheless deficient because it could be *more specific*.

Neither of the alleged omissions violate the NVRA. As the Eleventh Circuit recently explained, the NVRA is a “notice statute enacted for the convenience of voting registrants.” *Thompson v. Alabama*, 65 F.4th 1288, 1309 (11th Cir. 2023). Tennessee carefully designed its form to maximize “accessibility,” “readability,” and “usability,” (Ex. 3, Lim Depo. at 83–84)—all

values that further the NVRA’s interest in voter registration. Section 20508(b)’s “specif[ication]” requirement does not mandate that states list *every* disqualifying felony or exhaustively describe the rules underlying each eligibility of Tennessee’s four eligibility requirements. *See Thompson*, 65 F.4th at 1308–09 (rejecting the Campaign Legal Center’s argument that Alabama’s voter registration form must list every disqualifying felony). After all, that would produce the absurd result of making voter registration forms unworkable—they would be unwieldy and unnecessarily complicated. *See Order Granting Motion to Dismiss at 7, League of Women Voters of Florida, Inc. v. Cord Byrd*, No. 23-cv-165 (N.D. Fla. July 10, 2023), ECF No. 36 (“if the NVRA required applications to catalog every potential ‘precondition to eligibility,’ Florida’s one-page, front-and-back application form would explode into something hopelessly cumbersome, counter to the NVRA’s goal of promoting convenient registration”); *see also Lockhart v. Napolitano*, 573 F.3d 251, 261 (6th Cir. 2009) (rejecting an interpretation that would produce absurd outcomes).

By specifying the eligibility requirement—namely, the absence of a disqualifying felony—and by linking to a website describing what constitutes a disqualifying felony, Tennessee put applicants on notice about who qualifies to successfully register to vote. *See Thompson*, 65 F.4th at 1308–09 (“Alabama’s mail-in voting form has provided sufficient notice by informing registrants that persons convicted of disqualifying felonies are not eligible to vote and providing an easily accessible link.”).³ The NVRA requires nothing more.

³ Insofar as the NAACP argues that “[t]he state-specific instructions for Tennessee on the Federal Form” “do not fully inform registrants of state law,” that argument fails as a matter of law for the same reasons. The Federal Form is subject to the same requirements as the State Form. *See* 52 U.S.C. § 20508(a)(2), (b)(2).

B. Tennessee ensures that eligible applicants are registered to vote.

The NVRA requires states to “ensure that any eligible applicant is registered to vote” in federal elections so long as they timely submit a “valid voter registration form.” 52 U.S.C. § 20507(a)(1). The NVRA also requires states to “accept and use” a uniform Federal Form to register voters for federal elections. *See id.* § 20505(a)(1).

Count Six alleges that Defendants employ two practices which violate the NVRA’s requirements. The first allegedly unlawful practice is that Tennessee allegedly “reject[s] *all* voter registration forms on which the applicant affirmed that they have a felony conviction.” (Amended Complaint, R. 102, PageID# 655 (alleging that policy in Count Five); *id.* at 656 (alleging that same policy in Count Six).) Plaintiffs claim that policy applies even to voters “who never lost their right to vote or had the right restored.” *Id.* at 655–56. The second allegedly unlawful practice is a requirement that applicants with felonies submit proof of eligibility to register to vote. *Id.* at 656–57.

As to the allegation about a policy that Tennessee automatically rejects all applications from felons, the undisputed evidence confirms that no such practice currently exists. Recent guidance from the Coordinator of Elections creates safeguards to prevent felons from wrongfully being denied their voting rights. *See generally* Ex. 2. For applicants with felonies from before January 15, 1973, their registration forms are processed just like someone without a felony conviction. *Id.* at 1. For applicants with felony convictions between January 15, 1973, and May 17, 1981, their voter registration forms are also processed just like applicants without felonies “because those individuals never lost the right to vote.” *Id.* at 2. And for all other applicants with felony convictions, election officials will not reject their application to vote if they submit proof that their voting rights have been restored. (Ex. 3, Lim Dep. at 195.) Simply put, there is no

genuine dispute that Tennessee has no “blanket policy of rejecting or indefinitely delaying voter registration applications” submitted by voters with felonies. R. 102 at 656.

Even Plaintiffs’ expert contradicts the baseless allegation that Tennessee employs that alleged blanket policy. Dr. Burch submitted an expert report about the voting-rights restoration process in Tennessee. And by her own estimation, thousands of felons “have had their voting rights restored in Tennessee” since 2006. (Ex. 19, Dr. Burch Dep. at 135-36.) Of course, that would be impossible if Plaintiffs were correct that Tennessee rejected or indefinitely delayed all voter applications from individuals with felony convictions.

Nor does Tennessee violate the NVRA by requiring applicants using the state voter registration form to submit proof of eligibility. In *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1 (2013), the Supreme Court held that the NVRA’s accept-and-use requirement forbids states from rejecting *Federal Forms* because applicants failed to submit supplemental documentation proving their eligibility to register. But the NVRA “also authorizes States, *[i]n addition to* accepting and using the’ Federal Form, to create their own, state-specific voter registration forms.” *Id.* at 12 (quotation omitted). Those forms “may require information the Federal Form does not.” *Id.* Under the NVRA, “States retain the flexibility to design and use their own registration forms” that create “procedural hurdles” not included on the Federal Form. *Id.* Thus, Tennessee does not violate the accept-and-use mandate by requiring state-form applicants to submit proof of voting rights restoration.

VI. Tennessee Does Not Deprive Eligible Voters Of Their Right To Vote.

Count Five alleges that Defendants deprive Tennesseans of their constitutional right to vote in violation of the First and Fourteenth Amendments. That happens, Plaintiffs say, because of the

above-mentioned practice of “reject[ing] *all* voter registration forms on which the applicant affirmed that they have a felony conviction.” (Amended Complaint, R. 102, PageID# 655.)⁴

As discussed, Tennessee has no such practice. *Supra* Argument V. Because Tennessee’s voter registration process does not burden the right to vote in the manner that the Plaintiffs allege, the court applies rational-basis review to Tennessee’s voting process under the *Burdick* framework. *See Ne. Ohio Coal. for Homeless v. Husted*, 696 F.3d 580, 592 (6th Cir. 2012) (“a rational basis standard applies to state regulations that do not burden the fundamental right to vote”). The State has a legitimate interest in combatting voter fraud, safeguarding voter confidence, and ensuring accurate recordkeeping. *Crawford v. Marion County Election Bd.*, 553 U.S. 181, 196–97 (2008). It advances these interests by requiring applicants to disclose whether they have a felony conviction—and, if so, to provide enough information for Tennessee to determine whether they are eligible to vote. *See Hawkins v. DeWine*, 968 F.3d 603, 607 (6th Cir. 2020) (affirming validity of voter restrictions because they advanced election administration interests).⁵

VII. The Court Should Grant Judgment For Defendants On The Requested Relief.

Plaintiffs seek a court order rewriting state election law. The law does not allow that sweeping remedy, so the court should grant summary judgment foreclosing it. *Loft v. Stationary*

⁴ To the extent Count Five purports to bring claims on behalf of disenfranchised felons who have *not* had their right to vote restored, summary judgment is appropriate because they have no constitutional right to vote. *See supra* Argument III.

⁵ Felons whose voting rights have been restored must so indicate on the voter registration form. They must also provide a copy of their restoration document. *Tennessee Mail-In Application for Voter Registration*, Tennessee Secretary of State, <https://sos-tn-gov-files.tnsosfiles.com/forms/ss-3010.pdf> (last visited August 1, 2023). Although Plaintiffs have not challenged this as an undue burden on the right to vote under Count Five, this minimal burden is easily justified by Tennessee’s interest in combatting voter fraud and safeguarding voter confidence. *See Crawford v. Marion County Election Bd.*, 553 U.S. 181, 196–97 (2008).

Eng'rs, Loc. 39 PTF, LLC, 87 F. Supp. 3d 1138, 1146 (N.D. Cal. 2015) (collecting cases that agree that a court may grant “summary judgment on the availability of a remedy”).

Federal courts have limited power to remedy constitutional wrongs committed by States. When remedying such wrongs, federal courts must refrain “from ‘rewrit[ing] state law to conform it to constitutional requirements.’” *Ayotte v. Planned Parenthood of N. New England*, 546 U.S. 320, 329 (2006) (quotation omitted). Institutional competence and principles of federalism caution federal courts against using injunctions to force new procedures on states. *See Horne v. Flores*, 557 U.S. 433, 448 (2009); *Ayotte*, 546 U.S. at 329. So although “federal courts can enter positive injunctions that require parties to comply with existing law,” “they cannot usurp[] a State’s legislative authority by re-writing its statutes to create new law.” *Thompson v. DeWine*, 959 F.3d 804, 812 (6th Cir. 2020) (per curiam) (“*Thompson I*”) (cleaned up); *see Thompson v. DeWine*, 976 F.3d 610, 620 (6th Cir. 2020) (“*Thompson II*”) (“If we find a state ballot-access requirement unconstitutional, we can enjoin its enforcement,” “[b]ut otherwise, ‘state and local authorities have primary responsibility for curing constitutional violations’” (quotation omitted)); *cf. Wilson v. NLRB*, 920 F.2d 1282, 1289 (6th Cir. 1990) (“courts cannot . . . redraft statutory language”).

Those principles hold true especially in the context of voting-rights disputes. “[T]he federal Constitution provides States—not federal judges—the ability to choose among many permissible options when designing elections.” *Thompson I*, 959 F.3d at 812. As such, “federal courts have no authority to dictate to the States precisely how they should conduct their elections.” *Esshaki v. Whitmer*, 813 F. App’x 170, 172 (6th Cir. 2020) (order). Injunctions requiring States to implement new procedures to remedy constitutional deficiencies in their electoral framework are thus improper. *See, e.g., Thompson II*, 976 F.3d at 620.

The first injunction sought by Plaintiffs flouts these limitations. Whether and in what circumstances to allow felons re-enfranchisement is a decision committed to Tennessee’s discretion as it designs its elections. *Richardson v. Ramirez*, 418 U.S. 24, 54 (1974). Although the re-enfranchisement framework is subject to judicial scrutiny, that does not empower the court to rewrite the certificate-of-restoration system if it finds constitutional defects. Yet that is precisely what Plaintiffs ask the court to do here. They seek an injunction requiring Defendants “to implement constitutionally required safeguards to ensure that the COR system” satisfies due process—namely, “a uniform, formal mechanism to request a COR before an impartial decisionmaker,” “a requirement to issue formal decisions on COR requests,” “a requirement to provide a written statement of reasons for any denials of COR requests,” “a requirement that any denials be based upon the statutory criteria for eligibility,” “uniform procedures for interpreting the COR requirements,” and “a uniform appeals process.” (Amended Complaint, R. 102, PageID# 658.) That remedy goes far beyond “enjoin[ing] the enforcement” of an unconstitutional law and “usurp[s]” Tennessee’s “primary responsibility” for curing constitutional defects. *Thompson I*, 959 F.3d at 812; *Thompson II*, 976 F.3d at 620

The second injunction that Plaintiffs seek fares little better. To remedy alleged NVRA violations, Plaintiffs ask the court to compel Defendants to rewrite Tennessee’s voter registration form and “issu[e] statewide guidance” prohibiting Tennessee from requiring applicants to submit proof of eligibility. R. 102 at 49–50. That amounts to nothing short of an improper request for the court to rewrite Tennessee voter registration procedures wholesale.

But the second requested injunction also suffers from a more fundamental problem. Remedies must be tailored to constitutional violations. Injunctive relief must be “limited to the inadequacy that produced the injury in fact that the plaintiff has established.” *Lewis v. Casey*, 518

U.S. 343, 357 (1996). To the extent Plaintiffs seek to enjoin Tennessee from enforcing its requirement that applicants using the state voter registration form submit documentary proof, the requested relief exceeds the court's remedial powers because States *may* require applicants to submit proof of eligibility. *See Arizona*, 570 U.S. at 12.

To sum up, the injunctions requested by Plaintiffs are flawed and should not be issued. They would require the court to engage in “quintessentially legislative work” by re-writing Tennessee election law, *Ayotte*, 546 U.S. at 329, and restrict Tennessee from enforcing valid voter registration requirements. Because the remedies sought are impermissible, the court should enter summary judgment for Defendants.

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CONCLUSION

For the reasons stated, summary judgment should be granted in favor of Defendants on all Plaintiffs' claims and their request for relief.

Respectfully submitted,

JONATHAN SKRMETTI
Attorney General and Reporter

Sincerely,

/s/ Zachary L. Barker

ZACHARY L. BARKER, BPR # 035933
Assistant Attorney General

DAWN JORDAN
Senior Counsel

DAVID RUDOLPH
Senior Assistant Attorney General

Public Interest Division
Office of the Attorney General
P.O. Box 20207
Nashville, TN 37202-0207
Zachary.Barker@ag.tn.gov

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been forwarded electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to the parties named below. Parties may access this filing through the Court's electronic filing system.

Danielle Lang
Mark Graber
Aseem Mulji
Campaign Legal Center
1101 14th Street NW, Suite 400
Washington, DC 20005

Charles K. Grant
Denmark J. Grant
Baker, Donelson, Bearman
Caldwell & Berkowitz, P.C.
1600 West End Avenue, Suite 2000
Nashville, TN 37203

Phil Telfeyan
Natasha Baker
Equal Justice Under Law
400 7th St. NW, Suite 602
Washington, DC 20004

Keeda Haynes
Free Hearts
2013 25th Avenue N.
Nashville, TN 37208

Date: August 2, 2023

Assistant Attorney General

/s/ Zachary L. Barker

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statutory process that is necessary to complete in its entirety before the right of suffrage is restored.” *Id.*

3. Based on this decision, the Division of Elections determined that it was necessary to revise its policies and procedures for the restoration of voting rights for individuals with felony convictions and used the logic and analysis from *Falls v. Goins* to inform these revised policies and procedures. On July 21, 2023, the Division of Elections issued revised guidance on the COR process to require:

A person convicted of a felony in a Tennessee court, an out-of-state court, or a federal court must:

1. Have been pardoned by a Governor, U.S. President, or other appropriate authority of a state *or* have had full rights of citizenship restored as prescribed by law, **and**
2. Have paid all restitution to the victim or victims of the offense order by the court as part of the sentence, if any; **and**
3. Have paid all court costs assessed, if any, unless the court made a finding of indigency; **and**
4. Is current in all child support obligations, if any.

(See Ex. 3, Memo to County Elections Commissions.) This revised guidance was issued in a memorandum sent to the 95 County Election Administrators, the Clerks of the Circuit and/or Criminal Courts, the Tennessee Department of Correction, the U.S. Probation and Parole district offices, along with a new certificate of voting rights restoration form. (See Ex. 2, COR Form; Ex. 3, Memo to County Elections Commissions; Ex. 4, Memo to Tenn. Government Officials; Ex. 5, Memo to Federal Gov. Officials; Ex. 6, Memo to Clerks of Court.) These documents were issued in compliance with my statutory duties under Tenn. Code Ann § 40-29-205.


4. On July 21, 2023, the Division of Elections also announced policy revisions for the processing of voter registration applications for individuals with felony convictions prior to January 15, 1973, and for individuals with felony convictions between January 15, 1973, and May 17, 1981. These policy revisions were done to provide greater clarity to the process and to avoid the unnecessary rejection of voter registration applications of individuals who had not lost their voting rights due to a felony conviction. Under the prior policy, a voter registration application indicating that the applicant had been convicted of a felony was rejected unless the application was accompanied with a document demonstrating that the individual's voting rights had been restored (e.g., a Certificate of Restoration). The revised policy, set forth in a memorandum issued to the 95 County Election Administrators, instructs the Administrators to process voter registration applications for individuals in two categories: (1) individuals with pre-January 15, 1973, convictions that did not commit an infamous crime and (2) individuals with convictions between January 15, 1973, and May 17, 1981, if the person indicates on the face of the form that the person has a felony conviction in either of those categories. (Ex. 7, Memo on Older Felonies.) The revised policy further instructs that such persons do not have to provide any additional documentation to prove that they are eligible. In addition, the memo provides a list of the infamous crimes for the County Election Administrator to reference when reviewing a voter registration application listing a pre-January 15, 1973, felony conviction. (*Id.* at 2.)

5. If a County Election Administrator receives a voter registration application from an individual with a felony conviction, but it is not apparent from the face of the form that the individual's conviction(s) fall(s) within either of these two categories, the application will still be rejected unless the applicant provides supplemental documentation eligibility. However, that individual has a statutory right to appeal the rejection of their application. Specifically, Tenn.

Code Ann. § 2-2-125 requires the County Election Administrator to provide the reason for the rejection of an application, to inform the applicant of the right to appeal and to provide an appeal form. This form, the Voter Registration Rejection Appeal Form, has been updated to include as a ground for appeal that the rejected applicant did not lose their right to vote because they fall in one of the aforementioned categories. (*Id.* at 2; Ex.8, Rejection Appeal Form.)

6. As previously stated, these revised policies were issued and became effective on July 21, 2023.

Pursuant to U.S.C. § 1746, I declare under penalty of perjury the foregoing to be true and correct.



MARK GOINS

Executed on: 26 July 2023

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Tennessee Secretary of State

Tre Hargett



Elections Division
312 Rosa L. Parks Avenue, 7th Floor
Nashville, Tennessee 37243-1102

Mark Goins
Coordinator of Elections

615-741-7956
Mark.Goins@tn.gov

MEMORANDUM

To: County Election Commissions

From: Mark Goins *Mark Goins*
Coordinator of Elections

Date: July 21, 2023

Subject: Restoration of Voting Rights

In order to avoid rejecting individuals for a felony conviction who did not lose their voting rights as a result of that conviction, the following process shall apply.

1. Felony convictions prior to January 15, 1973

Due to this law applying to felonies committed 50 plus years ago, coupled with the age of the person at the time of conviction, it is extremely rare that you will have a person who falls in this category. Additionally, most of the individuals who committed a felony prior to January 15, 1973, will have already had their rights restored over the years since 1973. However, if you do have a pre-January 15, 1973, felony conviction, the process below should be followed.

For an applicant who indicates on the voter registration application that he/she was convicted prior to January 15, 1973, the following process applies:

Assuming all other information on the form is acceptable and eligibility requirements met, individuals who identify on the face of their voter registration form that they were convicted of a felony prior to January 15, 1973, for any offense **NOT** listed on the next page is eligible to register to vote because that person did not lose the right to vote. Accordingly, their voter registration form is to be processed.

- Abusing a female child
- Arson and felonious burning
- Bigamy
- Bribery
- Burglary
- Felonious breaking into a business house, outhouse other than a dwelling house
- Felonious breaking and entering a dwelling house
- Larceny
- Horse stealing
- Robbery
- Stealing bills of exchange or other valuable papers
- Receiving stolen property
- Counterfeiting
- Forgery
- Destroying a will
- Incest
- Rape
- Sodomy
- Buggery
- Perjury
- Subornation of perjury

If an individual indicates on the face of their registration that they were convicted of one of the above felonies prior to January 15, 1973, and declared infamous, the form must be rejected unless the applicant has had their rights restored.

In order to provide an additional safeguard for these individuals, the Voter Registration Notice of Appeal and Voter Registration Rejection Appeal Form have been updated in case a voter has not been convicted of an infamous felony.

2. Felony convictions between January 15, 1973, and May 17, 1981:

We have another category of voters that will be rare since it applies to felonies committed 40 plus years ago. However, for this category of applicants, assuming all other information on the form is acceptable and eligibility requirements met, individuals who identify on the face of their voter registration form that they were convicted of a felony between January 15, 1973, and May 17, 1981, are eligible to register to vote because those individuals never lost the right to vote. This voter registration form should be processed.

In order to provide an additional safeguard for these individuals, the Voter Registration Notice of Appeal and Voter Registration Rejection Appeal Form have been updated to account for voters who may be in this category.

In short, when processing a voter registration application where the applicant has indicated that he/she has a felony conviction, attention must be paid to the crime listed and the year of the conviction listed, if the applicant provides this information.

If you have any questions about this revised process, do not hesitate to contact my office. Thank you for your attention to details in processing voter registration applications for individuals previously convicted of a felony.

IN THE UNITED STATES DISTRICT CIRCUIT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TENNESSEE CONFERENCE of the)
NATIONAL ASSOCIATION FOR THE)
ADVANCEMENT of COLORED PEOPLE,)
et al.,)
)
Plaintiffs,)
)
vs.) CASE NO.
) 3:20-CV-01039
)
WILLIAM LEE, et al.,)
)
Defendants.)

VIDEOCONFERENCED AND VIDEOTAPED 30(b)(6) DEPOSITION
OF
TENNESSEE CONFERENCE of the NATIONAL ADVANCEMENT for
the ASSOCIATION OF COLORED PEOPLE
JESSICA LIM
Taken on Behalf of the Defendants
OCTOBER 29th, 2021
Commencing at 9:34 A.M.

Kasie B. Hardy, Court Reporter, RPR, CRR, CRC
BERES & ASSOCIATES COURT REPORTERS
Licensed Stenographic Court Reporters
P.O. Box 190461
Nashville, Tennessee 37219-0461
(615) 742-2550
kasie@beresandassociates.com

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APPEARANCES:

For the Petitioners-Plaintiffs and the Putative Cases:

BLAIR BOWIE
DANIELLE LANG
MOLLY DAHANY
Campaign Legal Center
1101 14th Street N.W., Suite 400
Washington, D.C. 20005
bbowie@campaignlegal.org
dlang@campaignlegal.org
mdahany@campaignlegal.org

For the Defendants:

ALEXANDER S. RIEGER
MATTHEW D. CLOUTIER
Office of the Attorney General
Public Interest Division
P.O. Box 20207
Nashville, Tennessee 37202
alexander.rieger@ag.tn.gov
matthew.cloutier@ag.tn.gov

Also present: Chris Massey, videographer

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1 The videotaped and videoconferenced
2 deposition of JESSICA LIM was taken on behalf of the
3 Defendants on OCTOBER 29th, 2021, for all purposes
4 under the Federal Rules of Civil Procedure.

5 The formalities as to notice, caption,
6 certificate, et cetera, are waived. All objections,
7 except as to the form of the questions, are reserved
8 to the hearing.

9 It is agreed that Kasie B. Hardy, being
10 a Notary Public and Court Reporter for the State of
11 Tennessee, may swear the witness, and that the
12 reading and signing of the completed deposition by
13 the witness are reserved.

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1 THE VIDEOGRAPHER: We're now on the
2 record. Here begins the deposition of Jessica Lim.
3 Today's date is October 29th, 2021. Time on the
4 video monitor is 9:34 a.m. This is in the matter of
5 NAACP et al. versus William Lee, et al.

6 Would the court reporter please swear
7 in the witness.

8 * * *

9 **JESSICA LIM,**

10 was called as a witness, and after having been first
11 duly sworn, testified as follows:

12 **E X A M I N A T I O N**

13 BY MS. BOWIE:

14 Q Okay. Good morning, Ms. Lim. My name is
15 Blair Bowie. I represent the plaintiffs in
16 Tennessee NAACP versus Lee. I'm going to be asking
17 you some questions today.

18 For the record, can you note who else is
19 present in your room?

20 A There is the court reporter to my right. My
21 counsel, Alex Rieger and Matt Cloutier, and then
22 also the videographer. And that's it.

23 Q Okay. Have you ever been deposed before?

24 A No.

25 Q Okay. So I'm going to go over some

1 instructions before we start so you understand how
2 this is going to work. I'll be asking you
3 questions, and the court reporter is transcribing
4 everything we say. So to make things easy on her,
5 we can't be talking at the same time. So I
6 appreciate if you'd please wait for me to finish
7 asking my question before you give an answer, and
8 I'll try to do the same when you're answering.

9 So that the court reporter is able to get
10 everything on the record, please answer out loud
11 with words rather than nodding your head or saying
12 "uh-huh."

13 If you don't understand a question for any
14 reason, please tell me and I'll try to clarify it.
15 If you answer the question, I'll assume you've
16 understood it.

17 You might hear your attorneys object to a
18 question that I ask. That objection will be noted
19 for the record, but you still must answer the
20 question.

21 If you need a break at any time, just
22 let me know and we'll be happy to accommodate you.
23 I'd just ask that if I've already asked a question,
24 you answer it before we go on any breaks.

25 Do you understand that you're under

1 oath today?

2 A Yes.

3 Q Is there any reason why you cannot give
4 truthful answers to my questions today?

5 A No.

6 Q Are you taking any medications that impair
7 your memory?

8 A No.

9 Q Do you have any conditions that impair your
10 memory?

11 A No.

12 Q Could you please state and spell your full
13 name for the record.

14 A Jessica Cunningham Lim. J-e-s-s-i-c-a,
15 C-u-n-n-i-n-g-h-a-m, L-i-m.

16 Q Thank you. Do you have any documents or
17 papers in front of you?

18 A The exhibits that you sent. And then
19 otherwise, no.

20 Q Okay. I think you -- are you looking into
21 an iPad or are you looking into your own computer?

22 A An iPad --

23 Q Okay.

24 A -- tablet.

25 Q So there's nothing else open on that, other

1 than Zoom?

2 A Oh, no.

3 Q Do you have your incoming text messages
4 visible to you?

5 A No.

6 Q Okay. Have you ever been a party to a
7 lawsuit in your personal or official capacity?

8 A No.

9 Q Okay. When did you first learn about this
10 lawsuit, Tennessee NAACP versus Lee?

11 A About December of 2020, around the time that
12 the complaint was filed.

13 Q And what's your understanding of what this
14 lawsuit is about?

15 A I understand that it is about voter
16 registration and voter restoration for people with
17 felony convictions.

18 Q Have you read the complaint that initiated
19 this lawsuit?

20 A Yes.

21 Q Okay. Why?

22 A Why? Why, what?

23 Q Why did you read the complaint? What were
24 the circumstances under which you read it?

25 A To get more information about the lawsuit.

1 Q Have you read any of the other filings in
2 this case?

3 A Yes.

4 Q Okay. Which ones?

5 A I believe I read the motion to dismiss
6 around the time that it was -- after it was filed.
7 I have read -- well, does that include Court orders
8 as well or...

9 Q Sure, yes.

10 A Okay. The Court order staying discovery.
11 Or, I guess it was a case status order. I believe
12 I -- I might have read the response in opposition to
13 the motion to dismiss as well. As far as pleadings,
14 I think that's it.

15 Q Okay. Have you read the request for
16 production that plaintiffs made to the Division of
17 Elections in this case?

18 A Yes.

19 Q Okay. Did you --

20 MS. BOWIE: I'd like to enter into the
21 record the document labeled A. Could you please
22 mark that as Exhibit 1.

23 (Marked Exhibit No. 1.)

24 BY MS. BOWIE:

25 Q Thank you. Do you recognize this document

1 as the request for production from the plaintiffs in
2 this case, the Elections Division?

3 MR. RIEGER: Blair, at this time, we
4 are going to object to that question as well as the
5 questions dealing with -- any future questions
6 dealing with pleadings, as they do not fall within
7 the topics provided for this 30(b)(6) deposition.

8 But you can go ahead and answer,
9 Jessica.

10 THE WITNESS: Yes.

11 BY MS. BOWIE:

12 Q Okay. Did you help prepare responses to
13 this request for production?

14 MR. RIEGER: Same objection. We'll
15 continue it for everything that deals with the
16 request for production of documents and Exhibit A,
17 that they fall outside of the enumerated topics in
18 the 30(b)(6) notice.

19 But please go ahead and answer.

20 THE WITNESS: No. I did not help with
21 the written responses to -- to this request for
22 production.

23 BY MS. BOWIE:

24 Q Did you help produce any of the documents?

25 A Yes.

1 Q Okay. So you're familiar with the documents
2 that were produced?

3 A Yes.

4 Q Okay. How did you prepare for this
5 deposition?

6 A I spoke to my attorneys. I read the
7 complaint again, the Court order, which I'll call
8 it, the -- I read the request for production again.
9 I read the written responses as well, to the request
10 for production, the notice of deposition, and then
11 the -- I reviewed the documents that we produced in
12 response to the first request for production,
13 Number 2 and Number 3.

14 I also spoke to several of the attorneys,
15 or, I guess just the several of my -- of the
16 employees in the Elections Division as well.

17 Q Okay. So who did you speak with at the
18 Elections --

19 MR. RIEGER: Blair -- Blair, since
20 the -- since the witness just referenced the
21 30(b)(6) notice, at this point, we're -- defendants
22 are going to lodge a general objection to Topics 7
23 and 8 as outside of Counts 4 and 5 of the initial
24 complaint and, therefore, stayed by the Court's case
25 management order. We just wanted to make sure that

1 was on the record for posterity.

2 And I apologize for the interruption.

3 BY MS. BOWIE:

4 Q Okay. Returning to the question, who in the
5 Elections Division did you meet with to prepare for
6 this deposition?

7 A I spoke with the coordinator of elections,
8 Mark Goins. I spoke to the deputy coordinator, Beth
9 Henry-Robertson. I spoke to another attorney in the
10 office named Andrew Dodd. And I also spoke to our
11 elections specialist named Kathy Summers.

12 Q Okay. Did you speak with anyone else about
13 this deposition?

14 A About the substance, no.

15 Q Okay. And understanding that I'm not asking
16 you about anything that's privileged between your
17 attorneys, when you met with them, was anyone else
18 present at that meeting?

19 A No.

20 Q Okay. Have you had any written
21 communications with anyone to prepare for this
22 deposition?

23 MR. RIEGER: I'll object -- I'll object
24 to the extent that it seeks privileged
25 communications.

1 Please go ahead and answer.

2 THE WITNESS: No, I don't believe so.

3 No, nothing written.

4 BY MS. BOWIE:

5 Q Okay. Aside from what we've already
6 discussed, did you do anything else to prepare for
7 this deposition?

8 A Oh, I -- yes. Well, I'll say I -- I looked
9 back through the statutes as I was reading the
10 complaint too. I reviewed our current voter
11 registration application.

12 I believe that's it.

13 Q Okay. And just to go back to the
14 conversations that you had with other folks at the
15 Elections Division, again, not asking about any
16 communications with your attorneys, but can you tell
17 me a little bit about what you talked about in those
18 conversations?

19 MR. RIEGER: I'll -- I'll object to
20 that question to the extent that, as Ms. Lim is an
21 attorney with her division, I'll object to maintain
22 the attorney-client privilege between any
23 communications that might have been had that would
24 have been privileged apart from deposition
25 preparation.

1 THE WITNESS: So with Beth, the
2 deputy -- excuse me, Beth Henry-Robertson, I spoke
3 with her to -- to review the policy or the prior --
4 I guess before I joined the policy or the -- excuse
5 me -- (drinking water). Stuff's going around.

6 -- the -- the prior policy about the
7 timing, the official policy on the timing of
8 restoration and registration. I also spoke with her
9 about the process for how we -- when we make changes
10 to our voter registration, how we disperse and
11 coordinate disbursement, I guess, to the agencies
12 and the counties, the County Election Commissions,
13 and the website, I guess I'll say too.

14 With --

15 BY MS. BOWIE:

16 Q Okay.

17 A Oh, sorry.

18 Q No, go ahead.

19 A With Andrew Dodd and Kathy Summers as well,
20 I had the same conversation about the process of how
21 we disperse our voter registration applications when
22 we make changes to the other government agencies and
23 the counties, County Election Commissions.

24 With Andrew Dodd as well, I also spoke with
25 him about the history, I guess, of our online voter

1 registration and any changes that had been made and
2 the process, the -- I guess, technical process
3 behind it.

4 And then with coordinator Mark Goins, I
5 spoke to him about the same thing, about the
6 history -- no, sorry, not the history. About the
7 process of how we get changed voter registration
8 applications to the government agencies, to the
9 appropriate state agencies and the County Election
10 Commissions.

11 And I believe that's it.

12 Q Okay. Do you know how long each of those
13 individuals has worked for the Elections Division?
14 It's okay to estimate.

15 A Kathy Summers, like, 15 to 20 years. Andrew
16 Dodd, maybe 7. All of these are guesstimates. I
17 apologize. I'm not -- I really don't know. They're
18 ballpark. Coordinator Mark Goins, I don't -- 13
19 years. And then Beth Henry-Robertson, maybe 20 to
20 25.

21 Q Okay, thank you. Just going back a little
22 to the work you did to produce documents in response
23 to Exhibit 1, can you tell me what you did to search
24 for documents to respond to that request?

25 MR. RIEGER: Since there's been some

1 intervening time now, I'll renew the objection that
2 this falls outside the deposition topics.

3 But please go ahead and answer.

4 THE WITNESS: For Request for
5 Production Number 2 -- my goodness. I started by
6 gathering all our training that is internal by
7 looking through our H drives and then also the
8 training that we share with the counties. And
9 obviously, there was overlap there with the ones
10 that we had, but wanted to make sure that I got
11 everything.

12 I also looked on just the general
13 Secretary of State's website to make sure there
14 wasn't anything there that I hadn't caught. Next, I
15 checked my e-mails, both the ones just in my e-mail
16 folder, the sent and received. I did that by -- by
17 hand. I didn't do a search term. And I also
18 checked any e-mails that I had saved in a folder, in
19 a digital folder.

20 Then I next turned to any documents
21 that others in the office would have. So I worked
22 with the deputy, Beth Henry-Robertson, to gather her
23 e-mails first. And then any older trainings or
24 anything that she also had had saved on her computer
25 or that she knew of that I was missing.

1 The same with coordinator Mark Goins.
2 We checked with him. Beth and -- Beth and I checked
3 with him. And I believe we also asked our election
4 specialist, Kathy Summers and Andrew Dodd as well,
5 just to make sure that they didn't have anything.

6 Then I -- next I turned to the -- my
7 predecessor said that the person in my position
8 before me -- I guess the persons -- back through
9 2015, I tried to check the folders and files that we
10 had available to us that were left to see if there
11 were anything in there, any communications or
12 documents that we had that they had left behind in
13 their personal files. I believe that's it for
14 Request for Production Number 2.

15 For Request for Production Number 3,
16 we, Beth Henry-Robertson and I, looked back over our
17 communications, so our e-mails first, and then also
18 our -- anything saved that we had, any saved
19 documents. For Request for Production Number 3,
20 Beth -- she checked her computer and files for older
21 documents that she had.

22 We also asked every -- I believe every
23 person, every other employee in the office, to check
24 their files and make sure that they also gave us
25 any -- anything responsive to Request for Production

1 Number 3.

2 I think we also checked the -- I think
3 we also checked the -- any training that we had for
4 that as well and then maybe also the Secretary of
5 State's website to see if there was anything we had
6 missed.

7 And I believe that's it. I believe
8 that's everything

9 BY MS. BOWIE:

10 Q You mentioned a folder on your e-mail. Can
11 you tell me what that folder is for?

12 A There's not a folder on my e-mail.

13 Q A digital folder.

14 A So on my -- in my -- on my -- I guess, in
15 our H drive, which is where we save stuff and we --
16 we have our own folders, sometimes when there are
17 questions -- when the county has a question or even
18 the individual has a question, I will save it just
19 actually to help them in case anything comes up in
20 the future or if there's ever an issue. I'll try to
21 save them. Obviously, there are a lot, so I -- I
22 don't catch them all. But I will try to save them
23 so I can do a quick search in the future if there
24 are ever any issues.

25 Q And are you referring to questions about

1 eligibility status after a felony conviction
2 specifically?

3 A Yes.

4 Q Your office also made a supplemental
5 production, I believe, late this summer. Did you
6 help with that?

7 A I don't believe I helped with that. I -- I
8 don't believe that I helped with that. I think
9 that -- yeah, no, I personally did not.

10 Q Okay. I'm going to move on to some easier
11 questions now. I just want to learn a little bit
12 about your educational and professional background.
13 Can you please start by describing or summarizing
14 your educational background.

15 A So I went to -- I guess I'll start with high
16 school. I went to high school here in Nashville at
17 Ezell-Harding Christian School. I then attended
18 college, undergraduate at Samford University in
19 Birmingham, Alabama. I graduated from there in
20 May 2011. And then I attended law school at the
21 University of Virginia School of Law. And I
22 graduated from there in May 2014.

23 Q Okay. And when did you start working at the
24 Elections Division?

25 A August 4th, 2019, yeah.

1 Q And what position do you hold with the
2 Elections Division?

3 A I'm the elections attorney.

4 Q What are your duties as elections attorney?

5 A They -- it's -- can be anything that comes
6 up legally. But mainly it includes helping counties
7 and individuals with accessibility at polling
8 locations. It includes, again, helping the counties
9 and individuals with any issues or questions about
10 under UOCAVA, so military or overseas citizens.
11 UOCAVA is the act, what we call it. It includes --
12 in my role, I am the chairman of the Tennessee
13 Highway Official Certification Board. And then also
14 I help counties and individuals with questions and
15 issues that come up with voter rights for people
16 with felony convictions as well.

17 Q Would you say that you're primarily
18 responsible for that, for helping with questions
19 about eligibility to vote after a felony conviction?

20 A Do -- are you asking if that's my primary
21 duty or if I'm the primary one in the office?

22 Q If you're the primary person for that issue
23 in the office.

24 A Yes, I would say that.

25 Q Okay. And when you applied for this job,

1 was that part of the job description?

2 A Yes.

3 Q Okay. Who is your supervisor?

4 A Deputy Beth Henry-Robertson and the
5 coordinator of elections, Mark Goins.

6 Q Okay. And is the coordinator the supervisor
7 for the deputy coordinator?

8 A Yeah. It's not a formal -- it's not a
9 formal vertical -- I mean, our office just isn't in
10 a linear -- but, yes, I would say he supervises her.

11 Q Understood. Have you held any other roles
12 with the Elections Division since you've been there?

13 A No. Well, I will say -- and I didn't mean
14 to leave this out, but I interned with them actually
15 back in the summer of 2008. I was an intern during
16 college, so -- but not -- I have not held any other
17 roles since being an attorney with them since 2019,
18 no.

19 Q Got it. You didn't leave it out. I haven't
20 asked about that yet.

21 A Oh, okay. I had forgotten about it
22 honestly, but, yeah.

23 Q I was just about to ask, what did you do for
24 work before joining the Elections Division?

25 A So I actually wouldn't have even counted

1 that, I guess, because it was an intern.

2 Do you want all my internships and stuff,
3 like, throughout college, or do you mean just --

4 Q Did you go straight from law school to
5 working at the Elections Division?

6 A No. So after law school, I worked in
7 Washington, D.C. at a law firm called Wiley Rein.
8 Then I moved here to Nashville and continued to work
9 for Wiley Rein remotely. Technically, I was changed
10 to, I think, a contractor rather than an associate.
11 But I continued to work for that same firm.

12 And then in January 2018, I joined as an
13 associate with the law firm here in Nashville named
14 Leader, Bulso & Nolan at the time. And then from
15 there, in June -- or, sorry, August 2019, I joined
16 the Elections Division.

17 Q During your time with those firms, did you
18 have any particular areas of expertise in the law,
19 or focuses?

20 A So at my D.C. law firm, Wiley Rein, I was in
21 the insurance litigation group. So I would call
22 that my focus. At Leader, Bulso, the Nashville
23 firm, I would say I did tort litigation,
24 catastrophic personal injury. I also did some
25 insurance coverage work there as well. I would say

1 those were my main primary focuses. Maybe
2 pharmaceutical stuff and litigation. But, yeah,
3 those are the primary cases that I had.

4 Q Okay. And can you describe any work you did
5 while you were in law school?

6 A So the summer -- well, I volunteered -- I
7 did pro bono with several law -- while I was in law
8 school. But I -- I guess I don't count those. And
9 so if you just mean internships -- summer
10 internships, the summer after my 1L year, I worked
11 at Microsoft in Seattle. They recruited me, and I
12 worked for their legal -- I forgot what the -- it's
13 LCA. I forgot what that acronym stands for. But
14 their general counsel essentially and business
15 teams.

16 So I worked in Microsoft my 1L year. My 2L
17 year, the summer after my 2L year, I was a summer
18 associate at Wiley Rein. And they hired me at the
19 end of the summer to come back after I graduated.

20 Q Okay. So I'd like to talk a little bit more
21 about the structure of the Elections Division and
22 the responsibilities of the division. So I'd like
23 to help understand the different job titles and job
24 responsibilities in the office. You've already told
25 me a little bit about the coordinator, the deputy

1 coordinator, Mr. Dodd, and Ms. Summers. Are there
2 any other people who work in the Elections Division?

3 MR. RIEGER: We'll object that this
4 falls outside the deposition topics.

5 But you can answer to your knowledge.

6 THE WITNESS: Yes.

7 BY MS. BOWIE:

8 Q Who else works in the Elections Division?

9 A We have a systems administrator. And
10 forgive me if these aren't their technical titles,
11 but we have a systems administrator. His name is
12 Steve Griffy. Then we have a, I guess, junior
13 systems administrator who helps Steve. His name's
14 Carson Cook. And then we also have two, I guess,
15 administrative assistants or executive assistants.
16 Their names are Britney McDaniel and Amanda Mosley.

17 Q And do you occasionally have legal clerks
18 from law schools during the summer?

19 A Legal, no. Oh.

20 Q Okay.

21 A Oh, wait, sorry. I apologize. Yes, we had
22 a -- yes, we had a -- it was actually right before I
23 personally joined. But someone named Joshua
24 Anderson. He was -- it was after his first year of
25 law school, I believe, at UT. He was helping

1 actually with felony restoration issues, among other
2 things.

3 Q And for all those folks in your office, what
4 are their roles related to checking the eligibility
5 of people with felony convictions?

6 A In -- in terms of their roles, so I -- as we
7 stated earlier, I would be the primary person in the
8 office. The -- can you repeat the question again?
9 Was it checking the eligibility of people
10 registered?

11 Q Checking the eligibility of registrants with
12 felony convictions.

13 MR. RIEGER: I'll object to the form of
14 the question.

15 But you can go ahead and answer.

16 THE WITNESS: Okay. I probably
17 should -- so I would be the primary person. Steve
18 and Carson, they will -- they will create reports
19 based on -- so we -- so we get data from the
20 Tennessee Department of Corrections. And Steve and
21 Carson will -- they help on the database side,
22 create -- I mean, keeping it in a place that is
23 usable, the data that is usable. So they help me
24 with any issues that come up really. But also when
25 counties have issues with their -- on the county

1 level, with anything really, but including felons
2 and felon files and documents, Steve and Carson will
3 help with that as well, so on the technical side.

4 Britney McDaniel is the one -- so under
5 the NVRA, the U.S. attorney's offices are required
6 to send us notices of felony convictions for any
7 person who is a resident of Tennessee. Britney
8 McDaniel is the one who receives those and will
9 enter them into a database and disperse them to the
10 correct counties.

11 And then that's about it. Beth will
12 supervise -- she will -- if I'm unavailable
13 sometimes for calls or sometimes the counties
14 will -- just because she's been there for a long
15 time, the counties will reach out to her directly.
16 And if it's a quick thing, she'll answer. So she is
17 kind of filling in the gaps, I would say. But,
18 otherwise, that's it in the office

19 BY MS. BOWIE:

20 Q Okay. And what is the role of the Elections
21 Division generally in the voter registration
22 process?

23 A Can you clar- -- can you clarify your
24 question? I'm not -- I'm not 100 percent sure.

25 Q Well, let's start somewhere else. What role

1 do the county offices of elections play in the voter
2 registration process?

3 A So I guess we'll start -- so just generally,
4 all the counties process -- receive and process all
5 voter registration applications for residents in
6 each of their counties.

7 Q Okay. And what is the Elections Division's
8 role in that work?

9 A In the initial processing, none, unless they
10 have questions. But the Elections Division is not
11 involved in accepting or processing voter
12 registration applications, if --

13 Q So --

14 A -- that's what you mean.

15 Q -- do people ever send voter registration
16 applications directly to the Elections Division?

17 A Yes, rarely. It used to be more often, but
18 now especially rarely. When they come in, our --
19 our two assistants will just directly send them out
20 to the proper county. We don't keep them or process
21 them.

22 Q Okay. And you mentioned that sometimes they
23 have questions, the AOE's have questions as they're
24 processing registrations. What kind of questions?

25 A Truly any question. They can run the gamut.

1 It can be about a person who didn't correctly fill
2 out the form. Although they know -- they take care
3 of that as well. But it can be about -- I mean
4 truly, any -- any issue that comes up when they're
5 processing, if they have a question. If there's
6 a -- if they're registered in another county, if
7 there's any issue with processing them or reviewing
8 their eligibility -- and I mean that very broadly --
9 to register.

10 Q Sure. And do you issue instructions to the
11 county offices of elections on how to process voter
12 registrations?

13 MR. RIEGER: I'll object to the form of
14 the question.

15 But you can go ahead and answer.

16 THE WITNESS: We -- so the statutes
17 cover the process of processing voter registration
18 applications. But the Elections Division has had at
19 least one training on voter registrations generally.
20 And then there was another training on --
21 specifically on if a county has to deny or reject --
22 if a voter registration is deficient or needs to be
23 rejected, there's one -- at least one training on
24 the process for that.

25

1 BY MS. BOWIE:

2 Q And that's a training that the Elections
3 Division gives to the AOE's, the administrative
4 offices of elections; is that right?

5 Sorry, I didn't define that term before, but
6 let me do that now. AOE means administrator of
7 election, right?

8 A Yes.

9 Q Okay. So county, county administrators of
10 elections. And we'll refer to -- would you like to
11 refer to the county-level offices as county offices
12 of elections, or do you have another way that you
13 like to refer to those?

14 A I generally say counties. Or if I say
15 "election commissions," I mean them, not the State.
16 There is a State election commission. But, yeah, if
17 I say election commissions. But, yeah, we can go
18 with counties, whatever's easiest.

19 Q Okay. We'll use those, thank you.

20 And the question that I have is, you -- you
21 mentioned trainings and you meant the election
22 division gives trainings to the counties; is that
23 right?

24 A So by "trainings," it is a training that we
25 have -- those are individual trainings that the

1 Elections Division gave in the past. We don't -- as
2 far as I know, since they were done, but especially
3 not recently, we don't redo them. We haven't
4 redone. So it's not an annual training on those
5 topics, just to clarify. But, yes, it's from the
6 Elections Division to the county AOE's.

7 Q Okay. And when were those trainings done,
8 the ones that you know of?

9 A I believe the one on -- just generally on
10 voter registration, voter registration applications
11 was in 2015. I can't remember without having them
12 in front of me right now. But then I -- and then
13 the one about deficient or rejected applications was
14 2017. Again, I -- I don't know without having them
15 in front of me or seeing them on the computer with a
16 date.

17 Q Okay. And so you said you don't do them
18 every year. So the most recent training on each
19 topic would be the definitive source unless you've
20 issued another training that sort of supercedes it.
21 Is that what I'm understanding?

22 MR. RIEGER: Object to the form of the
23 question.

24 Go ahead and answer.

25

1 BY MS. BOWIE:

2 Q Let me clarify. When -- you don't give
3 trainings every year, so are the counties expected
4 to retain those trainings from the past and refer
5 back to them unless you've given them a more recent
6 training on that topic?

7 MR. RIEGER: Object to the form of the
8 question.

9 But please go ahead.

10 THE WITNESS: No, not necessarily.

11 BY MS. BOWIE:

12 Q Are those trainings -- those training
13 materials, are they available to the counties?

14 A With -- at the time they were given, they
15 were all made available, yes. We also provide
16 that -- so have them available to the counties.
17 The -- some of them available to the counties. The
18 ones that we produced, I'm not sure. We looked at
19 both what we had internally and then the ones that
20 are still made available to the counties. But --
21 and so some of them might not still be, but, yes,
22 some of them are still available.

23 Q How do you make them available to the
24 counties?

25 MR. RIEGER: Object to the form of the

1 question.

2 Go ahead.

3 THE WITNESS: We have a training
4 website exclusively for administrators and the staff
5 who they want to share it with, and I believe the
6 county commissioners as well, that is password
7 protected. That is just for them.

8 BY MS. BOWIE:

9 Q So some of the trainings are there. Do you
10 expect that they will save the trainings when you
11 give them to them and send them to them?

12 MR. RIEGER: Object to the form of the
13 question.

14 Go ahead.

15 THE WITNESS: Can you repeat that?

16 BY MS. BOWIE:

17 Q Do you expect that they will save the
18 trainings that you send them?

19 MR. RIEGER: Same objection.

20 Go ahead.

21 THE WITNESS: When we do the
22 presentation, like, at the time, yes, I think -- I
23 don't know. But, yes, I think we assume most would
24 save them.

25

1 BY MS. BOWIE:

2 Q Do you know which trainings are available on
3 that website that you mentioned?

4 A Yes. I have access to it as well, if that's
5 what you're asking. I can see.

6 Q Do you remember right now which trainings
7 are available?

8 A Do you mean of the ones that we gave -- of
9 the ones that we gave to you that are responsive?

10 Q No. I mean on that website, which trainings
11 are on there?

12 A No. It's many.

13 Q Okay. Is the 2015 voter registration
14 training on there?

15 A I believe so.

16 Q Have there been more recent trainings on how
17 to process registrations for people with felony
18 convictions?

19 A With people with felony convictions
20 specifically, which is not -- which is more specific
21 than what I was talking about earlier, yes.

22 Q Can you describe those trainings, please.
23 You can tell me the dates and what they covered.

24 A Are you -- so you're asking for any training
25 on processing voter registrations for people with

1 felony convictions?

2 Q Yes.

3 A So there are quite a few. I, again, don't
4 remember all off the top of my head. So I know
5 there is one on -- I think it's just called
6 "Restoration of voting rights." I don't -- I don't
7 know without seeing the date that it was given, but
8 maybe -- maybe 20 --

9 Q You can just give me the year.

10 A -- 13. Again, I don't know the dates.

11 Q Did you say 2013? Sorry.

12 A Maybe, yeah. I would -- I would count the
13 rejection and denial PowerPoint that I referenced
14 earlier as well as dealing with people -- I mean,
15 with voter registration applications for people with
16 felony convictions, because it does cover that
17 topic. Like I said, I believe that one was in 2017
18 [verbatim]. Again, I can't know without seeing it
19 in front of me.

20 There have been -- there are many others
21 that are available on the training website. Again,
22 I...

23 Q Have you developed or given any of those
24 trainings?

25 MR. RIEGER: Objection --

1 BY MS. BOWIE:

2 Q Again, I'm asking about trainings on how to
3 process voter registrations for people with felony
4 convictions.

5 MR. RIEGER: Object to the form of the
6 question.

7 Go ahead.

8 THE WITNESS: And these are the ones
9 available on the training website?

10 BY MS. BOWIE:

11 Q Yes.

12 A No.

13 Q Have you given any that aren't available on
14 the training website?

15 MR. RIEGER: Object to the form of the
16 question.

17 Go ahead.

18 THE WITNESS: Yes.

19 BY MS. BOWIE:

20 Q What was that training on and when?

21 A In September 2021, I gave a training on
22 restoration of voting rights for people with felony
23 convictions. And then -- but although -- it's not
24 processing voter registrations, which is a different
25 thing. But it's about people with felony

1 convictions.

2 And then I also had a formal memo that we
3 sent out to the counties kind of updating an old
4 training on expungements and how to handle a proof
5 of expungement or a document about expungement.

6 So, yes, that's another one. Again, I -- I
7 can't remember nearly all of them. But one of them
8 we had on the training website was about
9 expungements as well.

10 Q Okay.

11 A There are -- there are --

12 Q Other than -- I'm sorry.

13 A Sorry, I just can't remember all of them on
14 the website, the training website. I truly can't.

15 Q Okay. Other than trainings, what other
16 kinds of materials do you issue to the counties to
17 help them with processing registrations for people
18 with felony convictions?

19 MR. RIEGER: Object to the form of the
20 question.

21 Go ahead and answer.

22 THE WITNESS: So like I mentioned, we
23 will send out memos, formal memos, occasionally to
24 clarify something or supplement something. We will
25 also, just one-on-one, with counties when they have

1 questions during phone calls or in e-mails, I guess,
2 train them.

3 We also -- the administrators of
4 elections will -- when they become -- when they
5 become the administrators after a certain time, they
6 will take a test to be certified under the statutes.
7 And I believe -- I do not give those trainings, but
8 I believe those trainings do -- the questions differ
9 from year to year. But they can cover voter
10 registrations for people with felony convictions.

11 BY MS. BOWIE:

12 Q When a -- when a county calls the Elections
13 Division with a question about a registration from
14 somebody with a felony conviction, do you take notes
15 on that phone call?

16 A It just depends.

17 Q Do you save any notes electronically from
18 those phone calls?

19 MR. RIEGER: Object to the form of the
20 question.

21 Go ahead.

22 THE WITNESS: No.

23 BY MS. BOWIE:

24 Q You mentioned that sometimes you issue
25 formal memos. What kinds of formal memos --

1 which -- can you tell me the dates and subjects of
2 any formal memos that have been issued about
3 processing voter registrations from people with
4 felony convictions that you know of?

5 A That I know of or can remember, again, in
6 September, so very recently, we issued a formal memo
7 about expungements and what to do when a county
8 receives documentation showing that a person has had
9 their felony conviction or convictions expunged.

10 Q Any others that you know of?

11 A For felony convictions, no, not that I can
12 think of.

13 Q Where are the materials kept for the
14 trainings for the administrators tasked? Are those
15 on that same website that you mentioned?

16 A I don't believe so. I believe -- so the
17 deputy, Beth Henry-Robertson, and then the HAVA
18 attorney, Andrew Dodd, are the main ones who
19 administer that. And coordinator Mark Goins is
20 involved as well. But I believe that they will send
21 out the study materials to each class of
22 administrators beforehand.

23 So, no, it's not kept on the training
24 website.

25 Q Do you issue any template materials for the

1 counties to use when they're processing
2 registration?

3 A Yes.

4 Q What kind of template materials do you
5 issue?

6 A So we have a -- we have provided the
7 counties in the past with a template or sample
8 letter to send to an applicant when the voter
9 registration is deficient. And that's for any
10 reason, but including issues with felony conviction.

11 We have a template or sample on -- or letter
12 that the counties can send to a registrant when
13 their voter registration application is rejected or
14 denied. And that's, again, for any reason,
15 including a felony conviction.

16 We have -- again, without seeing them in
17 front of me -- without seeing them in front of me, I
18 can't remember many more. But we do provide them,
19 and those are two examples.

20 Q Are the counties expected or required to use
21 those materials?

22 MR. RIEGER: Object to the form of the
23 question.

24 Go ahead.

25 THE WITNESS: It depends. But, no, I

1 would not say required. So it depends on what you
2 mean by "template." So there are official -- well,
3 no. I'll just say no, they're not required. Yeah,
4 I wouldn't say they're required.

5 BY MS. BOWIE:

6 Q Do you review any of the county materials
7 that they actually use?

8 MR. RIEGER: Object to the form of the
9 question.

10 Go ahead.

11 THE WITNESS: No, unless they -- no,
12 not unless the county asks us for guidance on a
13 specific individual or issue or unless something's
14 brought to our attention.

15 BY MS. BOWIE:

16 Q So if they ask for a specific guidance and,
17 say, in that exchange, you see some of the template
18 materials, and you think that they're deficient for
19 some reason, would you correct the county?

20 MR. RIEGER: Object to the form of the
21 question.

22 Go ahead.

23 THE WITNESS: Yes, if the -- yes.

24 BY MS. BOWIE:

25 Q Do you issue any handbooks to the counties?

1 A On felony -- on felony issues?

2 Q On registration broadly.

3 A No, none that I can -- no. We have made,
4 like, registration press materials and, I guess,
5 maybe handbooks for the public that we provide to
6 the county and disperse. But, no, I wouldn't --
7 nothing for the counties.

8 Q When a county reaches out to you with
9 questions about a registrant's eligibility, is the
10 determination that you make about that person's
11 eligibility -- and I mean the Elections Division --
12 authoritative?

13 MR. RIEGER: Object to the form of the
14 question.

15 Go ahead and answer.

16 THE WITNESS: Can you repeat the
17 question?

18 BY MS. BOWIE:

19 Q When a county reaches out with a question
20 about a registrant's eligibility to vote and asks
21 you a question about it, does your decision on that
22 person's eligibility, is that authoritative?

23 MR. RIEGER: Same objection.

24 Go ahead and answer, please.

25 THE WITNESS: If by "authoritative" you

1 mean that is -- that we are the final
2 decision-maker, no.

3 BY MS. BOWIE:

4 Q So a county could make their own decision
5 about whether that person is eligible that conflicts
6 with the Elections Divisions' determination?

7 MR. RIEGER: Object to the form of the
8 question. Go ahead.

9 THE WITNESS: The County Election
10 Commission can vote on voter registration
11 applications. And their vote is the final
12 determination.

13 BY MS. BOWIE:

14 Q Okay. I'd like to ask a bit about how your
15 office interacts with the agencies that are required
16 to provide registration under the National Voter
17 Registration Act. Are you familiar with what I'm
18 talking about when I refer to those agencies?

19 A I believe you mean the Department of Safety,
20 the Department of Human Services. If by that you
21 mean those specific agencies, then, yes.

22 Q Are you okay with using the shorthand
23 agencies when we're talking about those -- those
24 agencies that have been designated to offer voter
25 registration services, just as shorthand for --

1 A As required -- for the ones who are required
2 to under NVRA, yes. For now, yes.

3 Q Okay. What is the relationship between the
4 Elections Division and those agencies?

5 MR. RIEGER: I'll object to the form of
6 the question.

7 But go ahead.

8 THE WITNESS: Yeah, it's different with
9 the -- each agency, I'm going to have to say.

10 BY MS. BOWIE:

11 Q Does the Elections Division offer any
12 training to the agencies on how to process voter
13 registrations?

14 A No.

15 Q Does the Elections Division issue any
16 materials to those agencies for processing voter
17 registration applications?

18 A Materials specific -- other than the voter
19 reg -- other than our voter registration
20 application, you mean materials specifically for
21 those agencies?

22 Q To help the agencies understand what they're
23 supposed to do with the voter registration
24 applications.

25 A I don't believe so. None specific to the

1 agencies or each one.

2 Q Do you help those agencies with questions
3 about eligibility?

4 A No. The agencies don't determine
5 eligibility.

6 Q What are the agencies' responsibilities in
7 the registration process?

8 MR. RIEGER: Object to the form of the
9 question.

10 Go ahead and answer.

11 THE WITNESS: They provide a -- they
12 provide the voter registration application or have
13 available to their -- I'll say customers if you're
14 comfortable using that, or clients. They make the
15 voter registration application available to them.

16 BY MS. BOWIE:

17 Q Do the agencies answer questions from
18 potential registrants about their eligibility?

19 MR. RIEGER: Object to the form of the
20 question.

21 Go ahead, please.

22 THE WITNESS: What was the question,
23 again? Do -- sorry, what was the question again?

24 MS. BOWIE: Can you read it back,
25 please.

1 (The requested question was read back
2 by the court reporter as follows:

3 "Question: Do the agencies answer
4 questions from potential registrants about their
5 eligibility?")

6 THE WITNESS: I don't know.

7 BY MS. BOWIE:

8 Q Does the Elections Division provide any
9 materials or trainings to the agencies?

10 A I believe I answered that before, but, no,
11 none spe -- I don't believe any specific to the
12 agencies.

13 MS. BOWIE: Can you please mark the
14 document labeled B as Exhibit 2.

15 (Marked Exhibit No. 2.)

16 BY MS. BOWIE:

17 Q Do you know what this document is?

18 A Yes.

19 Q What is it?

20 A It is a training or a policy outline that we
21 have provided to the counties on voter registrations
22 in Tennessee.

23 Q And is this -- when was this made?

24 A I believe 2015. This is the same one I was
25 referencing earlier about processing voter

1 registrations generally.

2 Q So is this up to date?

3 A (Reviewing documents.) I'm not sure if the
4 websites with the internet forms are up-to-date.
5 They should be, but I'm not -- I haven't checked.
6 (Reviewing documents.)

7 Yes, then -- I mean, it appears that
8 otherwise it is a -- not comprehensive, but it's an
9 outline on -- and it appears all up-to-date.

10 Q And you mentioned that this was issued to
11 the counties. Is this available to the agencies?

12 A I don't believe so.

13 Q Do the agencies coordinate with the county
14 elections offices to receive materials or trainings
15 on how to process voter registrations?

16 MR. RIEGER: Object to the form of the
17 question.

18 Go ahead.

19 THE WITNESS: The agencies do not
20 receive, as far as I know, trainings on how to
21 process voter registration applications because they
22 do not process voter registration applications.

23 BY MS. BOWIE:

24 Q Do they have any -- do you issue any
25 materials or trainings generally to the agencies?

1 MR. RIEGER: Object to the form of the
2 question.

3 Go ahead and answer.

4 THE WITNESS: Can you -- do we issue?
5 What was the question again?

6 BY MS. BOWIE:

7 Q Does the Elections Division issue any
8 trainings or materials to the agencies?

9 A About anything?

10 Q About anything.

11 MR. RIEGER: I'll object to the extent
12 that this exceeds the confines of Counts 4 and 5 of
13 the complaint and the scope of the deposition
14 topics.

15 But you can go ahead and answer to your
16 knowledge.

17 THE WITNESS: Yes. So we provide
18 them -- when there's a new -- well, I don't know if
19 you would consider it training, but whenever we have
20 a new voter registration application -- by "new," I
21 mean revised -- we will provide notice to them of
22 that. We give information on how to get those new
23 voter registration applications, like, where to
24 order them.

25 We have also -- when -- when a person

1 misses a voter registration deadline and -- and it
2 brings it to our attention, most times when they
3 vote provisionally, but says that they were
4 registered but the county has absolutely no record
5 of it, but the person claims that they were, if they
6 did the registration, if they filled it out and
7 turned it in at one of these agencies and they let
8 us know which one, we have set up a system where we
9 can -- we have contacts at each agency to check on
10 that.

11 So hopefully we can get that -- I don't
12 want to say back-dated, but get that registration so
13 the person -- so it can be counted in case it was
14 lost.

15 BY MS. BOWIE:

16 Q Do you know who produced Exhibit 2?

17 MR. RIEGER: Object to the form --

18 BY MS. BOWIE:

19 Q The document we're looking at?

20 MR. RIEGER: Object to the form of the
21 question.

22 Go ahead and answer to your knowledge.

23 THE WITNESS: The Elections Division.

24 BY MS. BOWIE:

25 Q Who in your office worked on it?

1 A Either Beth Henry-Robertson or me mainly.

2 MS. BOWIE: Okay. Can we take the
3 document labeled C and mark it as Exhibit 3.

4 BY MS. BOWIE:

5 Q Do you know what this document is?

6 MR. RIEGER: If you'll wait just a
7 second, Blair. We're passing out papers.

8 MS. BOWIE: Okay.

9 MR. RIEGER: All right, we're set.

10 (Marked Exhibit No. 3.)

11 THE WITNESS: (Reviewing documents.)

12 BY MS. BOWIE:

13 Q Do you know what this document is?

14 A I, personally, no, do not.

15 Q Okay. Does the Elections Division provide
16 any training or materials to the agencies on the
17 intake and transmission of voter registrations?

18 MR. RIEGER: I will object -- I'll
19 object to the question based on the fact that the
20 topics identified are specific to Counts 4 and 5 and
21 deal with applicants with felony convictions not
22 general guidance. And I do not believe anything in
23 this document concerns -- concerns applicants with
24 felony convictions.

25 But you can go ahead and answer.

1 THE WITNESS: Well, can you repeat the
2 question?

3 BY MS. BOWIE:

4 Q Does the Elections Division provide any
5 instructions or trainings to the agencies on the
6 intake and transmission of voter registration
7 information?

8 MR. RIEGER: Same objection.

9 But go ahead.

10 THE WITNESS: No, I don't believe so.

11 MS. BOWIE: Okay. Why don't we take a
12 10-minute break.

13 MR. RIEGER: Sure thing.

14 THE VIDEOGRAPHER: Going off the
15 record. Time on the monitor is 10:50.

16 (Recess observed.)

17 THE VIDEOGRAPHER: We are back on the
18 record. The time on the monitor is 11:01.

19 MS. BOWIE: Okay, thank you.

20 BY MS. BOWIE:

21 Q Before we move on, I'd just like to go back
22 and ask one clarifying question from an earlier
23 line.

24 Before you joined the Elections Division in
25 August of 2019, who worked on eligibility questions

1 for people with felony convictions?

2 A So before me, the full-time employee in that
3 position was named Tyler Cosby. He -- and then he
4 had Joshua Anderson, the legal intern, who I
5 mentioned before, helping him. And then also Beth
6 Henry-Robertson would help too, especially right
7 before I came, or during the transition, she
8 would -- she would help quite a bit. But I think
9 mostly Tyler, and then Joshua, when he was there.

10 Q Do you know how long Tyler was with the
11 Elections Division?

12 A I believe 18 months or so, I believe.

13 Q Do you know who covered that responsibility
14 before he was there?

15 A It would have been the -- so there was a
16 woman in the office named Abby Tyler who was the one
17 who helped -- who did that before. She worked in
18 conjunction with the elections attorney named Cara
19 Harr, who had been there for a long time. I can't
20 even -- probably 15, 20 years. But she -- Abby and
21 Cara worked on it.

22 And then there also was an elections
23 attorney, I believe, before Abby joined, before
24 Tyler, before Abby, named Laura.

25 Q Okay, thank you. So I want to switch gears

1 and ask a question about who and -- who is and who
2 is not eligible to vote in Tennessee after having
3 been convicted of a felony.

4 So I'm sure you know in many states, every
5 person who has been convicted of a felony loses the
6 right to vote. Is that the case in Tennessee?

7 Does every person convicted of a felony lose
8 the right to vote?

9 MR. RIEGER: Object to the form of the
10 question.

11 Go ahead and answer.

12 THE WITNESS: No.

13 BY MS. BOWIE:

14 Q How is the right to vote lost for a criminal
15 conviction in Tennessee?

16 MR. RIEGER: Object to the form of the
17 question.

18 Go ahead and answer.

19 THE WITNESS: So under -- so in the
20 Tennessee Constitution, people convicted of infamous
21 crimes lose the right to -- or can have the right to
22 vote taken away, or lose the right to vote. And the
23 legislature can make laws excluding people with
24 felony convictions from the right to vote.

25 In subsequent cases, the courts have

1 held that people convicted of felonies before
2 January 15th, 1973 -- well, I guess I'll say the
3 courts and a mix of the statutes as well -- infamous
4 crime -- they had to have been judged infamous. And
5 they were a certain -- it's a certain number of
6 enumerated specific crimes that were also considered
7 infamous. And so that was before January 15th,
8 1973.

9 On January 15th, 1973, until May 17th,
10 1981, people with felony convictions did not lose
11 their right to vote. Starting May 18th, 1981,
12 people with felony convictions lose the right to
13 vote unless they have gotten their voting rights
14 restored

15 BY MS. BOWIE:

16 Q When somebody registers to vote, how do the
17 counties know if they were convicted of a felony?

18 MR. RIEGER: Object to the form of a
19 question.

20 Go ahead and answer.

21 THE WITNESS: On the voter registration
22 application, one of the questions is whether the
23 person has ever been convicted of a felony -- or I
24 believe it says "or felonies." If the person
25 answers truthfully under penalty of perjury, they

1 will mark "Yes." Although the form specifies if
2 they have gotten expunged, they should mark "No." I
3 don't consider expungements a felony conviction, but
4 I just wanted to say that.

5 BY MS. BOWIE:

6 Q Are there any other ways that the counties
7 might know that somebody was convicted of a felony
8 when they were -- let me start over.

9 Are there any other ways that the counties
10 might know that the registrant was convicted of a
11 felony?

12 MR. RIEGER: Object to the form of the
13 question.

14 Go ahead and answer.

15 THE WITNESS: Many, many times before
16 the process starts, the person will contact -- the
17 person who is interested in registering to vote will
18 contact the county. Sometimes they'll contact me
19 and say that they have a felony and they want to
20 know about the process, or they will say actually
21 they're not sure. If they had a felony, they --
22 they were involved in a court case, but they can't
23 remember for one reason or the other because it was
24 a long time ago or because they were concerned with
25 other things at the time. So those are two ways.

1 Another way is under the Tennessee
2 statutes, the clerks of the courts in every county
3 are required to send notices of felony convictions
4 to each county, to -- to each county. And so that's
5 another way that a county would know beforehand or
6 at the time of registration if a person has a felony
7 conviction. And also, counties can also share that
8 information with each other.

9 MS. BOWIE: Can we mark the document
10 labeled D as Exhibit 4, please.

11 (Marked Exhibit No. 4.)

12 BY MS. BOWIE:

13 Q Do you know what this document is?

14 A It looks like a rejection letter from the
15 Weakley County Election Commission to a person who
16 has completed a voter registration application due
17 to their voting rights not being restored -- or
18 answering "Yes" to the following question on the
19 voting rights not being restored and/or the office
20 has received information that they were convicted of
21 a felony and their voting rights were not restored.

22 Q Does this form letter from Weakley County
23 resemble the template rejection notice that was
24 created by the Elections Division that you mentioned
25 earlier in the deposition?

1 A I believe so.

2 Q Okay.

3 A I --

4 Q Sorry.

5 A Sorry, I...

6 (Reviewing documents.)

7 Well, I'll say the -- the "Answering no to
8 the 18 years of age question" has been changed. It
9 looked like they do it to help -- well, I don't know
10 why. But that's been changed. So there are --
11 there are some changes, but it resembles, I'll say.

12 Q And you just read the boxes that were
13 checked, these top two?

14 A Uh-huh.

15 Q Can you -- can you just summarize those two
16 reasons for rejection, those two top boxes.

17 MR. RIEGER: Object to the form of the
18 question.

19 But go ahead and answer.

20 THE WITNESS: So this letter from
21 Weakley County says that -- so the first box says,
22 "Answering yes to the felony question and the voting
23 rights have not been restored."

24 It then specifies, "If your conviction
25 was between January 15, 1973 and May 17, 1981, you

1 did not lose your right to vote," and "Provide
2 documentation showing your conviction date" fell
3 between those.

4 The second box says -- or the
5 "Information received by this office that you've
6 been convicted of a felony and your voting rights
7 have not been restored."

8 And, again, it specifies, but "If your
9 conviction was between January 15, 1973 and May 17,
10 1981, you did not lose your right to vote," and asks
11 for documentation to show the conviction date.

12 BY MS. BOWIE:

13 Q Okay. So just for purposes of organizing
14 what we're talking about here, it seems -- is it
15 fair to say that there are two buckets of ways a
16 county or the Elections Division might know if
17 somebody was convicted of a felony? Either they --
18 they answered yes to the felony question on the
19 registration form, or you have -- you, the Elections
20 Division, or the county -- has some other source of
21 information that indicates that they may have been
22 convicted of a felony?

23 MR. RIEGER: Object to the form of the
24 question.

25 Go ahead.

1 THE WITNESS: Yeah, yeah. Sorry, I was
2 thinking. I had to think. Yeah.

3 BY MS. BOWIE:

4 Q Okay. You mentioned before that AOE's or the
5 counties sometimes call you to get more information
6 about the eligibility of a registrant who might have
7 a felony conviction. What kinds of searches for
8 people with felony convictions are available to you
9 at the Elections Division?

10 A So you're asking what I do to search when
11 they contact me, not -- not the facts, the different
12 types of situations where they would ask for that
13 information; is that correct?

14 Q Yes.

15 A Yeah. So I check in several different
16 places. So we get data from the Tennessee
17 Department of Corrections on felony convictions that
18 they have in their database. It is updated -- their
19 data is updated, I would say, a little bit more than
20 quarterly. I think probably every -- yeah, maybe
21 two or three months. But so they -- and it's --
22 it's a kind of automatic thing. But Steve Griffy
23 and Carson Cook, who I mentioned earlier, set up
24 that process with TDOC to get that information
25 pushed to us and put into the database that's usable

1 to me.

2 So we get that information from the
3 Tennessee Department of Corrections. I will check
4 that information. The information from the
5 Tennessee Department of Corrections includes people
6 convicted here in Tennessee that they have the data
7 for. It also can include people convicted in other
8 states whose probation, parole or other type of
9 community supervision was transferred here. And so
10 the -- in those cases, TDOC can have records on
11 their felony conviction.

12 In addition, I will check the database
13 that we have made for people with fel -- federal
14 convictions. So as I mentioned earlier, under the
15 NVRA, the U.S. attorney's offices are required to
16 send us notice or information any time anyone who's
17 a resident of Tennessee is convicted of a felony.

18 As I also mentioned, we have an
19 employee, Britney McDaniel, who enters that into a
20 database and disperses it to the correct county to
21 handle the voter registration. But I will check
22 that federal -- I say database, but it's -- as well.
23 I'll then also check the databases that I keep, or
24 that we, the Elections Commission Division, keeps on
25 prior denials and prior restorations as well for

1 anyone that we have ever received.

2 And then finally, I will also check the
3 Tennessee Department of Corrections, their online
4 felony offender website. In theory and in practice,
5 I'll say, they overlap. The people who are in our
6 TDOC database will be the same as on their website.
7 The only reason I do the website as well is because,
8 like I also mentioned, our database is updated every
9 two or three months. So I just want to make sure
10 that for anyone whose status is changed in those two
11 months, two or three months or could have changed,
12 that I capture that. Or I just make sure.

13 And then finally, I will just do a
14 public records search on -- using Westlaw.

15 Oh, and I'll --

16 BY MS. BOWIE:

17 Q Sorry. Go ahead.

18 A I'll also say too, if the person -- again,
19 as I kind of indicated before, there are many
20 situations where this could arise. But if a person
21 wants help and knows kind of -- or knows where their
22 conviction was, say in another state or a specific
23 county in Tennessee -- in that case too, I'll check
24 with that court. I'll call that court, or I'll
25 check with that state. If they have databases or

1 portals available online, I'll check. But then
2 sometimes I'll call as well or send records
3 requests. But that's if they -- they tell us.

4 Q Okay. And since you said this, I just want
5 to define for the record, TDOC, T-D-O-C, Tennessee
6 Department of Corrections?

7 A Yes, apologies.

8 Q And the felony offender database, that's
9 shorthand transferred from to as FCIL, right?

10 A Yes.

11 Q F-O-I-L?

12 A Yes.

13 Q So you said that there is a database from
14 TDOC. And you mentioned earlier that that's
15 maintained by a data specialist in the Elections
16 Division office.

17 A Wait, can you say that again?

18 Q You mentioned that you-all keep a database
19 of information from TDOC on convictions. And you
20 had said earlier that that was maintained by Steve
21 Griffy in your office; is that right? Is that the
22 same database that you were talking about before?

23 A Yes. So Steve Griffy and Carson Cook -- I
24 don't know if I would use the word "maintained," but
25 they -- when TDOC has the updates available -- I

1 mean, it's an updated tables and data available to
2 us, again, I think it's every two or three months.
3 They are the ones who coordinate that -- and usually
4 overnight because I'm working in it all day. But
5 usually overnight, they'll get the new data in. So
6 I don't -- if that's what you mean by "maintain,"
7 yes.

8 Q And you keep -- is that database separate
9 from the database you keep of the federal
10 convictions that are reported to you by the U.S.
11 attorneys?

12 A Yes. They're different tables, yes.

13 Q Okay. So that's two separate databases, two
14 separate tables, we'll say.

15 A I also want to specify too that the TDOC
16 state convictions and the TDOC -- what we call ISC,
17 but they're the out-of-states that are transferred
18 here, that's also two separate tables. But, I, yes,
19 call them TDOC.

20 Q Understood, thank you. And you said that
21 you also keep a database -- the Elections Division
22 also keeps a database of prior denials.

23 A Yes.

24 Q Can you tell me about that. What is in
25 that?

1 A Any time a person has submitted a document
2 seeking to get their voting rights restored in order
3 to be eligible to register, if they are denied for
4 any of the reasons in the Tennessee statutes, we
5 will keep a record of that denial before sending out
6 the denial letter to the county.

7 Q If somebody submits a registration form
8 without attaching any paperwork on rights
9 restoration and either, you know, one of these two
10 triggers that we talked about has happened, they
11 checked the box or the county had some information
12 on them and they reach out to you about that person
13 to have a look at that person, do you also mark that
14 in that database?

15 MR. RIEGER: Object to the form of the
16 question.

17 Go ahead and answer.

18 THE WITNESS: No. That is not a
19 restoration document. That is registration. That's
20 a question about registration.

21 BY MS. BOWIE:

22 Q Do you keep track of any of those denials of
23 registrations based on felony convictions?

24 MR. RIEGER: Object to the form of the
25 question.

1 Go ahead.

2 THE WITNESS: No. So as we mentioned
3 earlier, we at the State level don't do denials of
4 registration. So, for example, we don't send out
5 these letters, like the sample one you had from
6 Weakley County. So we do not keep track of those.
7 We also, as I mentioned, are not the final
8 authoritative vote. The election commissions are,
9 if there's ever an issue. So, no, we do not.

10 If I help though find, for voter
11 registrations, issues on eligibility, for the
12 registration though, I will try to keep a copy of
13 those e-mails. Again, I -- I -- I'm sure that I've
14 missed some over the years. But I try to, in case
15 that person ever needs help again. But it's not in
16 a formal database, no.

17 BY MS. BOWIE:

18 Q Okay. So the Elections Division wouldn't
19 place a note in a file on someone who attempts to
20 register and is denied because of a past conviction?
21 You keep no record of that?

22 MR. RIEGER: Object to the form of the
23 question.

24 Go ahead.

25 THE WITNESS: No. Other than what I

1 said, me doing, like, a search.

2 BY MS. BOWIE:

3 Q Right.

4 A No, no. They're not in our denial database,
5 no.

6 Q Okay. Now, the counties on the other hand,
7 would they keep a record of that denial?

8 MR. RIEGER: Object to the form of the
9 question.

10 Go ahead.

11 THE WITNESS: Yes.

12 BY MS. BOWIE:

13 Q Do you know, do the counties keep those
14 records in electronic form?

15 MR. RIEGER: Object to the form of the
16 question.

17 Go ahead.

18 THE WITNESS: As I -- as I understand
19 it from Steve Griffy, not related to this
20 deposition. But as I've talked to him when issues
21 have popped up, as I understand it, there is no
22 place in our formal system, as in, like, each
23 county's voter registration system, when an
24 application is received and rejected on its face for
25 one -- any reason, there's not a place to enter that

1 denial into the system. But they do keep a record
2 or a file on it.

3 Did that answer your question?

4 BY MS. BOWIE:

5 Q Yes.

6 A Okay.

7 Q Okay. So they will keep some record?

8 A Yes.

9 Q It may or may not be electronic?

10 A Yes.

11 Q Does the Elections Division provide a
12 template software for maintaining these lists?

13 A Not as far as I know, no.

14 Q Okay. Is there any information from
15 rejections that counties are required to keep?

16 A Yes. They keep the voter registration
17 application. They also will keep -- I guess I call
18 it the supplemental documentation about the
19 rejection. But, for example, a copy of the
20 rejection or denial letter. But, yes, they keep
21 that.

22 Q Okay. And you mentioned that as the
23 Elections Division gets lists of people who have
24 been convicted of felonies in federal court from the
25 U.S. attorneys, you have someone in the office go

1 through that list and disperse those to the
2 appropriate county. How does that person know which
3 is the correct county to send that list to?

4 MR. RIEGER: Object to the form of the
5 question.

6 Go ahead.

7 THE WITNESS: The notices from the U.S.
8 attorney's offices have their address or their most
9 current address in -- on the notice, I guess, I
10 would say. Or they do it differently. Some just
11 send us copies of the judgments. And those will
12 have it on there. But some would send us notices or
13 lists. But they -- they'll have the address.

14 Another way too is she will check our
15 voter registration database. She does this first
16 actually, but she'll check the voter registration
17 database to see if they are already registered and
18 get their county, the correct county from there.
19 But then also usually the address is on the notice
20 or the judgment. If neither of those apply, the
21 default is that -- if they're not registered
22 anywhere, or the address is -- we don't have it for
23 one reason or another, we'll send it to the county
24 where the federal court sits if it's in state. And
25 they kind of are a placeholder.

1 BY MS. BOWIE:

2 Q Okay. And when you get new data from TDOC,
3 which you indicated happens roughly quarterly --

4 A Yes.

5 Q -- do you go through a similar process of
6 transmitting that information to the counties?

7 A No, not the same as -- no.

8 Q Do you transmit any of that information to
9 the counties?

10 A Do we transfer our TDOC information to the
11 counties just of any conviction we have in there?
12 Is that what you're asking?

13 Q Yes.

14 A No. I'm not sure exactly what you're
15 asking, but, no. When we get that data from TDOC,
16 we don't just send that information out as we get
17 it, no.

18 Q Other than using that TDOC database to
19 search for records when the counties schedule you
20 for assistance in making eligibility determinations,
21 what else does the Elections Division use that data
22 for?

23 A So just to clarify, so we will do it at the
24 beginning stage to determine in the first place if a
25 person is -- or I don't want to say "in the first

1 place." At the stage of registration to see if
2 they're eligible, which is what I believe you were
3 asking.

4 We'll also do it at, again, the restoration
5 phase. So if a person definitely does have a felony
6 conviction, they are not eligible to register,
7 there's no question about that, then there's the
8 restoration. So they'll submit a restoration
9 document. Usually the Certificate of Restoration,
10 which I will, if it's fine with you, call the COR
11 from here on out. We use that to process the CORs.

12 We will also -- sorry. We will also,
13 about -- well, on a -- so we will also compare the
14 voter registration database to people in the TDOC
15 database. And if there are any matches -- there are
16 different levels of matches. But if there are
17 matches, we will disperse that information to the
18 counties

19 BY MS. BOWIE:

20 Q Do the counties have access to that TDOC
21 database on their own, or can they only access it by
22 asking you to look somebody up?

23 MR. RIEGER: Object to the form of the
24 question.

25 Go ahead.

1 THE WITNESS: They do not have access
2 to that TDOC database. They -- yeah.

3 BY MS. BOWIE:

4 Q Okay. What kind of information does the
5 TDOC database show you about a person's felony
6 conviction?

7 A Without having it in front of me, it's --
8 I'm not 100 percent certain this covers everything.
9 But it has their, first of all, first, middle, if
10 available, last name; date of birth; Social Security
11 Number; their TOMIS I.D. number. So TOMIS I.D. is a
12 unique number that TDOC will assign to every person,
13 I believe, convicted or maybe even charged, but
14 every person that they use -- they try to use in
15 place.

16 The purpose of it, I think, was to use it in
17 place of Social Security numbers, so they can send
18 those. But it's another unique identifier. It has
19 the date of their conviction, their conviction
20 offense. It has the county of conviction, the case
21 number, the count. It also will have, if available,
22 sentence end date. Again, that's if available.

23 And then sometimes it'll have specific
24 information about, I guess, maybe the term. I don't
25 want to say that. It'll just sometimes have, if

1 available, information about their conviction.

2 Q When you say it'll have their sentence end
3 date, if available, do you mean if they've completed
4 their sentence, the end date will be in there?

5 A No. I mean the sentence end date as shown
6 on the -- I mean, under the judgment, if that makes
7 sense.

8 Q Yes.

9 MS. BOWIE: Okay. I'd like to mark the
10 document labeled E as 5, please

11 (Marked Exhibit No. 5.)

12 BY MS. BOWIE:

13 Q Do you recognize this document?

14 A (Reviewing documents.) Yes.

15 Q Can you just describe it for the record
16 briefly, please.

17 A It appears to be -- well, it is an e-mail
18 from the Administrator of Elections in Crockett
19 County, one of our 95 counties, asking if I could do
20 a search for a person who stated he did have a
21 felony in April 1992. But -- and I don't know what
22 she or the individual meant, but it says that "he
23 thinks it's been taken care of and is no longer a
24 felony."

25 And then it is my reply to the

1 administrator that our -- according to our database
2 from the Tennessee Department of Corrections, he did
3 have three felony convictions. Specifically he was
4 convicted on September 28th, 1992 for Schedule II
5 drugs, three different, in this case, cases, in
6 Gibson County. And because they were felony
7 convictions, we are -- we rely on that data from
8 TDOC.

9 And so to answer his question about he
10 thinks it's been taken care of and is no longer a
11 felony, I added if -- if he -- if they are not
12 felonies for one reason or another, he just needs to
13 submit documentation of that. But, otherwise, he
14 would have to be rejected and get his voting rights
15 restored in order to register.

16 BY MS. BOWIE:

17 Q Okay. So you didn't need to see any
18 sentencing documents to confirm that these were
19 felony convictions and that his application should
20 be rejected?

21 MR. RIEGER: Object to the form of the
22 question.

23 Go ahead.

24 THE WITNESS: Not the documents
25 themselves, but the TDOC data that we have is based

1 off of judgments and sentencing documents. It's
2 just compiled into a database.

3 MS. BOWIE: Okay. I'd like to take the
4 document labeled F and mark it as Exhibit 6, please.

5 (Marked Exhibit No. 6.)

6 BY MS. BOWIE:

7 Q Do you recognize this document?

8 A No, I don't remember it. But it appears to
9 be an e-mail from me to Charles Gibson, who's an
10 Administrator of Elections in Jefferson County. And
11 it appears to be in response to a call where he
12 asked me to do a conviction search. And it is the
13 result of that search.

14 Q And which databases or search methods did
15 you utilize here?

16 A Presumably based on my practice and the
17 policy, it was all -- it was the TDOC in-state, the
18 TDOC ISC, the federal, the denials, I guess rest --
19 I checked the restorations to see if they've been
20 restored. And then, again, FOIL, as we call it, and
21 then a Westlaw search.

22 Q Okay. And there's an attachment here. Do
23 you know which database -- do you recognize which
24 database that's from?

25 A It looks like from FOIL.

1 Q Okay. So you mentioned before that one of
2 the ways that the counties would know that a
3 registrant has been convicted of a felony is that
4 they check a box on a form, on a registration form.
5 Can you explain what that means?

6 A So the -- I believe you're -- wait. Can you
7 just repeat that question again or specify.

8 Q Sorry, I'm switching topics a little bit,
9 but...

10 A Yeah, that's fine.

11 Q Going back to earlier, you said that one of
12 the ways that counties would know that a registrant
13 has been convicted of a felony is that they've
14 checked the box on the registration form. Can you
15 explain what that means?

16 A Do you mean the felony box on the
17 registration form?

18 Q If that's what you meant.

19 MR. RIEGER: I'll object to the form of
20 the question.

21 But go ahead.

22 THE WITNESS: I don't believe -- yeah,
23 I don't believe that I said anything other than
24 felony. But -- so a person who completes a voter
25 registrations application, one of the questions on

1 the voter registrations application form is whether
2 they have ever been convicted of a felony. If a
3 person marks "Yes" under penalty of perjury as the
4 voter registration application is, then that is one
5 way that indicates they have a felony conviction.

6 MS. BOWIE: Okay. I'd like to take the
7 document labeled I. I'm sorry, this one is slightly
8 out of order, but I, and mark that as Exhibit 7.

9 (Marked Exhibit No. 7.)

10 BY MS. BOWIE:

11 Q Do you recognize this document?

12 A Yes.

13 Q Can you describe it, please?

14 A It appears to be a previous or old version
15 of the Tennessee Mail-In Application for Voter
16 Registration, also known as the SS-3010.

17 Q Okay. And when was this version of the form
18 in use?

19 A It says that it was created or revised in
20 September 2020. I'm not -- I'm not sure when it --
21 the dates it was in use. We have lots of versions
22 that sometimes are beta or test. But it looks like
23 the one that we used from about maybe September 2020
24 to about December 2020 or early 2021.

25 Q Sorry. Can you say those dates again.

1 September 2020 --

2 A It looks like the one -- again, I can't be
3 100 percent sure where this is from, but it looks
4 like the one that we had in use from about
5 September 2020 to maybe December 2020 or early 2021.
6 I can't remember the exact dates or when the new one
7 became in use.

8 Q Okay. And so on this version of the form,
9 the box asking about felony convictions is Question
10 11, 2. Can you read the declaration and Question 2
11 in that box, please.

12 A Yes. To myself or out loud?

13 Q Oh, out loud, please, for the record. Thank
14 you.

15 A The voter declaration states, "I being duly
16 sworn on oath, parenthesis or affirmation, end
17 parenthesis, declare that the above address is my
18 legal residence and that I plan to remain at such
19 residence for an undetermined period of time and say
20 that to the best of my knowledge and belief all the
21 statements made by me are true."

22 There's a Question Number 1 and then
23 Question Number 2 which you've asked me to read is,
24 "Have you ever been convicted of a crime which is a
25 felony in this state, by a court in this state, a

1 court in another state, or a federal court?"

2 And then there is a checkbox for "Yes" and a
3 checkbox for "No."

4 Q Okay. So you said that this is probably the
5 form that came into use in September 2020. And that
6 is what the date says. Why did you revise the form
7 in September 2020?

8 MR. RIEGER: Object to the form of the
9 question.

10 Go ahead.

11 THE WITNESS: Right. So I don't know
12 if -- again, just to clarify, I don't know if this
13 is the one, the official one that we use. But if it
14 is that we had in use around that time, I believe
15 that this one or the one we had was -- again, I
16 think this was about in-person voting the first
17 time, that we took it off at around that time.

18 BY MS. BOWIE:

19 Q Okay. And why did you revise the form again
20 in December 2020 or early 2021?

21 A There were --

22 MR. RIEGER: Object to the form of the
23 question.

24 Go ahead and answer, please.

25 THE WITNESS: There were many changes

1 that we made.

2 MS. BOWIE: Okay. I'd like to take the
3 document marked as G, and please mark that as
4 Exhibit 8.

5 (Marked Exhibit No. 8.)

6 BY MS. BOWIE:

7 Q Do you recognize this document?

8 A (Reviewing documents.) Yes.

9 Q Can you describe it?

10 A It looks like a sample or beta or test
11 version of the voter registration application that
12 someone made around November 2019.

13 Q And do you remember when these revisions
14 were being made?

15 A What was that? Do I remember them?

16 Q Yes.

17 A Yes, I believe so, for the -- for the most
18 part.

19 Q Okay. There are some differences here with
20 the felony conviction questions. Do you remember
21 why the Elections Division was working on changing
22 those questions?

23 MR. RIEGER: Object to the form of the
24 question.

25 But go ahead.

1 THE WITNESS: We were contacted by a --
2 we were working with a group, actually, counsel in
3 this case, to -- the group had indicated that they
4 believed that we needed more information on the
5 voter registration application form, the SS-3010 to
6 determine eligibility for people with felony
7 convictions.

8 MR. RIEGER: If I could clarify for the
9 record, when you spoke about counsel, that was not
10 your counsel as --

11 THE WITNESS: Not counsel -- I'm sorry.

12 MR. RIEGER: Thank you.

13 THE WITNESS: Counsel -- I'm sorry, for
14 the plaintiffs in this case.

15 BY MS. BOWIE:

16 Q And what were the exact reasons why you
17 needed more information?

18 MR. RIEGER: Object to the form of the
19 question.

20 Go ahead and answer.

21 THE WITNESS: You -- what was the
22 reason why we needed more information? You would
23 have to ask the counsel for plaintiffs.

24 BY MS. BOWIE:

25 Q Well, you-all tested this form. So why did

1 you think it was important to test these changes?

2 MR. RIEGER: Object to the form of the
3 question.

4 Go ahead.

5 THE WITNESS: The group had asserted
6 that they believed, again, that the voter
7 registration application did not have sufficient
8 information to determine the eligibility of a person
9 with a felony conviction.

10 BY MS. BOWIE:

11 Q And did the Elections Division believe that
12 it would be better to have more information from the
13 forms to determine eligibility of registrants?

14 MR. RIEGER: Object to the form of the
15 question.

16 You can go ahead and answer.

17 THE WITNESS: Did we think it would be
18 better? We were willing to work with the group and
19 to help -- again, this looks like a sample or a beta
20 test. I do know that something similar was
21 eventually adopted. But we were willing to work
22 with the group and to get more information. And,
23 again, as I said before, there were a lot of changes
24 that needed to be made in general, but, yeah.

25

1 BY MS. BOWIE:

2 Q And for the record, the group you were
3 referring to is the Tennessee NAACP, which is
4 represented by plaintiff's counsel here?

5 A No. For the record, I mean the CLC.

6 MR. RIEGER: Can you elaborate on
7 CLC for the record.

8 THE WITNESS: Yeah. By that, I mean
9 the Campaign Legal Center had reached out to us.
10 NAACP, or Tennessee NAACP had not been mentioned in
11 the time that I was working on this.

12 BY MS. BOWIE:

13 Q What goes into developing a new voter
14 registration form?

15 A A lot. So, first of all, there's the
16 wording. Always the wording and the words that we
17 want to go -- to go on there.

18 Second, once we have -- even have the words
19 or the substance of what we want on the form -- and
20 by "on the form" I mean both the instructions part
21 at the top and the actual form that the person
22 completes and submits at the bottom.

23 Once we have those words, or at least the
24 substance of what we want on there, we then try to
25 look at accessibility issues, readability,

1 usability. We -- we try to get forms down to -- I
2 think the standard or the minimum is sixth grade
3 reading level, ideally second grade. So we -- we
4 try to look at all those things and how it -- how
5 the changes would affect anyone reading this. And
6 then also the specific group or type of people that
7 we're also trying to help in making these changes.
8 So we look at all that.

9 Another thing we look at is spacing and
10 formatting. We -- as we discussed earlier, the
11 agencies have this. Some of the agencies have them
12 available on a -- kind of an electronic, like a
13 kiosk. But it'll be -- it will look just like this.
14 But it's just something that they can press rather
15 than doing it by hand. And sometimes there are
16 issues printing them out if we make it too long.

17 We also -- as you can see from this exhibit,
18 we try to make the back -- if it's printed front and
19 back, we try to make the back an actual envelope
20 that the person can then use to save them hopefully,
21 just -- obviously a little bit of money. But so
22 then we have to think about those spacing issues.
23 So it has to be able to be folded in half. There
24 has to be space at the top and the bottom for that,
25 for the envelope.

1 We also have space for where the county --
2 this is for the County Election Commission use
3 only -- processes it and adds information as that
4 voter registration application information is
5 updated.

6 So all of that goes into it, all of that
7 thought and all of that process. And it can take a
8 while. Just even explaining it, hopefully you can
9 tell.

10 After that -- and all of this is the
11 Elections Division doing it. But then also if a
12 third party group is involved, they'll work with us.
13 We also bring in our publications team who provide
14 the -- these draft versions of it for us. And then
15 we also will get feedback from the counties. So all
16 that involves -- can involve different players or
17 actors, I'll say.

18 Once even something's finalized, then the
19 process -- we will sometimes do a beta or a testing
20 stage even on that final draft revision. We'll send
21 it out to the counties to use and see how users and
22 registrants use it and feedback that they get or
23 issues that they see when using it.

24 And then so once that is all final and we
25 decide, yes, this is a good form, the revisions are

1 good, it's easy for registrants to use -- after all
2 that and it's final, we will then do several things.
3 So we will disburse it. So we place it on the
4 Secretary of State's website and have to make those
5 changes everywhere and all the links that link to
6 it. We will disburse it to -- we -- I guess I say
7 we -- we disburse it to the government agencies we
8 discussed before via the general services division.
9 So they then will disburse it to the public
10 assistance agencies.

11 And we then -- oh, we also disburse it to
12 the counties. We do that electronically and then
13 also by paper. So we'll send them out immediately.
14 And then also the paper ones, we will order or the
15 counties will order, or the government agencies also
16 order them.

17 And then, finally, also for the federal
18 forms, if there are any substantive changes to the
19 EOC, we'll work, we'll submit those changes as well.

20 That's all I can think of right now.
21 But that's some of what goes into the process of
22 changing a voter registration application.

23 BY MS. BOWIE:

24 Q Would the Elections Division go through all
25 that work if it didn't believe that these changes

1 were warranted?

2 MR. RIEGER: Object to the form of the
3 question.

4 Go ahead.

5 THE WITNESS: There have -- it depends.

6 BY MS. BOWIE:

7 Q Did the Elections Division believe that the
8 changes to the felony conviction section here were
9 important?

10 MR. RIEGER: Object to the form of the
11 question.

12 Go ahead.

13 THE WITNESS: Again, we were willing to
14 work with the group to see the changes and to test
15 the changes. And ultimately they were adopted. But
16 we were willing to work with that group and hear
17 their concerns.

18 BY MS. BOWIE:

19 Q What was the reaction of the counties to
20 this proposed form?

21 MR. RIEGER: Object to the form of the
22 question.

23 Go ahead.

24 THE WITNESS: It was mixed, I'll say.

25 At the -- so at the stage where we were still -- I

1 wouldn't even call it beta testing, but where we're
2 still formatting and creating even a draft, a lot of
3 the counties had feedback about how it really
4 looked. There was a lot on there. And the more
5 information -- I guess when people -- they were
6 saying -- some of the counties said when people fill
7 out this form, they really feel like they need to
8 fill out everything. I mean, sometimes people will
9 even put stuff in the "For County Election
10 Commission use only." I think it's maybe human
11 nature.

12 And so some of the feedback we got was
13 that the more we asked about felony convictions, it
14 actually hurt people without felony convictions.
15 They just would start putting stuff, like, any
16 conviction they've ever had, including misdemeanors,
17 which, as you know, are not disenfranchising. So
18 that was something we got. Like, making it longer
19 could be confusing.

20 Some of the -- again, this was not the
21 actual version adopted. And so some of the changes
22 about -- we -- we -- I think we moved the -- getting
23 your voting rights restored up to the top part or
24 maybe just higher.

25 So we made some changes that were

1 initially based on that feedback. But it was mixed.

2 MS. BOWIE: Okay. Can we take the
3 document labeled H and please mark it as Exhibit 9.

4 (Marked Exhibit No. 9.)

5 BY MS. BOWIE:

6 Q Do you recognize this spreadsheet?

7 A Yes.

8 Q Can you say what it is?

9 A I believe it was the -- this was not even
10 feedback for the form that we -- Exhibit 8. This
11 was even earlier. And without having the voter
12 registration in front of me, I can't tell you which
13 one it was about, what -- what beta test. Sorry, I
14 would not even call it a beta test, which sample or
15 draft that we sent out that this was in response to.

16 But it looks like feedback from the counties
17 on the draft or sample voter registration in
18 general.

19 Q Lauderdale County -- if you would take a
20 moment to read that. You don't need to read it out
21 loud, but just refamiliarize yourself with what they
22 said there -- and Shelby County seemed to have
23 questions about why the counties would need to know
24 the date of somebody's felony conviction; is that
25 correct?

1 MR. RIEGER: Object to the form of the
2 question.

3 Go ahead and answer.

4 THE WITNESS: (Reviewing documents.)

5 What was the question? That Lauderdale
6 and Shelby had feedback about --

7 BY MS. BOWIE:

8 Q Had questions --

9 A -- the form?

10 Q Yes, sorry. Had questions about why the
11 county would need to know the date of somebody's
12 felony conviction.

13 MR. RIEGER: The same objection.

14 Go ahead.

15 THE WITNESS: So Lauderdale, yes, it
16 appears had questions about the date. The --
17 Shelby -- oh, yes, they had a question about the
18 date too, but I think -- yeah.

19 BY MS. BOWIE:

20 Q Why would the counties need to know what the
21 date of somebody's felony conviction was?

22 A So to -- because a person -- person's
23 eligibility to get their voting rights -- or, sorry.
24 A person's eligibility to register to vote can
25 depend on the date when they were convicted.

1 Q And both of those counties also expressed
2 questions about why the counties would need to know
3 the crime. Why would the counties need to know the
4 crime that somebody was convicted of?

5 MR. RIEGER: Object to the form of the
6 question.

7 Go ahead.

8 THE WITNESS: On -- so in order to
9 determine whether a person is eligible to register
10 to vote, a county would need to know crimes before
11 January 15th, 1973. Also, at really the restoration
12 phase, but for crimes after -- or for felony
13 convictions after May 18th, 1981, as well, there are
14 certain crimes that are permanently disqualifying.

15 Or I'll say --

16 BY MS. BOWIE:

17 Q Did you --

18 A -- sorry -- after July 1st, 1986, really,
19 but, yeah.

20 Q Did you respond to any of the counties'
21 questions about the changes to the felony conviction
22 boxes on the form here?

23 A I personally did not. Beth Henry-Robertson
24 was the one who did this. I believe that she did.
25 And, again, with -- without seeing the actual test

1 or sample that this was, I don't know what changes
2 were eventually -- but I believe that she -- she
3 reached out to them about their questions.

4 MS. BOWIE: I'd like to take the
5 document labeled J and mark that as Exhibit 10,
6 please.

7 (Marked Exhibit No. 10.)

8 BY MS. BOWIE:

9 Q All right. Can you tell us what this
10 document is?

11 A It appears to be -- or close to the current
12 Tennessee mail-in application for voter
13 registration, also known as the SS-3010. I cannot
14 be sure without knowing where you got this form, but
15 it looks similar or close to.

16 Q When was the current form put into use?

17 A I know that it was created around
18 September 2020. We went through a beta testing
19 phase, as in it was a final document. But we wanted
20 some of the counties to use it first in order to
21 give us feedback. So, again, it was created
22 September 2020.

23 I think by not counting the beta stage -- so
24 after the beta testing, so use as in all 95 counties
25 and up on our Secretary of State's website, I think

1 maybe late December 2020 or early 2021. But also,
2 so that we also to match this changed our
3 instructions for the federal form with the EAC. And
4 those weren't approved until March 2021. So maybe
5 around that date. That's what we were waiting for.

6 Q What makes this the current form? Is it the
7 only form that the counties are allowed to accept?

8 MR. RIEGER: Object to the form of the
9 question.

10 Go ahead.

11 THE WITNESS: I didn't say this is the
12 current form, first of all, to clarify, without
13 knowing where you got this from. But if this is the
14 one on the Tennessee Secretary of State's website,
15 the official Form SS-3010, it's the current one that
16 we -- like I just said -- that we use, that we
17 distribute to the counties and to the public
18 assistance agencies and that we have on the website.

19 To answer your question of whether this
20 is the only form that counties are allowed to accept
21 and process, no, it is not the only form.

22 BY MS. BOWIE:

23 Q Which counties did you beta test this in?

24 MR. RIEGER: Object to the form of the
25 question.

1 Go ahead.

2 THE WITNESS: First of all, again, to
3 clarify, I don't know if this was the exact one beta
4 tested. But when we did the beta test of the one
5 we're now using, I know Davidson was one. Beth
6 Henry-Robertson was the person in charge of kind of
7 coordinating the beta test, so I -- I honestly am
8 not sure of the other ones. I think Davidson, maybe
9 Shelby, probably Shelby. I know we had a mix of
10 small counties in there too. Maybe Houston. But
11 otherwise --

12 BY MS. BOWIE:

13 Q Did you solicit feedback from the counties
14 in the same way that you did for the 2019 proposed
15 revision?

16 A Sorry, I also want to add, I think Wilson
17 was one of them as well that I can remember now.

18 We did get feedback. It was not in the same
19 format of a formal 95-county survey or even the
20 counties that we did have survey. I think it was
21 more in the form of call -- phone calls and e-mails,
22 probably phone calls. But we did get feedback. Or
23 Beth Henry-Robertson got feedback from them. I know
24 she did.

25 Q Have you seen any of that feedback? Would

1 you be able to describe it?

2 A I don't know that I've seen any of the
3 feedback. I have seen feedback, but I don't
4 remember if it was for an earlier -- like this
5 Exhibit 9 or if it was for the final beta testing
6 starting in, like, November or December.

7 So I don't -- but, yeah, no, I can't say if
8 I've seen the specific feedback for this, what
9 turned into our final form.

10 Q Have you given the counties any instructions
11 on how to process the new form?

12 A So we -- obviously there are instructions on
13 the top of the new form. That's for the counties
14 and the public generally. But we will give
15 instructions in the form of calls and e-mails when
16 they have questions. When we -- but, yeah,
17 there's -- that's a yeah. We've given instructions
18 that way.

19 Q Did the Elections Division give any written
20 instructions on how to process these forms?

21 A Again, there are written instructions on
22 here. And then in e-mails, if a county had a
23 question, a specific question, one-on-one, we would
24 give that information either with a phone call back
25 or an e-mail back.

1 We also -- as I mentioned earlier about
2 expungements specifically, which this -- or I,
3 again -- whatever the final version is, the official
4 one does cover expungements. We also just recently
5 put out a memo about that.

6 Q How did the Elections Division announce to
7 the counties that there was going to be a new form?

8 MR. RIEGER: Object to the form of the
9 question.

10 Go again -- go ahead, please.

11 THE WITNESS: We -- well, it started by
12 announcing back in 2019. So kind of in conjunction
13 with Exhibit 9, we had announced that they -- so the
14 counties knew there was going to be a new form at
15 some point.

16 BY MS. BOWIE:

17 Q Have any of the instructions for processing
18 registration forms changed with this new
19 registration form regarding how to process people
20 with felony convictions?

21 MR. RIEGER: Object to the form of the
22 question.

23 Go ahead and answer.

24 THE WITNESS: I would say yes. So we
25 have touched -- with the counties, touched on, I

1 guess, if -- where the crime occurred and how to
2 help that person determine eligibility based on that
3 specifically, if it was in another state and what to
4 help them look for. But, otherwise, no.

5 BY MS. BOWIE:

6 Q Are you in the process of revising the
7 registration form again?

8 A Not -- we are looking at it and looking at
9 changes and considering certain changes, yes.

10 Q And just to go back to Exhibit 7 for a
11 moment. Do you have that?

12 A Yes.

13 Q Was the felony question on the registration
14 form the same as this one before September 2020?

15 MR. RIEGER: I'll object to the form of
16 the question.

17 Go ahead.

18 THE WITNESS: Yeah. Can you say that
19 again? Was...

20 BY MS. BOWIE:

21 Q Was the felony question, 11, 2, the same
22 before this revision in September 2020?

23 MR. RIEGER: Object to the form of the
24 question.

25 Go ahead.

1 THE WITNESS: I -- no. I believe
2 there -- I thought there had been something -- the
3 answer is, I believe, no. I believe that the
4 form -- this is not a -- this is just a -- I can
5 tell someone just -- this is not an official form.
6 But this -- I believe that it had a place for and it
7 said if you've ever been -- if you've had your
8 conviction expunged, mark "No." I don't believe
9 it -- I don't know if this was the final question.
10 I believe there's more information on it.

11 Q Looking back at Exhibit 8 for a moment, I
12 just want to be absolutely clear, this proposal was
13 never adopted, correct?

14 A No. I mean, yes, you're correct. No, it
15 was not. This was not the final version adopted.

16 Q Okay. And back to Exhibit 9 for a moment,
17 would you say that the changes that were made to the
18 current form regarding the felony question are
19 useful?

20 MR. RIEGER: Object to the form of the
21 question.

22 Go ahead.

23 THE WITNESS: Are -- what do you mean
24 by "useful"?

25

1 BY MS. BOWIE:

2 Q Are they useful to the counties for
3 processing registrations?

4 MR. RIEGER: Object to the form of the
5 question.

6 Go ahead.

7 THE WITNESS: I think they -- the
8 counties can use the -- and do use the additional
9 information to verify if the person -- or check if
10 the person has had a felony conviction, has gotten
11 restored and/or generally is eligible. I will say
12 the counties before these changes did -- many of
13 them, and most of the time, got that information
14 anyways.

15 BY MS. BOWIE:

16 Q You said that the Elections Division is in
17 the process of reviewing the form again. Are any
18 changes being looked at to the -- changes to the
19 felony section?

20 MR. RIEGER: Object to the form of the
21 question.

22 Go ahead.

23 THE WITNESS: Yes.

24 BY MS. BOWIE:

25 Q Why?

1 MR. RIEGER: I'll object to the
2 question insofar as -- insofar as it seeks
3 information covered by attorney-client privilege.

4 THE WITNESS: The Campaign Legal Center
5 had reached out. And -- with the argument or the
6 assertion that this -- not this form, but the
7 current form that's in use by the Secretary of
8 State's office does -- still does not have enough
9 information to determine the eligibility of people
10 with felony convictions.

11 BY MS. BOWIE:

12 Q What should the counties do when they
13 receive the current form with the box checked
14 indicating that somebody has been convicted of a
15 felony?

16 MR. RIEGER: Object to the form of the
17 question.

18 Go ahead.

19 THE WITNESS: It depends on the
20 situation. I mean, is anything else marked on that
21 section? Has the -- do they have a record of the
22 person's restoration or other documentation
23 verifying eligibility?

24 BY MS. BOWIE:

25 Q Let's say there's nothing else marked in

1 that section.

2 MR. RIEGER: Object to the form of the
3 question.

4 Go ahead.

5 THE WITNESS: If a -- just to clarify,
6 if a county receives a voter registration
7 application that marks "Yes" to the felony question
8 and there's nothing else marked, if the person has
9 marked "Yes" to the felony question under penalty of
10 perjury, it is rejected, if they don't have anything
11 else, or any other documentation.

12 MS. BOWIE: I'd like to take the
13 document labeled K and mark that as Exhibit 11,
14 please.

15 (Marked Exhibit No. 11.)

16 BY MS. BOWIE:

17 Q Can you just describe this document, please.

18 THE COURT REPORTER: Hold on just a
19 second.

20 MR. RIEGER: You're good.

21 BY MS. BOWIE:

22 Q Okay. Can you describe this document,
23 please.

24 A This appears to be the federal voter
25 registration application and the federal

1 instructions. And then it appears to be page 19 of
2 the attached state instructions, so specific to
3 Tennessee and Texas.

4 Q Can you please read the -- under Tennessee,
5 under Number 9, the fourth bullet point.

6 A (Reviewing documents.) Read it out loud?

7 Q Yes, please.

8 A So Number 9 says, "Signature. To register
9 in Tennessee, you must not have been convicted" --
10 the fourth bullet says, "not have been convicted of
11 a felony, but if convicted, your eligibility to
12 register and vote depends upon the crime you were
13 convicted of and the date of your conviction. For
14 more information about this process, call
15 (877)850-4959 or visit
16 <https://sos.tn.gov/restoration>. If your conviction
17 has been expunged, you are not considered to have a
18 felony conviction."

19 Q If a person had a felony conviction between
20 January 15th, 1973 and May 17th, 1981, how should
21 they fill out this registration form?

22 A The federal voter application form? Is that
23 what you mean?

24 Q Uh-huh, yeah.

25 A The entire thing?

1 Q Is there anything that they should do that's
2 different from any other voter when they fill this
3 out?

4 A I can't answer that question. Every voter's
5 different.

6 Q If a voter with a conviction during that
7 grace period filled out and submitted this form,
8 would their county or whoever's processing the form
9 know that they have a felony conviction?

10 MR. RIEGER: Object to the form of the
11 question.

12 Go ahead.

13 A They would not know from the person who
14 completed the form. But as we discussed earlier,
15 they could have information from other sources.

16 MS. BOWIE: I'd like to look at the
17 document labeled L, please.

18

19 (Marked Exhibit No. 12.)

20 BY MS. BOWIE:

21 Q Do you recognize this document?

22 A Yes.

23 Q Can you describe it, please.

24 A It is a -- looks like a 24-page document or
25 outline of the -- and it's titled, "Felon Voting

1 Rights Restoration."

2 Q What is this document for?

3 A It appears to be a document that Abby --
4 Abby Tyler, who is a predecessor who worked on
5 individuals with felony convictions, that she
6 created for herself to use when processing, or
7 others.

8 Q Do you use this?

9 A No. I -- I -- when I first began in my
10 position, I personally read over it. But in terms
11 of looking at it every day, no, I don't, if that's
12 what you mean by "use it."

13 Q Is this first section, "Voter Registration
14 Application," consistent with the Elections
15 Division's current thinking?

16 MR. RIEGER: Object to the form of the
17 question.

18 Go ahead.

19 THE WITNESS: (Reviewing documents.)

20 No. There are some things that have
21 been updated.

22 BY MS. BOWIE:

23 Q Is Section a consistent with the Election
24 Division's current thinking?

25 MR. RIEGER: Object to the form of the

1 question.

2 Go ahead.

3 THE WITNESS: I -- well, you can see --
4 "a" is consistent with an old voter registration
5 application that we had at the time. Under the
6 current voter registration application, it would
7 be -- if a person marks that they've been convicted
8 of a felony and has not had their -- doesn't mark
9 voting rights restored or other type of eligibility
10 requirement -- but, yeah, so it doesn't encompass
11 the current voter registration application for a(1),
12 which I don't know if you're including in your
13 question.

14 But for a(1), the policy really is that
15 when a voter registration is rejected, we -- they
16 need to send -- so they send the notice letter of
17 rejection and a copy of the COR. But they also send
18 a copy of an appeal, the official appeal form. And
19 then really -- and now a new voter registration as
20 well as information about felony convictions.

21 BY MS. BOWIE:

22 Q Can you elaborate on what you said about
23 just this first paragraph here? What is the policy
24 for processing the new registration form?

25 A So --

1 Q What is different?

2 A So if a person --

3 MR. RIEGER: Object to the form of the
4 question.

5 But go ahead.

6 THE WITNESS: So if a person submits a
7 voter registration application and marks "Yes" for
8 the felony conviction, then also marks that they've
9 had their rights restored or some other type of --
10 or give some other type of information that shows
11 they might potentially be eligible or not, and the
12 county doesn't have any other information, then
13 really usually they check with me to get more
14 information, or they look in their files.

15 So they -- I mean, they'll use that
16 additional information.

17 Q What additional information might be on the
18 form that would indicate that somebody is eligible?

19 A That they've had their voter rights restored
20 I think by far is the most common that counties will
21 ask me. They'll check their own records, which they
22 really always did, even before this new form, to see
23 if they've had a voter -- a restoration from this
24 person. But if not, then they ask me.

25 And sometimes they do. It was just

1 submitted in another county earlier and they've had
2 it restored. Sometimes they don't.

3 Q Anything else?

4 A Anything else, what?

5 Q Information on the form that might indicate
6 that somebody's eligible?

7 A Oh, yeah. Sometimes people will put that
8 they were convicted in the grace period, and the
9 county will ask me about that, if they have
10 information. Or they will call their own clerks and
11 ask for information. But, again, counties did
12 that -- they used to do that already. But they -- I
13 mean, now there's officially a place where the
14 person can mark it.

15 Q So if somebody marks that they had a grace
16 period conviction, the counties are supposed to
17 contact you?

18 MR. RIEGER: Object to the form of the
19 question.

20 Go ahead.

21 THE WITNESS: They aren't supposed to,
22 but they can and they do, if that information's on
23 there. I wouldn't say it's a rule or a --

24 BY MS. BOWIE:

25 Q If they don't --

1 A -- requirement.

2 Q -- contact you, what should they do with the
3 form?

4 MR. RIEGER: Object to the form of the
5 question.

6 Go ahead.

7 THE WITNESS: So if the person submits
8 a voter registration application, marks "Yes" to the
9 felony question, nothing else except that they write
10 they had a felony conviction in the grace period
11 date and do not give any other information --
12 documentation or information, the county can, again,
13 either contact their own court clerk or the Court
14 where the person was convicted, which is what they
15 typically do.

16 Counties truly go above and beyond to
17 try to help gather that documentation. They'll
18 contact me to see if we have anything. But if not,
19 then they're rejected if that person doesn't have --
20 if we can't verify they're in the -- what you call
21 grace period, but the May -- the January 15th, 1973
22 to May 17th, 1981.

23 BY MS. BOWIE:

24 Q And do you have a different shorthand that
25 you'd use for that?

1 A No. We call it --

2 Q Or are you comfortable with grace period?

3 A -- grace period too. But I just wanted to
4 specify.

5 Q Okay. Thank you.

6 And what other documentation are you looking
7 for?

8 MR. RIEGER: Object to the form of the
9 question.

10 Go ahead.

11 THE WITNESS: Anything from the court
12 verifying that the person -- the person's felony
13 conviction was indeed in that grace period. So it
14 can either be a copy of the judgment -- but we've
15 also accepted letters from court clerks stating that
16 they have it. Yeah, just really any documentation
17 from the court, the convicting court.

18 BY MS. BOWIE:

19 Q Looking at Section b on this exhibit here,
20 so this -- the top section, "Voter Registration
21 Application b," is this consistent with the
22 Elections Division's current thinking?

23 A (Reviewing documents.) Yes. It looks like
24 it's consistent with the statute and then the policy
25 that the County Election Commissions -- even before

1 the new voter registration would always check
2 their -- their felony files for either restoration
3 or information about a felony conviction that the
4 person didn't mark.

5 Q What are the felon files?

6 A Again, so we had talked about this earlier.
7 It's any information from the various sources, as
8 required by statute or anywhere else, that the
9 counties receive for people notifying them of a
10 felony conviction or a previous voter registration
11 application that the own person marked "Yes" under
12 penalty of perjury to the felony question.

13 So any information from the person, the
14 Court, any -- anywhere.

15 Q So the felon files would have information
16 about prior registrations where somebody might have
17 indicated they have a felony, they might have their
18 records of those lists that you mentioned earlier
19 that are sent by the U.S. -- sent to you-all by the
20 U.S. attorney and then broken out for the counties?

21 A Yeah.

22 Q And they might have those felon lists that
23 you mentioned you break out for the counties from
24 the TDOC reports?

25 A Uh-huh.

1 Q Is that right?

2 A Those are some of the things, yes. Or the
3 judgments from their own county clerks as required
4 by statute. I don't know if you mentioned that.
5 But, yes, those are some of the sources of
6 information.

7 Q Okay. Anything that we might be missing
8 there?

9 A So we said the voter registration
10 application that the person completed, the state
11 felon list, the federal felon notices, court orders
12 that they get directly from the convicting court
13 themselves.

14 I guess they could keep e-mails and
15 communications or documents from the state or county
16 about it. So those wouldn't technically fall into
17 the formal list or the Court orders. But if they'd
18 ask me to do a felony conviction search and I found
19 something, that would be in there.

20 Also, under the Tennessee statutes, the jury
21 coordinators for each county, they send lists to all
22 the County Election Commissions of people who were
23 disqualified due to a felony conviction. Those are
24 not enough to purge, but they can keep those in case
25 anything pops up in the future.

1 But that's all I can think of right now.

2 Q Why -- thank you. Why are those not enough
3 to purge those jury lists?

4 MR. RIEGER: Object to the form of the
5 question.

6 Go ahead.

7 THE WITNESS: Our policy currently is
8 that -- I mean, just under the statute, it's not --
9 it doesn't fall under one of the types of documents
10 required to purge.

11 BY MS. BOWIE:

12 Q Okay. Do the counties keep these felon
13 files electronically?

14 MR. RIEGER: Object to the form of the
15 question.

16 Go ahead.

17 THE WITNESS: It depends.

18 BY MS. BOWIE:

19 Q So some do and some don't? Is that what
20 you're saying?

21 A Yeah, or both.

22 Q Okay. And they check every registration
23 against these files?

24 MR. RIEGER: Object to the form of the
25 question.

1 Go ahead.

2 THE WITNESS: Every registration that
3 marks "Yes" to the felony question. So I guess
4 going back to your question, I didn't mean to
5 overlook that. But I would say every -- at least
6 every application that marks "Yes" to the felon
7 question at a minimum, uh-huh.

8 BY MS. BOWIE:

9 Q But these are also the sources of, you know,
10 when we talked way back about the county has some
11 information that indicates you might have a felony.
12 So even if somebody doesn't check "Yes," they might
13 be flagged through this felon file, right?

14 A So if someone marks --

15 MR. KIEGER: Object to the form.

16 Go ahead.

17 THE WITNESS: So you're saying if
18 someone marks "No" to the felon question, they might
19 be flagged?

20 Q Yeah.

21 A That's if the county checks -- again, so
22 the -- I mean, not every county checks every
23 application against the felon files. If they mark
24 "Yes," they do. That's what I was trying to say.
25 But if -- if it's one of the ones that's marked

1 "No," and they do check against their felon files,
2 then, yes, it would be flagged.

3 That's usually going back to what we were
4 saying. In the counties that electronic -- that
5 keep the felon files electronically --

6 Q Uh-huh.

7 A -- it's easier to check obviously.

8 Q Okay. So just to return to Exhibit L on "b"
9 here, can you just read that first sentence?

10 A Out loud?

11 Q Yes, please.

12 A "The County Election Commission checks every
13 application against their felon files.

14 Q So you're saying that's -- that's not
15 currently accurate?

16 A As I understand, no. When I said yes, it
17 was, I had -- sorry, I had incorrectly been reading
18 under the assumption of "a," that they marked "Yes."
19 But I would say every -- every commission checks the
20 application against felon files at least if
21 they've -- if they've marked "Yes." Some do for
22 every application. I don't think that all of them
23 do.

24 MS. BOWIE: Okay. Can we take the
25 document labeled M and mark that as Exhibit 13,

1 please.

2 (Marked Exhibit No. 13.)

3 MR. RIEGER: Hey, Blair, how much
4 longer do we think we're going to go before the next
5 break?

6 MS. BOWIE: I was going to go until
7 1:45, if that's okay.

8 MR. RIEGER: 1:45 Eastern?

9 MS. BOWIE: Sorry, yes.

10 MR. RIEGER: I was like, ooh.

11 MS. BOWIE: My bad.

12 MR. RIEGER: That's fine. That's fine.

13 MS. BOWIE: Eight more minutes.

14 THE COURT REPORTER: All right.

15 BY MS. BOWIE:

16 Q Can you describe this document, please?

17 A It looks like part of an e-mail chain that's
18 been cut off that is from -- between the deputy in
19 Shelby County who handles -- who mostly handles
20 felony conviction issues and me about a felony
21 conviction search.

22 I do remember that this had more pages. And
23 so I don't know what facilitated the search and then
24 the end result. Because it also looks like -- it
25 turned out that he submitted an appeal form.

1 Q Uh-huh. Up at the top here, this refers to
2 "ESM." Do you know what that means?

3 A Yes. So -- I'm not positive, but I believe
4 that's the shorthand for Shelby County's system,
5 voter registration system. So all 95 counties have
6 the voter registration system because they are the
7 ones who process and keep the voter registration
8 applications. 91 of the counties use Voter Central,
9 what we call Voter Center, is a system. But four of
10 the counties, Davidson, Shelby, Knox, and Hamilton,
11 get to -- they use their own because they're so
12 large.

13 And I believe that she's referring to
14 their -- either their system or their felon files,
15 but some type of electronic system.

16 Q Okay. Do you know why it wouldn't be
17 visible or complete?

18 A What was that?

19 Q Do you know why it wouldn't be visible or
20 complete, as she says at the top here?

21 A No.

22 MS. BOWIE: Okay. I'd like to take the
23 document labeled N and mark it as Exhibit 14.

24 (Marked Exhibit No. 14.)

25 THE WITNESS: And I do want to clarify

1 here too --

2 BY MS. BOWIE:

3 Q Hold on just a second.

4 A Oh, I'm sorry.

5 And I do want to clarify here too. I was
6 just thinking about it. I don't know if I used the
7 wrong dates earlier for the voter registration
8 application revisions and testing. I think I said
9 2021 for when it was approved by the EIC, and I
10 meant 2020. I don't know if I did, but just to be
11 sure, I wanted to say that.

12 Q Which form are you referring to?

13 A The EAC instructions.

14 Q Okay, okay.

15 A I believe that -- I didn't know they were --
16 I mean, they were updated in 2020, but I think I
17 might have said 2021 there. I just thought of that,
18 because that would not --

19 Q Okay. Thank you.

20 A -- there was much more, yeah.

21 Q Okay. Do you know what this document is?

22 A This appears to be a felon report created by
23 the State on or around April 13th, 2020 for Weakley
24 County.

25 Q Okay. And can you tell me what the letters

1 in the second-to-last column mean?

2 A They are the class of felony.

3 Q Okay. And the numbers next to that?

4 A The county of conviction.

5 Q Okay. And I know that this is heavily
6 redacted, but I think that you probably know the
7 answer anyway. Under that third to the right side
8 column, which says "Voter ID" and "TOMIS date,"
9 there's a 9-digit number with a date underneath it.
10 What are those?

11 A I think I have the wrong --

12 MR. RIEGER: She's asking you about
13 another redaction, I believe.

14 Is that correct, Blair?

15 MS. BOWIE: Yes, sorry. It's under the
16 redaction.

17 BY MS. BOWIE:

18 Q Under the voter I.D. and TOMIS date.

19 MR. RIEGER: So are you asking --

20 MS. BOWIE: It's okay if you can't see
21 it.

22 MR. RIEGER: Are you asking going from
23 right to left?

24 MS. BOWIE: If you know from memory,
25 that's fine. If not, that's all right.

1 MR. RIEGER: So I think, Blair, are you
2 asking if you go from right to left, what would be
3 in the third column?

4 MS. BOWIE: Yeah, the third column,
5 which I think is labeled "Voter ID TOMIS Date."

6 THE WITNESS: Okay. I don't see a
7 9-digit number, but --

8 MR. RIEGER: Well, she's asking if the
9 redaction was not there -- so if there was no
10 redaction, what would be there?

11 THE WITNESS: Oh, oh, okay. It would
12 be -- so for every line, the person's -- so for
13 every line, the person's name appears twice. It's
14 where they appear in our TDOC databases or federal
15 database, and then matched to how they appear on
16 their voter registration record. So the person's
17 name is twice. The one that is where they appear in
18 our voter registration record will have the voter
19 I.D. on that line there. The name, as it appears in
20 TDOC, will have the TOMIS date on that line there.

21 BY MS. BOWIE:

22 Q Okay. And the date of conviction, is that
23 anywhere on here?

24 A That's the TOMIS date. That's what he --
25 they call the TOMIS date.

1 Q Okay.

2 A And we say that because it's not always the
3 date -- yeah, sometimes it's the date of the
4 judgment. Sometimes it's the date of the sentence.
5 So we just say the TOMIS date that they gave to us.

6 Q And this was created by matching the TDOC
7 data with the voter registration file; is that
8 correct?

9 A It's -- it's correct, but not entirely
10 correct. So it's also -- so it's the TDOC data,
11 also the federal data, and then the TDOC ISC, the
12 interstate data.

13 Q Okay. And are -- are all these convictions
14 going to be recent convictions, or do they sometimes
15 pull back in time looking backwards into people's
16 conviction history?

17 MR. RIEGER: Object to the form of the
18 question.

19 Go ahead.

20 THE WITNESS: So it is -- it is all
21 convictions for that person going back in time. It
22 is usually, I think, the oldest date that appears
23 here, if there's multiple. But I want to specify
24 it's not -- it's not the data pulling back and
25 looking at that person. The person can be a new

1 registrant who was convicted a long time ago. And
2 so that's why an older one would be on there, if
3 that makes sense.

4 BY MS. BOWIE:

5 Q Yes. And how often does the Elections
6 Division create these reports?

7 A Since 20 -- since 2019 or 20 -- so since
8 around 2020, it's been about every one to three
9 months.

10 Q And the counties keep these in their felon
11 files; is that right?

12 MR. RIEGER: Object to the form of the
13 question.

14 Go ahead.

15 THE WITNESS: They can, yes.

16 MS. BOWIE: Okay. I think we can take
17 a break now.

18 MR. RIEGER: Sure. What are you
19 thinking?

20 THE VIDEOGRAPHER: I'll take us off.
21 Going off the record. The time on the
22 monitor is 12:47.

23 (Recess observed.)

24 THE VIDEOGRAPHER: We are back on the
25 record. Time on the monitor is 1:32.

1 MS. BOWIE: Okay. I'd like to take the
2 document labeled O, and please mark that as
3 Exhibit 15.

4 (Marked Exhibit No. 15.)

5 (Ms. Danahy joins.)

6 MR. RIEGER: Oh, Blair, before I start.
7 Was Molly here in the morning?

8 MS. BOWIE: She was not.

9 MR. RIEGER: Can we note that for the
10 record, that -- I guess I'll let you do it, Blair,
11 that Molly just joined us.

12 MS. BOWIE: Yes, thank you. Molly is
13 here and Danielle has left.

14 MR. RIEGER: Just making sure.

15 BY MS. BOWIE:

16 Q Can you describe this document, please?

17 A Yes. Excuse me. It appears to be an e-mail
18 from me to Charles Gibson, the Administrator of
19 Elections in Jefferson County, about the results of
20 a felony conviction search.

21 Q What do you mean "about the results of a
22 felony conviction search"?

23 A So when a county has any question about a
24 person's eligibility due to a felony conviction,
25 they will send me their -- send or call with -- in

1 this case, it looks like it was a call -- their name
2 and date of birth and Social Security Number. And I
3 will check the databases that we discussed earlier,
4 all the sources. So it appears that's what I did in
5 this case, pursuant to a call from Charles.

6 Q Do you remember what prompted this call?

7 A I -- no, I don't -- I think it was that -- I
8 don't remember exactly. I'll say -- I want to with
9 a caveat. But I believe it was a woman who had
10 appeared on a -- an old report and -- report from
11 the State and had, a long time ago -- and they had
12 purged her voter registration due to that felony
13 conviction because she had not been restored.

14 And then she had -- they had sent a letter,
15 you know, explaining, and then asking her to follow
16 up, and they could help her, to give them more
17 information. And apparently she never followed up
18 until 2021, very recently.

19 So I believe that's what happened.

20 Q When she followed up, did she attempt to
21 register to vote?

22 A I don't remember.

23 Q Okay. And this one -- this is a case from
24 Michigan, correct?

25 A Yes.

1 Q Why is this case from Michigan in -- why was
2 this in the felon report?

3 A Because, as I stated, we include records
4 from the Tennessee Department of Corrections and
5 their ISC data, which is Interstate Compact, which
6 is felony convictions from other states that are
7 transferred, the supervision is transferred here.

8 Q And her -- and this -- you found her
9 conviction number. Would that have been in the TDOC
10 files, or did you look for that in a different
11 location?

12 A I -- I -- it would have -- the TDOC --
13 ISC -- what I call the TDOC ISC files, has the case
14 numbers.

15 Q They have the Tennessee case numbers or the
16 out-of-state case numbers when there's a transfer,
17 or both?

18 A So to be clear, by the number, so the case
19 numbers, it's -- there's only one case number. It's
20 the out-of-state case number, the conviction.

21 Q Right. I'm just talking about where it says
22 the Michigan case number is -- and then it has a
23 redaction. Is that -- that would be in the TDOC
24 file is what you're saying?

25 A Yes.

1 Q Okay. And this person's conviction was in
2 1997, but she came up on the 2013 felony report.
3 You stated earlier that that can happen when
4 somebody is -- gets registered to vote after their
5 conviction. Is there any other reason why an older
6 conviction would show up on a later year's felony
7 report?

8 A If the -- if there had been some type of
9 clerical error or human error along the way where
10 they had just gotten one Social Security Number
11 wrong when entering a person -- by that, I mean
12 TDOC, when they enter them into their database, the
13 Court -- so it could be any human error. And then
14 later they fix it, and it moves on up to our
15 database, suddenly there can be a match, even though
16 there hadn't been.

17 MS. BOWIE: Okay. Can we mark the
18 document labeled P as Exhibit 16.

19 (Marked Exhibit No. 16.)

20 BY MS. BOWIE:

21 Q Can you describe this document, please?

22 A This is a document that Steve Griffy, the
23 Elections Division's administrator, sent to -- I'm
24 not sure who he sent it to, but I'm copied on it.
25 And it is about the felon list.

1 Q And every time you circulate the felon list,
2 do you circulate new instructions like these?

3 A No, but I do believe we update them
4 regularly.

5 Q Do you think that these instructions are
6 current, or have you issued instructions more
7 recently than October 8th, 2019?

8 A I'm not sure. We might have issued ones
9 more currently than October 8, 2019. But these are
10 not about voter registration eligibility. To be
11 clear, these are people who are already registered.

12 Q And this document talks about -- gives them
13 instructions for levels of matches, which you also
14 mentioned earlier. Can you just summarize how that
15 works?

16 A Excuse me. The list is created by -- it's
17 just data, it's not by hand, but by running the TDOC
18 data against voter registration database and -- for
19 people who are already registered. So it's not
20 determining their eligibility to register. They've
21 already registered incorrectly. And so it's
22 determining that.

23 And then it will subtract out, though. And
24 on the back end, so it'll have this list. And on
25 the back end though, it takes out anyone who's

1 already been restored or submitted other type of
2 documentation showing they're eligible.

3 And then when you asked about the different
4 categories, they -- at a minimum, every match has to
5 be a 100 percent complete Social Security match. So
6 every single number in the Social on their voter
7 registration has to match up to every single number
8 on -- in our TDOC -- when I say "TDOC data," I also
9 mean the ISC data and our federal, but I'll just
10 call it TDOC, but our felon data.

11 And then after that though, there can be
12 some variances in the name and date of birth. And
13 so those are the different categories -- is any type
14 of variation in the name or date of birth.
15 Category I is the strongest match, like the exact
16 same first, middle, and last. And then it goes
17 down.

18 Q And you mentioned the felon lists as one of
19 the sources of information that might populate a
20 county's felon files earlier; is that correct?

21 A Yes.

22 Q So some counties retain these in their felon
23 files. Is there a policy requiring counties to
24 retain these in their felon files?

25 A So just to be clear, I said that -- I said

1 that it is something that they can. But all the
2 counties, as far as I know, they do save these.

3 But to answer your question, I don't think
4 that there's any formal training that requires them
5 to save these.

6 Q And --

7 A I can't recall.

8 Q -- if the county determines that there's a
9 match between their registration list and these
10 files, and they determine that it's strong enough to
11 take someone off the rolls, will there be a flag
12 placed on that person's file, noting that they --
13 that they have a felon conviction?

14 MR. RIEGER: Object to the form of the
15 question.

16 Go ahead.

17 THE WITNESS: The -- the process is
18 that the county -- once they determine that the
19 person had -- registered voter has a felony
20 conviction, they will purge that person's voter
21 registration record. And the reason for the purge
22 will be a felon. So the felon indicator will be --
23 would be marked.

24 BY MS. BOWIE:

25 Q So they'll retain a record of that felon

1 indicator?

2 A Yes.

3 Q Okay. Does the Elections Division also keep
4 a record of that removal?

5 A We will get the data after the county does
6 it. I'm not -- I'm not quite sure what you mean by
7 "a record of that removal." So we don't have the
8 documents behind it, but we will get the data after
9 the county does it, just in our voter registration,
10 state voter registration data.

11 Q Okay. And will you maintain that data and
12 keep a list of the people who were removed for
13 felony convictions statewide?

14 MR. RIEGER: I'll object to the form of
15 that.

16 But go ahead and answer.

17 THE WITNESS: So we can create -- so we
18 can -- yes, we will have -- we keep data on people
19 who are purged. And if the reason for purge is
20 felony conviction, yes.

21 BY MS. BOWIE:

22 Q Okay. Are there sometimes people on these
23 lists who are a strong match with the registrant so
24 they appear to be the same person, but they're not
25 actually disqualified from voting?

1 A Yes.

2 Q Okay. Could there be people on this list
3 whose convictions were during the grace period?

4 A Yes.

5 Q Okay. And could there be people on the list
6 with convictions before 1973?

7 A In -- no. In -- our data -- I mean, in
8 theory, but our data from TDOC does not go back that
9 far, nor from the federal courts or ISC, so, no,
10 they don't -- they aren't that old.

11 Q How far back does the data go?

12 A It goes back to when TDOC started digitizing
13 their felon records. So I would say definitely
14 through the early '90s. We'll sometimes have
15 records from the late '7 -- starting in the late
16 '70s.

17 Q Okay. These instructions ask people -- ask
18 the county AOE's to contact you under certain
19 circumstances. What do you do if the AOE's contact
20 you and they have an order of expungement or
21 judicial diversion?

22 A We immediately update. So that -- if that
23 happens, that means that either the Court or TDOC
24 made an error. We could never know which, but when
25 that happens we, on the voter side, immediately will

1 update our database. So we put them into a
2 database. And -- so that the county will then --
3 and then the county is instructed to reinstate the
4 person immediately, remove any felon indicators and
5 remove any documentation regarding a felony
6 conviction about that person, which -- which is
7 everything in the felon file that they have on that
8 person. And then the person will not show up on
9 felon reports in the future.

10 So basically we fix it as much as we can on
11 our end.

12 Q So, sorry, you remove them for both -- you
13 remove the indicators and ask them to be taken out
14 of the felon files for both expungements and
15 judicial diversions?

16 A Yes. So those should not -- I mean, yes.
17 So those should not appear on the felon report. But
18 if they do, due to TDOC report error, then -- then,
19 yes.

20 Q Okay. And this says, if you have proper --
21 to contact you if you have proper documentation
22 showing the voter was convicted during the grace
23 period or prior to January 15, 1973. What do you
24 mean by "proper documentation"?

25 A So for the grace period, as we've trained

1 the counties, it's any official documentation
2 confirming their conviction date was in the grace
3 period. And for convictions prior to January 15th,
4 1973, as we've trained the counties, it should be a
5 copy of basically the judgment or convicting
6 document that shows, A, what the person was
7 convicted of; and then B, if they were convicted --
8 if they were, I guess, judged infamous.

9 Q So if -- if the person -- if they have a
10 felon report that shows a conviction date in the
11 grace period, let's say --

12 A Uh-huh.

13 Q -- but no other documentation according to
14 these instructions, they don't contact you?

15 A Say that again.

16 Q If they have on the felon report a person
17 that shows a conviction date during the grace
18 period, but they have no other documentation for
19 that person, they don't contact you?

20 A Correct.

21 Q What should they do with that person?

22 A So --

23 Q With that person's registration?

24 A So they or the person will go to the county
25 or counties where they were convicted and get the

1 proper documentation.

2 Q What is the county -- what does the county
3 do with that person's registration as a first step?

4 MR. RIEGER: Object to the form of the
5 question.

6 Go ahead.

7 THE WITNESS: Yeah, I'm confused,
8 sorry. What does the county do with that person's
9 registration?

10 BY MS. BOWIE:

11 Q Yes. They're not instructed here to contact
12 you. They have a hard match. The date shows the
13 grace period. What's the next thing that the county
14 should do?

15 MR. RIEGER: Object to the form of the
16 question.

17 Go ahead.

18 THE WITNESS: They will -- they will --
19 it depends on the situation. But they will purge
20 that voter until they get documentation and
21 immediately reinstate them once it's confirmed. Or
22 they will just keep them on hold. So the felon
23 reports, it's not something that needs to be done
24 that day. The counties get confirming
25 documentation.

1 And so, again, it depends on the
2 situation. But most of the time they'll put it --
3 they'll just hold that one and request the
4 documentation.

5 BY MS. BOWIE:

6 Q So the -- you're saying that the policy with
7 a person who doesn't have documentation but whose
8 conviction appears to be during a grace period based
9 on the felon report is not to purge that person?

10 MR. RIEGER: Object to the form of the
11 question.

12 Go ahead and answer.

13 THE WITNESS: No, I did not say that.
14 I said it depends on the situation.

15 BY MS. BOWIE:

16 Q Is the policy to purge that person?

17 MR. RIEGER: Object to the form of the
18 question.

19 Go ahead and answer.

20 THE WITNESS: Yeah, again, it depends
21 on the situation.

22 BY MS. BOWIE:

23 Q I mean, they can do it today or they can do
24 it a few months from now. But is the ultimate
25 result, if they don't have that paperwork, that they

1 will purge that person?

2 MR. RIEGER: Object to the form of the
3 question.

4 Go ahead and answer.

5 THE WITNESS: If they don't purge the
6 person, they will hold it until they get
7 documentation.

8 BY MS. BOWIE:

9 Q How long are they allowed to hold it?

10 MR. RIEGER: Object to the form of the
11 question.

12 Go ahead and answer.

13 THE WITNESS: They -- there's no
14 official policy on how long. If the county has
15 someone on a purge report for a long -- I mean, you
16 know, a couple perjury reports, we'll contact them
17 and ask them what's going on, or if we can help with
18 something. But there's no official policy on how
19 long that counties have. Because some counties are
20 longer than the others.

21 BY MS. BOWIE:

22 Q So a county could hold that record through
23 the next election and allow that person to vote?

24 MR. RIEGER: Object to the form of the
25 question.

1 Go ahead.

2 THE WITNESS: So any -- so, first of
3 all, these are not sent out close to elections. We
4 don't send them out through -- up through 90 days
5 before an election. So, no, that wouldn't happen.

6 BY MS. BOWIE:

7 Q So they cannot hold a record for that long.
8 They would have to purge that person before the next
9 election?

10 MR. RIEGER: I'm going to -- I'm going
11 to step in at this point --

12 THE WITNESS: Yeah, I think I've
13 answered your question.

14 MR. RIEGER: Sorry, sorry. I'm going
15 to step in at this point.

16 How is this related to Counts 4 and 5
17 of the complaint? It seems like we've gotten a
18 little far afield from the voter registration form
19 issues identified in Counts 4 and 5 of your
20 complaint and talking about what we do to resolve,
21 you know, purges that occur for matches on felon
22 reports.

23 Is there some sort of -- some sort of
24 causal link, or should this be something that should
25 wait until after the court resolves the immunity

1 issues?

2 MS. BOWIE: Alex, we've established
3 that one of the ways that the counties know that
4 somebody's had a felony conviction and -- is that
5 they've -- that person has appeared on a past felon
6 list, which is what we're talking about. And that
7 if that person attempts to register to vote in the
8 future, we've also established that their
9 registration might be referenced against that felon
10 list and rejected as a result. That's why I'm
11 asking about the felon list.

12 MR. RIEGER: Right, right. We're
13 talking about hypotheticals about how long someone
14 can -- can stay on that list, which seems -- which
15 seems far afield from what you have alleged to have
16 established.

17 MS. BOWIE: I'm asking about what the
18 policy is for somebody who is on that list whose
19 conviction appears to be in the grace period, but
20 for whom the county does not have documentation that
21 their conviction also was in the grace period. It
22 appears that the policy is to purge that person.
23 And that is what I'm trying to ask.

24 MR. RIEGER: Right. But purging is
25 different than the NVRA issues identified in your

1 complaint. I mean, we're only talking about
2 Counts 4 and 5, which are form related. So, you
3 know, unless --

4 MS. BOWIE: Right. That person may
5 register to vote again in the future, is my point.

6 MR. RIEGER: Well, just because they
7 can register to vote in the future doesn't mean
8 there's an inherent weakness in the form, as you've
9 alleged in your complaint. I'm just trying to make
10 sure that we don't inadvertently violate the Court's
11 order staying discovery on counts besides those that
12 aren't 4 and 5. And I think --

13 MS. BOWIE: None of the other counts
14 relate to purges either, Alex.

15 MR. RIEGER: I -- I understand. So
16 if -- if nothing relates to purges --

17 MS. BOWIE: We're not violating the
18 Court's order. Look, your objection is noted.

19 MR. RIEGER: If you wouldn't mind,
20 let's -- since we do have a court order staying
21 discovery on everything that's not dealing with
22 Count 4 and 5 specifically, if you wouldn't mind
23 reserving the hypotheticals about purge reports
24 until the end, maybe we can see if we can get a
25 magistrate on the line.

1 MS. BOWIE: To be clear, the Court
2 stayed discovery related to the other claims, not
3 everything except Claims 4 and 5. There's more in
4 the world than what's in Claims 1 through 7.

5 MR. RIEGER: I understand. But we're
6 talking about something that -- that -- you know, I
7 can't even imagine the steps we have to go to get a
8 causal nexus between the NVRA claims and where we
9 are now. It feels a little bit like fishing for
10 future hypotheticals.

11 I mean, this is a 30(b)(6) on very
12 specific topics. And I do not see the word "purge"
13 anywhere on Topics 1 through 8. So I'm just trying
14 to make sure that we -- we -- you know, we've got
15 two boundaries, which are the Court's order staying
16 discovery and then the topics you've listed. And --

17 MS. BOWIE: Alex, I've already
18 explained the causal connection. Are you
19 instructing the witness not to answer?

20 MR. RIEGER: Can you repeat the
21 question for me?

22 MS. BOWIE: The question is --

23 MR. RIEGER: Sorry, not to you, Blair.
24 Can you read back the question, please.

25

1 (The requested question was read back
2 by the court reporter as follows:

3 "Question: So they cannot hold a
4 record for that long. They would have to purge that
5 person before the next election?")

6 MR. RIEGER: All right. I'm going to
7 note my objection for the record, that this falls
8 outside of the eight topics. But I will instruct
9 the witness to answer to her personal knowledge on
10 this subject. And if you want a 30(b)(6) answer,
11 then I think we probably better get a magistrate to
12 talk about this further.

13 MS. BOWIE: Okay.

14 BY MS. BOWIE:

15 Q You can answer.

16 A So, sorry. The question was whether a
17 county can -- will have to purge before the
18 election? Is that the question?

19 Q So you've said that if a county had a person
20 on their purge report where it shows the conviction
21 to be during the grace period, but they don't have
22 any documentation, that they can either purge that
23 person or hold the record.

24 I'm just looking for what the ultimate
25 outcome is going to be if they continue to not have

1 any paperwork for that person.

2 MR. RIEGER: Same objection and
3 instruction, please.

4 THE WITNESS: The ultimate outcome is
5 they will be purged if -- if they don't submit or
6 find the verifying documentation.

7 MS. BOWIE: Can we take the document
8 marked -- labeled as Q and mark that as Exhibit 17,
9 please.

10 (Marked Exhibit No. 17.)

11 BY MS. BOWIE:

12 Q Can you describe this document, please.

13 A This appears to be an e-mail from me to
14 Charles Gibson, who is Administrator of Elections in
15 Jefferson County, about a person who -- they had
16 appeared on the -- on one of the felon reports.

17 Q Okay. And this person was on one of the
18 felon reports, but it appears that they only had a
19 misdemeanor; is that correct?

20 A Yes.

21 Q Okay. And how did you confirm that it was a
22 misdemeanor?

23 A Either -- we got -- at the -- so we
24 confirmed by getting confirmation from the Court at
25 the end of the day.

1 Q Uh-huh. So additional documents were
2 provided here. And your records have shown
3 initially that it was a felony; is that correct?

4 A TDOC records had shown that it was a
5 felony --

6 Q Yep.

7 A -- yes.

8 Q And if this person had not presented
9 additional paperwork, he would have been flagged as
10 ineligible; is that correct?

11 MR. RIEGER: Object to the form of the
12 question.

13 Go ahead.

14 THE WITNESS: He would have been
15 flagged with a felon indicator. Is that what you
16 mean, if he had not gotten --

17 BY MS. BOWIE:

18 Q Yes.

19 A Well, and it's not always the person who
20 gets it, I'll say. But if there had not been
21 confirmation from the court.

22 Q Okay. And then if the person registered to
23 vote in the future and checked the box -- the felony
24 box saying "No," what would have happened to the
25 application?

1 MR. RIEGER: Object to the form of the
2 question.

3 Go ahead and answer.

4 THE WITNESS: So if a person registers
5 to vote and marks the box -- checks the box marking
6 "No," but they have something in their -- in the
7 felon file that flags them, the -- the process is
8 that they can -- the process is that the County
9 Election Commission will reject the -- well, there
10 are two options.

11 It just depends factually -- which
12 you're not coming here. But they will reject the
13 voter registration application and request
14 additional information in a letter and will tell
15 them we have something on you in a felon file. And,
16 in fact, they will also attach both a Certificate of
17 Restoration and an appeal form along with a new
18 voter registration and information about felony
19 restoration.

20 If the person submits the appeal form
21 saying, "I don't have a felony conviction," or a new
22 voter registration again marking "No," at that
23 point, they don't need other documentation. They
24 can ask me to run another felony conviction search.

25 As you've seen, a lot of times it

1 happens someone is flagged because of a felon report
2 years earlier. And in the meantime, TDOC, or the
3 Court, whoever made the data error, has fixed it.
4 And so if nothing comes up, then they're fine.

5 Again, the election commission votes on
6 it, on all appeals. But usually the outcome is that
7 they vote that the person can be registered if
8 nothing comes up after they just fill out another
9 statement saying "I don't have anything."

10 BY MS. BOWIE:

11 Q Okay. So the policy is to reject the form
12 and the packet?

13 MR. RIEGER: Object to the form of the
14 question.

15 Go ahead and answer.

16 THE WITNESS: If a person shows up on
17 the felon report, yes.

18 MS. BOWIE: Okay. Can we mark the
19 document labeled R as Exhibit 18, please.

20 THE COURT REPORTER: Hold on just a
21 second.

22 (Marked Exhibit No. 18.)

23 BY MS. BOWIE:

24 Q Can you describe what this document is.

25 A To me from Jefferson County about someone

1 who appeared on a state felon report.

2 Q Okay. And this person was on the felon
3 list, but did not have a felony conviction. They
4 had a judicial referral; is that correct?

5 A It -- yes, it appears that either, again,
6 TDOC or the Court made some type of error. And
7 it -- what appeared to be a judicial diversion --
8 or, sorry, a felony conviction was actually a
9 judicial diversion.

10 Q Okay. And how did you confirm that it was a
11 judicial diversion and not a felony?

12 A We got some type of confirmation from the
13 Court.

14 Q Okay. And if you had not received that
15 paperwork, what would have happened to this person's
16 registration?

17 MR. RIEGER: Object to the form of the
18 question.

19 Go ahead and answer.

20 THE WITNESS: Their registration would
21 have been purged.

22 BY MS. BOWIE:

23 Q Okay. And if they had tried to register
24 down the line and checked the felony conviction box
25 "No," what would happen to their application?

1 MR. RIEGER: Object to the form of the
2 question.

3 Go ahead and answer.

4 THE WITNESS: They -- again, it depends
5 on the facts. But they would either be rejected and
6 sent the appeal form, or the county would ask me to
7 run a felony conviction search.

8 BY MS. BOWIE:

9 Q The county would ask you to run a felony
10 conviction search before or after rejecting them?

11 MR. RIEGER: Object to the form of the
12 question.

13 Go ahead and answer.

14 THE WITNESS: Before.

15 BY MS. BOWIE:

16 Q And our -- would they be allowed to reject
17 this person before asking you to do that, or is
18 there a policy that they have to contact you before
19 rejecting someone?

20 MR. RIEGER: Object to the form of the
21 question.

22 Go ahead and answer.

23 THE WITNESS: They -- they would be
24 allowed to.

25

1 BY MS. BOWIE:

2 Q Okay. But if you ran the search, wouldn't
3 you have just found the same thing that was in the
4 felon report, which was showing that this person did
5 have a felony?

6 MR. RIEGER: Object to the form of the
7 question.

8 Go ahead and answer.

9 THE WITNESS: Unless the -- unless
10 TDOC -- unless the TDOC database had been updated
11 and corrected.

12 MS. BOWIE: Okay. Can we please take
13 the document labeled S and mark it as Exhibit 19.

14 (Marked Exhibit No. 19.)

15 THE COURT REPORTER: All right. Hold
16 on just a second, please.

17 BY MS. BOWIE:

18 Q Can you describe these documents, please?

19 A (Reviewing documents.)

20 It appears to be an online voter
21 registration for a person submitted to Weakley
22 County Election Commission, a rejection letter from
23 the Weakley County Election Commission dated
24 November 18, 2020. I'm not sure if it's the same
25 person. A -- an eligibility -- or, sorry, a -- an

1 e-mail from me to Ricka McDonald, who was the deputy
2 in Weakley County Elections Commission with an
3 eligibility letter for someone. Again, not sure if
4 it's the same person. An eligibility letter --
5 actually, a no felony letter for someone dated
6 December 10th, 2020. The name's been redacted so,
7 again, not sure if it's the same person.

8 And then it's also an expungement order
9 following a judicial diversion in the Weakley County
10 Election Commission dated September 1st, 2015 for
11 the sale of a controlled substance, hydrocodone.

12 Q So this person -- if you look on the -- the
13 front sheet, which is the -- what appears to be,
14 like, the voter record, up at the top it says, "rej.
15 felon file."

16 To your understanding, does that mean this
17 person registered to vote and was rejected because
18 they had a match in the felon file?

19 MR. RIEGER: Object to the form of the
20 question.

21 Go ahead.

22 THE WITNESS: I don't know.

23 BY MS. BOWIE:

24 Q And this rejection letter was issued on
25 November 18th. And it appears that you were able to

1 verify that this person did not actually have a
2 felony conviction on December 10.

3 A I don't know --

4 Q So --

5 A -- if this is the same person, but I
6 verified someone did not have a felony conviction.
7 It could have been someone who marked "Yes"
8 accidentally. I'm not trying to be -- I really
9 don't know if it's the same person --

10 Q I understand, it's redacted.

11 A Yeah. I truly don't.

12 Q And I'm looking at the unredacted version.
13 It's the same person.

14 A Okay.

15 Q So this -- this person appears to have been
16 rejected. And then some sort of paperwork was
17 presented or found by the office. And then it was
18 sent to you. So in this case, the person that --
19 the county rejected the person and then contacted
20 you?

21 MR. RIEGER: Object to the form of the
22 question.

23 Go ahead and answer.

24 BY MS. BOWIE:

25 Q Is that correct?

1 A Yes.

2 Q Okay.

3 A Just based -- I mean, if that was the
4 scenario that you said, but I don't know -- again,
5 just to clarify, I can't tell from these.

6 Q Yeah. And here, how were you able to verify
7 that this was a judicial diversion rather than a
8 felony?

9 A Because, again, assuming this is -- the
10 order that you attached in Exhibit 19 matches up,
11 because the order of expungement says judicial
12 diversion. And then I always -- if we have a record
13 of it, I match the docket number to the one we have
14 to see. In this case, again, assuming they're for
15 the correct person, it said we didn't have any
16 records. So they could have done the felony
17 conviction check too.

18 Q Okay.

19 A But either way, this person was registered.

20 MS. BOWIE: And can we take document
21 T -- or sorry -- yeah, the document labeled T and
22 mark that as Exhibit 20, please.

23 (Marked Exhibit No. 20.)

24 BY MS. BOWIE:

25 Q Do you recognize this document?

1 A (Reviewing documents.)

2 It appears to be the template that we
3 provided to the counties through training for notice
4 when they have received notice of a felony
5 conviction for that person.

6 Q Okay.

7 A I don't -- ours is not dated 9/3/19 though.
8 I don't know where that -- where that number came
9 from.

10 Q Yeah.

11 A Yeah.

12 Q Does this -- is this -- does this appear to
13 be current?

14 A I think so.

15 Q Okay. Okay. So we've talked a little bit
16 about why a person's registration might be rejected.
17 I'd like to talk about what happens next. What
18 should the county do next after they decide to
19 reject a registration form because of a felony?

20 MR. RIEGER: Object to the form of the
21 question.

22 Go ahead and answer.

23 THE WITNESS: The county -- so if it --
24 the county determines that the person should be
25 rejected because of a felony conviction, they will

1 send a notice of rejection, which is a rejection
2 letter. And included with that letter will be an
3 appeal form and a Certificate of Restoration. We
4 also have the county send a new voter registration
5 application in case there was a mistake. And then
6 if the rejection -- again, sorry, to go back.

7 All this is assuming the rejection was
8 for a felony conviction or just in -- okay, yes. So
9 Certificate of Restoration and then also a document
10 with more information about restoration.

11 BY MS. BOWIE:

12 Q Okay. And is there a difference in what
13 gets sent to them, depending on if they're being
14 rejected because they checked the box or because the
15 county had some information indicating that they had
16 a felony conviction?

17 A No. We have instructed the counties -- any
18 time there's a rejection for a felony conviction,
19 really the policy is to send the same things barring
20 some factual thing that I'm, you know, not aware of,
21 but...

22 Q So they'll send the appeal form and the
23 restoration packet regardless?

24 A They should, yes.

25 MS. BOWIE: Okay. Let's look at that

1 appeal form. Can we take Document U and mark it as
2 Exhibit 21, please.

3 THE COURT REPORTER: All right. Hold
4 on just a second.

5 (Marked Exhibit No. 21.)

6 BY MS. BOWIE:

7 Q Do you recognize this document?

8 A Yes. It appears to be the SS-3079, also
9 known as the Voter Registration Appeal Request Form.

10 Q And is this current?

11 A It appears to be.

12 Q Okay. This form has two reasons for
13 appealing due to felonies. Can you read them,
14 please, out loud?

15 A The --

16 Q The top two. The top two reasons why
17 someone is appealing.

18 A The form states that by checking all the
19 applicable questions below and signing their name,
20 that the person is swearing or affirming that the
21 information they have provided is true subject to
22 the warning as stated.

23 The first reason is, "I have not been
24 convicted of a felony."

25 The second reason is, "I have been convicted

1 of a felony but have had my rights properly restored
2 or my record expunged. A certified copy of the
3 supporting documentation must be included with this
4 appeal to be considered by the election commission."

5 Q Okay. Can a person who had a grace period
6 conviction use this form to appeal their rejection?

7 A They can --

8 MR. RIEGER: I'll object to the form of
9 the question.

10 But go ahead.

11 A They can use the form -- hmmm. Yeah, I
12 guess not.

13 Q How about a person who had a conviction
14 before January 15, 1973 that did not render them
15 infamous?

16 MR. RIEGER: I'll object to the form of
17 the question.

18 Go ahead and answer.

19 THE WITNESS: They would not fit into
20 either of those for the felony conviction, no.

21 BY MS. BOWIE:

22 Q Once the county has sent the rejection and
23 the appeal form and the restoration packet, are they
24 required to contact the Elections Division?

25 A Say that again.

1 Q So once the county has sent the rejection
2 letter and the restoration packet and the appeal
3 letter, are they required to contact the Elections
4 Division about their decision?

5 MR. RIEGER: Object to the form.

6 Go ahead.

7 THE WITNESS: No.

8 MS. BOWIE: Okay. I'd like to mark
9 Document V as Exhibit 22.

10 THE COURT REPORTER: All right, hold on
11 just a moment.

12 (Marked Exhibit No. 22.)

13 BY MS. BOWIE:

14 Q Can you describe this document, please?

15 A It appears to be an e-mail chain between
16 Jill Foster, who is in Sevier County Election
17 Commission, and me. And it is about someone who
18 submitted documentation showing that their
19 conviction was in February 1979. And she is asking
20 for confirmation that he is eligible to vote.

21 Q Okay. And you instruct the AOE here to keep
22 that person in the felon file. Why is that?

23 A Because he has a felony conviction.

24 Q Okay. So the felon file is for everybody
25 with a felony conviction, regardless of eligibility?

1 A Yes. So to be clear, for example,
2 certificates of restoration go in there.

3 Q And I know that the documents weren't
4 attached here. They weren't produced to us. But
5 can you tell me what kind of documents you're
6 looking for to confirm that somebody had a grace
7 period conviction?

8 A Again, it's something, usually from the
9 Court, verifying that the conviction fell between
10 the dates of January 15th, 1973 to May 17th, 1981.

11 Q And is the burden on the voter to collect
12 those documents?

13 MR. RIEGER: Object to the form of the
14 question.

15 But go ahead.

16 THE WITNESS: The county and the State
17 will try to find the documentation and will work
18 with the voter. But at the end of the day, the
19 voter is the one who knows where they were
20 convicted. So without their help, we can't -- we
21 wouldn't be able to even get it.

22 So, you know, when you say "the
23 burden," that person needs to be involved at some
24 level to help us get the documentation.

25

1 BY MS. BOWIE:

2 Q The newest registration form asks for
3 information about what county someone was convicted
4 in; is that right?

5 A What county? I believe so.

6 Q Okay. Is there a policy that the county
7 AOE's should try to collect that documentation?

8 MR. RIEGER: Object to the form of the
9 question.

10 Go ahead and answer.

11 THE WITNESS: So just to go back, no,
12 it doesn't say the county. I believe it says the
13 city stayed, just to clarify, I believe.

14 But what was your question?

15 BY MS. BOWIE:

16 Q Is there a policy that the AOE's should try
17 to collect those documents for a person who says
18 either on the registration form or offers to the
19 register -- to the administrator that they had a
20 grace period conviction?

21 MR. RIEGER: Same objection.

22 Please answer.

23 THE WITNESS: There's no requirement --
24 official policy requiring the policy to get that
25 documentation. Again, because many times the

1 conviction will be so old that they'll be in
2 archives. And so many times the Court won't release
3 them to anyone except the voter, as I found, because
4 I always try to help these people too.

5 BY MS. BOWIE:

6 Q What if those court records no longer exist?

7 MR. RIEGER: Object to the form of the
8 question.

9 Please go ahead and answer.

10 THE WITNESS: We've had that happen
11 before. And we got some type of documentation. So
12 in one case -- one time, I was able to get -- it was
13 actually a -- I believe a military -- so it counted
14 as federal, a federal conviction. But it was on a
15 military base. And I was able to get documentation
16 showing that it burned down, that their records were
17 in a fire on some date.

18 But that they had some type of record
19 for him. So we just didn't have -- we -- we -- we
20 couldn't -- we had done -- we had done the best that
21 we could to find it. And there was also -- in that
22 same case, there was something showing, like, 1979
23 was the date of the -- was the date of the charge,
24 so it was close enough to where we had -- we had
25 considered that verifying documentation.

1 And -- so that was just one example
2 that I can think of off the top of my head. But
3 we -- we will not -- if it -- if we get
4 documentation showing that, for some reason or
5 another, that documentation -- a documentation of
6 the conviction doesn't exist, the policy has been we
7 don't allow it to bar them from voting.

8 BY MS. BOWIE:

9 Q Okay. And if it is just before an election
10 and somebody registers, let's say on the new form,
11 where they can attach under oath that they had a
12 grace period conviction, and they do that and it
13 is -- and there's -- the county's unable to get
14 documentation to back that up, what would happen to
15 that registration?

16 MR. RIEGER: Object to the form of the
17 question.

18 Go ahead and answer.

19 THE WITNESS: Well, if it's just before
20 an election, that person's not valid to vote in that
21 election anyways --

22 BY MS. BOWIE:

23 Q Right. Let me --

24 A -- because the registration --

25 Q Let me amend that --

1 A -- deadline is 30 days.

2 Q -- and say before the registration deadline.

3 MR. RIEGER: Same objection.

4 Go ahead and answer, please.

5 THE WITNESS: They have 30 days. Many
6 times, it will happen in that 30 days. It's a very
7 quick process. But if they -- so they have to meet
8 that 30-day deadline. At any point, even after the
9 30-day registration deadline, if the county or the
10 individual or me, which many times I become involved
11 in these as well, gets the verifying documentation,
12 it will count.

13 And I don't want to use the word
14 "back-date," but they -- they count as coming in
15 before the voter registration deadline. So I want
16 to clarify that, that they meet dead -- verification
17 deadline even if we find the documentation any time
18 before. If they can't get the documentation before
19 the election, again, we would let them vote
20 provisional and then again, hopefully, find the
21 documentation in the meantime.

22 BY MS. BOWIE:

23 Q And if they don't find the documentation
24 within the deadline to present that for a
25 provisional ballot, their vote would not count?

1 MR. RIEGER: Object to the --

2 BY MS. BOWIE:

3 Q Is that correct?

4 MR. RIEGER: -- form of the question.
5 Go ahead.

6 THE WITNESS: They would not verify
7 that they were eligible to register to vote.

8 MS. BOWIE: Okay. I'd like to mark
9 Document W as Exhibit 23, please.

10 THE COURT REPORTER: All right. Hold
11 on just a moment.

12 (Marked Exhibit No. 23.)

13 BY MS. BOWIE:

14 Q Can you describe this document, please?

15 A It appears to be an e-mail chain between
16 Debbie Killebrew, who is a deputy in the Sumner
17 County Election Commission, and me, asking if I
18 could find -- do a felony conviction search on
19 someone. They checked "Yes" to the felony question
20 on OVR.

21 Q Okay. And what kind of sort -- what kind of
22 search did you perform?

23 A The -- so it would be the same search that I
24 always perform. It would be the TDOC data that we
25 have, both for in-state and out-of-state. It would

1 be the federal convictions we have. I always check
2 the denials to see if we've gotten something from
3 them before; the restorations, in case they've been
4 restored; the FOIL, the Tennessee FOIL website; and
5 then also Westlaw public search.

6 Q And what information did you find here?

7 A It appears that I found that the person has
8 three felony convictions.

9 Q And you found the dates and the crimes of
10 conviction, is that correct, and the county?

11 A As they appeared, yes, in the TDOC database,
12 which --

13 Q Okay.

14 A -- again is not always -- it's the TOMIS
15 date, so it's not always the exact date of
16 conviction that they give us.

17 Q Okay. And you say that you would need the
18 judgment orders here for these first two in order
19 for this person to be registered to vote, assuming
20 they had restoration on the 3rd?

21 MR. RIEGER: Object to the form of the
22 question.

23 Go ahead.

24 BY MS. BOWIE:

25 Q Is that right?

1 A Yes. Documentation verifying his
2 conviction. But, again, as you pointed out, he did
3 have a 1986 felony conviction that had not been
4 restored, so he would need a Certificate of
5 Restoration for that one.

6 Q And you performed the same kind of search
7 here that you did back with Exhibit 5, which I'll
8 remind you was the -- the search for the person who
9 said that they thought that they -- that their
10 felony convictions had been taken care of, quote.

11 A Yes, it appears -- I mean, yes. There's
12 nothing that would lead me to believe otherwise,
13 that I would have not done my normal search.

14 Q And on the first page of this document, the
15 AOE indicates that the person checked "Yes" to the
16 felony conviction on OVR. Is that online voter
17 registration?

18 A It's an online -- yes, application that they
19 received.

20 Q Doesn't the online voter registration stop
21 you from going any further once you check "Yes" to
22 the felony conviction question?

23 A It does on the "Go Vote TN." It does not
24 stop the person from submitting it at -- we believe
25 the Department of Safety still submits them.

1 MS. BOWIE: Please mark Document X as
2 Exhibit 24.

3 THE COURT REPORTER: All right. Hold
4 on just a moment.

5 (Marked Exhibit No. 24.)

6 BY MS. BOWIE:

7 Q Can you describe this document, please?

8 A It appears to be a -- an e-mail thread
9 between Lainny West -- or Aletta West, but she goes
10 by Lainny -- who's a deputy, or the assistant AOE,
11 in Montgomery County.

12 She was -- she had submitted -- well, this
13 does not have the attachment, so I'll just say what
14 it says. She said that the Rutherford -- sorry,
15 wow -- the Montgomery County Circuit Court office
16 had listed the applicant as a -- as having a felony,
17 but they could not confirm that the felony
18 conviction was in 1977.

19 Q Why was that?

20 MR. RIEGER: Object to the form of the
21 question.

22 Go ahead and answer.

23 THE WITNESS: I don't know why. Again,
24 I don't have the letter in front, which might have
25 jogged my memory. But then even beyond that, I

1 don't know why.

2 BY MS. BOWIE:

3 Q The e-mail from the AOE says that the
4 Circuit Court said that they cannot have any records
5 of charges dating back to 1977. Do you understand
6 that to mean that they don't keep records going back
7 that far?

8 MR. RIEGER: Object to the form of the
9 question.

10 Go ahead.

11 THE WITNESS: No. Because I can tell
12 from my e-mail back that that's not exactly what the
13 letter said.

14 BY MS. BOWIE:

15 Q Do you remember what happened with this
16 registrant?

17 A The -- do you mean the ultimate voter
18 registration decision?

19 Q Yes.

20 A That is up to the county. So, no. But as I
21 stated here, if she could fill out -- I did a felony
22 conviction search and didn't find anything, and so
23 she could, with that information, fill out a new
24 voter registration and mark "No" and would be
25 eligible to vote.

1 Q But she believed she had a felony conviction
2 in 1977. Wouldn't that be perjury?

3 MR. RIEGER: Object to the form of the
4 question.

5 Go ahead and answer.

6 THE WITNESS: If she believed she did.
7 So I didn't tell her she should. Again, I said if
8 she's sure she had one in 1977, she'll need some
9 type of documentation. And, again, she also -- I
10 can tell from this e-mail wasn't sure it was in
11 Rutherford County. And so I said she'll need it if
12 she does. But if that -- if she's sure that it was
13 and they don't have that record, then she can mark
14 "No."

15 BY MS. BOWIE:

16 Q Do you remember what registration form this
17 person used? If it had just the checkbox, or if it
18 had a space for her to fill in information about her
19 conviction?

20 A I don't know.

21 Q Based on the date, can you guess?

22 MR. RIEGER: Object to the form of the
23 question.

24 Go ahead.

25 THE WITNESS: No.

1 BY MS. BOWIE:

2 Q Was there a form in use that allowed for
3 additional information in September 2020?

4 A That might have been when we were beta
5 testing, but I'm not sure.

6 Q Was Rutherford County one of the counties
7 that you were beta testing in?

8 A Like I said earlier --

9 MR. RIEGER: Object to the form of the
10 question.

11 Go ahead and answer.

12 THE WITNESS: I don't remember all the
13 counties that we beta tested in.

14 BY MS. BOWIE:

15 Q Okay. And I'm sorry, it's Montgomery that
16 I'd be asking about there.

17 A Yes. I said Rutherford earlier too. But,
18 yes, Montgomery. I don't remember.

19 MS. BOWIE: Okay. I'd like to mark
20 Document Y as Exhibit 25, please.

21 THE COURT REPORTER: All right. Hold
22 on just a moment.

23 (Marked Exhibit No. 25.)

24 BY MS. BOWIE:

25 Q Can you describe this e-mail, please?

1 A It appears to be an e-mail thread between
2 Vicki Collins, who's a Deputy Administrator of
3 Elections in Shelby County, and me. And it is
4 asking advice or an opinion on what to do. That
5 apparently she already had an e-mail from me that a
6 person did not have a felony conviction and was
7 asking if he was good to register to vote.

8 I, again -- it doesn't -- well, I didn't say
9 it this way, but it does not attach the documents
10 that we're talking to or the original documents.
11 But based on this, I'm guessing that this was a
12 situation where he had asked -- lots of people
13 aren't sure if they have felony convictions or not.
14 And they ask if we can help them find out before
15 they submit a voter registration so we -- we can
16 help determine if they're even eligible to submit a
17 voter registration.

18 And then, if we don't find anything or
19 whatever happens, then they'll submit one that says
20 "No." And I'm guessing this is one of those
21 situations.

22 Q Okay. So this says if the person
23 "affirmatively disclosed a felony conviction in 1979
24 Craighead County, then he ordinarily would need to
25 provide paperwork on that conviction."

1 So if this person -- it appears that they
2 did affirmatively disclose a felony conviction; is
3 that right?

4 MR. RIEGER: Object to the form of the
5 question. Go ahead.

6 THE WITNESS: Again, it appears to be a
7 situation where they contacted us beforehand, which
8 is what I meant by affirmatively disclosed. Or they
9 even had a prior voter registration that said,

10 "Yes," and filled out -- or told her 1979, Craighead
11 County and then filled out a new one that said "No."

12 But when there are differing,
13 conflicting ones like that, when I run a felony
14 conviction search and can't find something, then the
15 policy is that they can register the person to vote.
16 We don't have enough information otherwise.

17 BY MS. BOWIE:

18 Q Do you know why the rest of this e-mail
19 conversation wasn't produced in discovery?

20 MR. RIEGER: Object to the form of the
21 question.

22 And I'll note again, since some time
23 has passed, verification of discovery was not one of
24 the eight topics. So I'll instruct the witness to
25 answer to her personal knowledge.

1 THE WITNESS: I'm assuming discovery we
2 turned over in May 20 -- I don't know, May 2020, is
3 it? And our retention policy is only for -- e-mails
4 is only, I believe, 90 days. And so this is way
5 past 90 days. But it looks like I saved a copy of
6 this to help the individual in case anything ever
7 came up in the future.

8 But the copy I saved, it didn't have --
9 I mean, this -- this might have even been 90 days
10 after the original conversation I don't know. And
11 so I just might have been trying to save it, but I
12 don't know.

13 BY MS. BOWIE:

14 Q Okay.

15 A But this was all I had. Yeah.

16 MS. BOWIE: Can you mark Document Z as
17 Exhibit 26, please.

18 THE COURT REPORTER: All right. Hold
19 on just a second.

20 (Marked Exhibit No. 26.)

21 BY MS. BOWIE:

22 Q Can you describe this document, please?

23 A It is an e-mail or two different e-mails
24 between Charles Gibson who is the Administrator of
25 Elections in Jefferson County and me about someone

1 who had appeared in the felony report with the TOMIS
2 date of April 4th, 1979. He wanted to know if he
3 could register him because he fell in the grace
4 period.

5 Q Okay.

6 A And I had -- as I say before, as in every
7 case that I am able to where the Court will give me
8 documents, I went ahead and got the documentation
9 for him verifying that it was indeed in the grace
10 period and sent an eligibility letter to Jefferson
11 County.

12 Q Uh-huh. And you said that the TOMIS dates
13 can be either the date of conviction or the date of
14 sentencing; is that right? What can the TOMIS dates
15 be?

16 A Sometimes they're just -- they are -- the
17 TOMIS date is the date that TDOC has as the -- of
18 their date of conviction. Sometimes they -- they're
19 not wrong, but they can just differ. So, for
20 example, take a judicial diversion. If someone was
21 convicted, the original conviction was in, say, 2002
22 and they were placed on probation for three years.
23 The -- but then they -- which we don't consider
24 that, again, a felony conviction. But they did fail
25 to uphold probation, so it then turned into an

1 actual conviction on, say -- in, say, 2004. What's
2 the date that you use for that?

3 So it can just -- it can differ. Sometimes
4 we don't have the exact righted date. Most of the
5 time we do. The data is very good. But sometimes
6 it can just differ.

7 Q What would be the correct date to enter for
8 that?

9 MR. RIEGER: Object to the form of the
10 question.

11 Go ahead and answer.

12 THE WITNESS: I believe it would be the
13 date of the conviction.

14 BY MS. BOWIE:

15 Q Which one is the date of the conviction?

16 A Sorry, I don't count a judicial diversion
17 as a conviction. So the date that they were found
18 to have violated their probation.

19 Q Isn't the effect of that that the original
20 sentencing order is revised and a judgment of a
21 felony conviction is entered on that original date?

22 MR. RIEGER: Object to the form of the
23 question.

24 Go ahead and answer.

25 THE WITNESS: Can you say that again?

1 The judgment is what?

2 BY MS. BOWIE:

3 Q Let me rephrase.

4 A Yeah.

5 Q If you had a situation where you had -- you
6 were looking at documents that showed that --

7 A Uh-huh.

8 Q -- which of the dates would you look at?

9 And let's say it's around the grace period. The
10 original sentencing date was in the grace period,
11 the date that they violated probation was outside of
12 the grace period.

13 Which of those would you use to determine
14 the date of convictions for purposes of knowing if
15 they have the right to vote?

16 A You're correct. So I --

17 MR. RIEGER: Object to the form of the
18 question. Please go ahead.

19 A So I actually said it backwards. And you, I
20 believe, were correct. The date of conviction would
21 be the original date, yes.

22 Q Okay.

23 A Is what legally, I believe, it is. And that
24 would be a matter for criminal law.

25 Q Are there other reasons why the TOMIS date

1 might be different than the date that you would want
2 to see in the sentencing documents to make that
3 determination about eligibility?

4 MR. RIEGER: Object to the form of the
5 question.

6 Go ahead.

7 THE WITNESS: I believe I mentioned
8 before, but maybe not. Sometimes they will put the
9 date that a plea agreement or an order was entered
10 rather than the sentencing date, which is
11 technically the conviction date.

12 BY MS. BOWIE:

13 Q Okay. So you look at the sentencing date to
14 determine when a person -- whether a person lost the
15 right to vote or not?

16 A The courts have held that the sentencing
17 date is the effective date of conviction.

18 Q Okay. And for this person here, what
19 information did Jefferson County have on this
20 person, on this person's felony conviction?

21 MR. RIEGER: Object to the form of the
22 question.

23 Go ahead.

24 THE WITNESS: Nothing other than our
25 felon report.

1 BY MS. BOWIE:

2 Q So just to review here, you've told us that
3 your policy is that when a person submits a
4 registration form, and if they're using the new
5 form, indicates that they have a grace period
6 conviction, they will not be registered to vote
7 until they provide documentation that shows their
8 sentencing date?

9 MR. RIEGER: Object to the form of the
10 question.

11 Go ahead.

12 THE WITNESS: Until we get some type of
13 verification from the Court showing their sentencing
14 date. I didn't say that they have to get it.

15 BY MS. BOWIE:

16 Q Right. They won't -- they won't be
17 registered to vote until you have that verification?

18 A Yes. You had said until they submit.

19 Q Yeah.

20 A Uh-huh.

21 Q And just for the record, can you read --
22 we're still looking at Exhibit D -- sorry, Z --
23 where are we -- Exhibit 26, Document Z.

24 Can you read the sentence that starts with
25 the word "Although."

1 A Out loud?

2 Q Yes, please.

3 A "Although usually the burden is on the voter
4 to submit documentation verifying the conviction
5 falls in the 'Grace Period,' in this case, I went
6 ahead and reached out to the Madison County court to
7 verify it on his behalf. Because he submitted a
8 voter registration application by October 5th, he is
9 eligible to vote in this upcoming November 3rd
10 election."

11 And it was dated October 13th.

12 Q Uh-huh. But if he had an -- if that
13 information -- if those documents had not been
14 obtained by the county, he would not have been
15 registered to vote in time for that election; is
16 that right?

17 MR. RIEGER: Object to the form of the
18 question.

19 Go ahead.

20 THE WITNESS: He -- so he would have
21 been allowed to vote provisionally, again. But then
22 if they did not -- if we had not gotten records by
23 the date that's required, then he would not have had
24 his vote counted.

25

1 BY MS. BOWIE:

2 Q And how long could the county hold his
3 registration form before rejecting it?

4 MR. RIEGER: Object to the form of the
5 question.

6 I'll instruct the witness to answer the
7 question.

8 THE WITNESS: This was not the case of
9 someone -- a new voter registration application.

10 BY MS. BOWIE:

11 Q This was not the -- we're looking at
12 Document 26?

13 A Uh-huh.

14 Q This person -- it says here he submitted a
15 voter registration application by October 5th.

16 A So -- well, I had read it as -- and I -- I
17 had read it as he had been purged from his old voter
18 registration earlier in 2019, and then he was
19 reinstated. But because the documents aren't
20 attached, I don't know. It might have been.

21 Q This looks like he submitted a voter
22 registration after he was purged. He was either
23 purged in 2019 or his registration matched with a
24 state-wide felon report.

25 A Okay.

1 MR. RIEGER: Object to the form of the
2 question.

3 BY MS. BOWIE:

4 Q At any rate --

5 A Yeah, I don't --

6 Q Yeah.

7 A So I don't know -- the documents weren't
8 attached. Yeah, I don't -- the documents weren't
9 attached, so I don't know.

10 Q Okay. If a person registers with the new
11 registration form and they indicate on that that
12 they had a felony conviction before January 15,
13 1973, and that their felony was for one of the
14 non -- one of the convictions that couldn't render
15 them infamous at that time, what is the policy for
16 processing that registration form?

17 MR. RIEGER: Object to the form of the
18 question.

19 Go ahead and answer.

20 THE WITNESS: I don't believe on the
21 current voter registration that there is a place for
22 them to mark, under penalty of perjury, that they
23 were not convicted of an infamous crime.

24 BY MS. BOWIE:

25 Q So the current registration form does not

1 allow people to write their crime of conviction?

2 MR. RIEGER: Object to the form of the
3 question.

4 Go ahead.

5 THE WITNESS: So I misunderstood. Yes,
6 they can write the crime of conviction. But he
7 can't write if he was judged infamous or not, which
8 is what I meant.

9 BY MS. BOWIE:

10 Q Is the list of pre-1973 infamous crimes on
11 the voter registration form?

12 A The voter registration form refers to the
13 Secretary of State's website, which does have a
14 list.

15 Q And is the list of pre-1973 non-infamous
16 crimes on the National Voter Registration form under
17 Tennessee's instructions?

18 A Tennessee's instructions on the National
19 Voter Registration form instructions also refer to
20 the Tennessee Secretary of State's website, which
21 contains the list of infamous crimes before
22 January 15th, 1973.

23 Q So, again, if a person's registering with
24 the new form, and they check the felony conviction
25 box "Yes," they write a date that is before

1 January 15th, 1973, and they list a conviction for a
2 crime that could not have possibly rendered them
3 infamous, what is the policy for handling that form?

4 MR. RIEGER: Object to the form of the
5 question.

6 Go ahead.

7 THE WITNESS: They -- okay. That's
8 what you meant. The person -- we would have to get
9 some type of verifying documentation confirming that
10 and then to confirm that they are eligible to
11 register.

12 BY MS. BOWIE:

13 Q So they will not be registered without that
14 documentation?

15 MR. RIEGER: Object to the form of the
16 question.

17 Go ahead.

18 THE WITNESS: They -- the county would
19 not know -- would not have enough information under
20 the statute to know whether he is eligible to
21 register, to submit a voter registration
22 application.

23 BY MS. BOWIE:

24 Q Is there any statutory -- is there any
25 statute that requires the counties or the Elections

1 Division to give a response to a voter registration
2 after a certain period of time?

3 A Say that -- sorry, say that again.

4 Q Is there any statute that requires the
5 counties -- and I included the Elections Division in
6 the off chance that you were processing the form --
7 to respond to a voter registration application at --
8 within a certain time period?

9 A Is there -- you're asking if there's -- if
10 the statutes have a deadline for the county elected
11 commissions because, again, the state does not
12 process these, to make a decision about voter
13 registration applications?

14 Q Yes.

15 A I believe that's a legal question that's in
16 the statutes.

17 Q So you -- are you saying you don't know?

18 MR. RIEGER: I'm going to go ahead and
19 object at this point. I don't think that the
20 30(b)(6) topics require the deponent to be prepared
21 on all aspects of Tennessee statutory law concerning
22 elections. So I will go ahead and instruct her to
23 answer as to her personal knowledge.

24 THE WITNESS: As to my --

25

1 BY MS. BOWIE:

2 Q You stated --

3 A Sorry.

4 Q Sorry. You stated earlier that you prepared
5 by reviewing the relevant statutes. That's why I'm
6 asking.

7 A I reviewed some statutes, mostly the ones
8 that you -- sorry, that opposing counsel cited in
9 the complaint as I was going through it.

10 Q Okay. How would a registrant whose
11 registration is being placed on hold because the --
12 they don't have the right documentation to show that
13 they had a grace period conviction, know that that's
14 what was happening to their application?

15 MR. KIEGER: Object to the form of the
16 question.

17 Go ahead.

18 THE WITNESS: So when a county needs
19 more information, the process is, is that they
20 contact that person, either by letter, by phone,
21 requesting additional information. In the meantime,
22 they also will help -- go out of their way in every
23 way they can to help. And then I also become
24 involved too. But the person will know that there
25 is additional information that they're seeking.

1 BY MS. BOWIE:

2 Q Do you provide a template letter for that
3 scenario?

4 A No.

5 Q Isn't that what the rejection letter is for,
6 to say we're not putting you on the voter rolls and
7 we're seeking more information?

8 MR. RIEGER: Object to the form of the
9 question.

10 Go ahead.

11 THE WITNESS: No.

12 BY MS. BOWIE:

13 Q What is it for?

14 A It's saying that you are ineligible to
15 register based on the information that we have.

16 Q Is it your belief that the counties make a
17 practice of sending some other letter saying that
18 "We've put your registration on hold and we're
19 sending more information"?

20 MR. RIEGER: Object to the form of the
21 question.

22 Go ahead.

23 THE WITNESS: No. That's not what I
24 said. I said that they can send them a letter.
25 They call them, which is usually the case. But

1 they -- I -- they don't -- I didn't say that they
2 make a practice of sending a letter.

3 BY MS. BOWIE:

4 Q Yeah. That -- you didn't say that. That's
5 just why I was asking.

6 A Uh-huh, oh.

7 Q And for people who -- for people who fill
8 out the form, I know I asked about people with
9 pre-January 15, 1973 convictions whose -- who
10 indicated that they have one of the crimes of
11 conviction that cannot render them infamous, so now
12 I'm asking about people with pre-January 15, 1973
13 convictions who indicate that they do have one of
14 the convictions that could have rendered them
15 infamous.

16 A Uh-huh.

17 Q What's the policy for processing those
18 forms?

19 MR. RIEGER: Object to the form of the
20 question.

21 Go ahead.

22 THE WITNESS: It would be -- it would
23 be a -- again, they would seek verifying or some
24 type of documentation. But without that, it would
25 be a rejection.

1 MR. RIEGER: For the record, can we
2 clarify who "they" is?

3 THE WITNESS: The County Election
4 Commission.

5 MR. RIEGER: Thank you.

6 BY MS. BOWIE:

7 Q Is there any reason not to instruct the
8 County Election Commissions to always seek
9 additional verifying documents before rejecting a
10 form?

11 MR. RIEGER: Object to the form of the
12 question.

13 Go ahead.

14 THE WITNESS: Can you say that again?

15 BY MS. BOWIE:

16 Q Is there any reason not to instruct the
17 counties to always seek additional verification and
18 documents before rejecting someone who indicated
19 that they had a grace period conviction?

20 MR. RIEGER: Same objection and
21 instruction. Go ahead.

22 THE WITNESS: Is there a reason not to
23 instruct the counties not to seek documentation?

24 BY MS. BOWIE:

25 Q No. You said that the counties can either

1 reject the forms from people who indicate that they
2 have a grace period conviction or they can sit on
3 them and try to do some additional research or
4 contact that person to send additional information,
5 right?

6 MR. RIEGER: Object to the form of the
7 question. Go --

8 BY MS. BOWIE:

9 Q That's the policy?

10 MR. RIEGER: -- ahead. Objection, go
11 ahead.

12 THE WITNESS: I had said that the
13 counties -- at the end of the day, no matter what,
14 need some type of verification. So they will seek
15 that verification either from the individual, or
16 they will do it, or I become involved, whichever
17 one, usually all three. Or they will reject it and
18 seek that information from the individual.

19 Either way, they are seeking
20 verification. And either way, once we get that
21 verification, they're -- they're right there el- --
22 we have confirmed that they're eligible to register.

23 BY MS. BOWIE:

24 Q And I'm asking if there is a reason not to
25 instruct someone to always take that former path of

1 seeking the documentation before rejecting?

2 MR. RIEGER: Object to the form of the
3 question.

4 Go ahead.

5 THE WITNESS: As I mentioned before, at
6 the end of the day, the voter has -- or I will say
7 the potential voter has the best information about
8 their conviction. There are many times with the
9 older convictions that we -- we cannot help because
10 the person hasn't told us where they were convicted.
11 Sometimes they don't remember and we have to, you
12 know, ask them, you know, to go back through old
13 documents.

14 Also, courts sometimes will not give
15 documents to anyone except the person because they
16 do contain Social Security numbers and other
17 information. So there are many reasons why we
18 cannot get that documentation. And at the end of
19 the day, the voters -- again, sorry, the potential
20 voter is in the best position to get those
21 documents.

22 BY MS. BOWIE:

23 Q And the new registration form provides an
24 opportunity for a person to swear under oath that
25 their conviction was during the grace period. Why

1 is that not sufficient to register them to vote?

2 MR. RIEGER: Object to the form of the
3 question.

4 Go ahead.

5 THE WITNESS: Because we do not have
6 verification that that is correct, that that data is
7 correct. Because they have a felony conviction, but
8 we don't have verification that it actually fell in
9 those dates.

10 MS. BOWIE: I'd like to look at the
11 document marked AA.

12 MR. RIEGER: Hey, Blair, is this a good
13 time to take a 10-er?

14 MS. BOWIE: We are almost done if you'd
15 like to plow through. Otherwise, we can take a
16 break if you want.

17 MR. RIEGER: What's your estimate? Is
18 everybody comfortable?

19 MS. BOWIE: I would say 20 more
20 minutes.

21 MR. RIEGER: Everybody all right?
22 Okay, we will plow through.

23 THE COURT REPORTER: All right. Hold
24 on just a second.

25 (Marked Exhibit No. 27.)

1 MS. BOWIE: We can take two minutes to
2 refill your water or anything like that, if you
3 like.

4 MR. RIEGER: I just -- my rule is
5 usually an hour and 45 is when I raise my hand and
6 say, does anyone need a break or anything like that.
7 But if everyone is good, then --

8 THE WITNESS: I'm good.

9 MR. RIEGER: -- we'll go.

10 MS. BOWIE: Okay. Thanks for keeping
11 an eye on the clock.

12 BY MS. BOWIE:

13 Q Okay. Please let me know when you have that
14 document.

15 A I believe everyone does.

16 MR. RIEGER: We're set.

17 BY MS. BOWIE:

18 Q Okay. Can you describe this document,
19 please.

20 A This appears to be another internal document
21 created by Abby Tyler like before that is just
22 really for her records, but I've seen it, I'll say,
23 about changes that were pending at the time.

24 Q Do you know when this was created?

25 A No. I mean, she wasn't -- she didn't work

1 there for that long, so I can guess, like, 2018.

2 Q Uh-huh.

3 A And it just looks like changes to -- really
4 changes that she and Steve Griffy had worked on for
5 the restoration database. So not changes in -- not
6 really substantive other changes. But it's mostly
7 about the restoration database, it appears.

8 Q Okay. Okay. And do you know what the
9 felony grace period letter here is?

10 A Yes. So I believe this is the same one that
11 we use today. When we get that verifying
12 documentation from the Court, we enter their
13 information into our database. And there is a -- I
14 guess, a place where we can mark that it's a grace
15 period. And then it creates a form similar to the
16 one on Exhibit 26.

17 Q Okay.

18 A Oh, really, it is the one on Exhibit 26,
19 yeah.

20 Q Okay. I'd like to go back to Exhibit L for
21 a moment.

22 A Can you say the number? I think she
23 changed -- yeah.

24 MS. BOWIE: Oh, sorry. Exhibit L,
25 which is somewhere in the middle of the alphabet.

1 Exhibit 12.

2 THE WITNESS: Yes.

3 BY MS. BOWIE:

4 Q So you said before that this is -- this is
5 an internal document created by Abby. And, I'm
6 sorry, I'm forgetting her last name.

7 A Tyler. Abby Tyler, yeah.

8 Q Abby Tyler. And this reflected her
9 understanding of the policies at the time?

10 A Yes. It was an internal document. I can't
11 remember if it was when she started doing felony --
12 so she did not originally, in her role, do felony
13 convictions. As I said before, it was Cara who was
14 here during that time as well. And then Tyler --
15 both kind of overlapped with her.

16 But she -- she kind of took on a role
17 helping out. And so I don't know if this was
18 created around the time when she started that or
19 around the time that she was leaving, but I know it
20 was -- it was made by her, kind of for her.

21 Q Okay. And we talked earlier about some of
22 the changes in the Elections Division policy since
23 this happened. But I'd like to put a fine point on
24 this. You -- this says that the policy is web --
25 the person marks that they have a felony conviction

1 or there is information that they have a felony
2 conviction, the policy is always to reject that
3 application. You are telling me that that policy
4 has changed. Can you tell me when that policy
5 changed?

6 MR. RIEGER: Object to the form of the
7 question.

8 But go ahead.

9 THE WITNESS: Excuse me. So I've said
10 the voter registration application has changed so
11 that there is more information, such as the person's
12 been restored. As an example, if the person has
13 marked "Yes" to the felony question, or if they have
14 information that they have a felony but they've
15 marked "Yes" to the restoration, then they'll go
16 look in their files. If they do not have any in
17 their own county showing they've been restored,
18 they'll contact me and ask. And then I can tell
19 them if we have anything in our State restoration
20 database.

21 BY MS. BOWIE:

22 Q So that is different from the policy that's
23 written here, is my point, right? You were saying
24 there are different policies now than what's stated
25 here?

1 MR. RIEGER: Object to the form of the
2 question.

3 Go ahead.

4 THE WITNESS: I am saying because --
5 just inherently because of a new voter registration
6 application, when the county has additional
7 information beyond what is stated here, like is now
8 available on the voter registration application,
9 they will use that additional information.

10 BY MS. BOWIE:

11 Q So the policy is no longer when you have any
12 information that somebody has been convicted of a
13 felony, the voter registration application is
14 rejected?

15 MR. RIEGER: Object to the form.

16 Go ahead.

17 THE WITNESS: So what I'm trying to
18 say, I guess, is I don't know if -- by this sentence
19 she meant -- if she is including if they had other
20 information.

21 BY MS. BOWIE:

22 Q It says that. "Or if you have information
23 from the county or from the clerk's office that the
24 person has been convicted of a felony."

25 A I meant other information about whether

1 they've been restored or otherwise might be eligible
2 or have some type of verifying documentation. I
3 don't know that she meant to include that in this
4 statement.

5 I'm saying now our voter registration
6 application has that. But at the time, if a county
7 had -- for example, if the person turned in a
8 Certificate of Restoration, they would use that
9 information as well at the same time. I don't know
10 if she meant this -- this statement to be
11 comprehensive and including that. I don't know if
12 she meant --

13 Q Are you saying that -- that there was no --

14 A If there's no other information, no other
15 documentation.

16 MR. RIEGER: Hold on, hold on, hold on,
17 y'all. Let's ask the question, get an answer.

18 You're talking a little over each other right now.

19 If we could keep --

20 BY MS. BOWIE:

21 Q Are you saying at the time this was written,
22 there was no file keeping the letters of
23 restoration?

24 A I'm saying I don't know at the time that
25 this was written what she meant by this sentence. I

1 don't --

2 Q This seems pretty clear.

3 If a person marks -- "If a person marks that
4 they have been convicted of a felony, or if you have
5 information from the county that the person's been
6 convicted of a felony, the voter registration
7 application is rejected."

8 Whether or not -- you're saying that this is
9 not the policy anymore. You've told me this a
10 couple of different ways that this can be -- these
11 registrations can be rejected or they can be held.
12 And I'm asking if that has ever been put in writing
13 to the counties?

14 MR. RIEGER: I'll object to the form of
15 the question.

16 Go ahead and answer.

17 THE WITNESS: I -- so to clarify, no, I
18 disagree that this statement is clear. I -- if they
19 had -- in 2018, if the person turned in a voter
20 registration application marking "Yes" to the felony
21 conviction, and then also turned in a Certificate of
22 Restoration at the same time, no, I -- they would
23 not have been rejected.

24 If they had turned in a voter
25 registration application and marked "Yes," and at

1 the same time submitted documentation showing they
2 fell in the grace period, no, they would not have
3 been rejected. The same thing for the pre-1973
4 convictions. I do not know what she meant by the
5 statement, if it was all encompassing.

6 BY MS. BOWIE:

7 Q Okay. Have you ever put the policy you
8 described to me where, when processing a grace
9 period conviction -- a registration form from
10 somebody who indicates that they have a grace period
11 conviction, that the counties can either reject that
12 or hold it and do more investigation? Has that
13 policy ever been put in writing?

14 MR. RIEGER: Object to the form of the
15 question.

16 Go ahead and answer.

17 THE WITNESS: I -- I'm not sure. I'm
18 not sure.

19 BY MS. BOWIE:

20 Q Have you ever given instructions that are
21 distributed to all the counties that say that?

22 MR. RIEGER: Object to the form. Go
23 ahead.

24 THE WITNESS: Are you asking since the
25 new voter registration application or -- or ever?

1 BY MS. BOWIE:

2 Q Ever.

3 A I don't know.

4 Q Has the Elections Division given any new --
5 any training or instructions on the new registration
6 form?

7 A We -- obviously the instructions at the top
8 of the voter registration application and then when
9 counties have questions, we -- in calls or e-mails,
10 we have given them instructions.

11 Q But no wholesale instructions or trainings
12 to all the counties?

13 A To all 95 counties, no, other than what I
14 mentioned.

15 MS. BOWIE: Okay. Let's talk about
16 Document AB, please. Mark that as Exhibit 27.

17 THE COURT REPORTER: 28. AA was 27.

18 MS. BOWIE: You're right. Excuse me.

19 THE COURT REPORTER: All right. Hold
20 on one second.

21 (Marked Exhibit No. 28.)

22 BY MS. BOWIE:

23 Q Have you seen this document before?

24 A Yes.

25 Q Okay. Can you describe it, please.

1 A It is a letter from Coordinator of Elections
2 Mark Goins to Danielle Lang of the Campaign Legal
3 Center dated April 27th, 2021.

4 Q Okay. And what does the letter describe?

5 A It is responding to a January 27th letter
6 from, presumably, Campaign Legal Center that had
7 alleged that the Elections Division was violating
8 the NVRA with respect to criteria for felony
9 conviction eligibility on the online voter
10 registration form, so the OVR, and on the revised
11 voter registration -- excuse me -- application form
12 as well as --

13 Q And this --

14 A -- implementation.

15 Q And this letter is outlining changes that
16 the Election Division plans to make; is that
17 correct?

18 A That we had planned to make before the next
19 response, yes.

20 Q Okay. So you do not plan to make these
21 changes anymore?

22 MR. RIEGER: Object to the form of the
23 question.

24 Go again -- go ahead, I'm sorry.

25 THE WITNESS: We had sent these as --

1 again, to work -- willing to work with the Campaign
2 Legal Center to address their arguments and issues.
3 In response, the next letter had significant -- what
4 we saw as significant additional issues with our
5 suggestions in this letter. And we're still working
6 on addressing those issues, which is --

7 BY MS. BOWIE:

8 Q Okay.

9 A -- why we hadn't, yes.

10 Q Understood, thank you. Okay, at -- this
11 page 2 talks about some changes to the online voter
12 registration portal. Can you read -- this says if a
13 person marks "Yes" to the felony conviction
14 question, that a series of additional questions will
15 appear.

16 Can you read that first one there?

17 A I am not seeing --

18 Q That first bullet point.

19 A I'm not seeing if -- oh, okay.

20 "If the person marks 'Yes,' a series of
21 additional questions will appear depending on the
22 prior answer as follows:"

23 The first bullet point says, "Were all your
24 felony convictions only between January 15, 1973 and
25 May 17, 1981? If yes, the person can proceed with

1 no additional felony questions. If no, the next
2 question will appear."

3 Q Okay. So -- and that -- that same thing is
4 shown in these -- in the chart below.

5 A Uh-huh.

6 Q So no additional questions are asked for
7 people who have grace period convictions. Was the
8 plan to then just process that registration?

9 MR. RIEGER: Object to the form of the
10 question.

11 Go again -- go ahead.

12 THE WITNESS: I believe -- I believe
13 that information was the point of an argument in the
14 next letter from the CLC. So I believe that would
15 be attorney-client privilege, was something that we
16 had discussed with our attorneys.

17 BY MS. BOWIE:

18 Q But no -- so here it says so no further
19 questions would be asked. So you wouldn't be
20 gathering any additional information that would help
21 the -- the office -- the county offices of elections
22 investigate and find the documents that we've been
23 talking about to verify that; is that correct?

24 MR. RIEGER: Object to the form.

25 Go ahead.

1 THE WITNESS: What the question, we --
2 what was the question?

3 BY MS. BOWIE:

4 Q This doesn't ask for any additional
5 information from the person after they check that
6 box saying that they had a grace period conviction,
7 correct?

8 A Yes. That was the suggested draft.

9 Q Okay. And is that still what the Elections
10 Division -- is that still a change that the
11 Elections Division is planning on making?

12 MR. RIEGER: I will -- I'm going to go
13 ahead and object to the extent that it calls for any
14 privileged communications that might involve the
15 deponent's duties as an attorney for the Division of
16 Elections rather than her role as a deponent.

17 But go ahead and answer to the extent
18 it doesn't broach privilege.

19 THE WITNESS: So, again, these were
20 suggestions that we were willing and planning to
21 make. But in a subsequent response letter from the
22 Campaign Legal Center, there were what we saw as
23 significant issues with our suggestions. And we're
24 still working on those.

25

1 BY MS. BOWIE:

2 Q What were the issues that came up in that
3 letter?

4 MR. RIEGER: Same objection.

5 Go ahead and answer without broaching
6 privilege.

7 THE WITNESS: The letter -- without it
8 in front of me, I can't -- I don't remember all of
9 them. But the letter took issue with the fact that
10 we did not include the pre -- what I call pre-1973,
11 but, you know -- January 15

12 BY MS. BOWIE:

13 Q Sure.

14 A -- January 15 -- yeah, the pre-1973
15 convictions in the OVR or the SS-3010, the paper
16 voter registration form.

17 The letter took issue with us collecting
18 documents to verify -- to verify eligibility other
19 than the initial Certificate of Restoration. The --
20 I can't remember the other -- the other major
21 arguments or issues. But there were several,
22 several in that letter that we felt needed to try --
23 that we were -- that we're working on.

24 BY MS. BOWIE:

25 Q Okay. And why -- why didn't this include a

1 separate question for -- to find out if a felony
2 conviction was before January 15th, 1973?

3 MR. RIEGER: Same objection.

4 Go ahead.

5 THE WITNESS: Yeah. I'm going to have
6 to say all of the discussions were attorney-client
7 privileged, I believe, on that one.

8 MS. BOWIE: Okay. Please mark
9 Document AC as Exhibit 29.

10 THE COURT REPORTER: All right. Hold
11 on just a moment.

12 (Marked Exhibit No. 29.)

13 BY MS. BOWIE:

14 Q Can you describe this document, please?

15 A This appears to be an e-mail thread from
16 Blair Bowie to -- or from and with Beth
17 Henry-Robertson, Mark Goins, and I in the State
18 Elections Division about correspondence back and
19 forth.

20 MR. RIEGER: So I'm going to go ahead
21 and launch a general objection to any line of
22 questions dealing with this document.

23 I -- I just -- you know, in terms of
24 the claims in the complaint, you know, even assuming
25 that, you know, discovery can be -- can be broad

1 and -- this -- I mean, this is from about two months
2 ago and can't have any relationship to any claims in
3 the complaint at this point dealing -- considering
4 that's from an entirely separate NVRA letter.

5 So I think this is fishing, and I'm
6 going to go ahead and just put in a general
7 objection -- a general objection to the -- to any
8 line of questions from this letter. And I'm going
9 to go ahead and instruct the witness that she can go
10 ahead and answer these questions to the best of her
11 personal knowledge, but not as a 30(b)(6) deponent,
12 and as long as she doesn't breach attorney-client
13 privilege.

14 BY MS. BOWIE:

15 Q So as you said, this -- this is an e-mail
16 correspondence about the letter correspondence of
17 which Exhibit 28 was a part; is that correct?

18 A It appears to be. And as I remember it --

19 Q Okay.

20 A -- yes.

21 Q And you also mentioned that you-all are in
22 the process of responding to the suggestions that
23 were made after Exhibit 28 was sent to counsel. And
24 this e-mail chain is about where you-all are in that
25 process; is that correct?

1 A Yes. Yes.

2 Q Okay. So this says that the Elections
3 Division has run into several issues that are
4 delaying the response. Can you explain those,
5 please?

6 MR. RIEGER: I'm going to renew my
7 objection and specifically note that the witness is
8 not instructed to answer, other than in her personal
9 knowledge and without broaching attorney-client
10 privilege.

11 THE WITNESS: Yeah, I believe other
12 than the information in that last e-mail -- I
13 believe anything more would be attorney-client
14 privilege.

15 But I can -- I can reiterate when we
16 tried to address the issues in the last letter, it
17 was -- it was -- it was -- we found it very
18 difficult to incorporate the changes and add --
19 yeah, we felt -- we found it difficult to
20 incorporate the changes, especially for the paper
21 voter registration form, where there are significant
22 space limitations.

23 BY MS. BOWIE:

24 Q Okay. Does the Elections Division have a
25 goal for completing this revision process of the

1 OVR?

2 MR. RIEGER: Same objection; same
3 instruction.

4 THE WITNESS: Yeah, it would be
5 attorney-client privilege.

6 BY MS. BOWIE:

7 Q Does the Elections Division have a goal for
8 completing any of the revisions to the registration
9 form?

10 MR. RIEGER: Same objection; same
11 instruction.

12 THE WITNESS: That would be
13 attorney-client privilege, I believe.

14 BY MS. BOWIE:

15 Q What do you view as the next steps in this
16 process?

17 MR. RIEGER: Same objection; same
18 instruction.

19 THE WITNESS: Is to continue -- yeah,
20 attorney-client privilege, I would have to say.

21 BY MS. BOWIE:

22 Q Would you say that the Elections Division is
23 actively working on this?

24 MR. RIEGER: Same objection; same
25 instruction.

1 THE WITNESS: Yeah, attorney-client
2 privilege.

3 MS. BOWIE: Okay. I think that we're
4 done.

5 MR. RIEGER: Okay. Can we -- can we
6 take a 10-minute break? So that way I can decide if
7 there's anything I need to ask the deponent on
8 cross.

9 MS. BOWIE: Sure.

10 THE VIDEOGRAPHER: Going off the
11 record. The time on the monitor is 3:36.

12 (Recess observed.)

13 THE VIDEOGRAPHER: We are back on the
14 record. The time on the monitor is 3:43.

15 **E X A M I N A T I O N**

16 BY MR. RIEGER:

17 Q All right. I have one question for the
18 cross.

19 In a few questions and answers this
20 afternoon and this morning during the deposition,
21 you used the word "we" with regard to processing
22 voter registration applications. Is it ultimately
23 the responsibility of the Division of Elections or
24 the County Election Commissions to authoritatively
25 determine the result of whether a voter will be

1 registered to vote, based upon the information, its
2 possession, and the information provided by the
3 voter?

4 MS. BOWIE: Objection, form.

5 THE WITNESS: It is ultimately on the
6 county to determine and make the final decision.

7 MR. RIEGER: Thank you. And that's it
8 for me, Blair.

9 THE WITNESS: Okay.

10 MS. BOWIE: Okay, thanks, Alex.

11 THE VIDEOGRAPHER: Was there anything
12 further?

13 MS. BOWIE: Okay, I think that's it.

14 THE WITNESS: Okay.

15 THE VIDEOGRAPHER: This marks the end
16 of the deposition. Going off the record. Time on
17 the monitor is 3:44.

18 FURTHER DEPONENT SAITH NOT.

19 (Proceedings concluded at 3:44 p.m.)
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REPORTER'S CERTIFICATE

I, Kasie B. Hardy, RPR, CRR, CRC,
Notary Public and Court Reporter, do hereby certify
that I recorded to the best of my skill and ability
by machine shorthand all the proceedings in the
foregoing transcript, and that said transcript is a
true, accurate, and complete transcript to the best
of my ability.

I further certify that I am not an
attorney or counsel of any of the parties, nor a
relative or employee of any attorney or counsel
connected with the action, nor financially
interested in the action.

SIGNED this 15th day of NOVEMBER, 2021.

Kasie B. Hardy, RPR, CRR, CRC
My Notary commission expires: 5/3/2021
Tennessee LCR No. 726
Expires: 6/30/2022

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E R R A T A

I, JESSICA LIM, having read the foregoing deposition, Pages 1 through 208, taken OCTOBER 29th, 2021, do hereby certify said testimony is a true and accurate transcript, with the following changes, if any:

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JESSICA LIM

Notary Public
My commission expires: -----

N CONF OF THE NATL ASSOC FOR THE ADVANCEMENT OF COLORED PEOPLE

vs

LEE, et al.

LORETTA MORRIS

May 17, 2023

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2 **FOR THE MIDDLE DISTRICT OF TENNESSEE**
3 **NASHVILLE DIVISION**

4 **TENNESSEE CONFERENCE OF**
5 **THE NATIONAL ASSOCIATION**
6 **FOR THE ADVANCEMENT OF**
7 **COLORED PEOPLE, et al.,**

8 **Plaintiffs,**

9 **vs.**

10 **Case No. 3:20-cv-01039**

11 **WILLIAM LEE, et al.,**

12 **Defendants.**

13
14 **Deposition of:**

15 **LORETTA MORRIS**

16 **Taken on behalf of the Defendants**

17 **May 17, 2023**

18 **Commencing at 9:28 a.m. CST**

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A P P E A R A N C E S

For the Plaintiffs:

**MR. CHARLES GRANT
MS. BLAIR BOWIE
MS. VALENCIA RICHARDSON**
Attorneys at Law
Baker Donelson
1600 West End Avenue
Nashville, TN 37203
(615)726-5600
cgrant@bakerdonelson.com
b.bowie@campaignlegal.org
v.richardson@campaignlegal.org

For the Defendants:

**MR. ZACHARY BARKER
MR. ALEX RIEGER**
Attorneys at Law
Tennessee Attorney General's Office
500 Dr. Martin L. King Jr., Boulevard
Nashville, TN 37243
(615)532-4098
zachary.barker@ag.tn.gov
alex.rieger@ag.tn.gov

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1 S T I P U L A T I O N S

2
3
4 The deposition of LORETTA MORRIS was taken by
5 counsel for the Defendants, at the offices of 1600
6 West End Avenue, Nashville, Tennessee, on May 17,
7 2023, for all purposes under the Tennessee Rules of
8 Civil Procedure.

9 All formalities as to caption, notice,
10 statement of appearance, et cetera, are waived. All
11 objections, except as to the form of the questions,
12 are reserved to the hearing, and that said deposition
13 may be read and used in evidence in said cause of
14 action in any trial thereon or any proceeding herein.

15 It is agreed that MICHELLE CHECUGA, LCR, RPR,
16 and Court Reporter for the State of Tennessee, may
17 swear the witness, and that the reading and signing
18 of the completed deposition by the witness are not
19 waived.
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* * *

LORETTA MORRIS,

was called as a witness, and having first been
duly sworn, testified as follows:

EXAMINATION

QUESTIONS BY MR. BARKER:

Q. Good morning.

A. Good morning.

Q. My name is Zach Barker, I'm with the
Tennessee Attorney General's Office. And I
represent the State Defendants in today's case,
which are Governor Lee; Secretary of State, Tre
Hargett; the Coordinate of Elections, Mark
Goins; and the TDOC Official, Frank Strada.

I'm accompanied with my cocounsel also
from the Tennessee Attorney General's Office,
Mr. Alex Rieger.

MR. BARKER: And would Plaintiffs'
counsel like to introduce themselves at this
time?

MR. GRANT: Charles K. Grant on
behalf of the Plaintiffs.

MS. RICHARDSON: Valencia Richardson
on behalf of the Plaintiffs.

1 MS. BOWIE: Blair Bowie on behalf of
2 the Plaintiffs.

3 BY MR. BARKER:

4 Q. Would you introduce yourself to us?

5 A. Oh, my name is Loretta Morris, and I am a
6 representative from Tennessee State Conference
7 NAACP.

8 Q. And how do you spell Morris?

9 A. M-O-R-R-I-S.

10 Q. Perfect, just wanted to make sure that it
11 was spelled the way I expected.

12 Have you been deposed before?

13 A. No.

14 Q. Have you ever testified at a trial
15 before?

16 A. No.

17 Q. Okay. So to begin with, I'm going to go
18 over just a few guidelines and things about how
19 today's going to go. If you have any
20 questions, feel free to ask as we go through
21 them. And then I'll once we get through those
22 ask you if you have any more questions.

23 So if through this process today you
24 don't understand a question that I ask, please
25 just ask me to repeat it or rephrase the

1 question, and I'll do my best to make sure that
2 everything's understandable and we're on the
3 same page about my question.

4 If your attorney objects to a question
5 that I ask, don't answer until your attorney
6 and I have discussed the objection and
7 everything's noted that's necessary. And once
8 that is finished, I'll then ask you to answer
9 the question or try to rephrase the question in
10 a way that is not subject to the objection.

11 Don't guess at any answer. If you don't
12 know, that's fine. If you can't specifically
13 recall any sort of information that I'm asking
14 you about, that's fine, just state that you
15 don't recall or provide a reasonable estimate,
16 if you can.

17 During the deposition, if you recall
18 information that may have been responsive to a
19 question that I asked earlier, just kind of as
20 we're going along things come to mind or if you
21 recognize that you need to add to a response
22 that you gave earlier, just please say that you
23 need to do that and we can kind of go back to
24 that question and make sure that you give a
25 full answer and that you have everything that

1 you want to say on that topic on the record.

2 And I will give you an opportunity as we
3 go along to take some breaks. We want you to
4 be comfortable. So if at any point you need a
5 break, just let me know. I'll ask you to
6 finish answering the question that has been
7 posed and then we'll take a break. We're happy
8 to take as many as you may need.

9 From time to time during the deposition,
10 I may use the word "you." If I use the word
11 "you," I'm referring both to you in your
12 capacity as the NAACP and the NAACP as a whole
13 or at least at the Tennessee Conference of
14 NAACP as a whole since you are its
15 representative and designee for today.

16 Do you have any questions about any of
17 those guidelines so far?

18 A. No.

19 Q. Before we get into the questions about
20 the case, I have to ask you a few questions
21 about you. It's just standard procedure. We
22 have to make sure that nothing's going to
23 affect your testimony today.

24 So is there anything that would prevent
25 you from testifying truthfully today at the

1 deposition?

2 A. No.

3 Q. Is there any reason that you feel that
4 you cannot truthfully and accurately testify to
5 things today?

6 A. No.

7 Q. Are you under the influence of any
8 alcohol or drugs at this time?

9 A. No.

10 Q. And have you taken any medications that
11 might affect your ability to answer questions
12 today?

13 A. No.

14 Q. Let's go over a little bit of your
15 background. Where do you work?

16 A. I don't.

17 Q. Okay. Do you have a position at the
18 NAACP?

19 A. I am first vice of our branch.

20 Q. And what do you do in that position?

21 A. Well, I wear a lot of hats.

22 Q. Okay. What are those hats?

23 A. Get out to vote, legal redress, help the
24 president whenever he's -- he needs help or
25 stand in his head whenever he's gone.

1 Q. Do you have any other responsibilities
2 beyond those that you've listed there?

3 A. Whatever comes up.

4 Q. Whatever comes up, okay. Sounds like
5 you're a very versatile person at the NAACP.

6 Have you held any other positions with
7 the NAACP prior to this one?

8 A. Secretary.

9 Q. And what did you do there?

10 A. Everything that an admin in any other
11 company would do.

12 Q. Okay. Did those positions -- I know you
13 mentioned voting with your current position.
14 Did the secretary position have any
15 responsibilities when it came to voting rights
16 in Tennessee?

17 A. No.

18 Q. Okay. With your current position, what
19 are your responsibilities when it comes to
20 voting rights in Tennessee for NAACP members?

21 A. Well, we assist individuals that come and
22 need assistance for voter restorations or
23 voting registrations.

24 Q. Do those individuals have to be NAACP
25 members?

1 A. No.

2 Q. So you will help anyone who comes in the
3 door?

4 A. Anyone.

5 Q. All right. I'd like to get a little bit
6 of background on your preparation for today's
7 deposition. So you're the designee from the
8 Tennessee Conference of the NAACP. Have you
9 seen the notice of deposition for today?

10 A. Yes.

11 Q. Okay.

12 MR. BARKER: I'd like to take a copy
13 of that notice of deposition and enter it as
14 Exhibit 1.

15 (WHEREUPON, a document was marked as
16 Exhibit No. 1.)

17 BY MR. BARKER:

18 Q. All right. Have you seen that document
19 before, Ms. Morris?

20 A. Yes, it looks like it's the same one.

21 Q. Did you review the topics in that
22 document for preparation today?

23 A. Yes.

24 Q. What, if any, other documents did you
25 review in preparation for today?

1 A. The documents that were given to me by my
2 attorney.

3 Q. Okay. Do you -- can you identify what
4 those documents are for us?

5 A. Okay, the first amendment complaint. I
6 can't recall all of them.

7 MR. GRANT: This is dated May 12th.

8 MR. BARKER: Yes, that's the most
9 recent one that we sent you guys.

10 Can we go off the record for a
11 second?

12 (WHEREUPON, an off-the-record
13 discussion was held.)

14 MR. GRANT: We can proceed.

15 MR. BARKER: Go back on the record
16 then.

17 BY MR. BARKER:

18 Q. Who, if anyone, did you speak with in
19 preparation for the deposition today?

20 A. I have a non-exhaustive list here of
21 people that I've talked to.

22 Q. Okay, can you share that with us? Who
23 are those individuals? You can just say them
24 out loud.

25 A. Oh, just say --

1 Q. Yeah.

2 A. Okay.

3 Q. That will be fine.

4 A. You want me to read them all or just some
5 of them?

6 Q. Read them all, that will be fine.

7 A. Latitia Gray out of Robertson County;
8 Cheryl Guinn, former president of Nashville
9 branch; Tamika White, Nashville branch; Daphne
10 Nelson, State Conference; Dawn Harrington,
11 Executive Director of Free Hearts; DarKenya
12 Waller, Executive Director of Legal Aid Society
13 of Middle Tennessee; Gicola Lane, Free Hearts
14 and Campaign Legal Center; Keeda Haynes, Free
15 Hearts; Tiffany Tipton-Boyd, President,
16 Dyersburg branch; Jimmie Garland, President,
17 Clarksville branch; Thomas Staten, President
18 Sumner County branch; Leola Scott, Get Out to
19 Vote Chair, Dyersburg branch; Katie Wilson,
20 former President Murfreesboro branch; the
21 Honorable Robin Kimbrough, General Sessions
22 judge and NAACP member; Honorable Rachel Bell,
23 General Sessions judge; and Maryland Brown,
24 Nashville branch.

25 Q. Was your conversation with each of those

1 individuals kind of the same or was it
2 different with each one?

3 A. Different.

4 Q. And can you describe the different types
5 of conversations that you had with them?

6 A. The topic was the same, but the answers
7 were different.

8 Q. What was the topic?

9 A. The topic was the voter restoration.

10 Q. And specifically what about voter
11 registration were you asking them about?

12 A. What their involvement was in helping
13 others with the voter registration.

14 Q. And how are each of those individuals
15 involved in helping others with voting
16 registration?

17 A. It was their response from other people
18 that they needed to go talk to were different.

19 Q. Okay. And were they talking to other
20 people that were officials in the NAACP?

21 A. No.

22 Q. Were they talking to individuals that
23 were members of the NAACP that were seeking the
24 right to vote?

25 A. Wait, let's back that train up.

1 Q. Yes, ma'am.

2 A. Okay.

3 Q. We can back up. Go ahead. Go ahead,
4 take your time.

5 A. Okay. Now, the question before that when
6 you asked me about the individuals that they
7 was talking to, it -- can you explain who are
8 you looking for? What are you looking for?

9 Q. When you mentioned those -- that list of
10 individuals --

11 A. Okay.

12 Q. -- and you said that you talked to them
13 --

14 A. Uh-huh.

15 Q. -- about who they were talking to. Who
16 were they -- they going out and talking to and
17 what was that -- those individuals' role?

18 A. Oh, okay, I gotcha. No, we was talking
19 about who they had to -- what government
20 entities that they were talking to about how
21 they help their clients in getting the voter
22 registration.

23 Q. And those --

24 A. I believe.

25 Q. And those clients, do you understand them

1 to be members of the NAACP?

2 A. Not all of them, no.

3 Q. Okay. But some of them?

4 A. Some.

5 Q. Okay. And do you know which government
6 entities that they were speaking to?

7 A. Parole offices. Court clerks.

8 Q. Anyone else?

9 A. Not that I recall.

10 Q. Other than the individuals on that list,
11 did you talk to anyone else in preparation for
12 today's deposition?

13 A. My attorneys.

14 Q. Okay. And were the attorneys that you
15 spoke to the individuals in this room?

16 A. Yes.

17 Q. Without going into the content of that
18 conversation -- I don't want to get into what
19 they told you or you told them. When did the
20 conversation occur with them?

21 A. What do you mean "when"?

22 Q. Like, was it a few days ago, months ago?

23 A. Oh. Well, it may have been started at
24 the end of April, I think.

25 Q. Okay. How many times did you meet with

1 them?

2 A. About -- I don't know, probably about
3 four or five times, maybe.

4 Q. Okay.

5 A. Maybe more.

6 Q. Okay. Other than the people that you
7 listed and your attorneys here, did you meet
8 with anyone else in preparation?

9 A. No.

10 Q. So other than documents that you reviewed
11 and speaking to those individuals, was there
12 anything else that you did in preparation for
13 today's deposition?

14 A. Yes, I may have looked up some -- some
15 laws.

16 Q. Okay. Can you recall which laws you
17 looked up?

18 A. The one about the voter restoration.

19 Q. And would that be one that contains to
20 criteria for eligibility?

21 A. Exactly.

22 Q. Okay, perfect. Perfect.

23 Anything else beyond that?

24 A. Nope.

25 Q. I want to move on and just ask you some

1 questions about the NAACP. And this -- some of
2 these questions may sound a little bit basic,
3 but just kind of bear with me, if we can, and
4 we'll get through this.

5 What is the NAACP?

6 A. It's an advocacy group, okay, that
7 advocate for the rights of individuals who have
8 been discriminated against. May be political,
9 education, health, social, okay. We just try
10 to get quality for everyone.

11 Q. Okay. And you may have answered this
12 question in what you just said, and if you did,
13 that's fine, but what -- what is the
14 organizational goal or the advocacy that the
15 NAACP does?

16 A. Yep, I did answer that, didn't I?

17 Q. Yes, you did. So you caught my next
18 question.

19 So what are some of the activities that
20 the NAACP does in furtherance of that goal?

21 A. Are we talking the whole -- what are
22 we -- we talking?

23 Q. Just kind of generally on the whole, the
24 Tennessee Conference of the NAACP, what are
25 some of the activities that you guys engage in

1 in furtherance of your goal of getting rid of
2 discrimination and things like that?

3 A. Okay. Well, we do education to
4 individuals about eco -- any economic goals or
5 education. There's a plethora of things that
6 we do there.

7 Q. Do some of those things involve voting
8 rights?

9 A. Oh, yes. That's our main goal.

10 Q. That's your main goal, okay.

11 And what sort of things do you guys do in
12 furtherance of voting rights in your
13 organization?

14 A. We ensure that people are registered to
15 vote.

16 Q. Okay. Help me understand a little bit
17 how the NAACP is organized in Tennessee. Is
18 there just one central group? Is it divided
19 into divisions? How is it organized?

20 A. I'm trying to think of something that
21 you -- you ever been in the military?

22 Q. I haven't, no, ma'am, but I can
23 understand that if --

24 A. Okay.

25 Q. -- that analogy works for you, that works

1 for me.

2 A. Okay, okay, okay. You do have
3 corporations. You know, with corporations --

4 Q. Sure.

5 A. -- you have the head, that is the
6 Tennessee State.

7 Q. Okay.

8 A. And then we have branches in every county
9 or we try to have branches in every county.

10 Q. Okay.

11 A. And we have youth council and collegiate
12 chapters.

13 Q. Does it -- what sort of benefits then
14 does the NAACP provide to its members in each
15 one of those divisions, if we'll call it that?

16 A. Benefits? What type of benefit? What is
17 do you mean benefits?

18 Q. You were talking about education and
19 advocacy, so what sort of activities like that
20 are provided to NAACP members?

21 A. Well, we don't just provide to NAACP
22 members. We divide -- we provide to everyone.
23 Okay? And any benefit is whatever the
24 individual would need at that particular time.

25 Q. When it'd comes to voting rights, what

1 are some of the benefits or things that your
2 organization offers to its members or the
3 public?

4 A. We -- we help them to -- to register.
5 Okay? Not quite sure what all you looking for.

6 Q. Well, so you help them to register. Do
7 you help people with the certificate of
8 restoration process?

9 A. Well, we guide them in that.

10 Q. Okay. Is there anything beyond helping
11 them to register and helping them -- and
12 guiding them in the certificate restoration
13 process, is there anything beyond that that the
14 NAACP offers?

15 A. Is there something you particular looking
16 for?

17 Q. No, I'm just asking you if you are aware
18 of anything else?

19 A. Well, guiding them into where they --
20 where they should go.

21 Q. Okay.

22 A. Making sure they know about the -- the
23 certificate.

24 Q. Okay.

25 A. Okay.

1 Q. Backing up to just kind of a birds's eye
2 view of the NAACP and getting back to some of
3 the basics, how does someone become a member of
4 the NAACP?

5 A. They fill out a form and pay their dues.

6 Q. Where can they find the form?

7 A. They can -- they can either go on the
8 NAACP.org or they can go to their -- the branch
9 in that county.

10 Q. Is there anything beyond filling out the
11 form and paying their dues that an individual
12 has to do to join the NAACP?

13 A. Nope.

14 Q. Is there any membership criteria or
15 anything like that, like age or something like
16 that, that you have to have -- that you have to
17 meet, rather, to join the NAACP?

18 A. Not to join the NAACP.

19 Q. Okay. How much are the dues?

20 A. That depends on what you want.

21 Q. Okay. How so?

22 A. Well, there's levels of membership.

23 Q. What are the different levels of
24 membership?

25 A. There are adult membership, okay, that

1 you pay yearly.

2 Q. Okay.

3 A. And there are lifetime memberships that
4 you pay either one time or a certain amount for
5 up to ten years.

6 Q. Are there any other levels?

7 A. Youth level.

8 Q. So what are the dues for an adult level
9 membership on a yearly basis?

10 A. \$30.

11 Q. And the life time membership, how much
12 does that one cost?

13 A. 750.

14 Q. And a youth membership, how much does
15 that one cost?

16 A. \$10.

17 Q. Okay. Who can become a member of the
18 NAACP?

19 A. Anybody.

20 Q. Does an NAACP keep a record of its
21 membership?

22 A. Yes.

23 Q. Is that kept on a state level or a local
24 level?

25 A. A national level.

1 Q. Okay. What sort of information is kept
2 in those records?

3 A. Not sure if I can give that information
4 out.

5 Q. Okay. Can you speak generally of -- is
6 it just like a name and an address and a phone
7 number? You don't have to give me, like,
8 specific individuals' information, just kind of
9 the type of information, can you give that?

10 A. Not sure if I can give anything out that
11 has anything to do with membership.

12 MR. GRANT: You can answer the
13 question as to the type of information that
14 would be on the membership application.

15 THE WITNESS: Okay. Name, address,
16 telephone numbers.

17 BY MR. BARKER:

18 Q. Okay. Does the NAACP keep track of
19 whether any of its members have a felony?

20 A. No.

21 Q. Does the NAACP document the voting status
22 of any of its members?

23 A. No.

24 Q. Does the NAACP document whether an
25 individual has received a certificate of

1 restoration for their voting rights?

2 A. No.

3 Q. Does the NAACP track or document a
4 member's prison sentence?

5 A. No.

6 Q. Do you document or track a member's
7 parole?

8 A. No.

9 Q. Probation?

10 A. No.

11 Q. All right, I've got a couple more.

12 MR. GRANT: Let him get it out.

13 THE WITNESS: Okay.

14 BY MR. BARKER:

15 Q. Restitution? Do you track restitution,
16 any member's restitution?

17 A. No.

18 Q. Court costs?

19 A. No.

20 Q. Do you track or document child support?

21 A. No.

22 Q. Okay. Let's talk about a little bit --
23 you talked about guidance on voting rights and
24 things like that that the NAACP offers. So
25 what, if any, information does the NAACP share

1 about voting rights restoration in Tennessee?

2 A. Okay, just whatever we find on the -- on
3 your website on how -- how to navigate the
4 system.

5 Q. How does that -- how does the NAACP share
6 that information?

7 A. Well, to any individual that comes.

8 Q. Okay.

9 A. That needs their rights restored.

10 Q. Is that in a document that you provide
11 those people that come to the NAACP?

12 A. Yes.

13 Q. Okay. Do you have an e-mail? Is there
14 an e-mail that the NAACP sends out about voting
15 rights restoration?

16 A. No.

17 Q. Does the NAACP's website contain any
18 information about voting rights restoration?

19 A. Not our website, no.

20 Q. Okay. So beyond sharing a document and,
21 obviously, talking with an individual that
22 comes into the office, is there any sort of
23 publication or information put out about voting
24 rights by the NAACP?

25 A. No.

1 Q. Okay. Now, you said that once again you
2 offer guidance and assistance. Does the NAACP
3 advertise that they offer this assistance to
4 their members?

5 A. No, we don't advertise that.

6 Q. Okay. So this is something that an
7 individual would have to come and ask for at
8 the NAACP?

9 A. Well, when we try to do voter
10 registrations, then they -- that's how we learn
11 that someone might need that information.

12 Q. So let's talk about that then for a
13 second. This -- your voter registrations that
14 you do, what's that process? What does that
15 look like?

16 A. We hold events at wherever, whoever
17 having an event, we set up a table so that we
18 can do voter registrations at whatever event.

19 Q. And who is at that table that someone can
20 approach?

21 A. Any NAACP member that is manning that
22 table at that time.

23 Q. Are those people that work for the NAACP
24 or volunteers?

25 A. Well, we all are volunteers.

1 Q. Okay. Is there any sort of position that
2 someone has to hold at the NAACP to work at one
3 of those tables?

4 A. No.

5 Q. What sort of information do the people at
6 those tables give out or tell to individuals
7 who come by?

8 A. To tell about?

9 Q. Voting rights?

10 A. Oh, about voting rights or the voting
11 registration?

12 Q. Both. Both, if you can speak on both.
13 We'll take it one at a time, though, just for
14 clarity.

15 So what sort of information did they
16 provide about voter registration, let's start
17 there?

18 A. Well, we have a -- we have a tablet that
19 we just allow them to go on to the online
20 website of the State and register.

21 Q. Okay. If an individual is unable to
22 register on that tablet, what is done then?

23 A. Well, I guess that depends upon what it
24 is that their issue is at that time.

25 Q. Okay. Is there information about voting

1 rights at that point that is given to that
2 individual?

3 A. If they disclose that they need that.

4 Q. Okay. And what is the information that
5 would be given to them?

6 A. It's a -- a worksheet or the COR, okay,
7 we might give to them.

8 Q. When you give them the COR, what sort of
9 instruction then is given to the individual?

10 A. The only thing we can tell them is they
11 need to take it to their parole officer.

12 Q. Okay. Does the NAACP offer any sort of
13 guidance about the COR process and how to get
14 that document filled out?

15 A. Yes. We let them know that they -- they
16 have to go to their probation officer to get it
17 started. And after that, their probation
18 officer is supposed to take it to the county
19 clerks and then take it to the election office.

20 Q. Does the NAACP guide them through each
21 step of that process, the individual that's
22 applying?

23 A. We do follow up.

24 Q. Okay. How does that follow-up occur?

25 A. Well, we call them and see if they

1 have -- if they had any issues.

2 Q. Are those follow-ups documented in any
3 way?

4 A. No.

5 Q. Okay. So you mentioned the tables and
6 setting up at voting registration events. Is
7 there any other assistance that the NAACP
8 offers to its members or the public regarding
9 voting rights restoration?

10 A. Well, if there's -- if they have issues,
11 we do call in Free Heart, okay, to see if
12 there's anything that we can -- what else we
13 can do to help.

14 Q. And you mentioned Free Hearts when you
15 were talking about some of the individuals that
16 you spoke to about this deposition. So what is
17 the relationship between NAACP and Free Hearts?

18 A. We collaborate with them.

19 Q. And what do you collaborate on?

20 A. Voter restoration.

21 Q. Okay. And what -- what do they do for
22 the NAACP?

23 A. They help us whenever we have issues,
24 okay? They have the -- the enroll to the
25 campaign legal center if there's any questions,

1 any attorneys that the individual might need.

2 Q. Do you offer at the NAACP any sort of
3 educational programs about the COR process to
4 your members or the public?

5 A. Yes, we may.

6 Q. Okay. And what are those?

7 A. Just how -- how the process is.

8 Q. Okay. And who generally presents the
9 information at those educational events?

10 A. Sometimes we bring in Free Hearts --

11 Q. Okay.

12 A. -- okay, so they can educate the public.

13 Or any senators that may -- any Tennessee
14 senators or house representatives that may have
15 worked on some of them.

16 Q. Anyone beyond Free Hearts or Tennessee --
17 elected officials that presents at those
18 educational events?

19 A. Unless it's an NAACP member, that's it.

20 Q. Okay. So if you could, could you walk me
21 through the NAACP's understanding of the
22 criteria for voting rights restoration in
23 Tennessee?

24 MR. GRANT: Objection to the form of
25 the question.

1 BY MR. BARKER:

2 Q. You can answer.

3 A. Repeat the question.

4 Q. What is the NAACP's understanding of the
5 criteria for voting rights restoration in
6 Tennessee?

7 A. Okay, so --

8 MR. GRANT: Same objection.

9 You may answer, ma'am. You can
10 answer.

11 THE WITNESS: I can answer?

12 MR. GRANT: If you know, sure.

13 THE WITNESS: We have a worksheet
14 that we go through.

15 BY MR. BARKER:

16 Q. Okay.

17 A. So that if there's any -- that way if
18 there's anything that -- different for each
19 individual, we know which step to go to.

20 Q. What information is on that worksheet?

21 A. I think we have one in this packet here.

22 Q. I may have a copy of it.

23 A. Okay.

24 Q. Let me see if I've got a copy of it here.

25 Let's go ahead and talk about this then.

1 MR. BARKER: Let's go ahead and mark
2 this as Exhibit 2.

3 (WHEREUPON, a document was marked as
4 Exhibit No. 2.)

5 BY MR. BARKER:

6 Q. This is a document that was produced in
7 discovery by the NAACP. It was labeled
8 PL000083 rights restorations sheet.

9 Do you recognize that document?

10 A. I do.

11 Q. Is that the restoration -- the worksheet
12 that you're talking about?

13 A. Yes.

14 Q. All right, perfect. So we're on the same
15 page then.

16 So how does the NAACP use this worksheet?

17 A. So we use this so that we can gather
18 information as to where we need to lead the
19 individual.

20 Q. Did the NAACP create this worksheet?

21 A. No.

22 Q. Who created this worksheet?

23 A. Free Heart.

24 Q. Free Hearts, okay.

25 What sort of information is gathered on

1 this worksheet?

2 A. The name and -- the name -- oh, the
3 person that helps them, the name of the
4 citizen, their address, their phone number,
5 their date of birth. If they know their
6 convictions and the date of and the county.

7 Then we check to see if by the date of
8 their conviction is it with -- does it lie
9 within any of the parameters of the different
10 dates that people have lost their rights or
11 have not lost their rights.

12 Q. Okay.

13 A. Okay? If there's any ineligible
14 convictions, okay, that the State says that
15 they're -- they can't. And if they have
16 completed their sentence or any probation and
17 parole. If their fees or restitution has been
18 paid. And are they up to date on their child
19 support.

20 Q. And I noticed that one of these -- C1
21 there, any ineligible convictions, referenced a
22 table on the back of the document. Does --
23 does the NAACP have a copy of the back of the
24 document?

25 A. It's normally on the document.

1 Q. Okay. I don't have a copy of the back of
2 the document. So what information is on the
3 back of the document, if you can share that
4 with us?

5 A. It is -- it states the dates and what
6 offenses has been committed and that says
7 whether or not they can or cannot get their
8 rights restored.

9 Q. Okay. And this document also references
10 the Campaign Legal Center. So what is the
11 NAACP's relationship with the Campaign Legal?

12 A. We ask them any questions that -- any
13 legal questions that we might have.

14 Q. So do they serve as legal counsel for the
15 NAACP on voting rights issues?

16 A. I guess we can say that.

17 Q. Okay. And if an individual needs
18 representation on voting rights, would you
19 refer them to Campaign Legal?

20 A. We would.

21 Q. Okay. I think I'm done with that
22 document.

23 So beyond this worksheet, is there
24 anything else that the NAACP does with its
25 members or members of the public when it comes

1 to voting rights restoration in Tennessee?

2 A. I'm not understanding, what are you
3 trying to ask me? Besides this document?

4 Q. Yes, so -- let me strike that. Let me
5 rephrase and start over, that was not the best
6 worded question. I'm sorry about that.

7 So we talked about the educational
8 process that you guys do and we talked about
9 this worksheet. If an individual comes to the
10 NAACP seeking help with voting rights, is there
11 anything beyond this document that you guys
12 would provide them with?

13 A. No. Because -- well, the COR.

14 Q. Okay. Okay. And you mentioned that
15 earlier, I apologize. I'm going back over some
16 of the same -- some of the same stuff.

17 So when an individual fills out this
18 form, does the NAACP do anything to verify the
19 information?

20 A. No, that's not for us to -- to verify.

21 Q. Okay. Does -- if an individual fills out
22 the form and answers everything correctly, does
23 the NAACP tell them whether or not they might
24 be able to go on with the COR process?

25 A. Yes.

1 Q. If an individual fills out the form and
2 it is apparent that they can't go on with the
3 COR process, what does the NAACP do?

4 A. Now, that is different for each
5 individual.

6 Q. Okay. How is it different for each
7 individual?

8 A. It will depend on whether or not they
9 have finished their probation. Depends on
10 whether or not they have any fees or
11 restitutions they need to pay. And it will
12 also depend upon their child support. Those
13 are the only three criterias.

14 Q. Does the NAACP provide them with any
15 instruction or information on how to become
16 eligible?

17 A. The fact that they have to pay their
18 court costs.

19 Q. Okay, so let's use that example then. If
20 someone owes court costs, what does the NAACP
21 tell them to do?

22 A. Well, it all -- it all depends upon the
23 individual.

24 Q. Okay, okay. Would you refer them to
25 someone outside of the NAACP, like a county

1 clerk's office?

2 A. Yes.

3 Q. Okay. You mentioned providing
4 individuals with the COR form. What version of
5 the form is -- strike that.

6 When the NAACP provides an individual
7 with the COR form, do they check to make sure
8 it's the most up-to-date version?

9 A. We get the form from Free Heart.

10 Q. Get the form from Free Hearts, okay.

11 Do you get the form from anywhere else
12 other than Free Hearts?

13 A. Off the website. Off the State website.

14 Q. And is that the Tennessee Secretary of
15 State?

16 A. Tennessee Secretary, uh-huh.

17 Q. Yes, ma'am. Trying not to re-ask you the
18 same questions, I'm sorry.

19 Are NAACP members informed that someone
20 else has to fill out the COR forms?

21 A. What do you mean by that?

22 Q. What is the NAACP's understanding of who
23 can fill out the blanks on the COR form?

24 A. That -- the TDOC, the governor or the
25 probation officer -- or correction -- I guess

1 it's called corrections, yeah, can fill it out.

2 Q. Okay. Does the NAACP provide them any
3 instruction about not filling out the form
4 themselves?

5 A. Yes.

6 Q. Okay. What entity does the NAACP send an
7 individual to to have the COR form filled out?

8 A. Their parole officer.

9 Q. Their parole officer, okay.

10 And that would vary by county and
11 individual?

12 A. Yeah, exactly, because -- yes.

13 Q. Does the NAACP contact any government
14 entities on behalf of an individual seeking a
15 COR?

16 A. I guess that would depend upon the
17 individual.

18 Q. Are you aware of any instance in the past
19 where the NAACP has contacted a government
20 entity on behalf of an individual?

21 A. Yes.

22 Q. What government entity was contacted?

23 A. The parole, the parole board and -- or
24 the -- depends upon the county because
25 different conflict counties do it differently.

1 Q. Okay. Beyond the parole board, is there
2 any other entity that you're aware of the NAACP
3 contacting on behalf of an individual seeking a
4 COR? And by "COR" I mean certificate of
5 restoration, I don't know if I made that clear
6 for the record. But who else might the NAACP
7 reach out to on behalf of the individual?

8 MR. GRANT: Object to the form of the
9 question. Witness just answered the question.

10 BY MR. BARKER:

11 Q. Is there any other entity beyond the
12 probation parole office that --

13 A. The county clerk.

14 Q. The county clerk's office.

15 Anybody beyond the county clerk's office?

16 A. No.

17 Q. Okay. Do any employees or volunteers of
18 the NAACP accompany individuals when they go to
19 the parole office to have their -- their COR
20 form filled out?

21 A. Some counties have.

22 Q. Some counties have.

23 Are you aware just of a ballpark of how
24 often that happens?

25 A. No, I'm not.

1 Q. Okay. Are you aware of multiple
2 instances of that happening?

3 A. Yes.

4 Q. About how many can you recall? Just --
5 it doesn't have to be exact, an estimate?

6 A. Well, is there a time frame you trying to
7 give me or?

8 Q. Since 2006. I know that's a pretty big
9 time frame, but just --

10 A. You know, I don't know that.

11 Q. -- off the top of your head?

12 MR. GRANT: Objection to the form of
13 the question.

14 BY MR. BARKER:

15 Q. Let me rephrase and ask this a different
16 way then.

17 Is it the normal procedure of the NAACP
18 to accompany individuals when they visit the
19 probation parole office to get a COR form
20 filled out?

21 A. In some counties, yes.

22 Q. Okay. Do you know which counties those
23 are?

24 A. Off the top of my head it would be
25 Dyersburg.

1 Q. Dyersburg, okay.

2 I'm trying to remember which county
3 Dyersburg might be in. But the city of
4 Dyersburg, right?

5 A. Yeah, uh-huh.

6 Q. Okay. Does the NAACP monitor the outcome
7 of individual members' certificate of
8 restoration?

9 MR. GRANT: Objection to the form of
10 the question. You restated the question you
11 asked earlier.

12 BY MR. BARKER:

13 Q. Can you go ahead and answer that for me?

14 MR. GRANT: You can answer.

15 THE WITNESS: No, I don't think we
16 do.

17 BY MR. BARKER:

18 Q. Do you specifically track when
19 certificates are granted?

20 A. No.

21 Q. What about certificates that are denied?

22 A. No, we don't track that information.

23 Q. If the NAACP becomes aware that an
24 individual's certificate of restoration has
25 been denied, what, if any, assistance does the

1 NAACP offer them at that point?

2 A. Well, there -- we can't offer any
3 assistance, because of the fact that there
4 isn't any appeals process for that.

5 Q. So to the NAACP's knowledge, what, if
6 any, appeal process or way to challenge a COR
7 denial exists?

8 MR. GRANT: Objection to the form of
9 the question.

10 BY MR. BARKER:

11 Q. You can answer.

12 A. There isn't a process.

13 Q. Okay. I want to move on to some
14 documents, if we --

15 A. Okay.

16 Q. -- if that's okay. And we'll just kind
17 of work through some different documents --

18 A. Okay.

19 Q. -- in the case.

20 As a part of the NAACP's production in
21 this case, an Excel spreadsheet was provided.
22 And the file has a number and the file name
23 PL00092. And I've printed that document and
24 I'd like for us to take a look at it. And it's
25 on a big sheet of paper rather than a normal

1 sheet of paper.

2 MR. BARKER: If we can make this the
3 next exhibit.

4 (WHEREUPON, a document was marked as
5 Exhibit No. 3.)

6 BY MR. BARKER:

7 Q. Do you recognize this document or
8 spreadsheet at all?

9 A. No, I can't say I do.

10 Q. Have you ever seen a spreadsheet like
11 this on a computer like in a Microsoft Excel
12 file?

13 A. I'm looking at the -- the head -- the
14 headers here, and I don't recognize those.

15 Q. Okay. Let's look at another document
16 then. In response to discovery, the NAACP
17 provided three lists of members in its response
18 to Defendant's first set of interrogatories.

19 Specific -- and in the third response --
20 -- or excuse me, in the response to Defendant's
21 third set of interrogatories, NAACP provided
22 some descriptions for these lists. So I'd like
23 for us to take a look at the list and the
24 descriptions, and I'm going to pull those out
25 of my box.

1 MR. BARKER: Here are the responses,
2 if we could make those the next numbered
3 exhibit.

4 (WHEREUPON, a document was marked as
5 Exhibit No. 4.)

6 MR. BARKER: And while we're at it
7 to save some time, I'm going to go ahead and
8 hand out copies of the lists. If we could make
9 that the next exhibit, as well.

10 (WHEREUPON, a document was marked as
11 Exhibit No. 5.)

12 BY MR. BARKER:

13 Q. All right, let's look at this first
14 document here, the one with the caption on the
15 top that says "Plaintiff Tennessee Conference
16 of the National Association for the Advancement
17 of Colored People Responses and Objections to
18 Defendant's Third Set of Interrogatories and
19 Third Request for Production of Documents."

20 And let's go back here to page -- let's
21 start first on Page 16. Do you recognize there
22 kind of at the bottom of the page the
23 individual's name listed?

24 A. Yes.

25 Q. And that's Gloria J. Sweet-Love. Who is

1 that?

2 A. President of the Tennessee State
3 Conference.

4 Q. Do you recognize that signature beside
5 their name?

6 A. Yes.

7 Q. Okay. Let's look back then. I'm going
8 to have you flip back in this document again to
9 Page 13. There in the second paragraph under
10 the heading "Response" it references Exhibit A.
11 And then starting at the very bottom of the
12 page, the next to last line and spilling over
13 to the next page, it says, "The persons listed
14 in Exhibit A, to the best of theirs and
15 Plaintiff TN NAACP's knowledge are all
16 Tennessee residents, have at least one felony
17 conviction after 1981 and have not, or had not
18 at the time of their response been restored
19 their voting rights."

20 Looking at the second document that I
21 handed you, which is Exhibit 5, the list of
22 names. Is that referring to this attachment,
23 Exhibit A?

24 A. Yes.

25 Q. How did the NAACP compile this list

1 that's Exhibit A?

2 A. I don't know, this is the attorneys' list
3 that the attorneys compiled this.

4 Q. Have you seen this list before?

5 A. Yes, the attorneys have shown this to me.

6 Q. Does the NAACP use this list in its
7 ordinary operations for any purpose?

8 A. I cannot answer that.

9 Q. Okay. Are you aware of whether these
10 individuals are NAACP members?

11 A. Well, since the attorneys compiled it, I
12 think they are the ones that can tell you that.

13 Q. Do you have any documentation of these
14 individuals' NAACP memberships?

15 A. I don't know that answer to that.

16 Q. Has the NAACP reviewed these individuals
17 felony convictions?

18 A. No, we don't view felony convictions.

19 Q. Okay. Let's look at -- going back --
20 flip-flopping back to our other document that
21 we were just on, which was Exhibit 4, the
22 NAACP's responses to Defendant's third set of
23 interrogatories. Moving on to Page 14 in the
24 middle of the page there, it says Interrogatory
25 1 -- Interrogatory Number 10, rather, response.

1 It references Exhibit B, and that last full
2 sentence of that response says, "The persons
3 listed in Exhibit B to the best of theirs and
4 Plaintiff TN NAACP's knowledge are Tennessee
5 residents otherwise qualified to vote, (2) have
6 at least one felony conviction after 1981, (3)
7 have requests a COR or at the request an
8 advocate requested one on their behalf from the
9 appropriate officials and (4) were refused
10 issuance of a COR by at least one appropriate
11 official."

12 Is it your understanding that that is
13 turning over to Exhibit 5 what's labeled as
14 attachment B?

15 A. Now what's the question?

16 Q. Is it your understanding that this
17 response that I just read refers to that list?

18 A. That's my understanding.

19 Q. Did the NAACP create this list?

20 A. I believe their attorneys created that
21 list.

22 Q. And I'm going -- I'm going to be asking
23 some of the same questions about this list as I
24 did the previous one.

25 How did the NAACP become aware of the

1 individuals listed on this list?

2 A. Now, I never got that information.

3 Q. Are these individuals NAACP members, can
4 you verify that?

5 A. I cannot.

6 Q. Do you have any documentation of these
7 individuals' membership in the NAACP?

8 A. I don't know.

9 Q. Have you reviewed their felony
10 convictions?

11 A. No.

12 Q. And then let's talk about another one,
13 going back to our other document, Exhibit 4.
14 And it's going to be on Page 15. In response
15 to Interrogatory Number 11, which is referenced
16 on 14, we're at the last full sentence of that
17 response on Page 15. The last full sentence of
18 that first paragraph, it says, "The persons
19 listed in Exhibit C to the best after theirs
20 and Plaintiff Tennessee NAACP's knowledge all
21 (1) are Tennessee residents otherwise qualified
22 to vote, (2) have at least one felony
23 conviction after 1981, (3) meet the eligibility
24 criteria for voting rights restoration listed
25 under T.C.A. 40-29-202, (4) have requested a

1 COR or at their request an advocate requested
2 one on their behalf from the appropriate
3 officials and (5) have not been restored the
4 right to vote or if they have since received
5 restoration, missed at least one election after
6 they requested restoration while eligible for
7 such."

8 Do you understand that to be a
9 description of attachment C, which is the last
10 page of Exhibit 5, our list of exhibits here?

11 A. Right.

12 Q. Did the NAACP compile this list?

13 A. The attorneys compiled it.

14 Q. How did the NAACP become aware of these
15 individuals?

16 A. That's a good question. I don't know.

17 Q. Are each of these individuals NAACP
18 members?

19 A. That we don't know. We don't track that.

20 Q. Do you have any documentation of these
21 individuals' membership?

22 A. I don't, no.

23 Q. Has the NAACP reviewed these individuals'
24 convictions?

25 A. We don't review their convictions.

1 Q. Has the NAACP reviewed whether they meet
2 the criteria for a certificate of restoration?

3 A. I am not sure about that. I cannot
4 answer that.

5 Q. Okay.

6 MR. BARKER: We've been on the record
7 for about an hour, and I think this would be a
8 good time to take a little break, if that's
9 okay with everyone, and go off the record.

10 (Short break.)

11 BY MR. BARKER:

12 Ms. Morris, did you talk to anybody about
13 this case while you were on the break or this
14 deposition?

15 A. No.

16 Q. Okay. I want to move on to another
17 document. You understand you're still under
18 oath at this point, too?

19 A. Yes.

20 Q. All right. Just a --

21 A. I was going to make a joke.

22 Q. Just a couple procedural questions and
23 then we'll move on to another document I want
24 to ask you about.

25 A. Okay.

1 Q. So in response to Defendant's second set
2 of interrogatories served on November 18th,
3 2022, NAACP provided this response and an
4 attachment.

5 MR. BARKER: And we'll attach that as
6 Exhibit 6 to the deposition.

7 (WHEREUPON, a document was marked as
8 Exhibit No. 6.)

9 BY MR. BARKER:

10 Q. And if you'll -- the pages aren't
11 numbered, so I apologize, but if you'll flip
12 through to right before the attachments. And
13 let me properly identify this document, this is
14 the -- "Plaintiff Tennessee Conference of
15 National Association of Advancement of Colored
16 People Responses and Objections to Defendant's
17 First Set of Interrogatories."

18 If you'll flip to that last page there
19 with the signature on it, right before
20 attachment A. What's that date there?

21 A. November 17th, '22.

22 Q. And whose name is listed?

23 A. Gloria J. Sweet-Love.

24 Q. Is she the individual that you previously
25 reference as the president of the Tennessee

1 NAACP?

2 A. Yes.

3 Q. And that's her signature?

4 A. Yes.

5 Q. All right. In this document there's a
6 description, and I've got to find it, so give
7 me just a second because I don't have page
8 numbers. So if you go to Interrogatory Number
9 3 and then flip to the next page there, there's
10 a big paragraph at the bottom that says, "In
11 addition to the lists already produced," do you
12 see? The next page, that last paragraph there.
13 In addition -- begins with, "In addition to the
14 lists already produced," do you see that? Yes,
15 okay.

16 So it says, "In addition to lists already
17 produced by the Tennessee NAACP in response to
18 Defendant's first set of interrogatories,
19 Plaintiff Tennessee NAACP attached a list of
20 individuals it has since identified as
21 potential members of the punitive class,
22 individuals who have lost the right to vote
23 because of a felony conviction and who have
24 requested or attempted to request certificates
25 of restoration but to date have not received a

1 COR sufficient to restore their voting rights."

2 And then it has in parentheses, attachment A.

3 So if you flip over two pages there,
4 there's attachment A and a long list of names
5 here. Do you recognize this list?

6 A. I recognize it.

7 Q. Did the NAACP compile this list?

8 A. It said it did.

9 Q. Okay. Are you aware of how the NAACP
10 found out about these individuals?

11 A. No, no one said how they came about these
12 individuals.

13 Q. Are you aware of whether each of these
14 individuals are members of the NAACP?

15 A. No, I am not.

16 Q. Do you have any documentation of any of
17 these individuals' membership in the NAACP?

18 A. No.

19 Q. Have you reviewed the felony convictions
20 of these individuals?

21 A. No.

22 Q. All right. Have you, meaning the NAACP
23 -- has the NAACP determined whether or not they
24 were eligible for a COR based on the NAACP's
25 understanding of the criteria?

1 A. Okay, so let's see. Does that say that?

2 Let's see. Well, it says that right here.

3 Q. What does it say? Can you read that

4 aloud for me?

5 A. That the individuals who have lost their
6 right to vote because of a felony conviction
7 who have requested or attempted to request CORs
8 but to date have not received COR.

9 Q. Okay. So that says that they attempted,
10 but did the NAACP review them for whether they
11 meet the criteria?

12 A. What criteria are you talking about?

13 Q. Has the NAACP reviewed those individuals
14 for whether they owe court costs?

15 A. Well, if they have already sent up the
16 COR, that's already been taken care of.

17 Q. So does that mean that the NAACP has
18 determined whether or not they owe court costs?

19 A. Well, the NAACP doesn't, the court -- the
20 clerk of courts does that.

21 Q. Okay. Does the NAACP have any
22 documentation of whether those individuals owe
23 court costs or not?

24 A. No.

25 Q. Does the NAACP have any documentation of

1 whether those individuals owe restitution?

2 A. No.

3 Q. Does the NAACP have any documentation of
4 those individuals' child support obligations?

5 A. No.

6 Q. Has the NAACP reviewed those individuals'
7 felonies to see if they are permanently
8 disqualified based on the type of felony
9 committed?

10 A. I don't think the NAACP did that.

11 Q. Okay. That's all for that document.
12 We're going to move on to another one.

13 In response to the discovery request in
14 this case, there was a document produced, which
15 is labeled PL000084D Jemison Voter Registration
16 Clinic.

17 MR. BARKER: We'll make a copy of
18 this document Exhibit 7.

19 (WHEREUPON, a document was marked as
20 Exhibit No. 7.)

21 BY MR. BARKER:

22 Q. What is this document?

23 A. This is a document -- this is a document
24 of an expungement clinic that was conducted in
25 Montgomery County.

1 Q. Okay. What -- what happens at an
2 expungement clinic?

3 A. Now -- well, the -- what they do is
4 expunge records of the individuals.

5 Q. So we have this list of names and phone
6 numbers. Who are these people? Why would they
7 be signing up or why would this information be
8 documented?

9 A. Because they had -- they needed their
10 records expunged, and it just so happened that
11 the person that was doing this was a candidate
12 for judgeship. And I just wanted to make sure
13 that -- because he's the one -- he was an
14 attorney at the time and he was going to
15 expunge their records for them. Okay? And I
16 just wanted to make sure that they had -- it
17 actually got done, okay? Because, I mean, he
18 was a candidate.

19 Q. Okay. Who wrote this document then?

20 A. I did.

21 Q. You wrote this document, okay.

22 What is the relationship between this
23 document and voting rights restoration then?
24 Are these individuals -- let me ask that
25 question.

1 What's the relationship between this
2 document and voting rights restoration?

3 A. None.

4 Q. Okay. Are these all members of the
5 NAACP?

6 A. No.

7 Q. Okay. Do you know if -- okay. That's
8 fine.

9 Well, let me ask another question. Are
10 you aware if any of these individuals are
11 members of the NAACP?

12 A. None of them are.

13 Q. Okay.

14 MR. GRANT: Note my objection to the
15 question.

16 BY MR. BARKER:

17 Q. Let's look at another document. I've got
18 a copy of it here.

19 MR. BARKER: We can mark it as

20 Exhibit Number 8.

21 (WHEREUPON, a document was marked as
22 Exhibit No. 8.)

23 BY MR. BARKER:

24 Q. This is a document produced in discovery,
25 which was -- I don't know that -- yes, labeled

1 PL000086L Morris, and then it has the number
2 7262021. What is this document?

3 A. This is a document of individuals that
4 wanted to get their voting rights restored.

5 Q. Okay. Who wrote this document?

6 A. I did.

7 Q. Are these individuals NAACP members?

8 A. No.

9 Q. So what was the purpose then of writing
10 down these names?

11 A. They had called and wanted their rights
12 restored. And this was information that I was
13 going to be passing onto someone else.

14 Q. Who would you be passed this information
15 --

16 A. Free Heart.

17 Q. Free Heart?

18 A. Uh-huh.

19 Q. Okay. Did you follow-up with any of
20 these individuals about the COR process?

21 A. Right, but they never responded.

22 Q. The individuals never responded?

23 A. Never responded.

24 Q. Do other documents like this exist?

25 A. I don't know.

1 Q. Okay. Have you searched to try to find
2 other documents like this?

3 A. I have asked and no response.

4 Q. All right. So let's move on from
5 documents, and I'd like to just ask you if the
6 NAACP keeps track of a couple other things.

7 Does the NAACP track what is known as --
8 let me back up. Strike that.

9 Are you aware of the effect of a felony
10 conviction between January 15th, 1973, and
11 May 17th, 1981, on a person's voting rights?

12 A. Yes.

13 Q. Is that what they call the grace period?

14 A. Yes.

15 Q. Okay. Is it okay if we call it the grace
16 period as we go forward with these questions?

17 A. Yes.

18 Q. Okay. Does the NAACP keep track of
19 members that were convicted of a felony during
20 the grace period?

21 A. No.

22 Q. Okay. Let's talk about something that's
23 mentioned in the amended complaint, which you
24 mentioned reviewing, which was a public
25 education workshop on the COR process. I'd

1 like to explore that a little bit.

2 So what is a public education workshop?

3 MR. GRANT: Objection to the form of
4 the question. You all struck reference to
5 topics related to the amended complaint.

6 MR. BARKER: Sure, but we -- can we
7 go off the record?

8 (WHEREUPON, an off-the-record
9 discussion was held.)

10 MR. BARKER: Let's go back on the
11 record then.

12 BY MR. BARKER:

13 What is a public education workshop?

14 A. Went down the wrong pipe.

15 Q. No worries. Are you okay?

16 A. Yeah, fine.

17 A public workshop is just giving the
18 public information that they should already
19 know but they don't.

20 Q. Okay. Does the NAACP specifically put
21 these on?

22 A. Yes.

23 Q. And are they about -- strike that.

24 Has the NAACP presented public education
25 workshops on the voting rights restoration

1 process?

2 A. Yes.

3 Q. How many have they done?

4 A. Let's say about two.

5 Q. Two?

6 A. Uh-huh.

7 Q. Do you recall when those were?

8 A. They have done one during the state
9 convention in September. I can't remember what
10 year it was, but I know we had done one during
11 the state convention.

12 Q. Was that within the last ten years?

13 A. Couple -- yes. Oh yes.

14 Q. Okay. And what was the other one?

15 A. And the other one is one that we have put
16 -- Montgomery County has put on, and all we did
17 was just reiterated what's on your website.

18 Q. When was that offered?

19 A. That was done last summer.

20 Q. So summer of 2022?

21 A. Yes.

22 Q. Are these workshops available to the
23 public at large?

24 A. Yes.

25 Q. So they're not just limited to NAACP

1 members?

2 A. Correct.

3 Q. Is the attendance at these workshops
4 documented in any way?

5 A. No.

6 Q. Does the NAACP have the materials like a
7 slideshow or a handout or anything that is
8 offered at these workshops?

9 A. Yes.

10 Q. And what -- what would those be?

11 A. Those would be information we get from
12 Free Heart.

13 Q. Okay. What sort of information?

14 A. What sort of information as to?

15 Q. Yes, is it a handout, a PowerPoint
16 slideshow --

17 A. Okay, okay.

18 Q. -- what would that be?

19 A. They may be handouts, they -- well, with
20 the -- with our it's handouts and also a
21 PowerPoint slide.

22 Q. Okay. Can you recall any of the specific
23 content from those handouts or slideshow?

24 A. The one specific that we make sure that
25 we hand out is the -- the one from your web --

1 the Tennessee website that states what charges
2 are eligible and what are not eligible and the
3 grace periods and that kind of thing.

4 Q. Do you recall any other specific
5 information that was given out at the public
6 education workshops beyond what you just
7 mentioned?

8 A. Just how to navigate -- how to -- the
9 instructions to the city hall.

10 Q. I want to move on to a slightly different
11 topic and kind of address NAACP --

12 MR. BARKER: Sorry, Charles, I think
13 I may have kicked you.

14 MR. GRANT: You did.

15 BY MR. BARKER:

16 Q. Address kind of some of the things that
17 are -- let me back up. Sorry, I lost my
18 concentration there.

19 So you've mentioned these public
20 education workshops, assistance with the COR
21 process, individuals that accompany members
22 when they go to receive CORs and then just
23 general voting rights, setting up tables and
24 stuff at events and things like that. Let's
25 break that down and talk a little bit about the

1 cost of those events.

2 A. Okay.

3 Q. How much does it cost to put on a public
4 education workshop on certificate of
5 restoration?

6 A. Well, that all depends upon the county
7 and depends upon who wants to collaborate with
8 us and who can -- who would just give us a -- a
9 venue.

10 Q. So you've mentioned two specific public
11 education workshops.

12 A. Uh-huh.

13 Q. Can you give an estimate of the costs for
14 putting on the public education workshop at --
15 in Montgomery County?

16 A. In Montgomery County, okay. Now,
17 recognize we are a volunteer organization,
18 okay? And our resources is our time. And --
19 or our gas, okay?

20 Q. Okay.

21 A. As far as a roundabout figure, we
22 never -- we never did that -- added it up,
23 okay? And if there is any cost that is actual
24 that will come out of pocket besides our gas,
25 then any printing that has to be done would be

1 tables that we have to buy at any of these
2 events, okay?

3 Q. Let's talk about then the public
4 education workshop at the state convention
5 then.

6 A. Okay.

7 Q. Specifically the one on voting rights
8 registration, that portion of the convention,
9 do you have an estimate for how much that
10 costs?

11 A. No, I don't.

12 Q. Okay. When you participate in voter
13 registrations events and set up a table and
14 things like that, do you have an estimate of
15 how much that costs?

16 A. Only our time and gas getting there.

17 Q. How much time would it generally take to
18 do one of those events?

19 A. Now that depends upon the event. How
20 many hours that it has -- is holding, whether
21 it's an 8-hour event, 2-hour, 4-hour event.

22 Q. Have you participated in events that hit
23 all of those time marks, 2 to 8 hours?

24 A. Yes.

25 Q. Okay. When an individual assists an

1 NAACP member with the COR process, do you have
2 an estimate of just kind of the average
3 interaction and how much that costs?

4 A. Well, that cost would be whatever time
5 that labor cost would be for an individual that
6 would be talking to -- a member that would be
7 talking to an individual, okay? So that's
8 actually taking away from other -- the voting
9 registration portion of it, because that's what
10 we're actually doing is the voter
11 restoration -- I mean voter registration.

12 Q. Do you have an estimate of a dollar
13 figure that you could put on that?

14 A. Oh, I don't know.

15 Q. What about when an individual accompanies
16 a member when they go to seek a COR?

17 A. Uh-huh.

18 Q. Can you estimate the cost to the NAACP of
19 doing that?

20 A. Well, I can tell you that it's taken away
21 from other things that they could be doing,
22 okay? Their gas going back and forth or -- and
23 their -- their time.

24 Q. Are you able to estimate a dollar figure
25 for that?

1 A. No.

2 Q. Okay. Does the NAACP reimburse members
3 who volunteer for their gas and time at any of
4 these events that you just described?

5 A. No.

6 MR. BARKER: Can we take another
7 short five-minute break off the record?

8 MR. GRANT: Sure.

9 (Short break.)

10 MR. BARKER: At this time we have no
11 further questions. And --

12 MR. GRANT: Okay.

13 MR. BARKER: -- if you guys have
14 some, we may have some to follow-up on, but for
15 now that's it.

16 MR. GRANT: We do have a couple of
17 questions or more.

18

19 EXAMINATION

20 QUESTIONS BY MR. GRANT:

21 Q. Let me take a look at your exhibits.

22 Ms. Morris, for the record, I'm looking
23 at Exhibit Number 7, a document titled
24 Jemison's Expungement. And counselor asked you
25 questions about that document earlier, and the

1 question was whether that document was related
2 solely to expungement.

3 Did any of the people on that list also
4 seek voting rights restoration?

5 A. Yes. Yes. The attorney was supposed to
6 do -- expunge the records and -- for the
7 misdemeanors and whatever felonies that he
8 could expunge and also start the process for
9 the voter restoration.

10 Q. Okay. So that list is composed of
11 persons who not only sought expungement but
12 also voting rights restoration?

13 A. Yes.

14 Q. Earlier you testified that there were --
15 that there were two conferences or workshops
16 that the conference was involved in as it
17 relates to voting rights restoration. Did you
18 make an effort to contact various branches
19 around the states -- around the state -- strike
20 that.

21 Let me ask it this way: Is the
22 conference composed of the various branches
23 around the state?

24 A. Yes. Yes, it is.

25 Q. Okay. Did you make an effort to notify

1 various branches of the NAACP around the state
2 to determine what sort of outreach and
3 workshops that they were involved in?

4 A. Yes.

5 Q. And did they all -- and did some of them
6 respond to you?

7 A. Yes.

8 Q. Did some of the branches also collaborate
9 with third parties to do workshops and voting
10 rights restoration --

11 A. Yes.

12 Q. -- workshops?

13 And I noticed that you had a list of
14 chapters actively restored voting rights. This
15 was something from Dawn Harrington, and Free
16 Hearts --

17 A. Free Heart, uh-huh.

18 Q. -- provided you with that list?

19 A. Yes, it's a non-exhaustive list where the
20 counties that work with her on voter
21 restorations and also education on voter
22 restorations.

23 Q. So she identified five chapters, Dyer,
24 Franklin, Montgomery, Shelby, Tipton, and looks
25 events with NAACP from August of 2020 through

1 March of 2023?

2 A. Yes.

3 Q. And you also reached out to the Legal Aid
4 Society of Middle Tennessee and the executive
5 director DarKenya Waller?

6 A. Right.

7 Q. And she provided some information of some
8 of the activities that they engaged in with the
9 NAACP along the lines of voting rights
10 restoration?

11 A. Right.

12 Q. And some of the branches themselves
13 actually responded to you and said that they
14 were involved in some workshops and activities
15 centered around voting rights restoration; is
16 that right?

17 A. It's -- yes.

18 Q. You received an e-mail from a Tiffany
19 Tipton-Boyd?

20 A. Uh-huh.

21 Q. Who is she?

22 A. She's the president of Dyersburg.

23 Q. Was she someone who needed a COR?

24 A. Yes, matter of fact, she is.

25 Q. All right. And did they -- and did they

1 report that -- that they engaged in voting --
2 voting registration and restoration work
3 beginning in January of 2021?

4 A. Yes.

5 Q. Okay.

6 A. Yes.

7 Q. So again, what -- you all don't
8 necessarily track the -- the individual
9 outreach of each of the -- the outreach of each
10 of the branches; is that right?

11 A. Correct.

12 Q. You all don't necessarily track it, but
13 it's an important part of the mission of each
14 --

15 A. Exactly.

16 Q. All right. Of each branch to do some
17 outreach on voting registration and voting
18 rights restoration?

19 A. Right.

20 Q. Okay. And because you all don't track
21 are you able to put a cost or a monetary sum on
22 the volunteer hours associated with all of the
23 various branches' efforts at voting rights
24 restoration?

25 A. I can't put a -- no.

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Q. Okay.

MR. GRANT: That's all we have.

MR. BARKER: That's it for us too.

THE REPORTER: Mr. Barker, do you want to order this?

MR. BARKER: Yes.

THE REPORTER: Would you like to order a copy?

MR. GRANT: We would like to order a copy and the witness would like to read and sign.

FURTHER DEPONENT SAITH NOT

(Proceeding concluded at 11:37 a.m. CST)

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E R R A T A P A G E

I, LORETTA MORRIS, having read the foregoing deposition, Pages 1 through 73, do hereby certify said testimony is a true and accurate transcript, with the following changes (if any):

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LORETTA MORRIS

Notary Public

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REPORTER'S CERTIFICATE

STATE OF TENNESSEE

COUNTY OF SUMNER

I, MICHELLE CHECUGA, Licensed Court Reporter, with offices in Nashville, Tennessee, hereby certify that I reported the foregoing deposition of LORETTA MORRIS by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me.

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<hr/> <p style="text-align: center;">Exhibits</p> <hr/> <p>Ex 01 - Morris 3:10 11:14,16</p> <p>Ex 02 - Morris 3:11 33:2,4</p> <p>Ex 03 - Morris 1:7 3:13 44:5</p> <p>Ex 04 - Morris 3:14 45:5 47:21 49:13</p> <p>Ex 05 - Morris 3:16 45:11 46:21 48:13 50:10</p> <p>Ex 06 - Morris 3:18 52:6,8</p> <p>Ex 07 - Morris 3:20 56:18,20 68:23</p> <p>Ex 08 - Morris 3:21 58:20,22</p> <hr/> <p style="text-align: center;">\$</p> <hr/> <p>\$10 23:16</p> <p>\$30 23:10</p> <hr/> <p style="text-align: center;">(</p> <hr/> <p>(1) 49:21</p> <p>(2) 48:5 49:22</p> <p>(3) 48:6 49:23</p> <p>(4) 48:9 49:25</p> <p>(5) 50:3</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 11:14,16 47:25</p> <p>10 47:25</p> <p>11 49:15</p> <p>11:37 73:13</p> <p>12th 12:7</p> <p>13 46:9</p>	<p>14 47:23 49:16</p> <p>15 49:14,17</p> <p>15th 60:10</p> <p>16 45:21</p> <p>17th 52:21 60:11</p> <p>18th 52:2</p> <p>1973 60:10</p> <p>1981 46:17 48:6 49:23 60:11</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 33:2,4 66:23</p> <p>2-hour 66:21</p> <p>2006 41:8</p> <p>2020 70:25</p> <p>2021 72:3</p> <p>2022 52:3 62:20</p> <p>2023 71:1</p> <p>22 52:21</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 44:5 53:9</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 45:5 47:21 49:13</p> <p>4-hour 66:21</p> <p>40-29-202 49:25</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 45:11 46:21 48:13 50:10</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 52:6,8</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 56:18,20 68:23</p>	<p>7262021 59:2</p> <p>750 23:13</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 58:20,22 66:23</p> <p>8-hour 66:21</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>a.m. 73:13</p> <p>ability 9:11</p> <p>accompanied 5:16</p> <p>accompanies 67:15</p> <p>accompany 40:18 41:18 64:21</p> <p>accurately 9:4</p> <p>actively 70:14</p> <p>activities 18:19, 25 20:19 71:8,14</p> <p>actual 65:23</p> <p>add 7:21</p> <p>added 65:22</p> <p>addition 53:11, 13,16</p> <p>address 24:6,15 34:4 64:11,16</p> <p>admin 10:10</p> <p>adult 22:25 23:8</p> <p>Advancement 45:16 52:15</p> <p>advertise 27:3,5</p> <p>advocacy 18:6,14 20:19</p> <p>advocate 18:7 48:8 50:1</p> <p>affect 8:23 9:11</p> <p>age 22:15</p> <p>ahead 15:3 32:25 33:1 42:13 45:7</p>	<p>Aid 13:12 71:3</p> <p>alcohol 9:8</p> <p>Alex 5:18</p> <p>aloud 55:4</p> <p>amended 60:23 61:5</p> <p>amendment 12:5</p> <p>amount 23:4</p> <p>analogy 19:25</p> <p>answering 8:6</p> <p>answers 14:6 36:22</p> <p>apologize 36:15 52:11</p> <p>apparent 37:2</p> <p>appeal 43:6</p> <p>appeals 43:4</p> <p>application 24:14</p> <p>applying 29:22</p> <p>approach 27:20</p> <p>April 16:24</p> <p>assist 10:21</p> <p>assistance 10:22 27:2,3 30:7 42:25 43:3 64:20</p> <p>assists 66:25</p> <p>Association 45:16 52:15</p> <p>attach 52:5</p> <p>attached 53:19</p> <p>attachment 46:22 48:14 50:9 52:4,20 54:2,4</p> <p>attachments 52:12</p> <p>attempted 53:24 55:7,9</p> <p>attendance 63:3</p> <p>attorney 5:11,17 7:4,5 12:2 57:14 69:5</p>
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Tennessee Secretary of State

Tre Hargett



Elections Division
312 Rosa L. Parks Avenue, 7th Floor
Nashville, Tennessee 37243-1102

Mark Goins
Coordinator of Elections

615-741-7956
Mark.Goins@tn.gov

MEMORANDUM

To: County Election Commissions

From: Mark Goins *Mark Goins*
Coordinator of Elections

Date: July 21, 2023

Subject: Restoration of Voting Rights

In a recent case, *Falls v. Goins*, No. M2020-01510-SC-R11-CV (Tenn. Jun. 29, 2023), the Tennessee Supreme Court held that to restore one's voting rights in Tennessee, a person convicted of an infamous crime in another state who had not regained the right to vote in the other state must comply with the provisions set forth in Tenn. Code Ann. § 2-19-143(3) and the additional requirements of Tenn. Code Ann. §§ 40-29-201 through 40-29-205 requiring a two-step process. Although the Court indicated that the holding in *Falls v. Goins* was limited to the facts before them, the application of the holding to other governing statutes requires the same interpretation to those convicted of a felony in both federal and Tennessee state courts because the statutory language that applies to in-state and federal felonies closely aligns with the statutory language at issue in *Falls v. Goins*.

Therefore, a person convicted of a felony in a Tennessee court, an out-of-state court, or a federal court must:

1. Have been pardoned by a Governor, U.S. President, or other appropriate authority of a state, or have had full rights of citizenship restored as prescribed by law, **and**
2. Have paid all restitution to the victim or victims of the offense ordered by the court as part of the sentence, if any; **and**
3. Have paid all court costs assessed, if any, unless the court made a finding of indigency; **and**
4. Is current in all child support obligations, if any.

In light of this interpretation of the voter restoration statutes, we will stop using the existing Certificate of Restoration of Voting Rights (COR) – SS-3041 (Rev. 3/20) and begin using the COR included with this memo. With the use of the revised COR, you will note the following changes:

1. The first box of the form must be completed by the individual wanting to have voting rights restored. This section of the form collects the applicant's name, identifying information, contact information, and whether the individual received a pardon or has had full rights of citizenship restored.
2. The second box requires an agent of your organization to provide information about the felony conviction, restitution, if any, and court costs, if any.

Specifically, in BOX #2, the proper authority/agent must provide the following information:

a) Felony Conviction Information:

- List the crime(s) for which the applicant was convicted. If the applicant has more than one felony, a separate COR must be used for each felony conviction.
- The statute for the felony offense for which the applicant was convicted.
- The month, date, and year the applicant was convicted of the felony.
- The applicant's TOMIS ID No., County of Conviction, and the Case Number of the felony conviction.

b) Restitution:

- Check the appropriate box as it relates to any restitution that was or was not assessed to the applicant.
- Sign and print the agent's name and provide the agent's contact information.

c) Court Costs:

- Check the appropriate box as it relates to any court costs that were or were not assessed to the applicant.
- Sign and print the agent's name and provide the agent's contact information.

For the person to have voting rights restored, the person must submit evidence of either a Pardon by the appropriate authority, or evidence of the person's full rights of citizenship having been restored, such as by a court. A copy of the applicable document must be submitted with the COR. If the person has had full citizenship rights restored by a court, then a certified copy of the court order is required.

A person who submits a COR without evidence of either a Pardon by the appropriate authority, or evidence of the person's full rights of citizenship having been restored must be instructed to provide evidence of either one of these requirements.

If you have any questions about this revised process, do not hesitate to contact my office.

Thank you for your diligence and assistance in restoring the voting rights of eligible individuals previously convicted of a felony.

Felon Restoration FAQs

What was the *Falls v. Goins* case about?

In 2020, an individual convicted in Virginia who had moved to Tennessee challenged the process for restoring voting rights for felons who were convicted in another state after his application was denied. The chancery court, Tennessee Court of Appeals, and Tennessee Supreme Court all held that the Coordinator of Elections had followed the correct procedure in denying the application.

How can someone convicted of a felony have their voting rights restored?

Regaining the right to vote after a felony conviction is a two-step process. First, an individual must receive a pardon or have their full rights of citizenship restored. Second, the individual must meet requirements related to paying restitution and court costs, if any, and be current on any child support obligations, if any.

A pardon or restoration of full rights of citizenship is required for all restorations. An individual remains eligible to have their rights restored upon completion of their sentence and any period of supervision, however, they must receive a pardon or have their full rights of citizenship restored before submitting the certificate of restoration.

How does someone get their full rights of citizenship restored?

Under Tennessee law, full rights of citizenship can be restored by petition to the circuit court.

Prior to *Falls v. Goins*, how could someone get their voting rights restored?

In addition to the methods above, an individual could submit a certificate of restoration without a pardon or court order restoring the full rights of citizenship.

Why is the felon voting rights restoration process being modified?

The process is based on the Tennessee Supreme Court's decision in *Falls v. Goins*. The Court's analysis only lays out a two-step process. The Coordinator of Elections did due diligence to review the ruling and related statutes before issuing thorough guidance.

Falls v. Goins is about someone convicted in another state. Why is the process changing for anyone seeking restoration of voting rights?

The law uses very similar language to describe the process for those convicted in another state and those convicted in a Tennessee court or federal court. The analysis in *Falls v. Goins* requires the same interpretation regardless of where someone was convicted. No matter where someone was convicted, a pardon or restoration of the full rights of citizenship is required as the first step of the process.

How does this change impact voters who had their rights restored without a pardon or court order?

All voters who have had their rights restored remain eligible to vote.

What kind of outreach is being done to make affected individuals aware of the change?

The Division of Elections has updated its website, conducted training with county election officials, and provided the updated forms to the Department of Correction and Board of Parole.



CERTIFICATE OF RESTORATION OF VOTING RIGHTS for Persons Convicted of a Felony on or after May 18, 1981

This includes any federal or state felony conviction
both within Tennessee or from another state.

Eligibility

You must 1) have been pardoned by a Governor, U.S. President, or other appropriate authority of a state, or 2) have had your full rights of citizenship restored as required by law; and 3) not owe restitution to the victim(s); 4) have paid all court costs assessed against you, if any, unless the court made a finding you were indigent; and 5) be current in all child support obligations, if any.

1. To Be Completed by Applicant:

I hereby attest that the following is true and correct, to the best of my knowledge:

a. _____
Last Name First Name Middle Name

DOB: _____ - _____ - _____
Month Day Year SSN: _____ - _____ - _____

b. _____
Residential Address City State County

_____ Phone Number _____ Email Address (Optional)

c. Check one:

- I have been pardoned by a Governor, U.S. President, or other appropriate authority of a state (Copy attached.); or
 My full rights of citizenship have been restored as required by law. (Copy attached. If a court order, it must be a certified copy.)

Signature: _____ Date: _____

2. To Be Completed by an Agent of the Pardoning Authority, an Agent or Officer of the Incarcerating Authority, or a Probation/Parole Officer or Agent of the Supervising Authority.

a. _____ / _____ / _____
Felony Offense Conviction Statute(s) Month/Date/Year of Conviction

_____ TOMIS ID, if Applicable _____ County and State of Conviction _____ Case Number

b. Restitution

I hereby certify that the following is true and correct: (check one)

- Restitution is not owed; or
 Restitution ordered by the court is owed; or
 For Federal Convictions Only, 18 U.S.C. § 3613(b) applies in this case and therefore the liability to pay has expired.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

Address: _____ Phone Number: _____

c. Court Costs

I hereby certify that the following is true and correct: (check one)

- Court costs are not owed; or
 Court costs ordered by the court are owed; or
 The court has made a finding at an evidentiary hearing that the above individual is indigent at the time of application.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

Address: _____ Phone Number: _____

Instructions for Completing the Certificate of Restoration

In order to complete any section of this form, the agent must have access to the information being attested to on this form.

1. In **SECTION #1**, the applicant must provide the requested information and a signature attesting to the information provided.

NOTES for 1.c.:

- If the applicant received a pardon by a Governor, U.S. President, or other appropriate authority of a state, a copy of the pardon must be attached to the application.
 - If the applicant had full rights of citizenship restored, a copy of the instrument restoring the full rights of citizenship must be attached to the application. If that instrument is a court order, a certified copy of such order must be attached to the application.
2. In **SECTION #2**, the proper authority/agent must provide the following information:
 - a. Felony Conviction Information:
 - List the crime(s) for which the applicant was convicted.
 - The statute for the felony offense for which the applicant was convicted.
 - The month, date, and year that the applicant was convicted of the felony.
 - The applicant's TOMIS ID No., County and State of Conviction, and the Case Number of the felony conviction.
 - b. Restitution:
 - Check the appropriate box as it relates to any restitution that was or was not assessed to the applicant.
 - Sign and print the agent's name and provide the agent's contact information.
 - c. Court Costs:
 - Check the appropriate box as it relates to any court costs that were or were not assessed to the applicant.
 - Sign and print the agent's name and provide the agent's contact information.

Persons convicted of any of the following, cannot have their voting rights restored:

- Between July 1, 1986, and June 30, 1996 – first degree murder, aggravated rape, treason, or voter fraud
- Between July 1, 1996, and June 30, 2006 – murder, rape, treason, or voter fraud
- On or after July 1, 2006 – Any of the above, or any degree of murder or rape or any felony offense under TCA Title 39, Chapter 16, parts 1, 4, or 5; or any sexual offense under TCA § 40-39-202(20) or any violent sexual offense under TCA § 40-39-202(30) designated as a felony and where the victim of such offense was a minor

Instructions to the Applicant Seeking to have His or Her Voting Rights Restored:

- After completion, the original form must be filed with the local county election commission office in the county the applicant desires to register to vote.

NOTICE

A person is not eligible to apply for a voter registration card and have their voting rights restored unless the person is current in all child support obligations. Before restoring the voting rights of an applicant, the Coordinator of Elections will verify with the Department of Human Services that the applicant does not have any outstanding child support payments or arrearages.

TN CONF OF THE NATL ASSOC FOR THE ADVANCEMENT OF COLORED PEOPLE

VS

LEE, et al.

JOHN WEARE

May 24, 2023

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Jerri L. Porter, RPR, CRR, CLR, LCR

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1
2 **IN THE UNITED STATES DISTRICT COURT**
3 **FOR MIDDLE DISTRICT OF TENNESSEE**
4 **NASHVILLE DIVISION**

5 **TENNESSEE CONFERENCE OF**
6 **THE NATIONAL ASSOCIATION**
7 **FOR THE ADVANCEMENT OF COLORED**
8 **PEOPLE, et al.,**

9 **Plaintiffs,**

10 **vs.**

11 **Case No. 3:20-cv-01039**
12 **Judge Campbell**
13 **Magistrate Judge Frensley**

14 **WILLIAM LEE, et al.,**

15 **Defendants.**

16 **Videoconference Deposition of:**

17 **JOHN WEARE**

18 **Taken on behalf of the Defendants**
19 **May 24, 2023**

20 **Commencing at 10:00 a.m. CST**

21 **Elite-Brentwood Reporting Services**
22 **www.elitereportingservices.com**
23 **Jerri L. Porter, RPR, CRR, LCR**
24 **555 Marriott Drive**
25 **Nashville, Tennessee 37214**
(615)595-0073

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A P P E A R A N C E S

For the Plaintiffs:

**BLAIR BOWIE
KATE UYEDA
Attorneys at Law
Campaign Legal Center
1101 14th Street NW, Suite 400
Washington, DC 20005
(202) 736-2200
bbowie@campaignlegalcenter.org
kuyeda@campaignlegalcenter.org**

For the Defendants:

**ZACHARY L. BARKER
MICHAEL STAHL
Attorneys at Law
Assistant Attorney General
Public Interest Division
Office of the Attorney General
P.O. Box 20207
Nashville, TN 37202-0207
(615) 532-4098
zachary.barker@ag.tn.gov
michael.stahl@ag.tn.gov**

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S T I P U L A T I O N S

The videoconference deposition of JOHN WEARE was taken by counsel for the Defendants, by Notice, with all participants appearing at their respective locations, on May 24, 2023, for all purposes under the Federal Rules of Civil Procedure.

All formalities as to caption, notice, statement of appearance, et cetera, are waived. All objections, except as to the form of the question, are reserved to the hearing, and that said deposition may be read and used in evidence in said cause of action in any trial thereon or any proceeding herein.

It is agreed that Jerri L. Porter, RPR, CRR, Notary Public and Licensed Court Reporter for the State of Tennessee, may swear the witness, and that the reading and signing of the completed deposition by the witness is not waived.

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* * *

THE REPORTER: Good morning, my name
Jerri Porter. I am a Tennessee Licensed Reporter,
LCR Number 335. Today's date is May 24, 2023, and
the time is approximately 10:00 a.m. Central
Standard Time.

This is the deposition of John Weare in
the matter of the Tennessee Conference of the
National Association for the Advancement of Colored
People, et al., versus Lee, et al., Case Number
3:20-cv-01039, in the United States District Court
for the Middle District of Tennessee, Nashville
Division.

At this time, I will ask counsel to
identify yourselves, state whom you represent, and
agree on the record that there is no objection to
Jerri Porter administering a binding oath to the
witness via Zoom.

MR. BARKER: Good morning, my name the
Zachary Barker. I'm with Tennessee Attorney
General's office. I'm accompanied by my co-counsel,
Michael Stahl, who is also with the Tennessee
Attorney General's office and we represent the State
defendants in today's case, being Governor Bill Lee;

1 the Commissioner of the Tennessee Department of
2 Correction, Frank Strada; the Secretary of State,
3 Tre Hargett, and the Coordinator of Elections,
4 Mark Goins.

5 We have no objection to Ms. Porter
6 administering the oath.

7 MS. BOWIE: Hi, Ms. Porter, my name is
8 Blair Bowie. I represent the plaintiffs. I'm
9 joined by Kate Uyeda, also with the plaintiffs, and
10 we have no objection to the reporter administering
11 the oath via Zoom.

12 * * *

13 JOHN WEARE,
14

15 was called as a witness, and after having been duly
16 sworn, testified as follows:

17
18 EXAMINATION

19 QUESTIONS BY MR. BARKER:

20 Q Good morning, Mr. Weare, we've all introduced
21 ourselves. Would you please introduce yourself to
22 us.

23 A My name is John Weare. I'm just an American
24 citizen.

25 Q Would you please spell your last name for the

1 record.

2 A It's W-e-a-r-e, as in we are.

3 Q Thank you. Have you been deposed before?

4 A No.

5 Q Have you ever testified at a trial before?

6 A Not to the best of my recollection.

7 Q Okay. I'm going to take just a few minutes,
8 then, at the beginning of our deposition, to kind of
9 go over some guidelines for what is going to happen
10 today and let you know the lay of the land before we
11 get into the deposition.

12 If you don't understand a question that I
13 ask, maybe I word it poorly or I stumble over my
14 words as we go, please ask me to repeat or rephrase
15 the question and I will do my best to make sure that
16 it is understandable for you and for everyone in the
17 deposition today.

18 If your attorney objects to any question that
19 I ask, please do not answer that question until your
20 attorney has fully stated their objection, and if
21 necessary, I have finished discussing the objection
22 with your attorney. I will then either ask you to
23 answer the question that I asked or try to rephrase
24 the question in a way that addresses your attorney's
25 objection.

1 Don't guess at any answer. If you can't
2 recall specifically any piece of information that I
3 ask about, that's fine, just state that you do not
4 recall or provide a reasonable estimate, but don't
5 just take any wild guesses to any answers of any of
6 my questions.

7 If during the deposition at any point you
8 recall some information that is relevant to a prior
9 question that I've asked, just let me know and we
10 can go back to that prior question and you can fully
11 answer that question with any new information that
12 you may remember or may be jogged in your memory as
13 we go through the deposition.

14 A Okay.

15 Q Throughout the deposition, we may take a
16 couple breaks. If at any point you need a break,
17 please let me know. We'll be happy to take a break.
18 We want you to be comfortable the entire time. My
19 only request is if I have just asked a question,
20 please answer that question before we go on a break.

21 A Okay.

22 Q Also, we're doing this deposition on Zoom,
23 which is a little bit different than doing things in
24 person, so I'm going to try my best not to talk over
25 you and I'd ask that you please do the same, that we

1 try not to talk over each other for the court
2 reporter's sake, so she can get everything down that
3 all of us are saying.

4 I'll be displaying a few documents on the
5 computer screen by sharing my screen with you. Will
6 you be able to view those on your screen as I share
7 them?

8 A I've not done too many Zoom meetings.

9 Q They should just come up on your screen.

10 A Okay.

11 Q So, if at any point you cannot see a document
12 that I share, please let me know. I want to make
13 sure that we're all looking at the same documents
14 and that no one is guessing at what we're talking
15 about as we go through. So, just please let me know
16 if you cannot see a document that I share. Okay?

17 A Fair enough.

18 Q Do you have any questions about the stuff
19 that I've just gone over about this deposition
20 today?

21 A Not at this time. I'm just very nervous.

22 Q No worries. No need to be nervous. We've
23 just got a few questions for you.

24 So, let's talk a little bit about your
25 preparation for today's deposition. What did you do

1 to prepare for today?

2 A I spoke to my lawyers.

3 Q Without going into the content of the
4 conversation that you had with your lawyers, when
5 did you meet with them?

6 A The first two Wednesdays of the month.

7 Q Okay.

8 A I was getting used to Zoom.

9 Q And were those lawyers your attorneys that
10 are present today here on the Zoom call?

11 A Yes.

12 Q Did you talk to anyone else beyond your
13 attorneys about this deposition?

14 A No.

15 Q Where are you located right now on your
16 computer?

17 A I am in my home.

18 Q Is there anybody else in the room with you?

19 A No. Dogs, that's it.

20 Q Okay. They're more than welcome to stay in
21 there with you.

22 Do you have any cell phones or any other
23 communication devices with you in the room?

24 A I have my cell phone up there charging, but
25 it's not on with anybody.

1 Q Do you have any other applications open on
2 your phone like email -- not your phone. Rather,
3 your computer, like email or instant messaging?

4 A No, I don't have either of those. I have my
5 Google open -- well, that would be an email because
6 I had to click on the email to get to the Zoom.

7 Q Okay.

8 A I'm a little scared to turn off the Google
9 because I don't know if it would -- what do you call
10 it -- turn off the Zoom.

11 Q That's fine, that's fine. Just wanted to
12 know that information there.

13 So, I just want to get to know you a little
14 bit and a little bit of your background. Where do
15 you live?

16 A I currently live in Hohenwald, Tennessee.

17 Q And in what county is Hohenwald, Tennessee?

18 A Lewis County.

19 Q How long have you lived there?

20 A I want to say at least eight, maybe
21 nine years.

22 Q Before living in Hohenwald, where did you
23 live?

24 A Arizona.

25 Q How long did you live in Arizona?

1 A Since 1971.

2 Q Okay. Quite a bit of time, then. Did you
3 only live in one place in Arizona or did you live in
4 multiple places there?

5 A Multiple.

6 Q And can you recall those different locations
7 that you lived at in Arizona?

8 A Yes.

9 Q Okay. Could you share those with me?

10 A I lived in Scottsdale, Arizona; I lived in
11 Phoenix, Arizona; I lived in Yuma, Arizona, was the
12 last place I was at.

13 Q What county in Arizona, if you're aware, are
14 each of those cities in?

15 A Maricopa and Yuma.

16 Q Okay. Have you lived anywhere else other
17 than Tennessee and Arizona?

18 A I was in the Navy for three years, a little
19 over three years, so with them I moved different
20 places. Other than that, no.

21 Q Are you married?

22 A My wife has passed on.

23 Q Do you have any children?

24 A Yes.

25 Q Do your children live with you?

1 A No.

2 Q In the past, have your children lived with
3 you?

4 A What's the best way to answer that? Yes, but
5 only at a young age.

6 Q Okay. Do you owe any child support payments
7 for your children that you're aware of?

8 A No.

9 Q And are you a member of the NAACP?

10 A No.

11 Q All right. Let's talk a little bit about
12 this lawsuit and how you came to become involved in
13 it.

14 So, how did you become involved with this
15 lawsuit that we're doing the deposition for today?

16 A I was looking to restore my rights to vote.
17 For the direct -- the most direct answer is as I had
18 talked to either lawyers or -- and other people and
19 nobody would really help me with it, a friend, a
20 co-worker at the time, said, well, these people can
21 help you get your rights restored. So, I contacted
22 them.

23 Q And who are -- you said these people. What
24 entity are you talking about?

25 A It's the Right to Vote group that Blair and

1 Kate are involved with.

2 Q Okay. Were you promised anything in exchange
3 for joining this lawsuit?

4 A No.

5 Q In your own words, what is this lawsuit
6 about?

7 A This is basically to kind of help fix
8 something, so I can at least have a mechanism to try
9 to get my rights restored.

10 Q So, what would you like for the Court to do
11 in this case?

12 A I'm not sure how to answer that.

13 Q Okay. That's fine, that's fine. Let's talk
14 a little bit about something different, then.

15 Were you convicted of a felony at some point
16 in your life?

17 A Yes.

18 Q And are you wanting to restore your right to
19 vote after losing it because of that felony?

20 A Yes.

21 Q Let's talk then a little bit about the
22 Certificate of Restoration process in Tennessee.
23 Are you aware of the Certificate of Restoration
24 process?

25 A Yes. I'm just going to go with a yes.

1 Q That's fine. I'll follow up with, what is
2 your understanding of the process for restoring your
3 right to vote in Tennessee?

4 A I had to send forms over to the places where
5 I had my felony convictions to have somebody fill
6 out those forms and then send them in to the State
7 of Tennessee. I don't have those forms in front of
8 me, so I wouldn't know the locations. But -- how do
9 I put this best?

10 After they'd signed off on them saying I had
11 served my time and that I owed no restitution, then
12 I would be able to get my right to vote back.

13 Q What is your understanding of the
14 requirements to receive a Certificate of Restoration
15 or the things that those people had to sign off on?

16 A I remember two, three years ago when I
17 started this, looking over the internet when my
18 friend was showing me this, and I can't remember the
19 exact guidelines, but it seemed that I matched those
20 guidelines, which I was very excited about.

21 Could you restate the question? I want to
22 make sure I'm answering correctly.

23 Q Yes. I was asking about the criteria that
24 needs to be --

25 A Okay.

1 Q -- met or the requirements for receiving a
2 Certificate of Restoration.

3 A Okay. So, I think I answered that pretty
4 good. I just saw what they said, as long as you met
5 this criteria, you'd be able to get your rights
6 restored. It seemed to me at the time that I would
7 meet those requirements.

8 Q Let's break that down just a little bit, if
9 we can. Is it your understanding that one would
10 need to complete their sentence or supervision as
11 one of those requirements?

12 A Yes.

13 Q Is it your understanding that one would need
14 to pay all restitution that was applicable to those
15 felony convictions as being one of those
16 requirements?

17 A Yes.

18 Q Is it your understanding that one would need
19 to pay all court costs associated with those felony
20 convictions as one of those requirements?

21 A Yes.

22 Q And is it your understanding that one would
23 have to pay all of their child support in order to
24 qualify --

25 A Yes.

1 Q -- under those requirements?

2 Was that a yes? I'm sorry.

3 A Yes.

4 Q Thank you. Are you aware that certain
5 individuals have to fill out that COR form?

6 A Yes.

7 Q And what is your understanding of the types
8 of individuals or officials that can fill out the
9 COR form?

10 A From the best of what I saw, I had to go to
11 the court and the court -- like court clerks,
12 probation officers, perhaps, but it had to be
13 somebody in an official capacity with the State of
14 Arizona.

15 Q Have you seen a COR form before?

16 A I have -- when I've sent them off, email, I'd
17 seen them, but that was some time ago.

18 Q I'm going to take a copy of the COR form and
19 drop it in the chat and then I'm going to share my
20 screen, showing you a copy of the COR form.

21 MR. BARKER: If we could mark this as
22 the first exhibit to the deposition.

23 / /

24 / /

25 / /

1 (WHEREUPON, a document was marked as
2 Exhibit Number 1.)

3 BY MR. BARKER:

4 Q I'm going to share my screen here. Let me
5 zoom in a little bit.

6 Can you see that, Mr. Weare?

7 A Yes.

8 Q And do you recognize that as a Certificate of
9 Restoration form?

10 A Yes. It looks like what I'd sent, or
11 something very similar.

12 Q So, based on the content of this form and
13 your familiarity with it, what sort of information
14 has to be put on this form?

15 A Applicant's name, residence, applicant's
16 phone number, the conviction, month and year of
17 conviction, my date of birth, Social Security.

18 Q Let's pause right there for just a second
19 because I've got to have it cut off a little bit, I
20 think, for it to be zoomed in big enough for you to
21 see it.

22 So, is it fair to say that that first section
23 labeled Number 1 is just identification information
24 for you and the felony conviction?

25 A Yes.

1 Q And in Box 2 here, which I'm going to scroll
2 down to, what has to be placed -- what's your
3 understanding of the information that needs to be
4 put in Box 2?

5 A From what I'm understanding, this is
6 something that would be filled out by the person I'm
7 sending it to, stating whether I had -- the end
8 result of the particular felony or crime with --
9 (Overlapping speech.)

10 Q So, would you agree that this relates to the
11 completion of your sentence or supervision, Box 2?

12 A Yes.

13 Q And then let's look at Box 3 here. What is
14 your understanding of the requirement that has to be
15 filled out for Box 3?

16 A It gets cut off a little bit on this. I
17 guess I have to point that way on that end. But
18 it's basically certifying -- "I...certify that the
19 following is true and correct" -- whether or not I
20 had paid my restitution, I had done my -- I had
21 served my time, or I was given a pardon.

22 Q Sure. And then let's talk about Box 4 here.
23 What is your understanding about Box 4 and the
24 requirement that has to be filled out in Box 4?

25 A Whether or not restitutions have been paid?

1 Q Would that actually be about court costs
2 instead of restitution in Box 4?

3 A Yes. Yeah, you're right. It's saying court
4 costs.

5 Q Just making sure we're on the same page
6 there.

7 So, once this form is filled out by the right
8 individuals, what is your understanding of what has
9 to happen next? And I'm going to stop sharing my
10 screen here because I think we are done with that
11 form for the moment.

12 So, what is your understanding of what needs
13 to happen after that form is filled out?

14 A That that paperwork would have to be sent to
15 the proper people it needs to go to.

16 Q Okay. Do you know who that might be?

17 A No, but I would assume that the form would
18 have addressed that.

19 Q Okay. I'd like to walk through the steps
20 that you personally have taken in order to attempt
21 to get your voting rights back. I want to start all
22 the way back at the beginning, if that's Okay.

23 Have you ever been registered to vote in
24 Tennessee or any other state?

25 A Arizona.

1 Q Arizona. And when -- if you can remember,
2 when were you registered to vote in Arizona?

3 A At age 17, basically. Throughout the
4 military I voted. I voted in every special
5 election. I tried to take interest in everything
6 that was going on as a citizen to do my input. I
7 lost that right when I went to prison.

8 Q Can you give me a little bit of an estimation
9 of the time frame? So, about when were you 17 and
10 registered to vote, and then around what time did
11 you lose your right to vote? Let me make that two
12 separate questions.

13 Around what time were you 17 and registering
14 to vote?

15 A And I'd like to temper that, because that's
16 when I joined the military, when I was 17. So, it
17 may have actually been 18.

18 Q Okay.

19 A I don't want the court reporter to hit me
20 with the newspaper over the nose.

21 Let's see. I was born in 1962. So, that
22 would have been '72 -- '80. 1980.

23 Q And you recalled losing your right to vote as
24 well. Around what year was that?

25 A I believe it was around '96 or '97.

1 Q Do you recall what conviction it was that led
2 to you losing your right to vote?

3 A It was an aggravated assault charge.

4 Q And we'll get to that in just a minute and
5 we'll talk a little bit more about that.

6 Have you attempted to restore your voting
7 rights in Tennessee?

8 A Yes.

9 Q What did you do?

10 A The first thing I did is I tried going to
11 different lawyers, asking them, can you help me get
12 my voting rights restored. Most of them -- well,
13 everyone I talked to said that's not something we
14 handle.

15 I was a little lost after that and when I
16 went to work at Buffalo Valley, I met a friend and I
17 told them, yeah, I'd like to get my rights restored.
18 We went online, it showed what I had to do, but it
19 was a little confusing. And I was just like, I'd
20 much rather have a lawyer do this for me because I
21 just don't understand the whole process.

22 Even when my wife was alive, when we got our
23 driver's licenses, of course they asked us do you
24 want to register to vote, and I was like, I can't,
25 because I've lost my rights.

1 I'd even -- there's a voting commission or an
2 elections commission here, and when she was getting
3 her -- registering to vote, and they asked, did you
4 want to register at the same time? Well, I'm a
5 felon, I'm not allowed to vote. I asked them, do
6 you know somebody who could help me get my voting
7 rights restored or how to do it. The person at the
8 counter at that time told me they didn't know how to
9 do it.

10 So, once I got with my friend and he found
11 Right to Vote, he said contact these people and they
12 can help you. So, that's where -- I got ahold of
13 them. And they kind of walked -- well, you need to
14 contact these people.

15 For four or five days, I tried to get through
16 Yuma County and I'd switch from one person, well, I
17 can't help you but this person can. They'd switch
18 me over there, they'd switch me over there. I
19 remember at least once or twice the phone dropped,
20 whether I just got hung up on or it automatically
21 dropped.

22 But when I got ahold of Maricopa County, they
23 were very much, we can't fill out this form. What
24 you can do is you can get your voting -- you can
25 apply for your voting rights and then you can get

1 your voting rights restored. I can't remember the
2 location they were telling me to go to at the time.

3 The problem with that, from what I
4 understood, from when I'd been looking online, was
5 even if I had gotten my rights restored in Arizona,
6 that wouldn't apply coming to Tennessee, that I had
7 to go through a certain process to get my voting
8 rights back.

9 Does that answer your question?

10 Q Yes. That was pretty comprehensive, but I
11 want to go back and kind of break down some things
12 and ask you some more questions to see if you
13 remember some things in more detail and some more
14 specifics.

15 So, you started off by talking about how
16 you -- you talked to a friend about the voting
17 rights process. Do you remember who that friend
18 was?

19 A His name is Chris. I actually can't remember
20 his last name right now. It's been a while.

21 Q Where did you meet that friend? Was it at
22 work?

23 A Yes.

24 Q And they directed you to a website that you
25 said, if I recall correctly.

1 A He pulled it up for me.

2 Q What was that website?

3 A I'm not sure, but it was one of the
4 government websites here. It was a Tennessee --

5 Q Okay. So, that was a website, based on your
6 recollection, that was run by the State of
7 Tennessee?

8 A Correct.

9 Q Okay. And based on seeing that website, what
10 was your next step that you did specifically, if you
11 can recall?

12 A I'm just old and my memory is not that good.
13 So, please, I apologize. I kind of looked over it
14 and I didn't really understand what I needed to do,
15 as I remember. And that's -- like I said, he was
16 trying to help me out and that's when he -- well,
17 this group here can help you, these Right to Vote
18 people.

19 Q Okay.

20 A So -- go ahead. I'm sorry.

21 Q Well, I'm sorry. I talked over you. Do you
22 have anything further to add to that?

23 A No, because I'm trying to answer your
24 questions specifically.

25 Q Okay. I think I'm going to try to break some

1 things down as we go here. You also mentioned going
2 with your wife to get her driver's license.

3 A Yes.

4 Q Did that happen before or after you talked
5 with your friend from work?

6 A My wife passed on from cancer about
7 two months before I went out to work.

8 Q Okay.

9 A While she was alive, I pretty much stayed
10 with her the entire time, taking care of her.

11 Q You talked about going to the Election
12 Commission office.

13 A Yes.

14 Q When did that occur, if you could give me a
15 ballpark?

16 A It was when my wife was still alive because
17 we were going to register her to vote.

18 Q Okay.

19 A And I can't exactly remember. It was very
20 close to when we first got here, because we decided
21 we wanted to -- we fell in love with the state, fell
22 in love with the people, and we decided this is the
23 place we wanted to live. So, we were going through
24 the process of registering to vote, getting driver's
25 licenses, all that good stuff.

1 Q Was that the Lewis County Election Commission
2 office?

3 A Yes, here in Hohenwald.

4 Q I know this was a while back. Can you recall
5 who you spoke to at the Lewis County Election
6 Commission office?

7 A No, I can't.

8 Q Okay.

9 A I was so new here. Everybody got to know me
10 real quick because it's a small town, but my memory
11 of people can be very bad. When my wife passed on,
12 I was actually a little bit worried, because she's
13 the one I would always go to, who is that again.
14 So, I'm horrible with that. I'm sorry.

15 Q That's completely okay. Can you recall if
16 they gave you any direction about someplace else to
17 go for voting rights restoration, or anything like
18 that?

19 A I'm not blaming the person that was at the
20 counter because they just didn't know. It was one
21 of those looks the deer give you when you're in the
22 headlights type thing.

23 Q Did you follow up with anyone else at the
24 Election Commission office in Lewis --

25 A No. After that first one, I hadn't.

1 Q Okay.

2 A I did try, like I said, going to lawyers
3 later on, but...

4 Q At any point in the future, did you return to
5 the Lewis County Election Commission office and ask
6 them about voting rights restoration?

7 A No. I didn't feel like that was the place --
8 from the feeling I got in there the first time, it
9 didn't seem like the place I'd be able to jump off
10 from.

11 Q And to give you just kind of a point of
12 reference, if we can, because I'm trying to put
13 together like a timeline here in my head of events,
14 did your interaction at the Lewis County Election
15 Commission office happen before or after 2006, if
16 you can estimate?

17 A It's '23 now. Eight years back would put us
18 at 2015, I think.

19 Q Okay, perfect. Next you talked about the
20 individuals at Right to Vote. Who did you speak to
21 there, if you can recall?

22 A I can't remember the first person I talked
23 to, but Blair was the person that pretty much was my
24 contact there. And for me, she was a real blessing
25 and gave me a lot of hope.

1 Q Around when did you first make contact with
2 them? Just give me a year if that's a good
3 ballpark. If you can remember more specifically,
4 like a month or something like that, that's great.
5 But around when did you first contact them?

6 A I know it was about two or three years ago.
7 Actually, it would have been three years ago because
8 COVID was going on full -- full-blown scale. You
9 know what I'm saying. They were trying to get us to
10 wear masks.

11 Q I think we all remember those days and what
12 that was like. So, yes, that's a good point of
13 reference there.

14 So, you started talking with Right to Vote.
15 What steps did you take after talking to the folks
16 at Right to Vote?

17 A Well, they had me get those forms and they
18 had me trying to contact, call, write, contact the
19 people that I needed to get those forms to to get
20 them filled out.

21 Q And were those the COR forms, like the one
22 that I just showed you earlier?

23 A Yes, to the best of my recollection, because
24 they looked pretty familiar.

25 Q Who was the first entity that you contacted

1 about filling out a COR form?

2 A I tried to contact the Yuma clerk, I guess
3 that would be, the Yuma Superior Court Clerk.

4 Q And what did they tell you?

5 A That they weren't the right person to fill it
6 out, you'll have to talk to this person. Can you
7 transfer me there or give me a number? I'd take
8 down the number. I'd ask them for the number just
9 in case -- you know how it is when people switch you
10 over, you get lost sometimes. Then I'd contact that
11 person. Then I'd go to a different person that
12 they'd say. No, we're not the right person, you've
13 got to talk to this person. No, I'm not the right
14 person, you've got to talk to this person.

15 And then I knew I was going to be lost in the
16 whole thing when the oh, no, I know the right person
17 to contact and I went to the first person I talked
18 to.

19 Q So, I want to break that down if you can
20 remember. Do you know which entities, at least --
21 you don't have to tell me the individual names, but
22 which entities, at least, that you spoke with in
23 Arizona?

24 A Well, with Maricopa, they gave me a straight
25 answer right away, so that was nice.

1 With Yuma, the way they had me hopping
2 around, I couldn't -- because they were just giving
3 me names, they weren't necessarily giving me titles,
4 and if they were, I don't remember what they were.
5 That's probably the best, concise answer I can give
6 you.

7 Q You said that Maricopa gave you a straight
8 answer. Who did you talk to in Maricopa, then?

9 A Ooh. Well, I called the Clerk of the
10 Superior Court, because I knew I had to get ahold of
11 the court. And the person that answered the
12 phone -- now, I don't know if it was the elector
13 clerk. There's six, seven, eight million people
14 there.

15 But the person I got ahold of said, no, we're
16 not going to fill out those forms. What you have to
17 do is come in and we'll get those rights restored
18 for you. You know, you have to go through this
19 process and we'll restore your rights here in
20 Arizona. There was no -- I never got an email from
21 them. They didn't switch me around every place.
22 They just said, no, we're not filling them out.

23 Q Okay. Did you go to Arizona to try to get
24 those rights restored?

25 A The reason I didn't do it, because from --

1 okay. I could have gone to Arizona. I would have
2 been willing to if I thought it would have made a
3 difference, even though with my financial it would
4 be very hard. But from my understanding of what the
5 whole process was, even if I got my rights restored
6 in Arizona, that wouldn't count for here in
7 Tennessee. So, it would have been a big waste of
8 time and money.

9 Q Let's talk a little bit, then, about
10 Tennessee and Tennessee officials. Did you contact
11 anyone in the State of Tennessee government about
12 filling out your COR forms?

13 A No.

14 Q And I'm going to break this down just a
15 little bit to be specific for the record, if we can.
16 Did you contact any county clerk's office in
17 Tennessee about filling out those forms?

18 A No, because the offenses weren't here. They
19 were all in Arizona.

20 Q Did you contact any probation or parole
21 office in Tennessee about filling out those COR
22 forms?

23 A No.

24 Q Did you contact any Election Commission
25 office in Lewis County or any other local county

1 about filling out those COR forms?

2 A No.

3 Q Did you contact the Division of Elections at
4 the state level about filling out those COR forms?

5 A No.

6 Q Did you contact any other -- I'm going to be
7 broad here -- any other government entity in
8 Tennessee about filling out those COR forms?

9 A No.

10 Q Okay. Have you requested a pardon or any
11 assistance from the Governor of Tennessee with
12 regard to your convictions?

13 A No. And I wouldn't know how to.

14 Q Have you researched at all the pardoning
15 process in Tennessee for convictions that may be out
16 of state?

17 A Only what my friend went over with me on the
18 internet at work.

19 Q Have you looked at the Board of Paroles'
20 website and its description of the pardoning
21 process?

22 A No.

23 Q Okay. Have you reached out in written
24 communications or by phone or in any other way to
25 the Governor's office or anyone related to the

1 executive branch of Tennessee about your COR forms?

2 A No.

3 Q Okay. I want to move on, then, and just talk
4 a little bit about your felony convictions, if
5 that's okay.

6 How many felony convictions do you have?

7 A Two, that I know of. And that's looking at
8 them -- because I wasn't a career criminal. It was
9 all domestic. It was all the family things.

10 You know, I had a chance to look at the
11 conviction forms, and it only looks like I had two
12 felonies. All the rest are misdemeanors. To me,
13 just any of it was bad at that time.

14 Q When did those convictions occur? Can you
15 remember the years?

16 A One was around '96, '97, and then there was
17 one around 2003, I believe. I can't actually, even
18 after just looking at them, give you an exact date.
19 I'm sorry.

20 Q That's fine, that's fine. Let's talk about
21 the '96/'97 conviction, then. Do you recall what
22 crime that conviction was for?

23 A Aggravated assault.

24 Q And then the 2003 conviction, what crime was
25 that for?

1 A Assault on a minor.

2 Q Are both of those convictions from the State
3 of Arizona?

4 A Yes.

5 Q Are those convictions from the same county in
6 Arizona?

7 A No.

8 Q So, what counties are they from?

9 A The first one was in Maricopa and the second
10 one was in Yuma.

11 Q Let's talk a little bit more about that
12 '96/'97 conviction, then. Did you plead guilty?

13 A Yes.

14 Q And I have some documents pertaining to that
15 guilty plea that I just want us to take a quick look
16 at, if we can. I'm going to drop it in the chat and
17 then I'll share my screen. Bear with me one moment
18 as I get this pulled up.

19 MR. BARKER: If we can make this
20 document the next-numbered exhibit to the
21 deposition, that would be great, Ms. Porter.

22 (WHEREUPON, a document was marked as
23 Exhibit Number 2.)

24 BY MR. BARKER:

25 Q Mr. Weare, can you see the document I'm

1 sharing on my screen right now?

2 A Yes.

3 Q Do you recognize what that document is?

4 A Yeah. It's -- looks like it says it's a plea
5 agreement.

6 Q Okay. And I'm going to scroll down in this
7 document. Does that look like your signature there
8 in the middle of the screen?

9 A Yes.

10 Q Okay. And the date beside your signature,
11 I'm sorry, is that 8/21/97?

12 A Yes.

13 Q And this is your Plea Agreement for one count
14 of aggravated assault, right?

15 A Yes. Yes, it says one count on it. Yes.

16 Q I can zoom in a bit more if that's better.
17 And that's a felony in Arizona?

18 A Yes.

19 Q I want to just ask you about one section
20 here. It's got the Number 2 and then I can kind of
21 highlight it on the screen, I think, to make it look
22 better.

23 Can you see the portion under Number 2 there?
24 Did you agree to pay any restitution if it were
25 ordered in this case?

1 A Yes.

2 Q All right. That's all of my questions about
3 that specific document. I want to talk a little bit
4 about another document with regard to that plea
5 agreement. I'm going to get it pulled up here.

6 MR. BARKER: I've shared the document in
7 the chat. If we can make that the next-numbered
8 exhibit.

9 (WHEREUPON, a document was marked as
10 Exhibit Number 3.)

11 BY MR. BARKER:

12 Q Then I'm going to share my screen for this
13 next document. Mr. Weare, can you see this
14 document? I know I'm zoomed in pretty close on it.
15 Can you see this document on your screen?

16 A Yes.

17 Q Kind of at the bottom of the screen, can you
18 see Plea Agreement/Change of Plea?

19 A No.

20 Q Hold on. I'll scroll down. Do you see it
21 now?

22 A Okay.

23 Q And is that your name, John Weare, right
24 there?

25 A Yes.

1 Q And I know that your signature is not on this
2 document, but do you recognize at all this case
3 number up here, kind of at the top left of the
4 screen, CR~97-91651?

5 A Yes, I see it.

6 Q Is it your understanding that that's one of
7 your case numbers?

8 A Yeah, I wouldn't be able to tell you that.

9 Q Okay. That's fine, that's fine.

10 Where it says "Offense" in bold and says,
11 "Count I: Aggravated Assault," is that the crime you
12 were convicted of?

13 A Yes.

14 Q Okay. And then I'm going to stop sharing
15 that document. I've got one more document for us to
16 look at from 1997.

17 MR. BARKER: I'm sharing it in the chat
18 and asking Ms. Porter to mark it as an exhibit, and
19 then I'll share my screen.

20 (WHEREUPON, a document was marked as
21 Exhibit Number 4.)

22 BY MR. BARKER:

23 Q Mr. Weare, can you see the document I'm
24 sharing on my screen?

25 A Yes, with the CR 97-91651.

1 Q Yes. And is that your name right there,
2 John Weare?

3 A Yes.

4 Q Is that your date of birth?

5 A Yes.

6 Q In this document it says, "Sentence of
7 Imprisonment." Is that right?

8 A Yes.

9 Q I'm going to scroll through here for just a
10 second to get to what I'm looking for. Can you see
11 kind of the center of this page where it says,
12 "Sentence: 2.5 years"?

13 A Yes.

14 Q Do you recall if that was the sentence that
15 was imposed for you on this conviction?

16 A I know I served three and a half years all
17 together.

18 Q Okay.

19 A But, yes, I can see that they have two and a
20 half there.

21 Q Okay. And then, I don't have anything else
22 in particular on this document.

23 Are you aware of whether the Court imposed
24 any restitution for your 1997 conviction?

25 A I can't recall, honestly.

1 Q Okay. Are you aware of whether there were
2 any court costs associated with your 1997
3 conviction?

4 A I'm going to be very careful about answering
5 this. I can't remember, but I'm sure there was.

6 Q Have you paid all of your court costs
7 associated with that conviction?

8 A Yes.

9 MS. BOWIE: We're going to object
10 insofar as that calls for a legal conclusion about
11 what is considered court costs, Zachary.

12 MR. BARKER: Okay.

13 BY MR. BARKER:

14 Q I'm going to reword my question. If there
15 were any costs, any costs associated with your 1997
16 conviction, have you paid them?

17 A To the best of my knowledge, yes.

18 Q Do you have any documentation for paying any
19 costs from your 1997 conviction?

20 A No.

21 MS. BOWIE: Zachary, we've been about
22 50 minutes on the record. If there's a good
23 breaking point soon.

24 MR. BARKER: I was actually about to
25 move on to the 2003 conviction, so this is fine.

1 Would you like to take about ten minutes?

2 MS. BOWIE: Sure, that sounds good.

3 MR. BARKER: Let's just make it an
4 even -- it will be 11:00 for me, so that would be
5 about 12 minutes. Come back on the record at 11:00?

6 MS. BOWIE: That sounds good.

7 MR. BARKER: All right, thank you. We
8 can go off the record, then.

9 MS. BOWIE: I'm just going to note,
10 Zachary, that you're sharing several documents that
11 were not disclosed to plaintiffs, despite several
12 requests for supplementation of documents that
13 you're going to rely on, which, as you know, under
14 the federal rules is an ongoing responsibility that
15 defense has. So, if you're going to bring out more
16 documents that haven't been disclosed, I would ask
17 that you share them now.

18 MR. BARKER: These are all documents
19 that are publicly available from the County Clerk's
20 office in Maricopa County. There is one other
21 document from Yuma County Clerk's office that we
22 called and requested from them. It's available
23 publicly. I can go ahead and put it in the chat if
24 you would like to see that.

25 MS. BOWIE: Thank you.

1 MR. BARKER: It is in the chat as well.

2 MS. BOWIE: I appreciate that.

3 MR. BARKER: As these are all public
4 records that are not kept in the possession of the
5 State of Tennessee, but, rather, public records from
6 Arizona that can simply be requested from a clerk's
7 office, we don't understand that there's any
8 obligation for us to produce them in discovery, as
9 they're available to both parties. But to the
10 extent that it needs to be supplemented, discovery
11 is still open. These documents are in chat for you
12 to review.

13 MS. BOWIE: Thank you.

14 MR. BARKER: All right. Let's go off
15 the record.

16 MS. BOWIE: Yes, we're off the record.

17 (Recess observed.)

18 BY MR. BARKER:

19 Q Okay. I want to turn to your 2003
20 conviction, Mr. Weare. Did you plead guilty in that
21 case?

22 A Yes.

23 Q And do you recall what crime it was that you
24 pled guilty to?

25 A Yes.

1 Q What was that crime?

2 A Assault on a minor.

3 Q Okay. I'd like to take a look at some
4 documents from that case, if we could. I've shared
5 it already in the chat.

6 MR. BARKER: If we can mark that as the
7 next exhibit to the deposition.

8 (WHEREUPON, a document was marked as
9 Exhibit Number 5.)

10 MS. BOWIE: I'm going to go ahead and
11 object to the use of this document on relevance.
12 This is an indictment. It's a charging document,
13 not a convicting document.

14 MR. BARKER: That objection will be
15 noted on the record, of course. This document is
16 linked by case number to the other documents in the
17 case, including his Plea Agreement and is relevant
18 to what his Plea Agreement and sentence is, so we'll
19 go ahead and go through that on the record.

20 MS. BOWIE: I wouldn't object to the use
21 of the Plea Agreement.

22 MR. BARKER: All right. That's fine.
23 If this document needs to be redacted at some point
24 in the future as an exhibit, we can do that if we
25 need to.

1 BY MR. BARKER:

2 Q Mr. Weare, is this document that we're
3 looking at -- can you see that?

4 A Yes.

5 Q What court and county does it say that
6 document is from?

7 A In the Superior Court of the State of
8 Arizona, in the County of Yuma.

9 Q And is that your name there listed as the
10 defendant?

11 A Yes.

12 Q And is that the -- do you see that case
13 number there, 126-GJ-205? Is that correct?

14 A Yes.

15 Q And in the middle of this document, it says
16 aggravated assault as Count One, right?

17 MS. BOWIE: Objection, relevance.

18 You can answer.

19 THE WITNESS: Yes, I see it.

20 BY MR. BARKER:

21 Q All right. I want to move on, then, to the
22 next document here. This is State of Arizona. Can
23 you tell me what county this is out of in Arizona?

24 A Yuma.

25 Q And this is your name there as the defendant,

1 right?

2 A Yes.

3 Q And the case number is written a little bit
4 differently here. S1400CR200201106, did I read that
5 right?

6 A Yes.

7 Q And this is a Plea Agreement?

8 A From what I'm reading, yes.

9 Q And down here, I want to scroll down on this
10 document, is that your signature on this document?

11 A Yes.

12 Q And that date is January 31st, 2003?

13 A Yes.

14 Q And I just want to scroll right back up here,
15 if we can. It says, "Count One: Aggravated
16 Assault" as the crime you were pleading guilty to,
17 right?

18 A Yes.

19 Q And in association with that document -- I'm
20 sorry. My screen is -- there's a whole blank
21 section there. My apologies.

22 We have another document here that says,
23 "County of Yuma Adult Probation Department," right?

24 A Yes.

25 Q And that case and probation number there is

1 S1400CR200201106, right?

2 A Yes.

3 Q And that's the same case number that we just
4 referenced in the above document?

5 A There's too many numbers for me to remember,
6 so I can't --

7 Q Sure. We'll just go by the last four here.
8 Those last four are 1106, correct?

9 A Yes.

10 Q And then if I scroll up here to your
11 Plea Agreement, there's your signature. As we go on
12 up, that case number there ends in 1106 --

13 A Yes.

14 Q -- on that Plea Agreement? Okay.

15 Let's keep that 1106 in our heads, if we can,
16 as we go through here, just to connect all of these
17 things together.

18 And that is your name here on that, John
19 Weare, on this Adult Probation Department document?

20 A Yes.

21 Q And that is -- let's see here. In the center
22 where it says, "Current Offense, Count One:
23 Aggravated Assault," right?

24 A Yes.

25 Q And that's the same crime that you pled

1 guilty to in the Plea Agreement, correct?

2 A Yes.

3 Q I'm going to keep scrolling down here. This
4 is a Presentence Report. The case number here ends
5 in 1106, right?

6 A Yes.

7 Q And that's the same case number that we were
8 going to keep in our head from the previous ones?

9 A Yes.

10 Q And that's your name, John Weare, at the top?

11 A Yes.

12 Q All right. I'm just going to scroll through
13 that. I don't have any questions for you about the
14 content of any of that.

15 MS. BOWIE: I'm going to object to that
16 document on relevance as well.

17 BY MR. BARKER:

18 Q Okay. Here we have another document. What
19 county does this document say that it's from,
20 Mr. Weare?

21 A Yuma County.

22 Q And is that case number again 1106?

23 A Yes.

24 Q And this document says, "Sentence of
25 Probation," right?

1 A Yes.

2 Q And we're going to kind of scroll down here
3 where it says, "Fees, Fines, and Assessments." Do
4 you see that?

5 A Yes.

6 Q And were you ordered to pay probation fees?

7 A Yes.

8 Q Were you ordered to pay a Superior Court
9 enhancement fee?

10 A Yes.

11 Q And were you ordered to pay an attorney
12 assessment fee?

13 A Yes.

14 Q Have you paid those fees as ordered by the
15 Court?

16 A To the best of my knowledge, yes.

17 Q Do you have any documentation of paying those
18 fees?

19 A No.

20 Q Okay. And I want to scroll on down here to
21 this next document. That's your -- well, this is
22 from the County of Yuma in Arizona, right?

23 A Yes.

24 Q Is that your name there as the defendant?

25 A Yes.

1 Q And your date of birth?

2 A Yes.

3 Q And this case number ends in 1106?

4 A Yes.

5 Q And is that the case number we were talking
6 about previously?

7 A Yes.

8 Q And this order says, "Order for Discharge
9 from Probation." Were you discharged from probation
10 on this case?

11 A Yes.

12 Q And was that on -- around, let's see,
13 March 12th, 2006?

14 A From what I'm seeing in the document, yes. I
15 can't actually remember the date myself.

16 Q Sure. Can you recall if there were any
17 requirements for you to pay certain fees or anything
18 before you were able to be discharged from
19 probation?

20 A I can't remember.

21 Q Okay. And then this last document here, is
22 that from the County of Yuma?

23 A Yes.

24 Q And is that your name, John Weare, as the
25 defendant?

1 A Yes.

2 Q And this case number here, it ends in 1106.

3 Is that the same case number as the previous
4 documents we've been looking at?

5 A Yes.

6 Q And this document says that you filed an
7 Application for Restoration of Civil Rights
8 Withdrawal of Guilty Plea or Vacation of Conviction
9 July 10, 2006. Do you recall doing that?

10 A No.

11 Q Okay. Do you have any recollection of your
12 civil rights being restored with regard to this
13 conviction in Arizona?

14 A No.

15 Q Do you have an understanding of what your
16 civil rights may have -- may have included with
17 regard to this order?

18 A No.

19 Q Okay. Did you -- have you seen this document
20 before?

21 A I don't ever remember seeing it, no.

22 Q Okay. Have you provided this document to any
23 government entity in Tennessee?

24 A No. I don't even remember seeing this
25 document.

1 Q And I'm going to break that down just for the
2 record to be really specific. Have you provided
3 this document to any office of probation or parole
4 in Tennessee?

5 A No.

6 Q Have you provided it to any Election
7 Commission office in Tennessee?

8 A No.

9 Q Have you provided it to the State Division of
10 Elections within the Secretary of State's office in
11 Tennessee?

12 A No.

13 Q Have you provided this document to anyone in
14 the Governor's Office in Tennessee?

15 A No.

16 Q All right, I believe that is all with regard
17 to those documents, so I'm going to stop sharing my
18 screen.

19 MR. BARKER: Okay. If I could just
20 take -- I think I'm about wrapped up with my
21 questions. If I could take a short five-minute
22 break off the record and then come back in
23 five minutes, would that be okay?

24 MS. BOWIE: That's fine.

25 MR. BARKER: All right. Let's take

1 five minutes. I'll be back at 11:27.

2 (Recess observed.)

3 BY MR. BARKER:

4 Q Mr. Weare, I've got just a couple more
5 questions for you, so hopefully it won't take too
6 long.

7 I want to go back to something we were
8 discussing a little bit earlier when you said that
9 you got some COR forms and tried to get them filled
10 out by officials in Arizona. Where did you get the
11 COR forms?

12 A I can't recall. I think the first set I got
13 from the state site. I really didn't know what to
14 do with them and I was preparing to try to get my
15 rights restored, I want to think that maybe I got
16 it -- had somebody send them to me so I could send
17 them out. I can't recall.

18 Q Okay. At any point, did you ask a Tennessee
19 official to assist you in filling out the COR forms?

20 A No.

21 Q And at any point, have you submitted a
22 completed COR form to an official of the Tennessee
23 government?

24 A No.

25 MR. BARKER: Okay. I think that's all

1 for me right now, and I'll pass the witness. I may
2 have more questions, depending on if more questions
3 are asked, but at this time I pass.

4 MS. BOWIE: Okay. Just a few questions
5 for you, Mr. Weare.

6

7

EXAMINATION

8

QUESTIONS BY MS. BOWIE:

9 Q You testified earlier that you had an
10 interaction with the County Election Commission
11 regarding restoration of your voting rights; is that
12 right?

13 A Yes.

14 Q Okay. And in that interaction, did the
15 County Election Commission tell you that there was a
16 Certificate of Restoration?

17 A No. They basically didn't know what -- how I
18 would go about it.

19 Q So, they didn't tell you anything about
20 getting your voting rights restored?

21 A No.

22 Q Okay. And just now, Mr. Barker asked you
23 about whether you've submitted a completed
24 Certificate of Restoration to any Tennessee
25 officials. Have you been able to obtain a completed

1 Certificate of Restoration?

2 A No.

3 Q Okay. Can you tell us a little bit about
4 what you do for work.

5 A Well, currently, I volunteer over at a rehab
6 center here called Hope Center Ministries. I work
7 volunteer counseling, doing Bible studies,
8 individual counseling with people that have
9 addiction problems. I also am one of the leaders at
10 Celebrate Recovery here. Pretty much my week is
11 filled with, how do I say it, trying to help people
12 get past their addictions and try to lead normal
13 lives again.

14 Q Thank you. What would it mean to you if
15 you're able to get your right to vote back?

16 A Well, since I've not been allowed to vote,
17 I've kind of felt like a noncitizen. I want to
18 participate in voting and putting elected officials
19 that I believe represent, you know, what I believe
20 in in office.

21 It's kind of like -- for me, it's something
22 that an American should do, is be involved with your
23 government and who's in office and things like that.
24 Basically, the base -- I guess the best way to put
25 it is I feel like a noncitizen not being able to

1 vote.

2 Q And Mr. Barker asked you earlier what you're
3 hoping to get out of this lawsuit. Can you talk a
4 little bit about that.

5 A Well, I'm hoping to be able to, one, get my
6 own rights to vote back, but, you know, as we're
7 going forward, I would just like to see it be a
8 little bit of an easier system, because, you know,
9 the CORs that I haven't submitted is because I
10 couldn't get anybody to fill it out on the other
11 end.

12 You know, I know I felt lost through this
13 process. I feel once you've become -- you know,
14 done your time and become a contributing member of
15 society, because my -- if I can quote my dad, you're
16 either somebody that's not contributing or you're
17 part of the problem kind of thing. And, to me, part
18 of that contributing is going out and voting.

19 I'm not very good at being articulate and I'm
20 so nervous, so I apologize.

21 But for years now, I've been feeling like a
22 noncitizen. I want to participate in the voting
23 process, just like I participate in -- I mentioned
24 Celebrate Recovery and the Hope Center Ministries.
25 I'm also involved in a food distribution ministry

1 down here where we deliver food to people that
2 really can't even make it to the food line because
3 they're either handicapped or there's some other
4 reason they can't get out of the house.

5 So, to me, being able to vote is just another
6 process of being a contributing member of my
7 society.

8 Does that make sense?

9 Q It does. Thank you.

10 MS. BOWIE: That's all my questions.

11 MR. BARKER: That's everything from me,
12 then. I think we're ready to finish up and go off
13 the record.

14 (Discussion off the record.)

15 Ms. Porter, we would like to request a
16 copy of the transcript. Please bill it to the
17 Office of the Tennessee Attorney General, not just
18 my name, because that makes things complicated at
19 times. Please bill it to the Office of the
20 Tennessee Attorney General, and just standard time,
21 however long that generally takes.

22 MS. BOWIE: We'll order a copy as well.

23 THE REPORTER: Would you like him to
24 read and sign or waive signature?

25 MS. BOWIE: We'll read and sign, yes.

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E R R A T A P A G E

I, JOHN WEARE, having read the foregoing deposition, Pages 1 through 57, do hereby certify said testimony is a true and accurate transcript, with the following changes (if any):

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JOHN WEARE

Notary Public:

My Commission Expires: _____

Reported by: Jerri L. Porter, RPR, CRR, LCR

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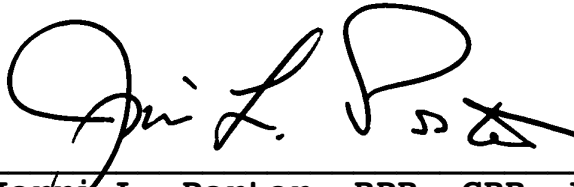
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STATE OF TENNESSEE

COUNTY OF Davidson

I, Jerri L. Porter, RPR, CRR, Licensed Court Reporter, with offices in Nashville, Tennessee, hereby certify that I reported the foregoing deposition of JOHN WEARE by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me. I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

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TN CONF OF THE NATL ASSOC FOR THE ADVANCEMENT OF COLORED PEOPLE

VS

LEE, et al.

BENJAMIN TOURNIER

May 25, 2023



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1
2 **IN THE UNITED STATES DISTRICT COURT**
3 **FOR MIDDLE DISTRICT OF TENNESSEE**
4 **NASHVILLE DIVISION**

5 **TENNESSEE CONFERENCE OF**
6 **THE NATIONAL ASSOCIATION**
7 **FOR THE ADVANCEMENT OF COLORED**
8 **PEOPLE, et al.,**

9 **Plaintiffs,**

10 **vs.**

11 **Case No. 3:20-cv-01039**
12 **Judge Campbell**
13 **Magistrate Judge Frensley**

14 **WILLIAM LEE, et al.,**

15 **Defendants.**

16 **Videoconference Deposition of:**

17 **BENJAMIN TOURNIER**

18 **Taken on behalf of the Defendants**
19 **May 25, 2023**

20 **Commencing at 10:00 a.m. CST**

21 **Elite-Brentwood Reporting Services**
22 **www.elitereportingservices.com**
23 **Jerri L. Porter, RPR, CRR, LCR**
24 **555 Marriott Drive**
25 **Nashville, Tennessee 37214**
(615)595-0073

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A P P E A R A N C E S

For the Plaintiffs:

**KATE UYEDA
BLAIR BOWIE
Attorneys at Law
Campaign Legal Center
1101 14th Street NW, Suite 400
Washington, DC 20005
(202) 736-2200
bbowie@campaignlegalcenter.org
kuyeda@campaignlegalcenter.org**

For the Defendants:

**ZACHARY L. BARKER
ALEX RIEGER
Attorneys at Law
Assistant Attorney General
Public Interest Division
Office of the Attorney General
P.O. Box 20207
Nashville, TN 37202-0207
(615) 532-4098
zachary.barker@ag.tn.gov
alex.rieger@ag.tn.gov**

Also present:

HEATHER PERRY

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S T I P U L A T I O N S

The videoconference deposition of BENJAMIN TOURNIER was taken by counsel for the Defendants, by Notice, with all participants appearing at their respective locations, on May 25, 2023, for all purposes under the Federal Rules of Civil Procedure.

All formalities as to caption, notice, statement of appearance, et cetera, are waived. All objections, except as to the form of the question, are reserved to the hearing, and that said deposition may be read and used in evidence in said cause of action in any trial thereon or any proceeding herein.

It is agreed that Jerri L. Porter, RPR, CRR, Notary Public and Licensed Court Reporter for the State of Tennessee, may swear the witness, and that the reading and signing of the completed deposition by the witness is not waived.

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* * *

THE REPORTER: Good morning, my name is Jerri Porter. I am a Tennessee Licensed Reporter, LCR Number 335. Today's date is May 25, 2023, and the time is approximately 10:00 a.m. Central Standard Time.

This is the deposition of Benjamin Tournier in the matter of the Tennessee Conference of the National Association for the Advancement of Colored People, et al., versus Lee, et al., Case Number 3:20-cv-01039, in the United States District Court for the Middle District of Tennessee, Nashville Division.

At this time, I will ask counsel to identify yourselves, state whom you represent, and agree on the record that there is no objection to Jerri Porter administering a binding oath to the witness via Zoom.

MR. BARKER: Good morning. My name is Zachary Barker. I'm with the Tennessee Attorney General's office and I'm joined by my co-counsel, Alex Rieger. Together we represent the State defendants in today's case, being the Governor of Tennessee, Bill Lee; the Secretary of State,

1 Tre Hargett; the Coordinator of Elections, Mark
2 Goins; and the Commissioner of the Tennessee
3 Department of Corrections, Frank Strada.

4 We have no objection to Ms. Porter
5 administering the oath. And we'd also note that I
6 am joined today in my office by an intern,
7 Ms. Heather Perry. She will not be appearing in any
8 other capacity other than observing.

9 MS. UYEDA: Good morning, everyone. My
10 name is Kate Uyeda. I am joined here by my
11 co-counsel, Blair Bowie. We represent -- we are
12 counsel for the plaintiffs in this matter and we
13 have no objection to Ms. Porter swearing in the
14 witness.

15 * * *

16 BENJAMIN TOURNIER,
17
18 was called as a witness, and after having been duly
19 sworn, testified as follows:

20 MS. UYEDA: Before we jump in, Zachary,
21 if I could just start off with, you know, as you
22 know, you have an ongoing responsibility under the
23 Federal Rule of Civil Procedure 26, to disclose
24 documents that you intend to use during the
25 discovery process. You know, we've requested these

1 documents multiple times to be supplemented and have
2 not received them to date. So, we'd like to request
3 now that you share any documents that intend to use
4 during this deposition.

5 MR. BARKER: Sure. We can put those
6 documents in the chat as we go along.

7 For the record, we would also note that
8 any of the documents being used today are public
9 record that were not in the possession of our
10 clients, but rather retrieved by the attorneys or
11 our investigators from the county clerks' offices in
12 Arizona. So, they were not in the possession of our
13 clients.

14 Furthermore, a couple of the documents
15 that we will use today came other places, one being
16 the COR form, which has been provided to opposing
17 counsel. One is a document provided by opposing
18 counsel to us, and the other is a news article that
19 was published and actually quotes opposing counsel
20 and Mr. Tournier in that news article.

21 I can place them all in the chat at
22 once, if that's okay, and then I will just identify
23 each of those for Ms. Porter as we go along, if
24 that's okay with her, to mark them as exhibits.

25 MS. UYEDA: That sounds good.

1 MR. BARKER: They are labeled
2 alphabetically at the beginning of each document
3 name. If we don't use all of them, I will -- we can
4 just go along as we need to. Here are the
5 documents.

6 MS. UYEDA: Thank you.

7 MR. BARKER: We may not be admitting all
8 of these. It will just depend on how things go,
9 obviously, but these are the only ones we even
10 contemplate that we might use.

11
12 EXAMINATION

13 QUESTIONS BY MR. BARKER:

14 Q Good morning, Mr. Tournier. My name is
15 Zachary Barker. Would you please introduce yourself
16 to us.

17 A Yes, sir. My name is Benjamin Tournier.

18 Q Could you spell your last name for the
19 record.

20 A Yes, sir. T-o-u-r-n-i-e-r.

21 Q Mr. Tournier, have you ever been deposed
22 before?

23 A What do you mean?

24 Q Have you been through a process like this
25 before, where you were being asked questions by an

1 attorney and you were under oath?

2 A Yeah. When I got custody of my child, state
3 custody in Arizona. But it wasn't on video; it was
4 just over a phone.

5 Q Okay. Have you ever testified at a trial or
6 at a court hearing before?

7 A No, sir.

8 Q All right. As we begin and get started, I
9 just want to take a few minutes to go over some
10 general guidelines and instructions for what we're
11 doing so that we're all on the same page as to
12 what's going on, if that's okay.

13 A Yes, sir.

14 Q So, first, if you don't understand a question
15 that I ask, please ask me to repeat or to rephrase
16 that question and I will do my best to make sure
17 that it's understandable to you and everyone else in
18 the room so that we're all on the same page as to
19 what the question is.

20 If your attorney objects to any of my
21 questions, please do not answer until your attorney
22 and I are finished discussing that objection. Once
23 that discussion is finished, I will either ask you
24 to go ahead and answer the question, or you'll be
25 instructed by your attorney not to answer the

1 question, or I may rephrase the question in a way as
2 to make it agreeable between your attorney and
3 myself.

4 Do not guess at any answer. If you don't
5 recall specifically the information that I'm asking
6 about, just say that you do not recall or that you
7 do not know. If you can provide a reasonable
8 estimate -- I may be asking about some dates or
9 times. If you can provide a reasonable estimate,
10 just let us know that you're estimating and then
11 provide us with that estimate for the date.

12 If during the deposition you recall something
13 that was the answer to a question that I asked a
14 while ago, if something jogs your memory, let me
15 know. We can go back to that topic and you can add
16 whatever information you need to that answer. We
17 want to make sure that all of the information that
18 you have for each of these questions is complete and
19 that it's on the record.

20 From time to time during the deposition we
21 will take a break, but if at any point you need a
22 break, please let me know. Happy to take as many
23 breaks as you need to be comfortable. All I ask is
24 that if there is a question that I have just asked
25 you, please answer the question before we go on a

1 break.

2 Do you have any questions thus far?

3 A No, not really.

4 Q All right. Let's get started, then, with how
5 you prepared for this deposition. What did you do
6 in preparation for the deposition?

7 A My attorneys mailed me a package of stuff,
8 you know, like an amendment -- amended deposition,
9 whatever it is. Stuff like that, we read over that,
10 just getting me familiar. This has been going on
11 for several years. So, my short-term memory don't
12 always want to work real well, so I have to refresh
13 myself sometimes.

14 Q Okay. We don't need to go into the content
15 of any conversations that you had with your
16 attorneys. You don't have to tell me what you said
17 or what they said.

18 How many times did you meet with your
19 attorneys?

20 A Several times over the phone. I just now
21 learned how to do this Zoom.

22 Q All right. Can you give me an estimate for
23 how many times you met with them?

24 A I don't know. I never kept count, to be
25 honest with you. Most of it was through texting.

1 My job, I work a lot of hours, so sometimes phone
2 calls are just hit and miss.

3 Q Other than your attorneys, did you talk to
4 anyone else about this deposition?

5 A Yes. I talked to a lady named Katie when I
6 first started this off a Facebook ad.

7 Q And who is Katie and how did you interact
8 with her?

9 A It was through a Facebook ad and then we
10 talked over the phone. She helped with a lot of the
11 Arizona stuff.

12 Q Let's talk about this Facebook ad, then.
13 What did the Facebook ad say?

14 A Pretty much, you might be eligible to get
15 your voting rights back. I contacted them through
16 Facebook and they contacted me via phone.

17 Q When you say you contacted them, what is the
18 entity that you contacted?

19 A It was through Facebook. It was a -- I can't
20 remember the name of it, but it was a pro bono type
21 thing to see if I was eligible to get my voting
22 rights back.

23 Q Did you talk to that specific individual
24 about the deposition today?

25 A No. I've only talked to my two attorneys

1 about this deposition.

2 Q Where are you located right now?

3 A Jackson, Tennessee.

4 Q Okay. And are you at your home?

5 A No. I'm in a conference room at a place
6 called theCO, C-0.

7 Q And what is theCO?

8 A It's just an -- it's a place that has meeting
9 rooms.

10 Q Okay, I understand. Is anyone with you in
11 that meeting room?

12 A No, sir.

13 Q I want to take a little bit of time to get to
14 know you and your background a little bit.

15 Where do you currently live?

16 A Jackson, Tennessee.

17 Q Okay.

18 A I've been here since I moved to Tennessee.

19 Q What county is Jackson, Tennessee in?

20 A Madison County.

21 Q And when did you move to Jackson?

22 A Got here June 29th of 2003.

23 Q Where did you live before Jackson, Tennessee?

24 A Phoenix, Arizona.

25 Q What county is Phoenix, Arizona in in

1 Arizona, if you can remember?

2 A Oh, I'm sorry. Maricopa County.

3 Q Okay. Have you lived anywhere else other
4 than Phoenix, Arizona?

5 A Yeah. I lived in Minnesota until my freshman
6 year of high school before I moved to Arizona.

7 Q And is that -- did you live anywhere else
8 other than Minnesota in your adult life?

9 A No. I didn't live in Minnesota in my adult
10 life. It was strictly Arizona and here.

11 Q How long did you live in Arizona?

12 A Fourteen years.

13 Q And can you give me a ballpark for what year
14 you started living in Arizona?

15 A Well, let's see. I was supposed to have
16 graduated, I believe, in '86 or '87. I got through
17 my freshman year, so about four years before that, I
18 guess. So, early '80s.

19 Q Early '80s. Are you married, Mr. Tournier?

20 A Divorced.

21 Q Have you only been married once or have you
22 been married multiple times?

23 A Only once.

24 Q Do you have any children?

25 A Yes.

1 Q Do your children live with you?

2 A Yes. She's an adult. I've got two
3 grandbabies that live there as well.

4 Q Have you ever owed any child support for your
5 children?

6 A No, not that I know of.

7 Q And this is kind of a random question, but
8 are you a member of the NAACP?

9 A No.

10 Q Let's talk a little bit about this lawsuit,
11 then, that you are a plaintiff in. How did you
12 become involved in this lawsuit?

13 A From the Facebook ad saying I might be
14 eligible to get my voting rights back.

15 Q Were you promised anything for joining this
16 lawsuit?

17 A No, sir. Like I said, I'm just trying to see
18 if I'm eligible to vote. I've been out of prison --
19 you know, the last time I got out in 2003. Ain't
20 been in no trouble ever since. A couple of speeding
21 tickets, but no criminal activity. I go to work, I
22 go home, I go to church and I go home. That's
23 pretty much my life.

24 Q In your own words, what is this lawsuit
25 about?

1 A Hopefully being able to voice my vote. I'd
2 like to at least have some of my rights back since I
3 am a productive person, productive in society.

4 Q So, you're seeking to get your voting rights
5 back?

6 A Yes, sir. If I'm eligible.

7 Q And you've been convicted of a felony in the
8 past.

9 A Yes.

10 Q And is it because of that felony or those
11 felonies, if there's more than one, that you're
12 unable to vote?

13 MS. UYEDA: Objection. Calls for a
14 legal conclusion.

15 You can answer, Mr. Tournier.

16 THE WITNESS: Okay. Repeat the
17 question.

18 MR. BARKER: I'll rephrase the question.
19 We can strike that, Ms. Porter.

20 BY MR. BARKER:

21 Q What is your understanding of how you lost
22 your right to vote?

23 A By my felonies. I didn't know that I was
24 able to even try to get them back. So, it's been
25 years since I tried. And I got -- like I said, once

1 I found out I might have an opportunity or blessing
2 to be able to vote, I thought I'd see if I was
3 eligible.

4 Q So, in your own words, what are you asking
5 the Court to do in this case?

6 A Let me get my rights back, you know, God
7 willing.

8 Q Let's talk, then, a little bit about the
9 Certificate of Restoration process in Tennessee.
10 Are you familiar with the term Certificate of
11 Restoration?

12 A Kind of.

13 Q What is your understanding of what a
14 Certificate of Restoration is?

15 A It's where you -- well, I don't know -- I
16 don't comprehend all that part. I do know I tried
17 to go down to probation and parole to fill out that
18 form.

19 The lady at the counter, receptionist or
20 whatever, would not set me up with somebody to fill
21 it out. She just handed me a form and told me to
22 fill out the top portion, which I did, even though
23 it said at the top not to fill it out myself, and
24 then that they'd contact me. And I never heard a
25 word back. That was, I think, almost two years ago.

1 Q Okay. We'll get into that scenario in just a
2 minute and what happened there.

3 What is your understanding, then, of the
4 requirements, meaning the certain criteria that you
5 have to meet, in order to get your voting rights
6 restored in Tennessee?

7 A I have -- to be totally honest with you, I
8 have no idea. I'm not the sharpest knife in the
9 drawer to go through all this stuff. I just assumed
10 I couldn't get them back until somebody told me I
11 might be able to.

12 Q Are you aware of the need to have completed
13 your sentence or supervision in order to get your
14 voting rights back?

15 A Yeah, which I've done. I got off parole
16 November of 2003 and haven't been in trouble since
17 legal-wise like that, like I said, except for a
18 couple of tickets. You know, I'm working every day,
19 paying taxes every day, but my voice ain't heard.

20 Q Are you aware of the need to pay all of your
21 restitution if ordered by a court in order to get
22 your rights restored?

23 A I don't know what you mean.

24 Q Okay. Are you aware of the need to pay court
25 costs if they are ordered by the Court in order to

1 get your rights restored?

2 A I'm not sure what court costs you're
3 referring to, sir. When I got out the last time,
4 you know, I did all my time. I did all my -- you
5 know, I did my parole the way I was supposed to. I
6 didn't know I owed anything at that time.

7 Q Maybe it will be a little bit easier if we go
8 about things this way.

9 Have you ever seen a Certificate of
10 Restoration form in Tennessee?

11 A Just the top portion that I filled out. Like
12 I said, I don't really know a whole lot about it. I
13 was relying on help.

14 Q Let's take a look at that COR form. I'm
15 going to share my screen so you can see it,
16 Mr. Tournier.

17 A Yes, sir.

18 MR. BARKER: Ms. Porter, that would be
19 what is labeled as A, the COR form, in the chat. If
20 we could move that in as the first exhibit to this
21 deposition.

22 (WHEREUPON, a document was marked as
23 Exhibit Number 1.)

24 BY MR. BARKER:

25 Q Mr. Tournier, I'm sharing my screen here and

1 I've got a document, which says at the top,
2 "Certificate of Restoration of Voting Rights." I've
3 got it zoomed in, so hopefully you can see that.
4 Can you see what I've got to the screen there?

5 A Yes, sir.

6 Q And this is just part of the document. We'll
7 scroll through it and kind of talk about it section
8 by section. Is this the form that you're talking
9 about that you filled out the top portion of?

10 A Yes, sir, it looks like it.

11 Q And it asks for your name, right?

12 A Yep.

13 Q Your county of residence, right?

14 A Yeah.

15 Q Did it ask for what your felony conviction
16 was?

17 A I believe so.

18 Q And the month, day, and year of the
19 conviction?

20 A Yes, I believe so. And, of course, my date
21 of birth and all that, yes.

22 Q What is your understanding, based on the form
23 and what's in the box there at the top, as to who
24 can fill out these forms and sign them?

25 A What do you mean? Who can fill it out? I

1 thought somebody in the department was supposed to
2 fill it out. You know, it says there that I'm not
3 supposed to.

4 Q Okay. I'm scrolling down here to Box 2 on
5 the form.

6 A Yes, sir.

7 Q What is your understanding of what Box 2 is
8 asking about?

9 A I don't know what you mean.

10 Q Would it be your understanding that this box
11 refers to the completion of your sentence or
12 supervision?

13 A Like I said, I don't know. I know I
14 completed parole without no -- without any trouble.
15 But I didn't read any of that stuff, and they told
16 me just to fill out the top portion, so I'm not
17 familiar, sir.

18 Q Let me break it down this way. You filled
19 out this top part, Box 1 here that I have on my
20 screen, right?

21 A I believe so, yes.

22 Q And you didn't fill out any of the other
23 boxes on the form?

24 A I can't remember, to be honest with you.
25 Like I said, that was back, I believe, in 2020.

1 Q Are you aware of any other requirements that
2 need to be filled out for the other three boxes on
3 this form?

4 A The other three boxes? What do you mean?

5 Q So, here is Box Number 2.

6 A Okay.

7 Q Here's Box Number 3. Are you aware of the
8 requirements for those boxes?

9 A No, sir.

10 Q Okay. Is it your understanding -- I'll stop
11 sharing my screen here so that that's not up there
12 anymore.

13 A Okay. I know I didn't have no restitutions
14 or anything in Tennessee.

15 Q Okay. Did you have any restitution in
16 Arizona?

17 A On the paperwork I saw, it looks like I might
18 have had probation fees in Yavapai County, but I
19 didn't know I had them.

20 Q Okay. Let's go back to kind of the form and
21 the initial process, though, in kind of broad
22 strokes here.

23 Is it your understanding that someone other
24 than you has to verify that your sentence was
25 completed for the COR form?

1 A Yes, sir.

2 Q Is it your understanding that someone other
3 than you has to verify the payment of restitution if
4 it was ordered for the COR form?

5 A For Tennessee, yes, sir.

6 Q Is it your understanding that someone other
7 than you would have to verify the payment of court
8 costs, whatever they may be, for the COR form in
9 Tennessee?

10 A I guess, yeah.

11 MS. UYEDA: Objection. Calls for legal
12 conclusion as to what constitutes a court cost.

13 You can answer, Mr. Tournier.

14 THE WITNESS: Yeah, I don't think I had
15 any restitutions in Tennessee at all. As a matter
16 of fact, I thought under Interstate Compact that I
17 would be taken care of anyways.

18 BY MR. BARKER:

19 Q So, Mr. Tournier, regardless of what court
20 costs mean, are you aware that the words court costs
21 appears on the COR form?

22 A Yes, sir, now that you showed it to me.

23 Q And are you aware that someone will have to
24 sign and verify that court costs, whatever they may
25 be, have to be paid to complete the COR form?

1 A Okay.

2 Q Are you aware of that?

3 A I am now.

4 Q Okay. After completion of the COR form,
5 after all of these things have been signed, what is
6 your understanding of the next steps that have to be
7 taken?

8 A I have no idea of the understanding of what
9 needs to be done next.

10 Q Okay. I'd like to walk through kind of the
11 history of your voting rights. Have you ever been
12 registered to vote in Tennessee?

13 A No.

14 Q Have you ever been registered to vote in any
15 other state?

16 A Arizona.

17 Q When did you register to vote in Arizona?

18 A When I turned 18 when I signed up for the
19 draft.

20 Q Do you know about when you turned 18, what
21 year that was?

22 A Decades ago. I don't know the exact time.
23 Like I said, I know I was supposed to graduate in
24 '86 or '87, but I dropped out my freshman year of
25 high school and started working.

1 Q Well, how old are you now, Mr. Tournier?

2 A Sunday I'll be 54 or 55.

3 Q Okay. Well, happy birthday for this coming
4 Sunday. Let's, then, talk about how you lost your
5 right to vote.

6 A Yes, sir.

7 Q Based on your understanding, how did you lose
8 your right to vote?

9 A By being convicted of a felony in Arizona, by
10 the felonies in Arizona.

11 Q When were you first convicted of a felony in
12 Arizona?

13 A I don't remember the year. It's been a
14 while.

15 Q Do you recall what that conviction was?

16 A I believe it was unlawful means of
17 transportation and forgery. But the unlawful means
18 of transportation, I believe, was dropped at one
19 time in 2001.

20 Q Do you have any other felony convictions in
21 Arizona or any other state?

22 A No. Just in Arizona. No other states. But
23 I do have a couple that's in this packet here. I
24 don't know what more -- I don't know what you want
25 me to answer. I'm sorry.

1 Q Do you know what crimes those other
2 convictions were for?

3 A One was for forgery, one was for drug
4 paraphernalia, and then the unlawful means of
5 transportation, I believe.

6 Q Have you attempted to restore your voting
7 rights based on those convictions in Tennessee?

8 A Whatever Ms. Kate and Blair has been trying
9 to help me with.

10 Q Okay. I kind of want to take step by step
11 things that you have done, then, to restore your
12 voting rights.

13 A Okay.

14 Q What was the first step that you took to
15 attempt to restore your voting rights?

16 A Here in Tennessee, I filled out the top
17 portion of that paper is what I've actually done.

18 Q And I think our internet connection broke up
19 there a little bit. I'm sorry. Can you state that
20 again as to what the first thing was that you did?

21 A Filled out that paper at the parole/probation
22 office.

23 Q Which probation and parole office was that?

24 A The one in Jackson, Madison County. I
25 believe it's on Hollywood Drive. I can Google the

1 address if you need me to.

2 Q Do you recall when it was that you went to
3 that probation and parole office?

4 A Two or three years ago.

5 Q Do you have any recollection of who you
6 talked to at the probation and parole office?

7 A It was a lady at the front counter. She
8 wouldn't let me talk to anybody else.

9 Q Okay. Do you recall her name?

10 A No, sir.

11 Q So, you filled out the top portion of the
12 form you said. So, who gave you the form?

13 A The receptionist lady. She's the only person
14 I could talk to. I mean, I hit a brick wall.

15 Q Okay. She gave you the form and told you to
16 fill out the top. What did you do after you filled
17 out the top portion of the form?

18 A I turned it back into her. She said she
19 would give it to who needed it -- where it needed to
20 go and that I'd be contacted.

21 Q What happened after that?

22 A Crickets. I never heard nothing back.

23 Q So, you never heard anything back from the
24 Madison County probation and parole office?

25 A No, sir.

1 Q Did you ever hear anything back from anyone
2 else about that COR form?

3 A No, sir.

4 Q Did you make any other attempts beyond going
5 to the Madison County probation and parole office to
6 fill out a COR form?

7 A No, sir. I didn't know what to do.

8 Q Did you make any other attempts to contact
9 any Tennessee officials about getting your voting
10 rights restored?

11 A No, sir. I didn't know what to do. I didn't
12 know how to do it.

13 Q Okay. Did you talk to anybody else about
14 getting your voting rights restored?

15 A Just the people that's been helping me,
16 Ms. Blair and Ms. Kate. Like I said, I'm not the
17 sharpest knife in the drawer, so I really didn't
18 know what to do.

19 Q You said that you talked to Ms. Blair and
20 Ms. Kate. What did you do based on those
21 conversations?

22 A I believe it was Ms. Blair that is the one
23 told me to go down and I had to do that form and
24 have it filled out for me. I called her after I
25 filled the form out. She said, well, I believe you

1 weren't supposed to fill the form out and I told
2 her, I said, well, that's what the lady told me to
3 do and that I'd hear back. And then, like I said, I
4 never heard back.

5 Q Did you receive any other assistance from
6 anyone other than Kate and Blair in this case with
7 getting your voting rights restored?

8 A Just the Facebook post that I actually
9 started the ball rolling with. Otherwise, no.

10 Q Did, at any point, you reach out to Arizona
11 to try to get them to fill out a COR form for you?

12 MS. UYEDA: Objection. Can you clarify
13 who you mean by -- which officials in Arizona?

14 MR. BARKER: Sure. I'll rephrase the
15 question.

16 BY MR. BARKER:

17 Q Mr. Tournier, did you contact any individual
18 working for the government in Arizona to get them to
19 fill out a COR form for you?

20 A Me personally or did I have somebody on my
21 behalf try to do that?

22 Q Well, let's start with you personally.

23 A No, sir.

24 Q Did you have anyone reach out to government
25 officials in Arizona on your behalf?

1 A Yes, sir.

2 Q And who was that?

3 A The lady from the Facebook post. I'm
4 terrible with names. I could look at the email that
5 was done if you need me to.

6 Q I think we may be getting to that email in a
7 minute, but it might be all right to go ahead and
8 talk about that now.

9 MR. BARKER: There's a document labeled
10 C in the chat, Ms. Porter. If we could go ahead and
11 make that the next exhibit, and we can talk about
12 this email.

13 (WHEREUPON, a document was marked as
14 Exhibit Number 2.)

15 BY MR. BARKER:

16 Q I'll go ahead and share my screen so you can
17 take a look at it, Mr. Tournier. This is a document
18 that was provided by plaintiffs' counsel in
19 discovery and it's labeled PL000078 Benjamin
20 Tournier. I'm going to share my screen and we're
21 going to take a look at this document.

22 Mr. Tournier, do you recognize this document?

23 A Yes, sir. I've got it sitting in front of
24 me.

25 Q So, that's the email you're referring to?

1 A Yes. I guess her name was Kayley.

2 Q Ms. Kayley Ingalls?

3 A Yes, sir.

4 Q Was there anyone beyond Ms. Ingalls who was
5 assisting you in getting your rights restored?

6 A Not that I know of.

7 Q And is Ms. Ingalls the individual that you're
8 referring to that reached out to officials in
9 Arizona on your behalf?

10 A I believe so.

11 Q And this is a -- this is an email. It's a
12 response from Maricopa County to Ms. Ingalls; is
13 that right?

14 A Yes, sir.

15 Q And are you aware of what Maricopa County
16 said would need to be done to restore your rights?

17 A I'd have to read this to be sure, but...

18 (Reviewing document.)

19 I guess the application is with the clerk.
20 Like I said, I don't know.

21 Q Did you ever submit any applications to a
22 clerk's office in Arizona to attempt to get your
23 rights restored?

24 A I believe she did. I didn't.

25 Q You didn't. Do you have any documentation

1 that was provided to you or by Ms. Kayley or anyone
2 else about your application in Arizona?

3 A I don't know, there's so many things here. I
4 do remember reading somewhere in one of these
5 packets of papers that it didn't have -- Arizona
6 didn't have -- something about Tennessee -- Arizona,
7 trying to get my voting rights back in Arizona, but
8 I don't remember where I read it at in these papers.

9 MR. BARKER: Ms. Uyeda, we would request
10 a copy of the documents that Mr. Tournier is relying
11 on on his desk there as we go through the
12 deposition.

13 BY MR. BARKER:

14 Q So, you don't -- strike that.

15 What documentation can you recall that you
16 have about applying for your voting rights to be
17 restored in Arizona?

18 A I don't know, sir.

19 Q Okay.

20 A I don't know how to answer that.

21 Q I'm going to stop sharing my screen. We'll
22 go back to talking more generally about the COR
23 process. I want to break this down and be really
24 specific. It may sound a little bit repetitive, but
25 I want to go entity by entity.

1 You talked about going to the probation and
2 parole office and filling out the top portion of the
3 form. Did you ever return to that probation and
4 parole office and ask them to fill out COR forms for
5 you?

6 A No. I was waiting for them to contact me.
7 At the time, I was working 12 to 14 hours a day,
8 five, six days a week. I was raising my daughter on
9 my own since she was ten. You know, like I said, I
10 tried to do -- I did, but they said they'd contact
11 me and that's what I waited on.

12 Q Did you have anyone contact that probation
13 and parole office in Madison County on your behalf
14 about a COR form?

15 A Not that I know of. I don't know. Ms. Blair
16 might have, but I -- to be honest with you, that
17 happened so long ago, my short-term memory just
18 don't work the way it's supposed to.

19 Q Do you have any documentation of someone
20 reaching out to the Madison County probation and
21 parole office on your behalf about a COR form?

22 A A complaint, Tennessee Conference of National
23 Association, National Association. Everything seems
24 to have been done through Tennessee Conference of
25 the National Association for Advancement, but...

1 Like I said, I'm not educated enough to know
2 what half of this stuff says, to be honest with you.
3 I don't want to answer wrong. I don't want to say
4 something wrong.

5 Q Let me ask a follow-up question, then.
6 Beyond what you have right in front of you, those
7 documents, which I'm sure your counsel is going to
8 provide us, beyond those documents, do you have any
9 documentation of someone reaching out to the Madison
10 County probation and parole office on your behalf
11 about a COR form?

12 A Not that I -- I don't know. Not that I know
13 of.

14 Q Have you ever reached out to a county clerk's
15 office in Tennessee about receiving a Certificate of
16 Restoration or a COR form?

17 A No, sir. I just relied on the probation and
18 parole department.

19 Q Are you aware anyone reaching out to a county
20 clerk's office on your behalf about a COR form?

21 A No, sir.

22 Q Have you ever reached out to the election
23 commission office in Madison County about receiving
24 a Certificate of Restoration form?

25 A I didn't know I -- I didn't know I could.

1 You know, I didn't know what avenues -- what steps I
2 was supposed to take.

3 Q So, that's a no, that you didn't reach out to
4 the election commission?

5 A Oh, yes. No. Sorry.

6 Q Has anyone reached out to the election
7 commission office about a COR form on your behalf?

8 A I don't know.

9 Q Do you have any documentation -- beyond
10 what's in front of you, any --

11 A No, sir.

12 Q -- documentation about someone reaching out
13 to the election commission office on your behalf?

14 A No, sir.

15 Q Do you -- did you contact any other entity,
16 governmental entity in the state of Tennessee about
17 receiving a COR form for restoring your voting
18 rights?

19 A No, sir.

20 Q And are you aware of someone reaching out to
21 any other government entity on your behalf about
22 filling out a COR form or restoring your voting
23 rights?

24 A Just what I talked to Blair about.

25 Otherwise, no.

1 Q Do you have any documentation, beyond what's
2 in front of you, of anyone reaching out on your
3 behalf to any Tennessee government entity about
4 getting a COR form filled out?

5 A I don't have no -- I have no papers for that.

6 Q So, beyond your conversation with the Madison
7 County probation and parole office and your
8 conversations with Kate and Blair in this case, have
9 you done anything else in an effort to restore your
10 voting rights in Tennessee?

11 A No.

12 Q Okay. I'd like to move on from that, then,
13 and talk a little bit about a newspaper article in
14 the "Jackson Sun."

15 MR. BARKER: This is labeled B in the
16 chat, Ms. Porter, and if we could make that the next
17 exhibit.

18 (WHEREUPON, a document was marked as
19 Exhibit Number 3.)

20 MS. UYEDA: Actually, Zachary, we've
21 been almost 45 minutes on the record. Would we be
22 able to take a quick break, maybe five minutes now?

23 MR. BARKER: Sure.

24 MS. UYEDA: All the documents that
25 Mr. Tournier has in front of him have been

1 previously disclosed by the plaintiffs.

2 MR. BARKER: Okay. Perfect. That's
3 fine. Let's go ahead and make it eight minutes and
4 come back at a nice even 10:50, if that's okay.

5 MS. UYEDA: That sounds good.

6 (Recess observed.)

7 BY MR. BARKER:

8 Q Mr. Tournier, you do understand that you're
9 still under oath?

10 A Yes, sir.

11 Q Did you speak to anyone on our break?

12 A Yes, sir.

13 Q Who did you speak with?

14 A Ms. Kate and Ms. Blair.

15 Q You don't have to tell me what you spoke
16 about --

17 A Right.

18 Q -- just asking for information.

19 Okay. I believe we were about to talk about
20 the "Jackson Sun" article, which is labeled B in the
21 chat. I'm going to share my screen and we will take
22 a look at that document.

23 Mr. Tournier, can you see that document?

24 A I can see it. I can't read any of it.

25 Q Let me zoom in here for you a little bit.

1 I'm sorry. It comes in a little bit zoomed out on
2 the screen share there.

3 Can you see the article now?

4 A Yes, sir.

5 Q And this is an article from the "Jackson
6 Sun." Are you familiar with this article?

7 A Yes, sir.

8 Q Do you remember speaking to a reporter from
9 the "Jackson Sun"?

10 A Yes, sir.

11 Q And was that Adam Friedman?

12 A Huh?

13 Q Was that Adam Friedman, the person here
14 listed as the author of the article?

15 A Yes, sir.

16 Q What information did you provide
17 Mr. Friedman?

18 A Just that I was trying to get my voting
19 rights back.

20 Q Did you talk to him in person?

21 A Well, over the phone. I talked to his -- the
22 lady that come out and took pictures and stuff like
23 that, she pretty much interviewed me as well.

24 Q Do you recall what you told Mr. Friedman and
25 the other person from the "Jackson Sun"?

1 A About?

2 Q About the COR process.

3 A I don't know if I talked too much about that
4 part at all, really, except what we've already
5 discussed.

6 Q So, because you remember speaking to
7 Mr. Friedman for this article, this is you, you're
8 Ben Tournier here that's referenced in the first
9 sentence on this page?

10 A Yes, sir.

11 Q All right. I want to turn to the second page
12 of this article, if we can. This, in kind of the
13 middle of the page here where I have it pulled up,
14 it says, "The lawsuit alleges a probation officer
15 told Tournier they would only fill out half of his
16 application."

17 Did they fill out half of the application or
18 did you fill out half of the application?

19 A I filled out the top portion. I don't know
20 what they did after I did that.

21 Q The next sentence says, "He needed the
22 Madison County Court Clerk to fill out the rest to
23 attest he'd completed his sentence and paid all
24 court fees."

25 MS. UYEDA: I -- go ahead and finish

1 your question, Zachary. I apologize.

2 BY MR. BARKER:

3 Q Were you sent to the Madison County Clerk's
4 office?

5 A No, sir.

6 MS. UYEDA: Objection. This article is
7 hearsay. We would direct Zachary and counsel to the
8 Complaint which -- where the allegations in the
9 lawsuit are contained.

10 BY MR. BARKER:

11 Q You can answer the question, Mr. Tournier.
12 Were you sent to the Madison County Clerk's office?

13 A No. The lady at the probation/parole office,
14 they'd fill it out -- they'd direct it to where it
15 needed to go and I'd be contacted. They never told
16 me to go anywhere. Otherwise, I would have.

17 Q So, you didn't go to the Madison County
18 Clerk's office, then?

19 A No, sir.

20 Q This next portion says that "He," meaning
21 you, "called a court clerk in Maricopa County,
22 Arizona..."

23 Did you call the court clerk in Arizona?

24 MS. UYEDA: Objection. This article is
25 hearsay. We would direct counsel to the Complaint

1 which contains the included allegations.

2 BY MR. BARKER:

3 Q You can answer the question, Mr. Tournier.

4 A I don't remember if I did or not. That was
5 quite a while back.

6 Q Do you remember having any conversation with
7 a court clerk in Maricopa County, Arizona?

8 A I don't.

9 Q Okay. Other than the email that we discussed
10 earlier that we looked at, do you have any
11 documentation of communication on your behalf with
12 the Maricopa County Clerk's office?

13 A I don't have no paperwork.

14 MS. UYEDA: Objection. Asked and
15 answered.

16 BY MR. BARKER:

17 Q All right. I'll stop sharing that document.
18 I want to take a moment and talk a little bit about
19 each of your convictions.

20 So, in total, how many felony convictions do
21 you have, Mr. Tournier?

22 A Let's see. I don't know if paraphernalia is
23 considered a felony or not. If it is, I think I've
24 got three.

25 Q Okay. And I want to walk through all three

1 of those convictions one at a time. We're going to
2 start with one from 1997.

3 MR. BARKER: I'm sharing what's in the
4 chat as Document D. Ms. Porter, if we can mark that
5 as our next exhibit.

6 (WHEREUPON, a document was marked as
7 Exhibit Number 4.)

8 BY MR. BARKER:

9 Q I'll get zoomed in here so you can take a
10 look at this, Mr. Tournier, before I share my
11 screen. Can you see this document, Mr. Tournier?

12 A Yes, sir.

13 Q And is that document -- does it say it's from
14 Yavapai County -- am I pronouncing that correctly,
15 Yavapai County, Arizona?

16 A Excuse me?

17 Q Right there at the top.

18 A Oh, yes, sir.

19 Q And is that your name, Benjamin Virgil
20 Tournier, listed as the defendant?

21 A Yes.

22 Q I want to scroll down in this document, so
23 bear with me. I'm going to zoom out, scroll down,
24 and then zoom back in here.

25 Is that your signature right there?

1 A Yes.

2 Q And the date, what date is listed beside your
3 signature?

4 A February 24th.

5 Q Of what year?

6 A Oh, '97.

7 Q All right. Now, I want to take a look at
8 just a couple things in here. What is the
9 conviction here that you pled guilty to?

10 MS. UYEDA: Objection. Zachary, can you
11 clarify what this document is and where it came
12 from?

13 MR. BARKER: Sure.

14 BY MR. BARKER:

15 Q Mr. Tournier, this is a Plea Agreement
16 document that came directly from the -- I'm assuming
17 I'm pronouncing this right -- Yavapai County Clerk's
18 office in Arizona.

19 In this Plea Agreement, it states your
20 offense here. Do you recall pleading or taking an
21 offered plea to theft of a vehicle?

22 MS. UYEDA: Objection, lack of
23 foundation. We would direct counsel to the
24 Complaint which indicates Mr. Tournier's convictions
25 and any applicable pleas, as well as the court

1 documents which were provided to counsel during
2 earlier propounded discovery.

3 MR. BARKER: May I ask what rule you're
4 referring to that requires foundation for this
5 document?

6 MS. UYEDA: Yes. So, we are thinking
7 about -- this document is not confirmation that he
8 pled guilty. Rather, the documents that would
9 indicate his convictions have all been provided and
10 they represent his conviction status.

11 MR. BARKER: Okay. We'll get into the
12 confirmation of his convictions in a moment.

13 BY MR. BARKER:

14 Q Mr. Tournier, you can answer my questions
15 here. Did you plead an offered plea to theft of a
16 vehicle?

17 A Yes.

18 Q And is that what's documented here in this
19 plea agreement?

20 A Yeah, the guilty plea was scratched out and
21 wrote in Alford, so yes.

22 Q Do you recognize this -- is the case number
23 up here at the top 97-0359?

24 A I see it in the document. I don't know what
25 you're asking besides that. I'm sorry.

1 Q Did I read that correctly, 97-0359?

2 A Yes.

3 Q And this is the same document that I just
4 scrolled down through that had your signature on it,
5 right?

6 A Yes.

7 Q Okay. I want to take a look -- I'll stop
8 sharing this document and we'll take a look at
9 another document, which is labeled E in the chat,
10 E as in elephant.

11 MR. BARKER: Ms. Porter, would you make
12 that the next-numbered exhibit.

13 (WHEREUPON, a document was marked as
14 Exhibit Number 5.)

15 BY MR. BARKER:

16 Q I'm going to share my screen here.

17 Mr. Tournier, can you see that document?

18 A Yes.

19 Q And that says, "...for the County of
20 Yavapai...", up there at the top?

21 A Yes.

22 Q And that's your name, Benjamin Virgil Turner
23 there in the top left?

24 A Tournier, yes.

25 Q Tournier, I'm sorry. And that case number

1 ends in 0359?

2 A Yeah.

3 Q With a date over there on the right of
4 February 24th, 1997, right?

5 A Yes.

6 Q And this states that you entered a plea of
7 guilty to theft, correct?

8 A It does. That was supposed to be an Alford
9 plea, if it's the same one. I think that's the only
10 conviction I ever had in Yavapai County, which I
11 successfully completed probation on.

12 Q And this says also that you were "advised
13 restitution will be required in an amount not to
14 exceed \$1,000..."?

15 A Yes.

16 Q And it's marked down here, "The Court accepts
17 the plea at this time"?

18 A Yes.

19 Q Do you have any documentation of payment of
20 restitution for this case?

21 A No, sir.

22 MS. UYEDA: Objection. Lack of
23 foundation.

24 BY MR. BARKER:

25 Q Okay. I am done with this document. I've

1 stopped sharing my screen. I'm going to move on to
2 another document here.

3 Mr. Tournier, can you see this document I'm
4 sharing?

5 A Yes, sir.

6 Q Does it say at the top, Yavapai County again?

7 A Yes, sir.

8 Q And the date over here on the left is
9 March 24th, 1997, right?

10 A Yeah.

11 Q It has a judge's name on it, Raymond W.
12 Weaver, Jr., right here in the center, right?

13 A Okay.

14 Q And is this court -- is this case number
15 again ending in 0359?

16 A Yes.

17 Q And this is your name here, Benjamin Virgil
18 Tournier, right?

19 A Right. I don't know who this Scott person
20 is, but my name is above it.

21 Q Okay. And this document here says that --
22 excuse me. Right here at the bottom, "It is the
23 judgment of the Court that the Defendant is guilty
24 of the crime of theft of a vehicle..." Is that
25 right?

1 MS. UYEDA: Objection.

2 Zachary, could you explain again what
3 this document is?

4 MR. BARKER: Yes. This is a document
5 retrieved from the Yavapai County Clerk's office
6 directly from them to my investigator. That is the
7 judgment document for Mr. Tournier's conviction of
8 theft in Yavapai County, which at some point I would
9 assume was served on him and in his own possession
10 as well. We have retrieved it directly from the
11 clerk's office and are questioning him about this
12 document.

13 BY MR. BARKER:

14 Q This document is a judgment of the court that
15 you were guilty of theft of a vehicle, right,
16 Mr. Tournier?

17 MS. UYEDA: Objection. Calls for legal
18 conclusion.

19 BY MR. BARKER:

20 Q Mr. Tournier, does this document state,
21 "theft of a vehicle"?

22 A Yes.

23 Q Does it state, "It is the judgment of the
24 Court that the Defendant is guilty of theft of a
25 vehicle...".

1 A Yes.

2 Q And does it state that that was a Class 6
3 felony?

4 A I don't know what class means, but yes.

5 Q Okay. I'm scrolling down here to the section
6 labeled "Special Conditions of Probation." In this
7 second paragraph in "Special Conditions of
8 Probation," it states, "...the Defendant shall pay
9 restitution for the victim's economic loss through
10 the Clerk of the Superior Court of Yavapai County in
11 the total amount to be determined by competent
12 evidence but not to exceed \$1,000 payable to the
13 victims listed in the Presentence Report upon
14 further Order of the Court."

15 Did you pay any restitution?

16 MS. UYEDA: Objection. Foundation.

17 BY MR. BARKER:

18 Q Mr. Tournier, you can answer the question.

19 Did you pay any restitution for this conviction in
20 Arizona?

21 A No, sir.

22 Q Are you aware of whether the Court put out
23 any further orders about restitution in this case?

24 A No, sir.

25 Q Do you have any documentation about

1 restitution being paid with regard to this
2 conviction?

3 MS. UYEDA: Objection. Lack of
4 foundation.

5 BY MR. BARKER:

6 Q The question is, Mr. Tournier, do you have
7 any documentation about restitution being paid? You
8 can answer that question with regard to this
9 conviction.

10 A No, sir.

11 Q All right. It further states that the
12 "Defendant shall pay reimbursement through the Clerk
13 of the Superior Court," and then has some fees and
14 prices there. I'm just going to jump straight to
15 the point here, Mr. Tournier.

16 Do you have any documentation for paying any
17 sorts of fees or anything in association --

18 (Overlapping speech.)

19 A No, sir.

20 MS. UYEDA: Objection. Lack of
21 foundation.

22 You can answer, Mr. Tournier.

23 THE WITNESS: No.

24 BY MR. BARKER:

25 Q Okay. Moving on --

1 A Like I said, that was several years ago. My
2 memory is not -- I can't say if I paid the
3 restitution or if I didn't. I just don't -- I don't
4 remember. I don't think so.

5 Q Okay. I've stopped sharing that document.
6 I'm going to move on to one other document here.
7 This is labeled Document G in the chat. I'm going
8 to zoom in here.

9 MR. BARKER: Can we mark Exhibit F as
10 the next-numbered exhibit and then now Document G as
11 the exhibit after that.

12 (WHEREUPON, a document was marked as
13 Exhibit Number 6.)

14 (WHEREUPON, a document was marked as
15 Exhibit Number 7.)

16 BY MR. BARKER:

17 Q Mr. Tournier, I'm sharing a document on my
18 screen. Can you see that?

19 A Yes.

20 Q And this was a document retrieved directly
21 from the clerk's office by my investigator in
22 Yavapai County of Arizona, and it is a document
23 entitled, "Conditions of Probation," and it has the
24 case number and the citation at the top of it here.

25 Mr. Tournier, is this your name, Benjamin

1 Virgil Tournier, at the top left side of this
2 document?

3 A Yes, sir.

4 Q And that case number or cause number there
5 ends in 0359; is that right?

6 A Yes, sir.

7 Q I want to scroll down. Well, we'll start
8 here. In the middle of the screen here, it says
9 that "It is the judgment of this Court that the
10 Defendant is [found] guilty of the crimes of theft
11 of a vehicle, a Class 6 felony," right?

12 A Yes, sir.

13 Q I want to scroll down here to one of the
14 conditions on the right-hand side labeled "As
15 Special Conditions Defendant Shall," Number 5 here.
16 That says, "Pay all court ordered monetary
17 obligations as set forth in the sentencing order and
18 as directed by the Adult Probation Department."

19 Do you have any --

20 A You said Number 5?

21 Q Five on the right-hand side here.

22 A All right. Okay.

23 Q Can you see where I'm kind of highlighting it
24 there?

25 A Yes, sir.

1 Q Number 5 on the right-hand side, it says,
2 "Pay all court ordered monetary obligations as set
3 forth in the sentencing order and as directed by the
4 Adult Probation Department."

5 Do you have any documentation of making those
6 payments?

7 MS. UYEDA: Objection. Lack of
8 foundation.

9 BY MR. BARKER:

10 Q Mr. Tournier, can you answer the question.

11 A These are the same questions about the other
12 pages that you've been asking me, so no.

13 Q Do you have any specific documentation at all
14 from the Adult Probation Department in Arizona?

15 A That far back, I do not.

16 Q Okay. I want to look at one last document
17 here from -- well, I've got two more documents from
18 the 1997 case number. This was, once again,
19 retrieved directly from the county clerk's office by
20 my investigator from Yavapai County. This is a
21 Judgment that was in your case file there,
22 Mr. Tournier.

23 Is that your name, Benjamin Virgil Tournier,
24 on the left?

25 A Yes.

1 Q And that case number, does that end in 0359?

2 A Yes, sir.

3 Q And does this have -- this document states,
4 "...the State of Arizona shall have Judgment of
5 \$1,855 against Benjamin Virgil Tournier,
6 specifically in the following amounts." And it does
7 some math and has the remaining total amount due,
8 \$1,855.

9 Have you paid that amount?

10 A No, sir.

11 Q And that's the signature of a judge there. I
12 can't make out the name, but there is a signature
13 above the judge blank there at the bottom, right?

14 A Yes.

15 Q And that was dated the 7th day of March,
16 2000, right?

17 A Okay.

18 Q Is that what it says there, 7th day of March?

19 A Yes, sir.

20 MR. BARKER: All right. Can we make
21 that -- I don't know if I did this, Ms. Porter.
22 Document H, can we make that the next-numbered
23 exhibit?

24 / /

25 / /

1 (WHEREUPON, a document was marked as
2 Exhibit Number 8.)

3 MR. BARKER: And then I'm going to share
4 one last document, Document I. If we can make that
5 the next-numbered exhibit as well.

6 (WHEREUPON, a document was marked as
7 Exhibit Number 9.)

8 BY MR. BARKER:

9 Q I'm going to share my screen. This was
10 pulled directly from the web address listed in the
11 bottom left-hand corner of the document. It's
12 publicly available from the Arizona Judicial Branch
13 website.

14 Can you see this document, Mr. Tournier?

15 A Yes.

16 Q Where it says case number, is that 0359, the
17 ending -- last four digits of that case number?

18 A Yes.

19 Q And is this your name here kind of in the
20 center of my screen, Benjamin Virgil Tournier?

21 A Yes.

22 Q And are you identified as Defendant-D2 on
23 this document?

24 A Yes.

25 Q Are you familiar with Sue Ann Hudson?

1 A Yes.

2 MS. UYEDA: Objection.

3 BY MR. BARKER:

4 Q You can answer the question, Mr. Tournier.

5 A Yes.

6 Q And she's identified as Defendant-D1,
7 correct?

8 A Yes.

9 Q Are you aware on this document of an order
10 restoring the civil rights of the individual
11 identified as D1 in this case?

12 A Yes, I see it.

13 MS. UYEDA: Objection, form.

14 BY MR. BARKER:

15 Q Have you attempted to restore your civil
16 rights with regard to this case, Mr. Tournier?

17 A I don't -- I think that's what I was doing
18 with all of this at one time, I believe, but I was
19 told that Arizona won't do anything because I asked
20 the Interstate Compact here in Tennessee, that I had
21 to go for my rights here in Tennessee.

22 Q Okay. Do you see here the very top entry on
23 this case where it says "Date" and "Description,"
24 "4/14/2022, OLCF post disposition auto send." Then
25 it has "D2" as the party listed.

1 Did you receive anything from the court in
2 Arizona on April 14th, 2022?

3 MS. UYEDA: Objection, form.

4 BY MR. BARKER:

5 Q You can answer the question, Mr. Tournier.

6 A I don't know what that -- I don't know what
7 that OLCP, I don't know anything about that.

8 Q Well, then let's not make it specific to that
9 specific description, then.

10 Have you received any documentation or any
11 documents from the Yavapai County Court on this
12 conviction in the year 2022?

13 A Not that I remember.

14 Q Okay. I'm going to stop sharing my screen
15 for that document. Let's move on to a conviction
16 from the year 2000.

17 MR. BARKER: We'll take a look at
18 Document J from the chat. If we can make that the
19 next-numbered exhibit, Ms. Porter.

20 (WHEREUPON, a document was marked as
21 Exhibit Number 10.)

22 BY MR. BARKER:

23 Q I am sharing my screen for Document J.
24 Mr. Tournier, can you see this document?

25 A Yes, sir.

1 Q And at the top there, does it say, "...for
2 the County of Maricopa"?

3 A Yes, sir.

4 Q And there on the left-hand side of the
5 document, does it say -- is that your name --

6 A Yes, sir.

7 Q -- Benjamin V. Tournier?

8 A Yes.

9 Q And is that case number, the last five digits
10 of it, 10683? Did I read that correctly?

11 A Yes, sir.

12 Q And this document states that it's a Plea
13 Agreement, correct?

14 A Yes.

15 Q And this document was retrieved, once again,
16 directly from the Maricopa County Clerk's office by
17 my investigator.

18 Mr. Tournier, did you plead guilty to a crime
19 in 2000?

20 A Yes.

21 Q And was that a guilty plea to possession of
22 drug paraphernalia?

23 A Yes.

24 Q Does this document appear to be the Plea
25 Agreement that you can tell thus far?

1 MS. UYEDA: Objection. Lack of
2 foundation.

3 MR. BARKER: Let me back up. Strike
4 that question.

5 BY MR. BARKER:

6 Q I need to do this. Mr. Tournier, is that
7 your signature in the middle of the screen there?

8 A Yes, sir.

9 Q And is that the -- what's the date that is
10 beside your signature?

11 A October 4th of 2000.

12 Q And are these your initials here on the
13 left-hand side of the page?

14 A Yeah.

15 Q Scrolling back, I'm going to zoom in a little
16 bit here. Is this the Plea Agreement that you
17 signed for your possession of drug paraphernalia?

18 MS. UYEDA: Objection. Lack of
19 foundation.

20 BY MR. BARKER:

21 Q You can answer the question, Mr. Tournier.

22 A Yes.

23 MR. BARKER: All right. I'm going to
24 stop sharing Document J and then we're going to move
25 on to Document K.

1 Ms. Porter, if we could mark that as the
2 next-numbered exhibit.

3 (WHEREUPON, a document was marked as
4 Exhibit Number 11.)

5 BY MR. BARKER:

6 Q If you'll keep bearing with me, Mr. Tournier,
7 we'll get through all of these documents.

8 Mr. Tournier, this is another document pulled
9 directly from the Maricopa County Clerk's office by
10 my investigator. Mr. Tournier, does this document
11 say Maricopa County at the top?

12 A Yes.

13 Q And this case number here, does it end in
14 10683?

15 A Yes.

16 Q And is that your name, Benjamin Virgil
17 Tournier?

18 A Yes.

19 Q Is this document entitled, "Plea
20 Agreement/Change of Plea"?

21 A Yes.

22 Q I'm going to scroll down here a little bit.
23 This document states, "The Defendant enters a plea
24 of guilty to the following crime(s): Count 1:
25 Possession of drug paraphernalia, a Class 6

1 designated felony..."

2 Does that accurately depict the crime that
3 you pled guilty to?

4 A Yes.

5 MR. BARKER: All right. I'm going to
6 move away from that document. We're going to look
7 at Document L next.

8 Ms. Porter, if you would please make
9 that the next-numbered exhibit.

10 (WHEREUPON, a document was marked as
11 Exhibit Number 12.)

12 BY MR. BARKER:

13 Q We're going through the same thing here,
14 Mr. Tournier. Can you see this document?

15 A Yes.

16 Q Once again, this document was pulled directly
17 from the Maricopa County Clerk's office by my
18 investigator. Does it say Maricopa County at the
19 top there?

20 A Yes.

21 Q And is that a case number ending in 10683
22 there on the left-hand side of this document?

23 A Yes.

24 Q Is that your name, Benjamin Virgil Tournier?

25 A Yes.

1 Q And is that your date of birth, May 28th,
2 1969, there?

3 A Yes.

4 Q And I want us to look at some stuff in this
5 document. It states here, "Offense: Amended
6 Count 1: Possession of drug paraphernalia, a Class 6
7 designated felony..."

8 Does that accurately state the felony that
9 you pled guilty to in this case?

10 A Yes.

11 Q Under a section here stated "Reimbursement,"
12 it states, "It is ordered that the Defendant shall
13 make and pay reimbursement through the Clerk of the
14 Superior Court of Maricopa County for the reasons
15 stated on the record in the total amount of \$100."

16 Did you pay that \$100?

17 A I might have. It's been a long time. This
18 is for drug -- this is probably drug court.

19 Q Do you have any documentation of paying that
20 \$100?

21 MS. UYEDA: Objection. Lack of
22 foundation. Mr. Tournier has stated that he does
23 not recall whether or not that was paid.

24 MR. BARKER: Then he can simply answer
25 no if he doesn't have any documentation. No

1 foundation is needed.

2 BY MR. BARKER:

3 Q Mr. Tournier, do you have any documentation
4 of paying that \$100?

5 A No. From that far back I would not.

6 Q And there's a fine here listed. It says,
7 "It is ordered that the Defendant shall pay a fine
8 to the Clerk of the Superior Court of Maricopa
9 County in the amount of \$750..."

10 Did you pay that \$750?

11 A I thought that was waived.

12 Q Do you have any documentation stating that
13 that \$750 was waived?

14 A No. That was my impression.

15 Q Do you have any documentation of paying that
16 \$750?

17 A No.

18 Q It further states, "that the Defendant pay an
19 assessment in the amount of \$20 to the Clerk of the
20 Superior Court in Maricopa County as follows," right
21 here in the center of the document.

22 Did you pay that \$20?

23 A I can't remember.

24 Q Do you have any documentation of paying
25 that \$20?

1 A No.

2 Q All right. Moving on from that document,
3 that's our last document for the 2000 drug
4 paraphernalia conviction. I want to talk about your
5 conviction from 2001 that you mentioned for forgery.

6 I'm going to share my screen here. This is,
7 once again, a document pulled directly from the
8 Maricopa County Clerk's office by my investigator.

9 Mr. Tournier, does that say County of
10 Maricopa at the top of this document?

11 A Yes.

12 Q And is this Benjamin Virgil Tournier -- and I
13 know that that may be spelled a little bit weird,
14 but is that your name there on the left?

15 A Yes.

16 Q And this is case number, last four digits,
17 8579, right?

18 A Yes.

19 Q And this document states that it's a
20 Plea Agreement?

21 A Yes.

22 Q I'm going to scroll down here. Is that your
23 signature in the middle of the screen?

24 A Yes.

25 Q And what's that date beside your signature?

1 A July 6th of '01.

2 Q And are those your initials there on the
3 left-hand side of the page?

4 A Yes.

5 Q And this document states that you agree to
6 plead guilty to Count 1, forgery, a Class 4 felony.
7 Does that accurately describe your plea agreement
8 for your --

9 A Yes.

10 Q -- felony charge?

11 A Yes.

12 Q I'm sorry. Did I speak over you? Go ahead
13 and answer.

14 A Yes.

15 BY MR. BARKER:

16 Q Okay. Now, I want us to look at another
17 document pertaining to that plea.

18 MR. BARKER: Can we make -- I don't know
19 if I did that, Ms. Porter. Did we make M the
20 next-numbered exhibit?

21 THE REPORTER: No.

22 MR. BARKER: Can we go ahead and make
23 that the next-numbered exhibit at this time.

24 / /

25 / /

1 (WHEREUPON, a document was marked as
2 Exhibit Number 13.)

3 MR. BARKER: And then we're looking at
4 Document N next. If we could go ahead, Ms. Porter,
5 and make that one the next-numbered exhibit.

6 (WHEREUPON, a document was marked as
7 Exhibit Number 14.)

8 BY MR. BARKER:

9 Q I'm going to share my screen and take a look
10 at this document, Mr. Tournier. There's only one
11 more left after this one.

12 This one was, once again, pulled directly
13 from the Maricopa County Clerk's office by my
14 investigator and is publicly available to anyone.
15 Does this state Maricopa County at the top center of
16 the document, Mr. Tournier?

17 A Yes.

18 Q And does it have the case number, 8579, here
19 on the left-hand side of the page?

20 A Yes.

21 Q And is that your name there, Benjamin Virgil
22 Tournier?

23 A Yes.

24 Q I'm going to scroll down in this document a
25 little bit. It says, "The Defendant enters a plea

1 of guilty to the following crime(s): Offense:

2 Count 1: Forgery, a Class 4 felony."

3 Does that accurately describe the crime that
4 you pled guilty to?

5 A Yes.

6 Q I'm done with that document. Moving on to
7 the last one, the last document that we're looking
8 at here today, Mr. Tournier.

9 Once again, pulled directly from Maricopa
10 County Clerk's office by my investigator and is
11 publicly available to anyone. Does this document
12 say Maricopa County at the top center of it,
13 Mr. Tournier?

14 A I don't see no document.

15 Q Can you see that document there?

16 A No.

17 Q I'm not sharing my screen. My apologies.
18 This is Document O that I'm sharing on my screen.

19 MR. BARKER: Ms. Porter, if we can make
20 Document O the next numbered exhibit.

21 (WHEREUPON, a document was marked as
22 Exhibit Number 15.)

23 BY MR. BARKER:

24 Q I've got it shared up there, Mr. Tournier.
25 Can you see it?

1 A Yes, sir.

2 Q Does that say Maricopa County at the top
3 center?

4 A Yes, sir.

5 Q And the case number ending in 8579?

6 A Yeah.

7 Q And is that your name, Benjamin Virgil
8 Tournier?

9 A Yeah.

10 Q And is that your date of birth, May 28, 1969?

11 A Yes.

12 Q Scrolling down here. Where it says "Offense"
13 here and "Felony Class," and it says, "Count 1:
14 Forgery, Felony Class: 4," does that accurately
15 represent the crime that you pled guilty to?

16 A Yes.

17 Q And where it says sentence, 2.5 years, does
18 that accurately describe the sentence that you
19 received as a basis of your guilty plea?

20 A Yes.

21 Q All right. I think I'm also done with that
22 document.

23 Mr. Tournier, are you aware of having to pay
24 any restitution in accordance with your 2001 forgery
25 conviction?

1 A No.

2 Q Are you aware of having to pay any court
3 costs in association with your 2001 forgery
4 conviction?

5 A No.

6 Q Okay. Do you have any documentation one way
7 or the other on those?

8 A No.

9 MR. BARKER: All right. I think I'm
10 ready to take another break, if we could. Would
11 everyone be amenable to that? Let's make it
12 13 minutes and come back at 11:45.

13 MS. UYEDA: Yes.

14 THE WITNESS: Yes.

15 MR. BARKER: All right. Ms. Porter,
16 let's go off the record and come back at 11:45.

17 (Recess observed.)

18 MR. BARKER: At this time, we have no
19 further questions for Mr. Tournier and pass the
20 witness.

21

22 EXAMINATION

23 QUESTIONS BY MS. UYEDA:

24 Q Mr. Tournier, I'd like to ask a few
25 questions. So, going back a little bit to earlier

1 in the deposition, you stated that you saw an ad on
2 Facebook about voting rights restoration; is that
3 correct?

4 A Yes, ma'am.

5 Q And before you saw that ad, did you think you
6 were not going to be able to vote again?

7 A Yes.

8 Q And can you walk me through what happened
9 when you saw the ad.

10 A I turned my life around, you know, when I got
11 out in 2003, became a Christian, put God above all
12 things. So, I thought, maybe it's God opening a
13 door to be a blessing to give me a normal -- back to
14 as close of a normal life as I could possibly earn.

15 Q And you responded to the Facebook ad?

16 A Yes, ma'am.

17 Q And the individual who responded offered to
18 help you with your voting rights restoration?

19 A Yes, ma'am.

20 Q And you told them you had felony convictions
21 in Arizona; is that correct?

22 A Yes, ma'am.

23 Q Did they offer to help you with your felony
24 convictions in Arizona?

25 A Yes, ma'am. I told them I couldn't afford to

1 do it on my -- I couldn't afford to do any of this,
2 and they told me that they'd help me with all of
3 that as well.

4 Q Okay. Did they offer to reach out to Arizona
5 officials on your behalf about voting rights
6 restoration?

7 A Yes, ma'am.

8 Q And did you authorize them to do so?

9 A Yes, ma'am.

10 Q You stated earlier that you also went to the
11 Madison County probations office; is that correct?

12 A Yes, ma'am. They weren't very helpful.

13 Q Okay. You spoke to the, you said,
14 receptionist at the Madison County probations
15 office?

16 A Yes, ma'am.

17 Q And could you walk us through again what
18 happened when you asked her -- when you spoke with
19 her.

20 A I told her that the person who was helping me
21 with my voting rights told me to come down here and
22 fill out a paper requesting my voting rights back
23 and I needed to see somebody that would fill the
24 paper out with me. And she handed me a paper and
25 told me to fill the top portion out and give it back

1 to her and she'd direct it to where it needed to go.

2 Q Okay. She instructed you to fill out the top
3 portion of the paper?

4 A Yes, ma'am.

5 Q And did you fill out the top portion of the
6 paper?

7 A Yes, ma'am.

8 Q What happened after you did so?

9 A I gave it back to her and she said somebody
10 would be contacting me and then I never heard
11 anything back.

12 Q Did she tell you who she would be giving the
13 Certificate of Restoration form to or do you
14 remember?

15 A I thought she said she would give it to one
16 of the probation or parole officers, but I don't
17 remember, to be honest.

18 Q Have you heard from Madison County probations
19 again?

20 A No, never.

21 Q Mr. Tournier, what would the restoration of
22 your voting rights mean to you?

23 A It means that -- it would be the next step to
24 having me back on track to being a normal person
25 again.

1 MS. UYEDA: With that, we have no
2 further questions. Thank you, Mr. Tournier and
3 Zachary, for your time.

4 MR. BARKER: Nothing further from us,
5 too. I think we're done.

6 THE REPORTER: Attorneys, same orders as
7 the previous two days?

8 MR. BARKER: Yes, same as the previous
9 two days.

10 MS. UYEDA: Yes, please.

11 FURTHER DEPONENT SAITH NOT

12 (Proceedings concluded 12:00 p.m. CST.)

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E R R A T A P A G E

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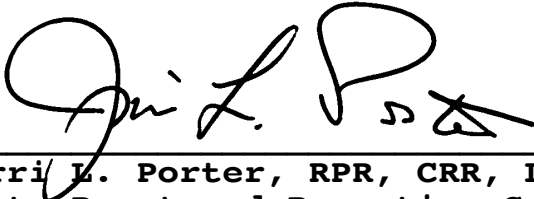
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TN CONF OF THE NATL ASSOC FOR THE ADVANCEMENT OF COLORED PEOPLE

VS

LEE, et al.

LEOLA SCOTT

May 23, 2023



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2 **IN THE UNITED STATES DISTRICT COURT**
3 **FOR MIDDLE DISTRICT OF TENNESSEE**
4 **NASHVILLE DIVISION**

5 **TENNESSEE CONFERENCE OF**
6 **THE NATIONAL ASSOCIATION**
7 **FOR THE ADVANCEMENT OF COLORED**
8 **PEOPLE, et al.,**

9 **Plaintiffs,**

10 **vs.**

11 **Case No. 3:20-cv-01039**
12 **Judge Campbell**
13 **Magistrate Judge Frensley**

14 **WILLIAM LEE, et al.,**

15 **Defendants.**

16 **Videoconference Deposition of:**

17 **LEOLA SCOTT**

18 **Taken on behalf of the Defendants**
19 **May 23, 2023**

20 **Commencing at 9:00 a.m. CST**

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A P P E A R A N C E S

For the Plaintiffs:

**DANIELLE LANG
ELLEN BOETTCHER
BLAIR BOWIE
KATE UYEDA
Attorneys at Law
Campaign Legal Center
1101 14th Street NW, Suite 400
Washington, DC· 20005
(202)736-2200
dlang@campaignlegalcenter.org
eboettcher@campaignlegalcenter.org
bbowie@campaignlegalcenter.org
kuyeda@campaignlegalcenter.org**

For the Defendants:

**PABLO VARELA
ZACHARY L. BARKER
Attorneys at Law
Assistant Attorney General
Public Interest Division
Office of the Attorney General
P.O. Box 20207
Nashville, TN· 37202-0207
(615)532-4098
zachary.barker@ag.tn.gov
pablo.varelo@ag.tn.gov**

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S T I P U L A T I O N S

The videoconference deposition of
LEOLA SCOTT was taken by counsel for the Defendants,
by Notice, with all participants appearing at their
respective locations, on May 23, 2023, for all
purposes under the Federal Rules of Civil Procedure.

All formalities as to caption, notice,
statement of appearance, et cetera, are waived. All
objections, except as to the form of the question,
are reserved to the hearing, and that said
deposition may be read and used in evidence in said
cause of action in any trial thereon or any
proceeding herein.

It is agreed that Jerri L. Porter, RPR,
CRR, Notary Public and Licensed Court Reporter for
the State of Tennessee, may swear the witness, and
that the reading and signing of the completed
deposition by the witness is not waived.

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* * *

THE REPORTER: Good morning. My name is Jerri Porter. I am a Tennessee Licensed Reporter, LCR Number 335. Today's date is May 23, 2023, and the time is approximately 9:00 a.m. Central Standard Time.

This is the deposition of Leola Scott in the matter of the Tennessee Conference of the National Association for the Advancement of Colored People, et al., versus Lee, et al., Case Number 3:20-cv-01039, in the United States District Court for the Middle District of Tennessee, Nashville Division.

At this time, I will ask counsel to identify yourselves, state whom you represent, and agree on the record that there is no objection to Jerri Porter administering a binding oath to the witness via Zoom.

MR. VARELA: Good morning, Ms. Scott. My name is Pablo Varela. I, along with Zachary Barker, we're attorneys with the AG's office and we represent the defendants. I will be taking the deposition today.

THE WITNESS: Yes, sir.

1 MS. LANG: My name is Danielle Lang. I
2 am counsel for the plaintiffs, working at Campaign
3 Legal Center, and I will be defending this
4 deposition today for Ms. Scott. I have no objection
5 with respect to the oath.

6 MR. VARELA: No objection by the State
7 either.

8 MS. BOETTCHER: My name is Ellen
9 Boettcher and I represent the plaintiffs as well in
10 this case.

11 * * *

12 LEOLA SCOTT,
13

14 was called as a witness, and after having been duly
15 sworn, testified as follows:

16
17 EXAMINATION

18 QUESTIONS BY MR. VARELA:

19 Q Good morning, Ms. Scott. As I said before,
20 my name is Pablo Varela. I will be taking your
21 deposition.

22 Have you ever given a deposition before?

23 A No, sir.

24 Q So, we're doing a deposition virtually and
25 just some ground rules for a virtual deposition.

1 They're kind of a little bit different than a
2 regular deposition where we're face to face.

3 I'll be asking questions and you'll be
4 providing responses. During the process, I will be
5 referring to documents and showing documents on the
6 screen. Are you at a computer where you can see
7 those documents?

8 A I'm on an iPad, so I should be able to.

9 Q Okay. I'm going to be dropping those
10 documents into the chat for this video deposition so
11 that the court reporter can get the documents and
12 also your counsel can see the documents.

13 A Yes, sir.

14 Q During the questioning, you may hear your
15 attorney make an objection to the question. That's
16 fine. That means that she is putting that on the
17 record and preserving the objection. But unless she
18 states a reason for you not to answer and instructs
19 you not to answer a question, you are to answer the
20 question. Is that okay?

21 A Yes, sir.

22 Q The court reporter, Ms. Jerri, is going to be
23 taking down stenographically what we say, so we need
24 to make sure that I don't talk over your answers and
25 I will try to make sure to do that. And then, if

1 you would wait until I finish the question before
2 answering it, that will give her the ability to make
3 sure that she's getting everything down correctly on
4 her stenographic notes. Is that okay?

5 A Yes, sir.

6 Q The last thing, if you ever need a break
7 during this deposition, just tell me. I'm happy to
8 take as many breaks as you need. The only thing I
9 ask is, if I'm in the middle of asking a question,
10 that the question be answered before we take a
11 break. Is that okay?

12 A Yes, sir.

13 Q I am going to share a document right now.
14 I'll put it in the chat.

15 Do you see this document on your screen?

16 A Yes, sir.

17 Q It says, "Notice of Deposition of Leola
18 Scott."

19 A Yes, sir.

20 Q Have you seen this before today?

21 A Yes, sir.

22 MR. VARELA: Let's mark that as the
23 first exhibit. I just put it on there early so that
24 we make sure that this video sharing works.

25 / /

1 (WHEREUPON, a document was marked as
2 Exhibit Number 1.)

3 BY MR. VARELA:

4 Q Let me ask you quickly, Ms. Scott, where are
5 you right now? Are you in an office, are you at
6 home?

7 A I'm at home.

8 Q Is there anybody in the room with you?

9 A No.

10 Q Do you have any documents with you?

11 A Yes.

12 Q For this deposition, I mean.

13 A Yes.

14 Q Okay. What documents are those?

15 A The court documents from the Notice of
16 Deposition that -- what you're showing, I have that.

17 Q Okay. Anything else?

18 A No, sir.

19 Q So, when did you first learn about -- that
20 you were going to be giving a deposition in this
21 case?

22 A I'm not -- I can't say the specific date. It
23 hasn't been about -- probably two, two to three
24 weeks ago. I'm not sure of the date.

25 Q That's okay. I understand. And during that

1 time, after you learned that you were going to give
2 a deposition, what did you do to get prepared for
3 the deposition?

4 A I spoke with my attorney.

5 Q Did you speak with anybody else?

6 A Just the attorneys on this case.

7 Q Okay. Did you review the documents that you
8 referred to earlier, the Notice of Deposition?

9 A Yes. I went over them, went through some of
10 them.

11 Q Did you review the Complaint or the Amended
12 Complaint in this case?

13 A The amended?

14 Q Amended Complaint.

15 A Yes. We went over some of it.

16 Q Okay. Can you tell the Court where you
17 currently live.

18 A It's 712 Finley Street, Dyersburg, Tennessee,
19 38024.

20 Q How long have you lived at that address?

21 A Over -- about 13 years.

22 Q So, around 2010; is that correct?

23 A Yes. Yes, sir.

24 Q And where were you living before that
25 address?

1 A 1011 Custer, Dyersburg, Tennessee.

2 Q Dyersburg?

3 A Yes, sir.

4 Q How long did you live at that address?

5 A Oh, that's my family's home, my father. I
6 grew up there.

7 Q Oh, okay. So, much further back than 2000 or
8 even 1990 or before.

9 Are you currently married?

10 A Yes, sir, I am.

11 Q Is this your first marriage, second marriage?

12 A Third.

13 Q Third marriage, sorry. Do you have any
14 children from prior marriages?

15 A Yes.

16 Q Are there -- I know this is rare, but do you
17 know if you have any child support obligations for
18 those children?

19 A No.

20 Q Do they live with you?

21 A I only have -- I'm 56. I only have one minor
22 child.

23 Q Okay. So, currently -- let's talk about your
24 employment right now. Where are you employed
25 currently?

1 A I'm employed at Rough Country.

2 Q Wealth country?

3 A Rough.

4 Q Rough Country?

5 A Rough Country.

6 Q What do you do for Rough Country?

7 A Operator of a brake press.

8 Q How long have you been employed there?

9 A Over a year.

10 Q Over a year. And before you got the job at
11 Rough Country, where were you employed?

12 A I was in food safety at Pictsweet in Bells,
13 Tennessee.

14 Q For how long?

15 A Probably about three years, two or three
16 years. I took a leave of absence. My husband was
17 going through a medical condition, so I took a
18 medical leave.

19 Q From that food safety position?

20 A Yes.

21 Q Prior to that position -- if I understand
22 correctly, that was, you said, three or four years?

23 A Uh-huh.

24 Q So, did you start that position around
25 2017/2018?

1 A In there, I think.

2 Q Before that food safety position, where were
3 you employed?

4 A I was a housewife.

5 Q Did you ever work --

6 A My husband --

7 (Overlapping speech.)

8 Q I'm sorry. Go ahead.

9 A Yes. I worked different places before that,
10 but as of 2020 -- in 2010, my husband didn't want me
11 to work.

12 Q Okay. Although -- just as an aside, and I
13 think you can agree, and you can correct me, but
14 being home is still very much a lot of work,
15 correct?

16 A Very much.

17 Q So, prior to that, prior to you working at
18 home instead of outside the home, were you -- where
19 were you employed before that?

20 A Before then I worked at Firestone. I just
21 did different jobs here and there. Firestone and
22 then I did home health as well.

23 Q Do you know how much time you worked at those
24 jobs?

25 A Different amount. I did home health where I

1 sit with -- I did that all the time, but the
2 factory, I worked at different factories here and
3 there. Rough Country, Worldcolor.

4 Q Okay.

5 A Then my husband has always -- I guess that
6 was three husbands, though. Most of the time I
7 stayed home to take care of the kids.

8 Q Okay. And that is, indeed, a job in and of
9 itself, I understand.

10 A Yeah, it is.

11 Q So, turning kind of to this lawsuit, are you
12 a member of the NAACP, the Tennessee chapter?

13 A Yes, I am.

14 Q And when did you become a member?

15 A 2021.

16 Q 2021?

17 A 2021/2022.

18 Q How does one become a member of the NAACP?

19 A What do you mean, how do you become a member?

20 Q Yeah. Do you have to like register or fill
21 out a form or just what? I don't know.

22 A It's an application, but we talk with you and
23 if you want to be a part of the organization, then
24 you submit a -- you know, paperwork, basically.

25 Q Are there any particular requirements other

1 than I just want to be a member?

2 A No, there's really not.

3 Q You said you fill out paperwork. Do you have
4 to pay like a fee or a registration fee or --

5 A Yes, you have to pay a fee. A fee, and then
6 you submit that.

7 Q Okay.

8 A You submit the form with the fee.

9 Q Okay. So, turning to the First Amended
10 Complaint in this case, how did you come to be a
11 plaintiff in this lawsuit?

12 MS. LANG: Objection to the extent it
13 calls for any communications with counsel.

14 So, Ms. Scott, you can answer, but
15 please be sure not to disclose any of your
16 conversations with the lawyers in this case.

17 THE WITNESS: So, the question was how
18 did I become a part?

19 BY MR. VARELA:

20 Q Of the lawsuit, yes, ma'am.

21 A Well, I was -- I went to get my voter's
22 rights after the death of my son and I was -- when I
23 went to the courthouse to do the paperwork, I found
24 out that there was other things going on so that I
25 wasn't able to get my voter's rights.

1 Q Okay. And how did it -- from that point
2 where you found out you couldn't get your voter's
3 rights, how did you -- what transpired or what
4 happened to the point where you're now a named party
5 in this lawsuit?

6 MS. LANG: Same objection to the extent
7 it calls for communications with lawyers.

8 Ms. Scott, you can answer any part of
9 that question that doesn't require you to share
10 communications with your attorneys.

11 BY MR. VARELA:

12 Q I just want to clarify that with your
13 attorney, Ms. Scott, that you're not -- I'm not
14 asking you to tell me like what was discussed in a
15 conversation with your lawyers, like the substance,
16 but I believe that I'm entitled to know whether
17 there was a conversation and that after that you
18 became a party to this lawsuit.

19 A Well, first of all, in the process of me
20 getting my voter's rights back, when I found out
21 that I wasn't able to, I spoke with the president of
22 NAACP concerning that and basically that's when I
23 kind of found out that, you know, this was going on,
24 that, you know, different things were taking place
25 that I wasn't aware of.

1 I went to the courthouse and spoke with
2 different -- the circuit court clerk and different
3 ones, trying to get my -- you know, being able to
4 vote and I wasn't able to. So, the president of the
5 NAACP, I spoke with her as well.

6 Q And who was that?

7 A Ms. Tiffany Boyd.

8 Q Did Ms. Boyd ask you to join the lawsuit?

9 A Did she ask me to join it?

10 Q Yes. To be a party to the lawsuit.

11 A No, I wouldn't say she asked me to join it,
12 no. She --

13 Q Did you -- I'm sorry. Go ahead.

14 A No. We discussed how the steps that she went
15 through on getting her voter's -- you know, because
16 she was having to go through the same thing, the
17 process. She didn't ask me to join it at all, but I
18 was wanting to get my voter's -- I'm yet trying to
19 get my voter's rights.

20 Q So, when you found out that this lawsuit was
21 going on about voter's rights process, did you ask
22 to be a party to the lawsuit?

23 A Well, basically -- well, the first I heard of
24 it was through the president of the NAACP and I said
25 I would be willing because I wanted to get my

1 voter's rights back. So, the first I ever heard was
2 through her.

3 Q So, correct me if I'm wrong, I understand you
4 to be saying that when you heard about it, you told
5 the president of the NAACP that you would be willing
6 to be a party to the lawsuit. Is that right?

7 A Yes. Yes, sir.

8 Q Okay. Thank you.

9 First of all, do you see the document that
10 I've shared?

11 A Yes, sir. Wait. Is this a different one?

12 Q This is the First Amended Complaint for
13 Declaratory and Injunctive Relief.

14 A Yes, I see it.

15 Q Do you have a copy of that with you, in front
16 of you?

17 A Yes, sir.

18 MR. VARELA: I'm going to mark that as
19 the next exhibit in the case, please.

20 (WHEREUPON, a document was marked as
21 Exhibit Number 2.)

22 BY MR. VARELA:

23 Q In your own words, Ms. Scott, if you would,
24 please tell me, what is this lawsuit about?

25 A It's helping minorities to be -- I feel that

1 I made mistakes in my past and I paid for my
2 mistakes. I don't think that the mistakes of your
3 past should carry on. It's been over 20-plus years
4 and I'm yet not able to vote.

5 And I feel that -- I think that's -- whereas,
6 if you make a mistake and you pay for that mistake
7 and you're yet paying for it throughout your life.
8 And I don't think that's right. Because once we pay
9 for our mistakes, we shouldn't have to carry that
10 continuing on. It's basically like we're still
11 guilty of the mistakes we made in our past.

12 Q Okay. Anything else?

13 A Not at this time. Something may come up, but
14 not at this time. I'll keep that open.

15 Q Just for your knowledge, if you answer a
16 question that I've asked and you think of more
17 information that you want to add to your answer
18 later on, just let me know.

19 A Okay.

20 Q And one of the ground rules that I guess I
21 didn't go over, if I don't ask a question -- or if I
22 ask a question that doesn't make a lot of sense to
23 you or it's complicated or I ask a really bad
24 question, which I do all the time, just let me know.
25 Ask me to rephrase it or clarify it, something, and

1 I'll try to do that for you. Okay?

2 A Okay. Thank you.

3 Q And if you -- if it's okay -- if I ask a
4 question and you answer it, it's okay to assume that
5 you understood the question.

6 A Okay.

7 Q Is that fair?

8 A Yes, sir.

9 Q Okay. So, in the Complaint, you are making
10 certain claims about just you, Leola Scott. In your
11 own words, how are you harmed by the process for
12 getting your voting rights back in Tennessee? You
13 personally.

14 A Could you say --
15 (Overlapping speech.)

16 MS. LANG: Objection.

17 MR. VARELA: Go ahead, Danielle.

18 MS. LANG: I was going to make an
19 objection to the extent it calls for a legal
20 conclusion, but you can repeat the question,
21 Mr. Varela.

22 BY MR. VARELA:

23 Q Ms. Scott, in this Complaint, you are making
24 certain claims about yourself. My question is, how
25 are you -- how have you been injured by the process

1 to get your voting rights back in Tennessee?

2 A Is it okay? The attorney said something.

3 Q Yes, ma'am. She made an objection on the
4 record. You can still answer.

5 A Okay. Well, when I -- the process when I
6 went, I paid off all of my fines. I was placed on
7 a -- it was an in-house -- I call it an in-house.
8 It's where -- it was called Community Corrections.
9 So, I never had to take any funds to the courthouse.
10 I paid everything off and I was released off of my
11 probation successfully.

12 So, after 20-plus years, when I go to get
13 my -- to get everything -- when I found out we could
14 go and get our votes reinstated, you know, our
15 rights to vote, when I got to the courthouse --
16 well, let me back up.

17 I went to the state probation office and they
18 signed off on everything, basically. When I got to
19 the courthouse, I was told I owed money. I didn't
20 owe any money because I paid everything off.

21 And I have to say, Judge Moore, he's the
22 circuit court judge, and at the time it was Phil
23 Bivens, he was a district attorney, they didn't
24 play. You know, no disrespect. They were officers
25 of the court. And when we went there, we -- you

1 know, they were a big court.

2 So, I paid everything off. I never had
3 anything saying for nonpayment. I successfully
4 completed everything. And then to get -- when I go
5 to the courthouse and find out that no funds was
6 turned in to the courthouse, basically, they told me
7 that I owed them money.

8 So, after I got to the courthouse, I went to
9 the city court clerk and asked them to pull up --
10 because I said, now -- at that moment I felt like,
11 so, has any money I've been paying being turned in?
12 So, basically, I went to the city court clerk and
13 asked them to pull up everything. Everything there
14 was paid because I took the money there. But I've
15 never had to take anything to the big courthouse.
16 I've always had to take it to the probation people.
17 That's when I found out that nothing was turned in.

18 When I went to the Community Corrections
19 offices, they told me that they didn't keep
20 paperwork except for five years. So, I said, have
21 y'all -- you're officers of the court and you're
22 telling me that you have no paperwork concerning
23 when I was on your -- you know, that's a problem.

24 Because it's like they asked me, did I have
25 receipts. So, my question was to them, do y'all

1 have receipts, because I was successfully released
2 off of all of my probation. But basically nothing
3 was turned in to the courthouse.

4 Q So, if I hear you correctly, your injury in
5 this case is that you believe you've paid all your
6 court costs and restitution and you've completed all
7 your supervision for --

8 A No, I did. Not believe. I did. Yeah, I
9 did.

10 Q And that for some reason they're saying at
11 the courthouse that you still owe costs or fees or
12 fines related to your felonies, is that correct?

13 A Yes, sir.

14 MS. LANG: Objection to the extent it
15 calls for a legal conclusion about what a legal
16 injury is.

17 MR. VARELA: Okay. I wasn't asking -- I
18 was just trying to express what she just told me and
19 reiterate it. I wasn't asking her that, but I
20 understand. Thank you, Danielle.

21 THE WITNESS: I was saying, basically,
22 everything that when I asked -- so, I asked for
23 copies of all of my cases. There's nothing --
24 excuse me.

25 It's as if I was on these -- I was -- I

1 have cases and nothing was paid on them. I have no
2 way of proving that. But like I told the clerk, if
3 you -- if I'm placed on probation -- you're a
4 district attorney, correct?

5 BY MR. VARELA:

6 Q I'm an attorney general.

7 A Well, it's in the same --

8 Q They're different.

9 A They're different?

10 Q Very much so.

11 Let me just back up a second. Let's talk
12 about -- let's go a little bit more systematically
13 through some of this. I think it's in the
14 Complaint, so we'll go through it in the Complaint
15 if that's okay.

16 A Okay.

17 Q I just scrolled to Page 16 of the First
18 Amended Complaint in this case. Do you see that on
19 your screen?

20 A Yes, sir, I see it. Forty-four.

21 Q Paragraph 44 is there on the screen?

22 A Yes, sir.

23 Q In Paragraph 44, you basically state that
24 you're a resident of Dyer County. That's correct,
25 right?

1 A Yes, sir.

2 Q And that you are the Civic Engagement Chair
3 for the Dyersburg Chapter of the Tennessee NAACP; is
4 that right?

5 A Yes, sir.

6 Q What is that -- what does a civic engagement
7 chair do at the NAACP? I'm just curious.

8 A I deal with more of hands on with the
9 community, different issues that come up in our
10 community, and bring awareness to it, basically.
11 So, I get out -- you know, in the community when
12 different things are happening, I'm normally the one
13 that deals with a lot of the youth, different things
14 and issues that goes on. And if they have issues,
15 then they'll bring it to me and I'll take it to the
16 committee and we'll discuss it.

17 Q Is this a paid position with the NAACP or a
18 volunteer position?

19 A It's not paid. It's volunteer.

20 Q Okay. In the Complaint you also indicate
21 that you help NAACP members and constituents in
22 attempting to restore their voting rights. Is that
23 correct?

24 A Yes, sir.

25 Q When you say constituents, what does that

1 mean?

2 A When I say constituents?

3 Q In the Complaint, that you "help NAACP
4 members and constituents," who is constituents?

5 MS. LANG: Objection. Ms. Scott did not
6 draft the language in the Complaint, but you're free
7 to ask her what she thinks that that term might
8 mean.

9 MR. VARELA: Okay.

10 BY MR. VARELA:

11 Q Ms. Scott, the Complaint states that you help
12 NAACP members and constituents attempt -- in their
13 attempts to restore their voting rights.

14 My question is -- I understand what NAACP
15 members means, but what does constituents mean in
16 that paragraph?

17 A Well, I can only tell you what -- my work in
18 helping. Basically, when my little son passed, I
19 got out and made sure -- you know, I'd set up booths
20 and help the youth and young or old that was trying
21 to vote and didn't know.

22 You have a lot of people now that they really
23 don't even think about voting. So, during this
24 time, I got out and showed them how to -- the
25 paperwork to submit. I went to the courthouse and

1 got the -- I'm sorry. I'm getting confused with the
2 words.

3 I'm trying to say the paperwork to submit to
4 vote. So, I made sure that different ones, you
5 know, did what they needed to so they could vote.
6 Even though I couldn't vote, I continued to make
7 sure that others could and showed them the steps
8 they need to take in order to vote.

9 Q Okay. So, correct me if I'm wrong, but my
10 understanding of what this phrase constituents means
11 is that these are people who are not NAACP members
12 that you are also trying to help get their rights
13 restored; is that right?

14 A Correct.

15 Q Okay. So, it's anybody that might need help
16 getting their rights restored?

17 A Getting their rights restored, as well as
18 just the process of voting.

19 Q Okay.

20 A So, basically, I also -- it wasn't just -- I
21 wasn't focusing on the people that couldn't vote. I
22 was helping people that could vote who didn't vote
23 as well.

24 Q Okay. So, that's basically what the civic
25 engagement chair position is at the NAACP that you

1 do right now?

2 A Some. I mean, that's part of it as well.

3 Q Part of it. And how long would you say that
4 you've been in that position?

5 A Not even a year.

6 Q Not even a year. In the time that you've
7 been in that position, how many people would you
8 estimate that you've helped restore their voting
9 rights?

10 A I'm sure over 50 or more. Not restore. No,
11 no, excuse me. Hold on just a moment. That was the
12 school calling. I'm sorry.

13 Not restore their rights. Just the
14 application to vote. Now, as far as -- do you
15 understand what I'm saying?

16 Q Let me repeat back to you what I think you
17 said and you can tell me if I'm right.

18 But before I do that, you said you had a
19 phone call from the school. Do you need to take
20 that? Do we need to take a break?

21 A If you don't mind.

22 Q Not at all.

23 MS. LANG: Thank you.

24 (Recess observed.)

25 / /

1 BY MR. VARELA:

2 Q Ms. Scott, before the break, I had asked you
3 about how many people you estimated you helped get
4 their voting rights restored. I think what you were
5 telling me, and correct me if I'm wrong, that you've
6 assisted about 50 or more people in the process by
7 helping them with the paperwork. Is that correct?

8 A Well, being able to vote. A lot of the young
9 individuals that I helped out, they could vote
10 anyway, they just hadn't applied. So, I got out and
11 made sure that a lot of the younger generations, as
12 well as middle aged, that they knew the process on
13 filing the necessary paperwork in time to vote for
14 our local election and to get them -- you know, to
15 let them know. Because, you know, they were young
16 and a lot of them didn't even know what to do. And
17 then a lot of people that -- after that, realized
18 that maybe they owed fines and maybe was in the same
19 boat that I was in and wasn't aware of it.

20 Q And -- okay. So, based on the paragraph in
21 the Complaint that we're looking at right now and
22 this particular sentence, as the civic engagement
23 chair for the Dyersburg Chapter of the NAACP, how
24 many individuals would you say you've helped or
25 attempted to help to restore their voting rights who

1 have lost them because of a felony?

2 A Well, see, when you say the civic engagement
3 chair, okay, the civic engagement chair, it deals
4 with -- what I do, it deals with more than just the
5 voting aspect. It deals with different issues going
6 on in our community as well.

7 Q Okay.

8 A It doesn't have anything to do with the
9 voting part.

10 Q Let me rephrase that.

11 A Yes.

12 Q Since you've been volunteering with the
13 NAACP, how many people, individuals, would you say
14 you've helped or attempted to help to restore their
15 voting rights?

16 A Restoring. I don't want to say a number and
17 I'm not completely sure of that number because --
18 (Overlapping speech.)

19 Q Would it --

20 A You keep saying to help their voting rights
21 back and a lot of people that I've helped they
22 wasn't -- they had no felonies, so they could vote
23 anyway.

24 Q Have you helped anyone who did have a felony
25 that didn't have their right to vote?

1 A Okay. I gave them the proper information.
2 And then Goodman, he -- there's a district attorney
3 in our community, Goodman, he offered a workshop and
4 they went from there.

5 Q So, of those people that you gave the
6 paperwork to, or you helped, you know, connect them
7 with the right paperwork to help get their rights
8 restored, how many people would that be, roughly? I
9 mean, is it more than ten, more than 100, more than
10 1,000?

11 A More than ten. I'm going to say 100. More
12 than ten.

13 Q So, between ten and 100, somewhere in there?

14 A I'm not going to say 100, now. Between
15 ten -- yeah, I'm not going to say 100 because a lot
16 of the ones I dealt with, they didn't have felonies.

17 Q I'm only asking about those who did have
18 felonies.

19 A Pardon?

20 Q I'm only asking you about people who came --
21 who had felonies and did not have their rights to
22 vote restored, how many of those people would you
23 say you helped them somewhere, anywhere along the
24 process, either just by giving them paperwork or
25 pointing them in the right direction?

1 A Well, I probably can't answer that question.
2 Ms. Tiffany Boyd would probably answer that better
3 than I can because after -- she would be the one
4 that really -- I would find someone and then I would
5 direct them to her, basically, because she knew the
6 steps and the more in and out than what I did.

7 Q All right. Well, of those people that you
8 maybe found that were in that position, just like
9 you, and you directed them to Ms. Boyd, do you know
10 if any of those people, that you heard, actually got
11 their rights back?

12 A I'm not sure completely. I don't want to
13 tell you an answer. I don't want to say yes and I'm
14 not sure because when that time -- see, I'm not only
15 civic engagement, I also deal with PADD, you know,
16 the Prevention Alliance of Dyersburg and Dyer
17 County. I was also dealing with that with the
18 overdose in our community. So, a lot of other
19 things was going on as well.

20 Q Okay.

21 A So, I directed -- when I found someone, I
22 sent them to Ms. Boyd.

23 Q Okay. Do you know any of the other named
24 plaintiffs in this lawsuit?

25 A Do I know them?

1 Q Yes.

2 A No.

3 Q Have you ever met them?

4 A No.

5 Q Even in the process of being the civic
6 engagement chair where you're helping people to
7 restore their voting rights, you've never met
8 Benjamin Tournier, Curtis Gray, John Weare, Lamar
9 Perry, Amanda Martin, or Reginald Hendrix?

10 MS. LANG: Objection. Asked and
11 answered.

12 BY MR. VARELA:

13 Q Is that a no?

14 MS. LANG: You may answer, Ms. Scott.

15 THE WITNESS: No, sir.

16 BY MR. VARELA:

17 Q Okay. What is your understanding about the
18 process to restore somebody's rights if they lost
19 them due to a felony?

20 MS. LANG: Objection to the extent it
21 calls for a legal conclusion, but Ms. Scott, you can
22 answer as to your understanding of the process.

23 THE WITNESS: Well, basically, the
24 process that -- I just assumed it was a simple
25 process. Once you completed your probations,

1 successfully completed everything, paid everything,
2 I was told that once the probation, state probation
3 signed off on everything, you would take it to the
4 courthouse and then they would sign off on it and we
5 would take it to the next building. Now, that's
6 what I was told, but I was stopped at the
7 courthouse.

8 BY MR. VARELA:

9 Q Okay. You said several things in there that
10 you were told that you take something.

11 A No. I was told that I would -- I would go to
12 the state probation office and they would sign off
13 that I received the paperwork -- I don't know the
14 name of the formal whatever. It's the Certificate
15 of Restoration.

16 Q Okay.

17 A So, I would take that and probation would
18 sign off stating that we successfully completed
19 everything. And I did that. And after I left the
20 probation office, they said take that to the
21 courthouse and they would notarize it. And then I
22 would take it to the voting -- the office where we
23 go get the voting.

24 That's the steps they said was completely
25 simple. It wasn't tedious, you know, everything

1 would just work out just fine. Once you complete
2 everything, it wouldn't be a problem. Basically,
3 yeah.

4 Q Okay. So, is it fair to say that the first
5 step in the process, as you understand it, is that
6 you need to get this Certificate of Restoration of
7 Rights?

8 A Yes. That was my first step, was getting the
9 form for the Certificate of Restoration filled out
10 with your felony.

11 And they also said that we could get
12 everything expunged from your record as well, you
13 know, your felony would be expunged. I was told
14 that one of them could be expunged, but at that
15 moment, I said expunging that still didn't give me
16 the right to vote.

17 Q Let me share another document with you,
18 Ms. Scott. Do you see that document on your screen
19 entitled T.C.A. 40-29-203?

20 A Yes, sir.

21 Q And that is -- that's a Tennessee Code
22 Annotated section, Tennessee laws, and it says --
23 it's entitled, "Certificate of voter rights
24 restoration; voter registration card." Do you see
25 that?

1 A Yes, sir.

2 Q And then Part (a) of that code section says,
3 "A person eligible to apply for a voter registration
4 card and have the right of suffrage restored,
5 pursuant to Tennessee Code Annotated 40-29-202, may
6 request, and then shall be issued, a certificate of
7 voting rights restoration upon a form prescribed by
8 the coordinator of elections."

9 Did I read that correctly?

10 A Yes, sir.

11 Q And that's the Certificate of Restoration you
12 were just talking about; is that right?

13 A Yes.

14 MS. LANG: Objection. Calls for a legal
15 conclusion.

16 MR. VARELA: Let's make that the next
17 exhibit in the deposition, please. Let me drop it
18 in the chat.

19 (WHEREUPON, a document was marked as
20 Exhibit Number 3.)

21 BY MR. VARELA:

22 Q Ms. Scott, I'm sharing a new document with
23 you entitled, "Certificate of Restoration of Voting
24 Rights." Do you see that on your screen?

25 A Yes, sir.

1 Q And this is a blank copy; is that correct?

2 A Yes, sir.

3 Q Have you seen one of these before?

4 A Yes, sir.

5 Q In the gray box at the top it states that
6 it's "to be completed by an agent of the pardoning
7 authority, an agent or officer of the incarcerating
8 authority, or a probation/parole officer or agent of
9 the supervising authority."

10 Do you see that?

11 A Yes, sir.

12 Q And the next sentence reads, "A separate form
13 must be completed for each felony conviction with a
14 different docket/case number."

15 Did I read that correctly?

16 A Yes, sir.

17 Q Did you receive any certificates of
18 restoration of rights from your probation or parole
19 or supervising authority?

20 MS. LANG: Objection. Form.

21 You can answer.

22 THE WITNESS: Yes, sir.

23 BY MR. VARELA:

24 Q How many of these did you receive?

25 A The forms? Three.

1 Q Now, you see on this form that there are
2 numbered sections, 1, 2, 3, and 4 on this page? Let
3 me reduce that and make it smaller. Do you see
4 that?

5 A Yes, sir. The 1, 2, 3, and 4?

6 Q Yes, ma'am.

7 A Yes, sir.

8 Q This Part 1 is your identifying information,
9 correct?

10 A Yes, sir.

11 Q And that would have the type of felony
12 conviction and the year of the conviction and then
13 your date of birth and Social Security number on it?

14 A Yes, sir.

15 Q Do you see Section 2?

16 A Yes, sir.

17 Q Can you read that section to yourself and let
18 me know when you're finished?

19 A Section 2?

20 Q Yes, ma'am.

21 A (Reviewing document.) Yes, sir.

22 Q Is it fair to say that Section 2 deals with
23 the completion of a sentence, whether or not someone
24 completed their sentence or supervision?

25 A Excuse me? Could you repeat that?

1 Q I said, is it fair to say that Section 2 is
2 dealing with completion of a sentence or probation?

3 A The completion?

4 Q Correct.

5 A Yes.

6 Q Whether or not someone completed it is
7 indicated in this section, right?

8 A Yes.

9 Q Do you know how parole or probation verifies
10 if you've completed a sentence?

11 MS. LANG: Objection. Lack of
12 foundation.

13 You can answer if you know, Ms. Scott.

14 THE WITNESS: When I was on the
15 probation, once I paid everything off, I was
16 released. So, when I completed -- I was on
17 Community Corrections, and when I completed it and
18 paid everything, I was released off of it
19 successfully.

20 BY MR. VARELA:

21 Q Okay. I understand that. My question was,
22 that information about your sentence and that you
23 completed it or not, is it your understanding that
24 the parole office has to verify that you've
25 completed your sentence?

1 MS. LANG: Objection. Calls for legal
2 conclusion, lack of foundation.

3 You can answer if you understand or
4 know, Ms. Scott.

5 THE WITNESS: You were saying parole,
6 and that's where the problem lies, because we were
7 placed on -- to me it's like an in-house probation.
8 I wasn't placed on parole. I was on Community
9 Corrections.

10 BY MR. VARELA:

11 Q Okay.

12 A So, I'm kind of, you know...

13 Q Let me clarify it. I understand.

14 Who did you ask for the certificate of
15 restoration of rights when you got your three
16 certificates?

17 A I was told to go to Darrell McElrath. He
18 works for the state probation office. I wasn't
19 required to go to the Westate Community Corrections
20 in which I was -- that's who I reported to. I never
21 reported to the state probation office.

22 Q Okay. So, did you, in fact, go to the
23 probation office to request your certificate of
24 voter rights?

25 A Did I go to the probation office or the state

1 probation office?

2 Q My question is, how did you get your
3 certificates? Who did you ask to get them?

4 A The Certificate of Restoration?

5 Q Yes, ma'am.

6 A The state probation.

7 Q Did you yourself go to the state probation
8 office to request them?

9 A Yes.

10 Q Did anybody go with you --
11 (Overlapping speech.)

12 A I called -- I'm sorry.

13 Q Did anybody go along with you when you made
14 that request for your Certificate of Restoration of
15 Voter Rights?

16 A No. I called Mr. Gary McElrath and he told
17 me to come out there.

18 Q Okay. And did you go out there?

19 A Yes, sir.

20 Q And did you go by yourself, then?

21 A Yes, sir. See, Mr. McElrath, he worked at
22 Westate probation before he went to the state
23 probation office. Now he works for the state parole
24 and probation office, but prior to that, he worked
25 at Westate Corrections.

1 Q Okay.

2 A So, I knew him through there, so I called him
3 for information.

4 Q And he told you to go out to the probation
5 out and make the request for the certificate of
6 restoration of rights and you did that.

7 A Yes, he told me to -- yes, sir.

8 Q And part of that process, is it your
9 understanding, that they have to fill out Section 2
10 on this form?

11 A Yes, sir.

12 Q And is it your understanding that they have
13 to verify that information before they sign it?

14 A Yes, sir.

15 Q Can you read Section 3 for me and let me know
16 when you're done.

17 A (Reviewing document.) I'm through. Yes,
18 sir.

19 Q Is it fair to say that Section 3 deals with
20 court-ordered restitution?

21 A Yes.

22 Q This is another section that the parole
23 office would have to fill out for each court,
24 correct?

25 A Yes, sir.

1 Q And it's also your understanding that they
2 would have to verify whether or not you had
3 restitution first, right?

4 A Yes, sir.

5 MS. LANG: Objection. Lack of
6 foundation.

7 BY MR. VARELA:

8 Q And then they would have to verify that that
9 restitution had been paid off, correct?

10 MS. LANG: Objection. Lack of
11 foundation.

12 You can answer to the best of your
13 understanding, Ms. Scott.

14 BY MR. VARELA:

15 Q Do you need me to repeat the question,
16 Ms. Scott?

17 A Yes.

18 Q Okay. Do you remember in Section 2 we talked
19 about -- I asked you, is it your understanding that
20 they have to verify information about your sentence
21 and that you completed it, and you said yes, you
22 understood that.

23 The same thing is true about Section 3,
24 correct? The probation office would have to verify
25 that information before they signed off that you had

1 completed it, correct?

2 A Yes.

3 MS. LANG: Same objection.

4 BY MR. VARELA:

5 Q Can you read Section 4 for me and let me know
6 when you're finished.

7 A (Reviewing document.) I'm done.

8 Q Is it fair to say that Section 4 is
9 addressing the issue of court costs and
10 court-ordered costs assessed against someone in a
11 case?

12 A Repeat that.

13 Q Is it fair to say that Section 4 is dealing
14 with court costs and whether or not they've been
15 issued and paid off?

16 A Well, okay, when you -- that question, but
17 when you go up to the court costs and restitution,
18 okay, Number 3 and 4 kind of intertwine, if you ask
19 me. You know, it says the court costs and then the
20 restitution.

21 So, yes, I guess. Because that was one of my
22 questions because they would check a box and then --
23 so I'm kind of confused. That was part of my --
24 with me, it was just, yeah, it was kind of...

25 Q So, what you're saying is that like you are

1 of the opinion or the thought that court costs and
2 restitution are the same thing?

3 MS. LANG: Objection. Misstates the
4 testimony.

5 THE WITNESS: No. I know the
6 difference.

7 BY MR. VARELA:

8 Q Okay. And when you read Section 3, there's
9 no reference to court costs in Section 3; is that
10 correct?

11 A Section 3 was relating to restitution.

12 Q And Section 4 relates to court costs; is that
13 correct?

14 A Court costs, correct.

15 Q And the probation office would have to verify
16 that information to sign off on Section 4 as well,
17 correct?

18 MS. LANG: Objection. Calls for
19 speculation, lack of foundation.

20 BY MR. VARELA:

21 Q On the back of the form, there are
22 instructions. Do you see that?

23 A Yes, sir.

24 Q And at the bottom there's a notice. Do you
25 see the notice at the bottom?

1 A Yes, sir, I see the notice.

2 Q And that notice reads, "A person is not
3 eligible to apply for a voter registration card and
4 have their voting rights restored unless the person
5 is current in all child support obligations. Before
6 restoring the voting rights of an applicant, the
7 Coordinator of Elections will verify with the
8 Department of Human Services that the applicant does
9 not have any outstanding child support payments or
10 arrearages."

11 Did I read that correctly?

12 A Yes, sir.

13 Q Okay. Now, after you received your
14 Certificate of Restoration, or your three
15 Certificates of Restoration, what did you do with
16 those?

17 A I took them to the courthouse.

18 Q For what purpose?

19 A I was told to take it to the courthouse.
20 When I left Darrell, the state probation, he filled
21 out, I guess, the 1 and 2, and then the courthouse
22 did the bottom as far as the 3 and 4.

23 Q So, you took the COR that were issued to you
24 with verification that you completed your sentence
25 in the top, Section 2, and you took it to the

1 courthouse for them to verify that you've paid off
2 restitution and paid off your court costs; is that
3 correct?

4 A Yes, sir.

5 Q And when you went to the courthouse to do
6 that, what happened?

7 A That's when I was informed that nothing that
8 I paid to the Community Corrections was turned in to
9 the courthouse.

10 Q Okay. Let me ask you about that a little
11 bit. When you would make payments, you would submit
12 them to Community Corrections?

13 A Yeah. That was the name of it at that time.
14 It's now Westate Corrections now.

15 Q Okay. Is that a physical place you would
16 take -- you would actually take money to?

17 A Yes. That was our probation office.

18 Q Okay. When you did that, did you typically
19 take cash or check, cashier's check? How would you
20 make those payments?

21 A Cash.

22 Q And when you gave the cash to the officer
23 there at the Community Corrections, what did they --
24 did they issue you a receipt?

25 A Yes, sir.

1 Q Did you keep those receipts?

2 A During the time, yes.

3 Q Do you have access to them now?

4 A No. That was over 20 years ago, so, you
5 know.

6 Q I understand.

7 A Once I completed it, there was no reason for
8 me to keep it. I'm sure they did what they were
9 supposed to --

10 (Overlapping speech.)

11 Q Now let's talk about -- I'm sorry.

12 You said that was about 20 years ago. Would
13 that be related to the 2004 felony conviction that
14 you described in your Complaint? Let me share that
15 again.

16 A 2004?

17 Q Let's go back to the First Amended Complaint.
18 Do you see that on your screen, Ms. Scott? I'm
19 going to highlight a section of Paragraph 44 again.
20 It says, "In 1992, Plaintiff Scott was convicted of
21 fraudulent use of credit cards and drug possession
22 in Dyer County."

23 Is that accurate?

24 A Yes, sir.

25 Q Is that two separate felony convictions in

1 1992?

2 A They were right there. Well, they was two
3 separate, but I was in the court at the same time,
4 if that makes sense. I think I was at the court on
5 both cases around the same time, if I'm not
6 mistaken. It's been so long.

7 Q Do you recall if restitution was ordered in
8 those cases?

9 A Yes. The credit card, that was with First
10 Citizens National Bank. I remember that. And I
11 remember when I went back to First Citizens --
12 because I have an account with First Citizens as we
13 speak.

14 At the time when I went to the bank to reopen
15 up an account and they told me I owed them, I said
16 no, I don't, I had paid it. And I went to
17 Ms. Gracie Ashford, she was the probation officer at
18 the time, one of the officers in there, and I told
19 her that they said that I owed them. I said, I paid
20 y'all. And then that amount of money was submitted.

21 Q Okay.

22 A That got paid off.

23 Q When was that that you reopened the account
24 at First Citizens? About what year?

25 A Not sure.

1 Q Was it -- let me ask it a different way. Was
2 it before 2004 or was it after?

3 A Probably after, because when that happened, I
4 went to her because I wanted to make sure everything
5 with First Citizens was paid and they told me that
6 they hadn't received anything that I owed them. So,
7 I went to the probation, Community Corrections, and
8 let Ms. Gracie Ashford know what was going on,
9 because I was complete. I had paid everything.
10 Then that money was turned in. That's how I have an
11 account with them now.

12 I'm not sure -- because I have an account
13 with Regions Bank as well, but I'm not sure. So, I
14 can't even say because I'm not sure when it was
15 opened. But I remember that because I went to the
16 probation and asked about that.

17 I didn't even realize -- I didn't even think
18 anything about it. But there was an incident with
19 the Community Corrections with money being basically
20 embezzled within there and I never thought that I
21 was -- you know, was going to be under this umbrella
22 with this agency that money -- one of their
23 employees was -- did not turn money in.

24 One of the head clerks, circuit court clerk,
25 also as well had said that the process that they

1 were doing back then, they were just -- after a
2 length amount of time, they would just turn money in
3 to the courthouse. So, basically, we would take our
4 money and turn it in to the probation office, but I
5 don't know how they did it to turn it over to the
6 courthouse.

7 Then there was one of the ladies, an
8 employee, she got charged for not turning -- you
9 know, taking some of the money.

10 Q Okay. As a result of the 1992 convictions,
11 did you ever serve any time in incarceration?

12 A Of the '92?

13 Q Yes, ma'am.

14 A 1992?

15 Q Yes, ma'am.

16 A No. If I did, it wasn't much. I can't even
17 recall, but I don't think so. If I did, it wasn't,
18 you know.

19 Q Okay. The next sentence in the Complaint
20 says that, "In 2004, she was convicted of felony
21 evading arrest also in Dyer County."

22 Is that accurate?

23 A Yes.

24 Q And that was just one conviction, correct?

25 A Yes.

1 Q Do you know or recall if restitution was
2 ordered in that case?

3 A No.

4 Q Were you -- did you serve any incarceration
5 time for that particular conviction?

6 A I don't think so. I'm not for sure, though.
7 I'm not for sure. I don't think so. I don't think
8 I -- maybe five days, if that.

9 Q Okay. And my understanding is that your
10 testimony was that you were in Community Corrections
11 as a result of that conviction, correct?

12 A Yes. Most of -- everything I did, it was
13 Community Corrections. It was never what we call,
14 you know, ever being on parole or anything like
15 that.

16 Q Okay.

17 A We was placed on Community Corrections, the
18 in-house. I call it in-house probation with the
19 state is where -- a stage before you go to parole,
20 state parole and probation.

21 Q Okay. And then, not the next sentence, but
22 in the sentence after that, it says, "In 2022," so
23 last year, "she attempted to restore her voting
24 rights by asking a probation officer in Dyer County
25 for a COR."

1 A COR means Certificate of Restoration. Is
2 that your understanding?

3 A Yes, sir.

4 Q Is that -- did I read that correctly?

5 A What part?

6 Q The highlighted part. "In 2022, she
7 attempted to restore her voting rights by asking a
8 probation officer in Dyer County for a COR."

9 A Yes, sir.

10 Q How much Community Corrections time were you
11 given by the Court as a result of that 2004 felony
12 conviction?

13 A In 2004? It couldn't have been but
14 two years, if it was -- I'm assuming maybe
15 two years, because you only -- 1129 is a
16 misdemeanor. So, it had either been a year or
17 two years. I never had anything over that.

18 Q Okay. So, is it accurate to say that after
19 your conviction in 2004, about two years or so later
20 you had completed your supervision?

21 A Yes. For sure. Yes, sir.

22 Q Okay. So, between 2006 and 2022, you never
23 attempted to get your voting rights restored?

24 A No.

25 Q Can you tell me why?

1 A I just didn't. August 28, 2021, is when my
2 son was killed. Him and four other guys was stabbed
3 by a white guy. The guy -- our district attorney
4 dropped charges within -- it happened that Friday
5 and he was released on that Monday.

6 And my question to the district attorney was
7 if -- and this guy, he was around a female that he
8 wasn't supposed to be around, and at the time when
9 my son passed, the community was in an uproar. It
10 was bad. I asked the district attorney to allow
11 him -- I said, the community is in an uproar. He
12 violated that protection order being around this
13 female. I said, you can hold him because our
14 community was in such an uproar. He let him go that
15 Monday.

16 I just wanted due process of the law. I
17 don't feel that the guy woke up that morning
18 planning on killing my child. That's not what I
19 felt. At that moment, the district attorney to me
20 was embarrassing his office. And that's what caused
21 me to really want to make a difference, if that's
22 makes sense to you.

23 Q That makes a lot of sense, yes. So, that was
24 the predicating event that lead you to want to get
25 your voting rights?

1 A Yes, sir.

2 MR. VARELA: Have we marked that
3 Certificate of Restoration as an exhibit yet?

4 THE REPORTER: No.

5 MR. VARELA: I'm going to move that the
6 blank Certificate of Restoration that we discussed
7 earlier be marked as the next exhibit. I believe
8 that's Exhibit 4.

9 (WHEREUPON, a document was marked as
10 Exhibit Number 4.)

11 BY MR. VARELA:

12 Q I'm going to share another document with you,
13 Ms. Scott. Ms. Scott, I'm sharing with you -- do
14 you see on your screen a copy of a Certificate of
15 Restoration of Voting Rights that's been filled out?

16 A Yes, sir.

17 Q Is that one of the certificates that were
18 issued to you?

19 A Yes, sir.

20 Q And that's related to evading arrest, it says
21 there on felony conviction in Part 1. Do you see
22 that?

23 A Yes, sir.

24 MR. VARELA: I'm going to mark this as
25 the next exhibit, please.

1 (WHEREUPON, a document was marked as
2 Exhibit Number 5.)

3 BY MR. VARELA:

4 Q Ms. Scott, same thing for this next document
5 I'm showing you. This is another Certificate of
6 Restoration of Voting Rights that was issued to you;
7 is that correct?

8 A Yes, sir.

9 Q And this is related to a 1992 conviction for
10 drug possession; is that right?

11 A Yes, sir.

12 MR. VARELA: We'll mark that as the next
13 exhibit, please.

14 (WHEREUPON, a document was marked as
15 Exhibit Number 6.)

16 BY MR. VARELA:

17 Q And this is the third document I'm showing
18 you here, a third restoration of voting rights form
19 related to the other 1992 conviction for fraudulent
20 use of a credit card; is that correct?

21 A Yes, sir.

22 MR. VARELA: We'll mark that as the next
23 exhibit. I believe that's Exhibit 7.

24 / /

25 / /

1 (WHEREUPON, a document was marked as
2 Exhibit Number 7.)

3 BY MR. VARELA:

4 Q Ms. Scott, you testified earlier that when
5 you went to the courthouse to verify Parts 3 and 4
6 of those CORs, that the court clerk advised you that
7 you had outstanding costs on your conviction; is
8 that correct?

9 A Yes, sir.

10 Q Ms. Scott, I'm sharing with you a document
11 that was provided in discovery in this case. Do you
12 see that in front of you?

13 MS. LANG: No. We can see your kind of
14 like larger desktop here.

15 BY MR. VARELA:

16 Q Is that showing the document now?

17 A Yes, sir.

18 Q I'm sharing with you a document that's been
19 shared or provided in discovery as a cost bill
20 related to Case Number 23CCI-1991-CR-42. Do you see
21 that?

22 A Yes, sir.

23 Q Okay. Was that provided to you by the court
24 clerk?

25 A Yes, sir.

1 Q Do you know what that case number -- which of
2 the convictions that case number relates to?

3 A I don't. It would have to be the --
4 honestly, I really don't, because in 1992, that's
5 the one that -- the payment that went to the First
6 Citizens National Bank, they submitted that amount.
7 So, that's the 209. I'm not sure --

8 Q Just a second. My machine is acting up.

9 A That would be the possession of cocaine.

10 Q Okay. And this cost bill that was provided
11 to you indicates that no -- that there was an
12 assessment of total fees and fines assessed against
13 you in that charge for possession of \$2,297,
14 correct?

15 A Yes.

16 Q And that there were no payments made as to
17 that particular cost bill, correct?

18 A Correct.

19 MR. VARELA: Let's mark that as the next
20 exhibit, please.

21 (WHEREUPON, a document was marked as
22 Exhibit Number 8.)

23 THE WITNESS: That's when I asked the
24 clerk to pull up the court records to show that --
25 because this charge would have had me in big court

1 with Judge Moore and Phil Bivens. And I told her, I
2 said, you can pull it up and see, but if I hadn't
3 made payments, if I wasn't making payments, they
4 would have had me back in court.

5 MR. VARELA: Okay. Thank you,
6 Ms. Scott.

7 BY MR. VARELA:

8 Q I'm sharing another document with you. Do
9 you see another cost bill on your screen?

10 A Yes, sir. That's for the fraudulent use of a
11 credit card. And the amount that was paid on that
12 was what was turned in to the First Citizens
13 National Bank.

14 Q I'm going to zoom in a little bit on that.
15 Do you see that this cost bill indicates that for
16 this particular charge there was a total assessment
17 of \$897 in court costs and a judgment which would be
18 restitution; is that correct?

19 A Uh-huh. Yes, sir.

20 Q And do you see that it also indicates that
21 there were payments made for \$804 on this cost bill?

22 A Uh-huh, yes, sir.

23 Q Do you see that last column on the -- the
24 first column after "Fees Due Date," says, "Last Paid
25 Date"? Do you see that column?

1 A Uh-huh.

2 Q Do you see that it indicates that last
3 payment was made on March 19, 1992? Do you see
4 that?

5 A Yes.

6 Q And do you also see that on the last column
7 at the bottom that there's an outstanding balance as
8 to this cost bill of \$93?

9 A Correct, but if you go back, you'll see that
10 the month and day of the conviction was 4/21/1992.

11 Q Okay.

12 A So, if that conviction, the year of that
13 conviction -- do you see what I mean, the 3/19?

14 Q That's the date that there was a last payment
15 made, as least as this cost bill indicates is what
16 that says. Is that correct?

17 A That's what that paper says, yes, sir.

18 MR. VARELA: Let's mark that as the next
19 exhibit, please.

20 (WHEREUPON, a document was marked as
21 Exhibit Number 9.)

22 THE WITNESS: I have a question for you.
23 Because you're saying the last payment was made on
24 that date, correct? If you see, all payments were
25 made on that date, correct?

1 BY MR. VARELA:

2 Q Ms. Scott, I'm not saying anything about the
3 document. I'm just indicating and confirming that
4 that document says what it says.

5 A I know, but it says that for all of the
6 payments. You said the last date, but every payment
7 on there says 3/19, so I'm kind of confused whatever
8 you're saying, because each one of them say 3/19/92.

9 Q Thank you, Ms. Scott. I understand that.
10 I'm not making any comment about that particular
11 document. I'm just asking questions about what it
12 says and whether or not that was the document that
13 was presented to you.

14 My understanding is that those two cost bills
15 were the cost bills that were given to you by the
16 court clerk; is that correct?

17 A Yes, sir.

18 Q Did the clerk also give you a cost bill for
19 the 2004 felony conviction?

20 A The only other one that I received was the
21 next one and it doesn't have the -- it's dated 6/29.
22 It doesn't really have any dates, so I'm not sure.
23 I'm only assuming that C91-261, that's the only
24 one -- the only other one I received.

25 Q Okay.

1 A Basically, she said that's what -- those are
2 the two amounts that's owed, the 2,297 and the 93.

3 Q I'm going to share another document with you,
4 Ms. Scott. Do you see the document on your screen
5 entitled, "Dyer Circuit Court Party Detail"?

6 A Yes, I see it.

7 Q And do you see the name, the party name is
8 Leola Armstrong Jenkins at the top?

9 A Yes, sir.

10 Q Ms. Scott, is that you?

11 A Yes, sir.

12 Q Is Armstrong Jenkins your maiden name then?

13 A Armstrong is my maiden name. Jenkins was my
14 first husband.

15 Q Okay. And since 2004 or whenever, your
16 information was put into this particular system that
17 you were married and now your name is Leola Scott;
18 is that correct?

19 A Yeah. Now my name is Leola Scott, yes.

20 Q And that address that's listed as home
21 address, was that your address at the time in 2004?

22 A Yes. Yes, sir.

23 Q So, this is related to you. Is that your
24 understanding?

25 A It's related to me? This is me, yes.

1 Q Do you see that first section that's
2 highlighted on this document? It has Case
3 Number 23CC1-1991-CR-32. Do you see that?

4 A Yes, sir.

5 Q And that's related to the fraudulent use of
6 credit card felony conviction?

7 A Yes, sir.

8 Q And do you see that the balance amount
9 indicated is \$93?

10 A Yes, sir.

11 Q And that's the same as what the cost bill
12 that we were just talking about for this particular
13 charge reflected? Is that right?

14 A Yes, sir.

15 Q And then the next one is Case
16 23CC1-1991-CR-42. Do you see that?

17 A Yes, sir.

18 Q And that's related -- it just says "Charge:
19 Drugs," but that's related to the possession of
20 narcotics charge; is that correct?

21 A Yes, sir.

22 Q And that indicates that there's a balance
23 amount of \$2,297 on that cost bill; is that right?

24 A Yes, sir.

25 Q And that's the same as the cost bill that we

1 were just talking about; is that correct?

2 A Correct.

3 Q So, that's two separate case numbers for two
4 separate convictions and then the costs related to
5 those that are outstanding. Is that your
6 understanding as well?

7 A Yes, sir.

8 Q Now, scrolling to Page 2, at the bottom, do
9 you see there's a Case Number 23CC1-2003-CR-424? Do
10 you see that case number?

11 A Evading arrest, yes, at the bottom.

12 Q Do you see that it shows that there's a
13 balance of zero as to that particular cost bill?

14 A Yes, but if you go -- yes. Go ahead.

15 Q Do you see that?

16 A Yes, sir.

17 Q And it also indicates that the last payment
18 on that cost bill was made on February 2nd, 2004.

19 A It says a balance of zero.

20 Q Right there, it says balance zero.

21 A Uh-huh.

22 Q And then last pay, February 2nd, 2004. Do
23 you see that?

24 A Yes.

25 Q So, that indicates that for the evading

1 arrest felony conviction, there's no balance.

2 That's been paid off, correct?

3 A There wasn't. Yeah.

4 Q That's what it's showing on this sheet,
5 correct?

6 A That's what it's showing, yes, sir.

7 MR. VARELA: Okay. We'll mark that as
8 the next exhibit, please.

9 (WHEREUPON, a document was marked as
10 Exhibit Number 10.)

11 MS. LANG: Pablo, just for the record, I
12 don't think this document has been put in the chat
13 yet. Is that right, Ms. Porter?

14 MR. VARELA: I'm dropping it right now.

15 MS. LANG: Okay, great. For the two
16 prior bill costs, were we marking those as exhibit
17 numbers?

18 MR. VARELA: I didn't have them in the
19 naming of the document.

20 MS. LANG: But yes.

21 MR. VARELA: Whatever the court reporter
22 marks it, whatever number is the next number, yes.
23 I'm assuming this one is 10. Is that correct?

24 THE REPORTER: Yes.

25 MS. LANG: Okay. Just wanted to make

1 sure.

2 THE WITNESS: Can I ask you a question
3 on that form that you just --

4 MR. VARELA: Yes, ma'am, you can ask me
5 a question. I don't know if I can answer it because
6 this is a deposition where I ask the questions and
7 you give me the responses. We're trying to find out
8 information from you, but you can make whatever
9 comments or ask whatever questions you would like.

10 THE WITNESS: Well, it's just that --
11 well, you can't answer it, so nevermind.

12 MR. VARELA: Do you mind if we take like
13 a ten-minute break?

14 MS. LANG: Sure. Ten minutes. We'll
15 come back at 11:42 or thereabouts. Thank you,
16 everybody.

17 (Recess observed.)

18 BY MR. VARELA:

19 Q Ms. Scott, just before the break, we were
20 talking about the cost bills related to your three
21 felony convictions in Dyer County. I believe your
22 testimony was that when you made payments for the
23 1992 convictions, at least, when you made those
24 payments, receipts were provided to you but you
25 don't have them anymore. Is that correct?

1 A Correct, because in 1992, during that time I
2 was at 1209, and I had a fire.

3 Q Okay.

4 A So, I'm not sure of the year, but I had a
5 fire at my home.

6 Q Do you have any documents in your possession
7 that would indicate how much you paid towards your
8 court costs and restitution in 1992?

9 A No, but when you pull up those, each case I
10 had back then -- and I want to state this.
11 Basically, if you go back to the -- where it had all
12 of my convictions, whether they were misdemeanors or
13 felonies, the top one was the fraudulent use of a
14 credit card. And you can see there was only --
15 because first is the -- the bank had restitution and
16 that was paid to them.

17 But if you go down, all those other cases,
18 nothing was applied to any of those cases, no money,
19 no funds. It's as if I got charge after charge
20 after charge and was not making a payment. So, I
21 made the payments on all of those cases, but they
22 wasn't applied because I made it to Community
23 Corrections and it wasn't turned in to the
24 courthouse.

25 So, now what I'm getting is that I have to

1 repay everything that I honored. I paid my debt to
2 society. And because I paid it to Community
3 Corrections and whatever happened in their division
4 and they didn't do what they was supposed to do, now
5 it's penalizing me. And now it's like I have to
6 prove what I did, but they don't have to prove what
7 they did wrong. And then when I ask them, they
8 don't have any paperwork as well. So, if you were
9 of the court, you should have those records.

10 Q Okay. Let me reshare the First Amended
11 Complaint. Do you see that?

12 A Yes, sir.

13 Q I believe what you're talking about right now
14 is this last sentence on Page 16 where it says,
15 "Plaintiff Scott believes that the summation of
16 LFOs," which stands for legal financial obligations,
17 "is in error and that payments she made to her
18 community supervision officer were not properly
19 accounted for."

20 That's what you're describing right now,
21 correct?

22 A Yes, sir.

23 Q You also state right after, "If there were an
24 appeal process, Plaintiff Scott would appeal."

25 Correct?

1 A Yes.

2 Q Is that what it says?

3 A If I would appeal the -- that I paid, yes, I
4 would appeal that because I paid that.

5 Q Is that what you're talking about in this
6 sentence or is that what that sentence means to you,
7 that if there was an appeals process for the court
8 costs not being properly accounted for that you
9 would appeal? Is that what you mean?

10 MS. LANG: Objection. Calls for a legal
11 conclusion, misstates testimony.

12 BY MR. VARELA:

13 Q Ms. Scott, can you tell me what that sentence
14 means to you?

15 A I feel that I paid my debt to society. And I
16 not only just -- we're speaking about the felony
17 cases. I'm talking about everything that I paid.
18 Every time I got in trouble, I paid what I was
19 supposed to pay. But nothing got turned in.

20 So, yes, if there was an appeal process or
21 whatever, yes, I would file it, because I feel like
22 I'm being penalized again. And now I'm being having
23 to bear the burden of proof, but I was released
24 successfully off of everything.

25 Because if I wouldn't have, there would have

1 been -- I would have been reprimanded, placed back
2 in jail. All these things would have happened if I
3 hadn't made -- honored everything that the Judge
4 required me to do. And I did that.

5 And when I went to the Community Corrections,
6 they said, well, as long as they signed off on it,
7 that's all you need. Do you understand? So, that's
8 what I was told.

9 Q Okay. Other than joining this lawsuit that
10 we're here for today, have you taken any other
11 actions to try to get those CORs completed or appeal
12 that notice that there are still costs owed?

13 MS. LANG: Objection. Lack of
14 foundation.

15 THE WITNESS: No.

16 BY MR. VARELA:

17 Q Is that a no? Is that what I heard you say?

18 A My attorney, she said objection, so I
19 didn't --

20 Q Yes. You --

21 MS. LANG: I apologize. Ms. Scott, you
22 can answer. I think I heard a no, but you can
23 repeat that.

24 THE WITNESS: No.

25 / /

1 BY MR. VARELA:

2 Q All right. Ms. Scott, let's talk a little
3 bit about your voter history in the state of
4 Tennessee. Have you ever been registered to vote in
5 Tennessee?

6 A No.

7 Q You didn't register to vote when you turned
8 18; is that correct?

9 A Correct.

10 Q Do you recall registering to vote in 2003?

11 A No, I really don't. I know when I received
12 the felony, I knew we couldn't vote.

13 Q I'm going to share a document with you.

14 A I think. I don't recall.

15 Q Ms. Scott, I'm sharing with you a document
16 entitled, "Automated Election System, Voter Detail."
17 Do you see that on your computer screen?

18 A Yes, sir.

19 Q And is this voter detail related to you?

20 A Yes, that's my name. Yes, that's my
21 information.

22 Q That's your information? Is that the correct
23 last four digits of your Social Security number?

24 A Yes. That's on Southern Avenue. That's when
25 I had the fire, right after I had the fire.

1 Q Okay. Were you at that address in 2003?

2 A Yes.

3 Q On the right-hand side at the top, do you see
4 where it says, "Registration Date"?

5 A Uh-huh.

6 Q Do you see underneath that, it says,
7 "2003-10-09"?

8 A Yes.

9 Q And then below that, do you see several --
10 there's three columns. Right under that date,
11 there's a column that starts with "Voter ID." Do
12 you see that?

13 A Uh-huh.

14 Q It says, "37595." Is that correct?

15 A Yes.

16 Q And the county is Dyer County; is that right?

17 A Yes.

18 Q And below that, it says, "Registration Date,"
19 and that's the same date as is listed above. Do you
20 see that?

21 A Yes.

22 Q And that would be October 9th, 2003. Is
23 that your understanding?

24 A Yes.

25 Q And below that, it indicates "Voter Status."

1 Do you see that?

2 A Uh-huh.

3 Q And the status says, "Purged." Do you see
4 that?

5 A Yes.

6 Q And then, below that, it has the "Voter
7 Status Date" of March 4th, 2004. Do you see that?

8 A Yes, sir.

9 Q And below that, it says the "Purge Reason"
10 was "'04 felony." Do you see that?

11 A Uh-huh.

12 Q Does that help your recollection at all of
13 whether or not you were registered to vote in 2003?

14 A No. I was registered? You're saying I was
15 registered to vote?

16 Q Is that your understanding of what this
17 document reflects?

18 MS. LANG: Objection. Lack of
19 foundation. My understanding is Ms. Scott has never
20 seen this document before and does not know where it
21 came from or what authority it has.

22 THE WITNESS: You say, "Birth Location,
23 Ward," what does that mean?

24 MR. VARELA: That's a separate column.

25 THE WITNESS: Location, Ward? I was

1 born in Dyer County.

2 BY MR. VARELA:

3 Q Birth location is not filled out in this
4 particular document. Ward is the next column over
5 indicating what ward you were registered to vote in.

6 A Okay.

7 MS. LANG: Mr. Varela, would you care to
8 explain to Ms. Scott what this document is
9 because --

10 MR. VARELA: Yes.

11 BY MR. VARELA:

12 Q Ms. Scott, this document that I'm showing to
13 you is a voter detail produced by our client, the
14 Tennessee Division of Elections, that I requested to
15 see if you had ever been registered to vote in the
16 state of Tennessee. What was returned was this
17 document that indicates in 2003 you were registered
18 to vote in Dyer County and that in 2004, March 2004,
19 after your 2004 conviction, you were purged from the
20 voter roles as a result of having been convicted for
21 a felony.

22 A Wait a minute. You're saying that I was
23 registered to vote before 2003?

24 Q No, ma'am. On October 9th, 2003, you were
25 registered to vote in Tennessee, according to this

1 document.

2 A I've never voted in Tennessee.

3 Q Have you ever registered to vote in
4 Tennessee?

5 A Not that --

6 (Overlapping speech.)

7 MS. LANG: Objection. Asked and
8 answered.

9 BY MR. VARELA:

10 Q So, it's your testimony here that --

11 A I don't recall.

12 Q -- you don't recall filling out a voter
13 registration form in 2003 to register to vote; is
14 that correct?

15 MS. LANG: Objection. Asked and
16 answered.

17 You can go ahead and answer, Ms. Scott.

18 THE WITNESS: The only explanation I
19 maybe have for this is maybe I possibly could have
20 went online and maybe tried to see if I could vote,
21 but I don't recall, you know, being -- ever filing
22 to vote. I don't recall it.

23 MS. LANG: Mr. Varela, do you have the
24 additional voter history for Ms. Scott that might
25 explain the format in which the alleged voter

1 registration occurred? That is typically
2 information that is accounted for, like whether or
3 not it was a voter registration form or through the
4 DMV or whatnot.

5 MR. VARELA: That, I don't know at the
6 moment because it was 2003 that -- I don't know that
7 they have that. So, all I know is that when the
8 voter registration detail for Ms. Scott was pulled
9 up, it indicates that she was registered to vote in
10 '03, in October, and that she was purged from the
11 voting rolls after her felony conviction in 2004.

12 BY MR. VARELA:

13 Q By the way, Ms. Scott, that conviction in
14 2004 for evading arrest was in January of 2004; is
15 that correct?

16 A On the evading arrest?

17 Q Yes, ma'am.

18 A January, yes.

19 Q So -- okay.

20 A So, basically, there was no way that I --
21 that was what -- I'm kind of confused. The first
22 felony I received was in 1992. So, you're stating
23 that I was able to vote and already had felonies in
24 1992?

25 Q No, Ms. Scott, I'm not saying anything. I'm

1 just asking you if that's what the information on
2 this document reflects. I'm going to direct you
3 to -- okay.

4 Ms. Scott, do you recall if you ever
5 attempted to vote -- or to register to vote, not
6 attempted to vote, but attempted to register to vote
7 in 2020?

8 A COVID? 2020?

9 Q Yes, ma'am.

10 A No.

11 Q Okay. I'm going to direct you to this
12 document, which is Page 3 of the document I'm
13 showing you, and it says at the top, "Dyer County
14 Election Commission, Online Registration Detail for
15 Leola Scott."

16 Do you see that?

17 A I see it.

18 Q Is that the correct last four numbers of your
19 Social Security number?

20 A Yes.

21 Q And is that address that's listed there your
22 address --

23 A Yes, it is.

24 Q -- on September 21st of 2020?

25 A Uh-huh.

1 Q Do you see at the top it has a transaction
2 date of 2020-09-21?

3 A Uh-huh.

4 MS. LANG: Mr. Varela, could you please
5 explain what this document is before we go over its
6 contents?

7 MR. VARELA: Sure.

8 BY MR. VARELA:

9 Q Ms. Scott, this is a document from the
10 Tennessee Division of Elections that was obtained
11 from Dyer County. It is the details for an online
12 registration to vote from September 21st, 2020.

13 Do you see it says at the top, "Online
14 Registration Detail for Leola Scott"?

15 A Uh-huh.

16 Q Do you recall attempting to register to vote
17 online on September 21st, 2020?

18 A I'll be honest with you, I don't recall, but
19 it probably happened. Maybe if I had went on there
20 to see if I could vote.

21 Q Okay. And so, in order to -- have you seen
22 the voter registration website where you can
23 register to vote online?

24 A Have I seen the website?

25 Q Have you seen the -- yeah, the webpage where

1 you would register to vote online.

2 A You know how that -- it comes across your
3 feed, yes. You click on it.

4 Q Okay. So, this is the online voter
5 registration detail and we've discussed that it was
6 submitted on September 21st, 2020, and that that
7 is the last four digits of your Social Security
8 number and that's your current address and was your
9 address at the time in 2020? Is that right?

10 A Yes.

11 Q And scrolling down, do you see this column on
12 the left-hand side, it says "Citizen"? Do you see
13 that?

14 A Yes.

15 Q And in the next column it says, "Y" for yes?

16 A Uh-huh.

17 Q And the next line says, "Tennessee resident."
18 Do you see that?

19 A Uh-huh.

20 Q It says, "Y" for yes?

21 A Uh-huh.

22 Q And the next line says, "18 before election."
23 Do you see that?

24 A Uh-huh.

25 Q And it says, "Y" for yes; is that correct?

1 A Yes.

2 Q And then the next line says, "Felon," and the
3 next line says, "N" for no. Do you see that?

4 A Uh-huh.

5 Q And then, down towards the bottom, it says,
6 "U.S. citizen." Do you see that?

7 A Yes.

8 Q And in the right-hand column it's "Y" for
9 yes. Do you see that?

10 A Uh-huh. Can you go back up to the felon
11 part?

12 Q Yes, ma'am.

13 A Okay. So, my brother, he did 17 years in
14 Fayette, and he got out and he has his right back to
15 vote. So, during one period of time, I was told
16 after seven years, everything, it's gone away. But
17 obviously, that's not true, though.

18 MS. LANG: I'd like to take a break to
19 look at the records. Mr. Varela, I don't think any
20 of these records were provided to us in any of the
21 disclosures that you've made. So, if you could
22 provide us the records that you plan to rely on for
23 the remainder of the deposition, I would appreciate
24 it.

25 MR. VARELA: I will. Once I move to

1 enter this document, I'm done going through it, that
2 will be provided to you as the next exhibit,
3 Danielle. Okay? I've just got one more page to go
4 through.

5 MS. LANG: All right. But I'd like to
6 take a break with my client, so we're going to take
7 a break.

8 MR. VARELA: Sounds good. I'll put that
9 in the chat, then.

10 MS. LANG: Are there remaining documents
11 that you plan to go through that you haven't
12 previously disclosed?

13 MR. VARELA: Yes, there is one more
14 document that I will be using. There's one more
15 page on this related to this voter registration that
16 I'd like to go through, but not to ask her any
17 questions specifically, but just to verify the
18 information.

19 MS. LANG: We're not verifying any
20 information except for what you say this document
21 says. But in any event, I would like the documents
22 that you plan to use that you did not disclose until
23 now and I would like to take a break.

24 MR. VARELA: Here's the document that we
25 were talking about and the last document is also in

1 the chat.

2 How long of a break would you like,
3 Danielle?

4 MS. LANG: I'll let you know when we're
5 going to be back. I'm not sure.

6 (Recess observed.)

7 MS. LANG: So, before we resume
8 questioning, I do want to make a statement on the
9 record, which is that none of these documents were
10 provided to the plaintiffs prior to today's
11 deposition, despite multiple attempts for
12 supplementation of responses to discovery requests
13 during the several years of discovery that has been
14 ongoing in this case.

15 And Ms. Scott will not be answering any
16 future questions about alleged attempts to register
17 to vote prior to 2022 and she will be invoking her
18 right to the Fifth Amendment to the extent that the
19 State continues to ask questions about any prior
20 attempts to register to vote.

21 And with that, I'm happy to hand it over
22 to Mr. Varela and Ms. Scott.

23 MR. VARELA: Thank you, Danielle. I
24 appreciate your statement on the record.

25 The voter detail information I didn't

1 even receive until yesterday, and that was in the
2 voter registration records maintained by the
3 Tennessee Division of Elections, which is one of the
4 clients through the named Coordinator of Elections.

5 However, the Dyer County Election
6 Commission was the entity in possession of the
7 Dyer County Online Registration Detail, as well
8 as -- but the voter registration, that's also
9 centrally located.

10 I am not sure if voter registration
11 history was one of the documents that was requested
12 in discovery, but nonetheless, discovery remains
13 open pursuant to our extension of the schedule in
14 this case and, therefore, you know, because these
15 are being produced today, you can consider these as
16 supplementation of sorts to those discovery
17 requests, if they're even applicable to those. But
18 I am going to continue asking questions.

19 BY MR. VARELA:

20 Q Ms. Scott, you are free to invoke your Fifth
21 Amendment right at any point that you feel
22 necessary, of course.

23 Before we went on break, we were discussing
24 the Dyer County Election Commission Online
25 Registration Detail for Leola Scott. And there was

1 one more document that I wanted to discuss with you,
2 Ms. Scott, and that is this last page that is "Voter
3 Central - Rejections." Do you see that on your
4 screen?

5 A Yes, sir.

6 Q Is that document relating -- related to you?

7 MS. LANG: Objection.

8 THE WITNESS: I plead the Fifth.

9 MS. LANG: Ms. Scott has elected to
10 adopt -- to take her Fifth Amendment right not to
11 answer any remaining questions about these documents
12 or alleged attempts at voter registration.

13 So, Ms. Scott, you should feel free to
14 invoke your right not to answer.

15 BY MR. VARELA:

16 Q Ms. Scott, I'm not asking you if this is
17 actually yours. I'm asking you if that information
18 is consistent with your current information.

19 MS. LANG: Like I said, Ms. Scott has
20 elected to not answer any future questions about
21 alleged registration attempts or these documents,
22 and Ms. Scott has elected to invoke her Fifth
23 Amendment right not to answer those questions.

24 Ms. Scott, you should feel free to do
25 so.

1 MR. VARELA: Am I understanding you,
2 Danielle, that you're instructing your client not to
3 answer any questions related to this document?

4 MS. LANG: Yes.

5 MR. VARELA: I'm going to go ahead and
6 mark that as the next exhibit, Ms. Porter.

7 (WHEREUPON, a document was marked as
8 Exhibit Number 11.)

9 BY MR. VARELA:

10 Q I just had one more document to show, which
11 is also in the chat already.

12 Ms. Scott, do you see a document on your
13 screen that appears to be a webpage of the Tennessee
14 Secretary of State?

15 A Yes, sir.

16 Q Do you recognize this webpage?

17 MS. LANG: I am going to repeat again
18 that Ms. Scott is not going to be answering any
19 questions about any alleged voter registration
20 attempts prior to 2022, and she will not be
21 answering any questions about these documents.

22 MR. VARELA: Danielle, I haven't asked
23 her any questions about --

24 MS. LANG: You asked her if she
25 recognized the document.

1 MR. VARELA: Correct. Public document.

2 MS. LANG: That's asking about her
3 experience with this document. It is my
4 understanding that Ms. Scott is going to invoke her
5 right not to testify and Ms. Scott is free to do so
6 now.

7 MR. VARELA: I understand your
8 objection, however, Ms. Scott earlier testified that
9 she does recall seeing the voter registration
10 website online, so I'm asking if this is what she
11 recalls that she's already testified to.

12 MS. LANG: Mr. Varela, I'm going to
13 repeat that regardless of any prior testimony,
14 Ms. Scott has made an election not to answer any
15 further questions about her experience with the
16 online voter registration form and she will be
17 invoking her right not to testify and I would ask
18 you to respect that.

19 MR. VARELA: I'm going to move this as
20 the next exhibit in the deposition, Ms. Porter.

21 (WHEREUPON, a document was marked as
22 Exhibit Number 12.)

23 MR. VARELA: All right. Give me a
24 five-minute break. I need to confer with co-counsel
25 on this matter.

1 (Recess observed.)

2 MR. VARELA: We're going to move on from
3 Ms. Scott's voter registration and the alleged
4 attempts to register to vote.

5 BY MR. VARELA:

6 Q Ms. Scott, I just have a few more questions
7 and I think I'll be done after that.

8 During this process of you attempting to get
9 your voter rights back, do you have any written
10 communication with any of the governmental entities
11 involved in this case?

12 A No, sir.

13 Q Do you have any written communications from
14 the Governor's office, for example?

15 A No, sir.

16 Q Or Division of Corrections?

17 A No, sir.

18 Q Or the Tennessee Division of Elections?

19 A No, sir. The only -- well, not concerning my
20 situation. I only went up there to get the forms to
21 pass out to different individuals to vote.

22 Q I'm just asking about your situation.

23 A No, sir.

24 MR. VARELA: All right. I don't have
25 any further questions. Pass the witness.

1 MS. LANG: Thank you. Ms. Scott, I just
2 have one, maybe two questions for you. I know that
3 you work the night shift and that you would very
4 much like to go to bed. So, we will keep this
5 brief.

6
7 EXAMINATION

8 QUESTIONS BY MS. LANG:

9 Ms. Scott, you were asked some questions
10 about your experience with trying to get the
11 Certificate of Restoration and that you -- first you
12 went to the probation office, the corrections office
13 or -- I'll take that back -- the probation office
14 and they were able to fill out the top part of that
15 form for you and then they sent you to the clerk's
16 office at the courthouse; is that correct?

17 A Yes, ma'am.

18 Q Okay. And you had three felony convictions
19 and so you had three certificates. And for two of
20 those certificates, the clerk's office told you that
21 they thought you owed money and so they could not
22 sign off on your Certificates of Restoration.
23 Correct?

24 A For two of them.

25 Q For two of them?

1 A Yes, ma'am. Yes, ma'am.

2 Q Okay. And in addition to kind of giving you
3 something that says you owed -- you owed money on
4 the Certificate of Restoration, they gave you a kind
5 of invoice of the money that you owed for those two
6 convictions, correct?

7 A Yes. I requested that.

8 Q Okay. I am going to pull up one of those
9 documents here. Can you see that?

10 A Yes, ma'am.

11 MS. LANG: Perhaps somebody could help
12 me. I think this is marked as either Exhibit 8
13 or 9. It's the bill of costs for Case
14 Number 23CCI-1991-CR-42.

15 Do you see that there?

16 THE WITNESS: Yes, ma'am.

17 MR. VARELA: I believe that's Exhibit 8.

18 (Discussion off the record.)

19 BY MS. LANG:

20 Q On this bill of costs, do you see that last
21 line that says, "Fines"?

22 A Yes, ma'am.

23 Q And what's the amount of fines that they say
24 were imposed and are due?

25 A 2,000.

1 Q Okay. In addition to giving you this
2 invoice, did the clerk explain to you which, if
3 any -- or which of these outstanding fines and fees
4 would have to be paid in order for you to qualify to
5 restore your right to vote?

6 MR. VARELA: Object to the form.

7 THE WITNESS: No. He said something.

8 Do I answer?

9 BY MS. LANG:

10 Q Yes, you can answer. Mr. Varela objected but
11 you can answer.

12 So, I'll repeat my question for you, which
13 is, when you were given this document from the
14 clerk's office, did the clerk or anyone at the
15 courthouse explain to you which of these fines and
16 fees would have to be paid in order for you to be
17 eligible to vote -- restore your right to vote?

18 A No, ma'am.

19 Q Okay. Did anyone explain to you that you
20 would not have to pay that \$2,000 in order for you
21 to be eligible?

22 A No, ma'am.

23 Q Did anyone at the courthouse advise you of
24 any option to appeal their decision that you could
25 not get a Certificate of Restoration?

1 A No, ma'am.

2 MS. LANG: I have no further questions.

3 MR. VARELA: Just one second, Ms. Scott.

4 I think I have one follow-up question, maybe.

5 (Pause in proceedings.)

6

7

EXAMINATION

8 QUESTIONS BY MR. VARELA:

9 Q I do have a few follow-up questions. I'm
10 going to share the First Amended Complaint again on
11 the screen. Let me know if you see that.

12 A Yes, sir, 44.

13 Q At the bottom of 44, this second-to-last
14 sentence -- or third-to-the-last sentence, it
15 states, "The Court did not provide her," meaning
16 you, "an explanation of which of these obligations
17 are considered court costs for purposes of Tennessee
18 Code Annotated 40-29-202(b)." Is that correct?

19 A Yes, that's what it says.

20 Q It also states that, "Instead, the clerk
21 orally stated that [you] would need to pay all debts
22 to complete those CORs." Is that correct?

23 A Yes.

24 Q Is it correct that the clerk advised you that
25 you would have to pay all of the debts on that cost

1 bill in order to complete the COR?

2 A Well, the paper that you submitted earlier
3 that had all of the -- you know what I'm referring
4 to? It had all not only --

5 (Overlapping speech.)

6 Q The cost bill?

7 A Excuse me, sir?

8 Q The cost bill that we talked about?

9 A That had -- it had all of the charges, like
10 different misdemeanors and all that, basically,
11 that's what she gave me. I asked for the printout.
12 And basically she said that, you know, you still owe
13 fines, you owe money on these. That's why -- she
14 didn't give me an exact amount. On the Certificate
15 of Restoration of Voter Rights it says court costs
16 still owed. If you look on the --

17 (Overlapping speech.)

18 Q Do you recall just now talking about this
19 document?

20 A Do I recall?

21 Q When your attorney was asking you about this
22 cost bill.

23 MS. LANG: Pablo, this is the wrong one.
24 I asked about --

25 THE WITNESS: Not that one. It's the

1 one that has a list of everything.

2 BY MR. VARELA:

3 Q Hold on one second. Do you see that document
4 there?

5 A Yes.

6 Q I think we said this is Exhibit 8.

7 A Not that one. It was another one.

8 Q Do you recall talking to your attorney just
9 now about this document?

10 A Yes. When she said the fines, yes, sir.

11 Q Talking about these fines. Do you recall she
12 asked you if anybody told you you would have to
13 pay -- whether or not you would have to pay this
14 fine in order to get your Certificate of Restoration
15 of Voting Rights?

16 A I was told that I owe court costs and fines,
17 as well in the paper.

18 Q My question was, do you recall your attorney
19 asking you if anybody told you that you would have
20 to pay these fines in order to get your Certificate
21 of Restoration of Voting Rights?

22 A Yes.

23 Q Okay. And you said no. Is that correct?

24 A Wait a minute. You just asked me do I recall
25 asking her and -- that she asked me and I said yes,

1 I recall my attorney asking me about this.

2 Q Do you recall your testimony that when she
3 asked you did anybody tell you you had to pay this
4 fine in order to get your Certificate of Restoration
5 of Voting Rights, that your response was no, nobody
6 told you that? Do you recall that?

7 MS. LANG: Objection. Misstates
8 testimony.

9 We can read back the question because
10 you're --

11 MR. VARELA: That's fine. Ms. Porter,
12 would you go back and read the question that was
13 asked about whether -- about fines and fees on this
14 sheet by Ms. Danielle?

15 (The requested testimony was read back
16 by the court reporter as follows:

17 "Question: In addition to giving you
18 this invoice, did the clerk explain to you which, if
19 any -- or which of these outstanding fines and fees
20 would have to be paid in order for you to qualify to
21 restore your right to vote?

22 "Mr. Varela: Object to the form.

23 "Answer: No. He said something. Do I
24 answer?

25 "Question: Yes, you can answer.

1 Mr. Varela objected but you can answer.

2 "So, I'll repeat my question for you,
3 which is, when you were given this document from the
4 clerk's office, did the clerk or anyone at the
5 courthouse explain to you which of these fines and
6 fees would have to be paid in order for you to be
7 eligible to vote -- restore your right to vote?

8 "Answer: No, ma'am.

9 "Question: Okay. Did anyone explain to
10 you that you would not have to pay that \$2,000 in
11 order for you to be eligible?

12 "Answer: No, ma'am.

13 "Question: Did anyone at the courthouse
14 advise you of any option to appeal their decision
15 that you could not get a Certificate of Restoration?

16 "Answer: No, ma'am.")

17 BY MR. VARELA:

18 Q So, my question, Ms. Scott, do you recall
19 those questions and answers that the court reporter
20 just read back to you?

21 A Yes.

22 Q And what I was asking you earlier was that in
23 the First Amended Complaint, it states that the
24 clerk orally stated to you that you would need to
25 pay all debts to complete the CORs; is that correct?

1 A Yes. She said basically I owed costs and
2 fines and then that's when I -- yeah. So, I asked
3 for a printout of everything and that's when I saw
4 that nothing had been applied.

5 MR. VARELA: I have no further
6 questions. Pass the witness.

7 MS. LANG: Nothing further.

8 Ms. Scott, we can let you go.

9 MR. VARELA: Ms. Porter, we would like
10 to order a copy, please.

11 THE REPORTER: Ms. Lang, did you want
12 her to read and sign?

13 MS. LANG: Yes, please. Thank you.

14 THE REPORTER: And do you want a copy?

15 MS. LANG: Yes, please.

16 FURTHER DEPONENT SAITH NOT

17 (Proceedings concluded 12:00 p.m. CST)

18

19

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25

1 REPORTER'S CERTIFICATE

2
3 STATE OF TENNESSEE

4 COUNTY OF Davidson

5
6 I, Jerri L. Porter, RPR, CRR, Licensed
7 Court Reporter, with offices in Nashville,
8 Tennessee, hereby certify that I reported the
9 foregoing deposition of LEOLA SCOTT by machine
10 shorthand to the best of my skills and abilities,
11 and thereafter the same was reduced to typewritten
12 form by me. I am not related to any of the parties
13 named herein, nor their counsel, and have no
14 interest, financial or otherwise, in the outcome of
15 the proceedings.

16 I further certify that in order for this
17 document to be considered a true and correct copy,
18 it must bear my original signature, and that any
19 unauthorized reproduction in whole or in part
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TN CONF OF THE NATL ASSOC FOR THE ADVANCE. OF COLORED PEOPLE

vs

LEE, et al.

LAMAR PERRY

May 13, 2023

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tn.scheduling@lexitaslegal.com

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TENNESSEE CONFERENCE OF)
THE NATIONAL ASSOCIATION)
FOR THE ADVANCEMENT OF)
COLORED PEOPLE, et al.,)
Plaintiffs,)
)
)
)
V.) No. 3:20-cv-01039
) Judge Campbell
) Magistrate Judge Frensley
WILLIAM LEE, et al.,) Class Action
Defendants.)

Zoom Deposition of:

LAMAR PERRY

Taken on behalf of the Defendants

MAY 13, 2023

Shana Crawford, LCR
(615) 595-0073

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A-P-P-E-A-R-A-N-C-E-S

For the Plaintiffs:

**MS. BLAIR BOWIE
MS. ELLEN BOETTCHER
Attorneys at Law
Campaign Legal Center
1101 14th Street NW, Suite 400
Washington, DC 20005
(202)736-2200
Bbowie@campaignlegalcenter.org
Eboettcher@campaignlegalcenter.org**

For the Defendants:

**MS. DAWN JORDAN
MR. PABLO A. VARELA
Attorneys at Law
Public Interest Division
Office of the Attorney General
P.O. Box 20207
Nashville, TN 37202-0207
(615)532-4098
Dawn.jordan@ag.tn.gov
Pablo.varela@ag.tn.gov**

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The Zoom Deposition of LAMAR PERRY, was taken by counsel for the Defendant, by Subpoena, via ZOOM, and with the witness appearing at his respective location, on the 13th day of May, 2023, commencing at 9:00 a.m., for all purposes under the Tennessee Rules of Civil Procedures.

All formalities as to the caption, notice, statement of appearance, et cetera, are waived. All objections, except as to the form of the question, are reserved to the hearing, and that said deposition may be read and used in evidence in said cause of action in any trial thereon or any proceeding herein.

It is agreed that Shana C. Crawford, Licensed Court Reporter for the State of Tennessee, may swear the witness, and that the reading and signing of the completed deposition by the witness is waived.

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2 LAMAR PERRY,

3 being first duly sworn, was examined and testified as
4 follows:

5
6 EXAMINATION BY MS. JORDAN:

7 Q. Good Morning, Mr Perry.

8 A. Good morning, how you doing?

9 Q. I'm doing great. My name is Dawn Jordan and I am
10 with the Attorney General's Office of Tennessee and I
11 represent the defendants in this case. And what we are doing
12 this morning is we are going to be taking your deposition; do
13 you understand that?

14 A. Yes, I do.

15 Q. Have you ever given a deposition before?

16 A. No, this is my first time.

17 Q. Have you ever testified before?

18 A. My first time.

19 Q. Well, you've just been placed under oath, as you
20 know. And you understand what that means, right?

21 A. Yes, I do.

22 Q. Okay. Just sure we can go over a few ground rules,
23 I am sure your attorney has covered this with you as well,
24 but I just want to make sure we get a good clean record for
25 everybody; is that okay?

1 A. Perfect.

2 Q. Okay. Now, what we will be doing is that I will be
3 asking you questions, of course, and then hopefully you will
4 be answering them. And because there is a court reporter
5 taking down what everybody says, if you will wait until I
6 finish my question before you begin your answer, then the
7 court reporter won't get all flummoxed and we will be able to
8 take down everything that everybody says; is that fair?

9 A. Yes, sounds good.

10 Q. And I likewise will do my best to not interrupt
11 you. In normal conversation we do that, but let's try to --
12 we will both try to refrain from that; is that fair?

13 A. Sounds good to me.

14 Q. And I may be reminding you of that from time to
15 time and I'm not trying to crack wise with you or be wise
16 with you, I'm just trying to make sure that we all stay on
17 the same page; is that fair?

18 A. Understood.

19 Q. For every question, you need to give, a verbal
20 response. Even though we are on zoom, a nod or shake of the
21 head is not sufficient. And you can't say "uh-huh" or
22 "huh-huh" or that kind of thing. It needs to be either yes
23 or no or some other verbal response that the court reporter
24 can take down accurately; is that fair?

25 A. Yes, that's fair.

1 Q. And again, I may be reminding you of that, but I'm
2 not trying to be wise with you, I'm just trying to makes sure
3 that we get a good clean record; is that fair?

4 A. Yes, it's fair.

5 Q. And your attorneys may be objecting from time to
6 take. And since we don't have a judge here to rule on the
7 objections, you will go ahead and answer unless the attorney
8 instructs you not to answer; do you understand that?

9 A. Yes, I do.

10 Q. Okay. And so sitting here today, do you have any
11 medical conditions that will prevent you from remembering
12 correctly or testifying accurately?

13 A. No.

14 Q. Are you under any medications that will prevent you
15 from remembering correctly or testifying accurately?

16 A. No.

17 Q. Okay. And other than you, is there anyone in the
18 room with you?

19 A. No, I'm by myself.

20 Q. Do you have a cell phone?

21 A. I do.

22 Q. Is it there with you?

23 A. Yes.

24 Q. Would you mind turning it off?

25 A. (Witness complies.)

1 Q. It's something that takes a long time. It takes a
2 long time to turn off.

3 Okay. And so what did you do to prepare for
4 today's deposition?

5 A. What did I do?

6 Q. Yes, sir.

7 A. Um, just talked to my attorneys.

8 Q. And I don't want to be -- obviously I'm not going
9 to ask you what you talked about with them or as you that.

10 Did you read any documents to prepare for the
11 deposition?

12 A. No, didn't.

13 Q. Okay. So you didn't review the complaint or your
14 interrogatory responses or anything like that?

15 A. Yes, I did. Yes, yes, I did. I -- I read some of
16 them. I read a little portion of them yesterday.

17 Q. Okay. Okay. So let's go through all of those.
18 Did you read the complaint to prepare for the deposition?

19 A. No in its entirety. I just scanned through it.
20 Yeah, because I pretty much got everything in my mind.

21 Q. And I understand that, it's a long complaint. That
22 would be a lot.

23 Did you go over your interrogatory responses, just
24 with you reading them to prepare?

25 A. Again, I -- again, I just scanned through

1 everything. Nothing in -- nothing in depth that I tried to
2 memorize because I can recall everything that I said
3 previously.

4 Q. Okay. Fair enough. And just a few background
5 questions, what's your date of birth?

6 A. June 30th, 1975.

7 Q. And your place of birth?

8 A. Cleveland, Mississippi.

9 Q. And what is your current address?

10 A. 4545 Heartwood Road, Memphis, Tennessee, 38128.

11 Q. How long have you lived there?

12 A. Since April of 2014.

13 Q. And does anybody else live there with you?

14 A. My wife and kids.

15 Q. How old are your children?

16 A. 17, 14 and 11.

17 Q. What's your wife's name?

18 A. LaKeva. LaKeva Johnson.

19 Q. LaKeva Johnson. And she lives with you there?

20 A. Yes, uh-huh.

21 Q. And three children live with you there?

22 A. Yes.

23 Q. You ever voted?

24 A. I have, it's been a long time since I have.

25 Q. Right. Okay. And where did you vote?

1 A. The last place I voted was in -- was in DeSoto
2 County where I was -- where I used to reside.

3 Q. Is that in Tennessee?

4 A. That's in Mississippi.

5 Q. That's what I thought. Have you ever voted in
6 Tennessee?

7 A. No, I haven't.

8 Q. And so you just indicated that you are married?

9 A. Uh-huh.

10 Q. Is that a yes?

11 A. Yes. Yes, sorry about it. Yes.

12 Q. You're fine. Everybody does it, you don't have to
13 worry about that.

14 And you have three children. Do you owe any child
15 support?

16 A. Yes.

17 Q. And how much do you owe?

18 A. I don't recall.

19 Q. Okay. We will get to that in just a minute, I've
20 got that.

21 All states that you've lived in since 18?

22 A. All states, just Mississippi and Tennessee.

23 Q. Well, that's easy. And can you tell us a little
24 bit about your educational background?

25 A. Yes, I graduated from Shaw High School in 1994.

1 And I after I graduated high school, I attended Jackson State
2 University from 1994 to 1997. And after that, I went to
3 Concord Career Institute, which is here in Memphis,
4 Tennessee. Studied there, and after that, I went to Strayer
5 University and I majored in business, business management
6 with a concentration in operation management.

7 Q. And did you have and a degree?

8 A. I have an associate degree.

9 Q. Are you still pursuing education?

10 A. Yes, I am. I haven't gone back since COVID hit,
11 but I plan to go back to Jackson State on-line and finish up
12 where I started, because it wasn't --

13 Q. And what --

14 A. Because that -- that's where my heart is.

15 Q. That's where your what is?

16 A. My heart is.

17 Q. And what are you pursuing? What degree are you
18 pursuing?

19 A. Business management, concentration in operation
20 management. I've been in management for -- for 19 years now.

21 Q. And where do you currently work?

22 A. I work for Glidewell Dental Laboratories.

23 Q. And you indicate your in management there; is that
24 right?

25 A. Yes. Yes. I'm the shipping manager.

1 Q. Shipping manager. And how many people do you
2 manage?

3 A. Right now, I have a team of 12.

4 Q. So you've been in Glidewell for how many years?

5 A. It hasn't been a year yet. It will be a year
6 May 16th, actually Tuesday -- this Tuesday coming up, it will
7 be a year. Glidewell is new here in Memphis, going on its
8 second year here.

9 Q. Congratulations. Where did you work for before?

10 A. Where I work before? I work for Johnson
11 Controls/Hart & Cooly.

12 Q. How long did you work for Johnson Controls?

13 A. I worked there from April of 2018 up to
14 January 14th of 2021. My job got eliminated due to COVID.

15 Q. Lot -- that happened to a lot of people, sorry
16 about that. Where did you work before Johnson Controls?

17 A. I worked for Neovia Logistics in Southaven,
18 Mississippi. I worked there from 2014 to 2018.

19 Q. And then before that?

20 A. Before that, I worked at the Mid-South Food Bank
21 from 2012 to 2014.

22 Q. And have you been pretty much been continuously
23 employed since you graduated from -- and got your associate's
24 degree?

25 A. I got my associate's degree back in 20 -- 2019,

1 2020, round that time. I was -- but yeah, I have been
2 continuously getting employment, yes. Having to get a lot of
3 doors closed in my face, but I -- I just had to keep on
4 moving.

5 Q. So continuously employed pretty much since you
6 graduated from high school?

7 A. Yes, uh-huh.

8 Q. In and out of college, I understand that. But
9 you've been --

10 A. Yes, uh-huh.

11 Q. Have you ever filed my lawsuits other than this
12 one?

13 A. No.

14 Q. And, of course, we know that you've been to
15 convicted of three felony forgeries; is that right?

16 A. Yes.

17 Q. Any other criminal offenses?

18 A. Not that I recall. No, not that I recall.

19 Q. None in Mississippi?

20 A. No, not from Mississippi.

21 Q. And there was a probation violation at one point;
22 do you recall that?

23 A. I don't recall, don't recall. Let me see, no, I
24 don't recall that.

25 Q. Okay. I know you said that the only felonies that

1 you have are the three forgeries?

2 A. Yes.

3 Q. Did you ever serve time in a jail or prison
4 facility?

5 A. When the -- for the forgery case, I was --
6 something -- I was out of town at a wedding up the St. Louis
7 area and had a hotel room in my name. And that Saturday
8 morning, the police was at my door, said I had a warrant in
9 Memphis so they held me in that jail for like 14 days.
10 Extradited me to Hopkinsville, Kentucky, held me there for
11 about 5 days. And then transported me to 201 Poplar where I
12 stayed there for about 4 days.

13 And when my court date came, I was able to get out
14 -- get out that day, that's when I was placed on probation
15 for two years where I had to may restitution fees and do --
16 do community service.

17 Q. Do you recall how much the restitution was for?

18 A. I think it was 224 -- 224 -- \$242 a month.

19 Q. For how many months?

20 A. 24 months.

21 Q. Okay. And you had to do some community service?

22 A. Yes, I did.

23 Q. And you are also on probation for two years?

24 A. Yes.

25 Q. Did you complete your community service? I am

1 assuming you have.

2 A. Yes, I did.

3 Q. Okay. And you paid your restitution?

4 A. Yes, I did.

5 Q. And how was that paid? Was that -- were you
6 working when you were on probation?

7 A. Yes, I found a job and I had to, yeah, work it and
8 pay it off, yes.

9 Q. Were your wages garnished or did you pay
10 voluntarily? How did that work?

11 A. I paid voluntarily.

12 Q. And what about your court costs?

13 A. I paid -- I was paying them on the monthly basis.

14 Q. And how were you were paying those? Was your wages
15 garnished or did you --

16 A. Yes, my wages were garnished for the court costs.

17 Q. Now, you indicate -- did you read the amended
18 complaint before it was filed?

19 A. I don't recall.

20 Q. Okay.

21

22 MS. JORDAN: I'm going to mark as Exhibit 1, the
23 first amended complaint.

24 And Ms. Crawford, I will be sending you all of the
25 exhibit after deposition is done and I will indicate which

1 exhibits they are, if that's okay?

2 COURT REPORTER: Thank you, yes.

3 MS. JORDAN: What I will do is, I will share my
4 screen.

5

6 (WHEREUPON, Exhibit No. 1 was marked.)

7

8 BY MS. JORDAN:

9 Q. And Mr. Perry, can you see what I have up on the
10 screen?

11 A. Not at the moment. It just says, "Dawn Jordan has
12 started screen sharing".

13

14 MS. BOWIE: I can't see it either, Dawn.

15 THE WITNESS: I see it now.

16

17 BY MS. JORDAN:

18 Q. Okay. Wonder why there is a delay? That's neither
19 here nor there. So now you can see what I have up on the
20 scene?

21 A. Yes.

22 Q. And there is a -- this is the first amended
23 complaint in your case. And do you see it says "40" right
24 there?

25 A. Yes, I see it, uh-huh.

1 Q. And it starts with, "Plaintiff, Lamar Perry", do
2 you see that?

3 A. Yes.

4 Q. I want to ask you a few questions about this
5 particular paragraph. Do you recall -- and you can look
6 through this and I can scroll up and down if you need.

7 But did you read this and approve this before the
8 first amended complaint was filed?

9 A. Yes, I did. Yeah, I remember now. I just didn't
10 understand your terminology, but yes, I did. I remember
11 reading it.

12 Q. And that's fine. Let me also tell you: If there
13 is a question that I ask that you don't understand, please
14 feel free to request me to ask it again or clarify or
15 something.

16 A. Okay.

17 Q. We don't always ask the best questions. We don't,
18 bit it's okay.

19 So you did approve this particular paragraph before
20 the first amended complaint was filed; is that correct?

21 A. Yes, ma'am.

22 Q. Okay. Want to ask you a couple of questions about
23 it. We talked about that you served two years on probation,
24 right?

25 A. Yes.

1 Q. The paragraph 40 of the first amended complaint
2 also says that in 2013 you went through a Second Chance
3 Program?

4 A. Yes, that is correct.

5 Q. Can you explain that to us, what that is?

6 A. That's a Second Chance Program to where this
7 program helps felony conviction -- helps them get a job and
8 help with jobs and help us get a trade. And I completed
9 that -- that program in 2013.

10 Q. Who sponsors that program?

11 A. From my understanding Shelby County.

12 Q. And so how long was the program?

13 A. Now, that I do not recall how long was it. I'm
14 thinking -- well, honestly I don't recall. I don't want
15 to -- I don't want to -- I don't want to speculate.

16 Q. That's fine. What was involved in going through
17 the program?

18 A. We had to go -- we had to take classes. We had to
19 go to a class there every -- every week. And we was
20 learning -- learning different trades, how to do resumes, you
21 know, graphs, power points. You know, things that -- that
22 will enhance us as far as giving us a skill set and -- and a
23 whole lot of knowledge -- knowledge based things that --
24 that -- that we would need.

25 Q. And the class was once a week or was it like every

1 day?

2 A. No, it was once a week.

3 Q. Got it. Got it. Did you graduate or get a
4 certificate at the --

5 A. Yes. I -- yes, I got a certificate at the end.

6 Q. And did they -- did this program help you find jobs
7 or was just helping you learn how to do the various things
8 that you need to get a job?

9 A. To answer your question: Both. It helped me find
10 one. It will give you a list of jobs that -- that do hire --
11 hire felony conviction.

12 Q. And were you able to get a job through that
13 program?

14 A. Yes, I was.

15 Q. And what job was that?

16 A. Mid-South Food Bank.

17 Q. Okay. The one that you mentioned earlier?

18 A. Yes.

19 Q. Good. Good. And then going on with paragraph 40,
20 it says that at the conclusion of that program, you learned
21 of the availability of the COR, that's C-O-R, to restore
22 voting rights in Tennessee. Did I read that correctly?

23 A. Yes.

24 Q. And this was -- so you learned about this through
25 the Shelby County program, the COR?

1 A. Yes.

2 Q. When you finished your probation, were you informed
3 of the core at that time?

4 A. I wasn't.

5 Q. Okay. And so then going on in paragraph 40, it
6 says that, "Plaintiff Perry sought a COR, but was told he did
7 not qualify because he had been assessed \$3,288.10 in LFO's",
8 which I believe are legal financial obligations. Did I read
9 that correctly?

10 A. Yes.

11 Q. And let's kind of unpack that for a minute. It
12 says that you sought a COR. Who did you seek a COR from?
13 Where did you go?

14 A. Actually I didn't go, I made a -- after I completed
15 my Second Chance Program, they gave us some paperwork inside
16 of a pamphlet where I received my certificate upon
17 completion. Then notified me that we are able to get our
18 voting rights restored. So they had a phone number where I
19 can reach -- reach downtown, which was the clerk's office
20 downtown. And when I was called, I was informed that I would
21 not be eligible to get my voting rights back due to the fact
22 that I owed that \$3,288.10.

23 Q. Okay. So what I'm understanding -- just let me
24 make sure that I'm clear. What you did was: You were given
25 a telephone number and it was to the criminal court clerk's

1 office; is that right?

2 A. Yes. Yes.

3 Q. And so you telephoned them and were told over the
4 telephone that you were not eligible?

5 A. Yes.

6 Q. Did you go in person at all at that time or just
7 make that telephone call?

8 A. Now that I can't recall. Because I'm thinking I
9 did go and the line was long, so I think I left and then I
10 just end up calling. I know I called multiple times and I
11 was told the same thing.

12 Q. Okay. Did you try to go to any probation office?

13 A. No. No. Because I had no knowledge that the
14 probation office would help me get my voting rights restored.

15 Q. So -- okay. So you just went to the clerk's
16 office, I understand. Right?

17 A. Yes.

18 Q. Okay. And when did you finish the Second Chance
19 Program?

20 A. In 2013.

21 Q. Okay. Now, going further in paragraph 40, it says
22 that, "Plaintiff Perry was surprised to learn that he owed
23 these LFO's", did I read that correctly?

24 A. Yes.

25 Q. Were you under the impression that you were -- I'm

1 taking it that you were under the impression that you had
2 paid all of your legal financial obligations?

3 A. Yes, I was.

4 Q. And why -- what lead you to that belief?

5 A. Because my probation informed me that all of my --
6 my probation officer informed me that all of my restitution
7 fees were -- were -- were paid off and never mentioned
8 anything about court costs, because I didn't know anything
9 about court -- court costs, court fines.

10 Q. I see. Okay. So at that time you had paid your
11 restitution, but you were unaware of court costs; is that
12 what I'm hearing?

13 A. Yes.

14 Q. Okay. And then going further in paragraph 40 it
15 says that you worked to pay down that debt?

16 A. Yes.

17 Q. And so how did you do that? How did you go about
18 doing that?

19 A. Well, what I did, I filed for Chapter 13 bankruptcy
20 and I added the -- the Court cost to my -- to one of my -- I
21 can't think of the word I'm trying to say. But one of the
22 ones -- ones that I had -- excuse me. One of the ones that I
23 had to pay, and that's how I was able to -- to get it down.
24 Get it down to where it is now.

25 Q. So you filed three bankruptcies?

1 A. Yes.

2 Q. One in 2015, one in 2016, and one in 2017; is that
3 right?

4 A. Yes.

5 Q. And you were under the impression that your
6 bankruptcies would help you discharge that debt?

7 A. No, I wasn't under that impression. I knew that I
8 just paid it through my bankruptcy because I was just trying
9 to get some -- get my credit -- get my credit squared away.

10 Q. I see. So there was a trustee and the trustee was
11 working with you from -- with a payment plan?

12 A. Yes.

13 Q. For each of those bankruptcies, the three?

14 A. Yes.

15 Q. Now, the last bankruptcy, 2017, was dismissed in
16 October of 2022; is that right? We will go over that. I've
17 got some paperwork. We will go over that in a minute, that's
18 fine.

19 So in 2020, going further with paragraph 40. "In
20 2020, Plaintiff Perry believing his debt to be fully paid,
21 again sought a COR", did I read that correctly?

22 A. Uh-huh.

23 Q. Is that "yes"?

24 A. Yes. Yes. Yes, I'm sorry.

25 Q. You're fine. You're fine. Like I said, everybody

1 does it, you're fine.

2 What lead you to believe that your debt had been
3 fully paid?

4 A. Because when I ran my credit again and looked at my
5 credit report, I didn't see the -- the court cost on my
6 credit.

7 Q. And you referred to it -- what do you mean by
8 credit report?

9 A. When I looked on Experian, TransUnion and Equifax,
10 I didn't see Shelby County Criminal Court on my credit saying
11 I owed as one of my debtors.

12 Q. Did you ask your bankruptcy trustee whether you
13 owed any on the court costs?

14 A. Well, I didn't have that kind of contact
15 information with the trustee downtown. I just ran my own
16 credit and did it. I took it upon myself and did it.

17 Q. Did you ever meet with your trustee?

18 A. Well, no, I really was dealing with my lawyer.
19 Like I said, I didn't really see a trustee. The only time I
20 saw a -- the only time I was hearing from a trustee was via
21 mail.

22 Q. Okay. So I see, you had your own attorney for
23 these bankruptcies?

24 A. Yes.

25 Q. And did your attorney -- did your attorney provide

1 you with any information that you had paid off these LFO's?

2 A. No. No. He had just -- what he will do is: He
3 will just -- once he received anything from the trustee's
4 office, he will just -- he will just mail it to me.

5 Q. I see. I see, okay.

6 So what I'm understanding is -- and just make to
7 sure that I am clear: Is that in 2020, you ran your credit
8 reports through the agencies that you just described and you
9 didn't see anything on those credit reports to indicate that
10 you owed anything in court costs; is that right?

11 A. Yes.

12 Q. Okay. So the next sentence says that, "Because
13 probation officers in Shelby County routinely refused to fill
14 out CORs, Plaintiff Perry sought his COR from the Shelby
15 County Clerks of Criminal Court, which will sometimes
16 complete CORs upon request". Did I read that correctly?

17 A. Yes.

18 Q. Let's unpack that for a minute. You said because
19 probation officers in Shelby County routinely refused to fill
20 out CORs; where did you get that information?

21 A. Well, because I -- I learned that my probation
22 officer was supposed to been informed me that I was supposed
23 to get my voting rights back. And however, that didn't --
24 that didn't happen. And -- and honestly, they -- they
25 refused to inform me. And then also they -- they didn't fill

1 out the necessary paperwork for me so that I would know that
2 I can or could.

3 Q. Now, you just said that they "refused to inform
4 you", how did they recuse to inform you?

5 A. Well, because I didn't know. I -- I just -- I
6 found out that they were supposed to be informed me that I
7 was able to get my voting rights back.

8 Q. But just so I'm clear, they didn't refuse to inform
9 you, it's just they -- for whatever reason, they did not; is
10 that fair?

11 A. Well, I guess you've got your opinion and I have
12 mine, okay. So...

13 Q. Well, I want to kind of understand this -- this
14 refused to -- refused to inform you. I mean, you're telling
15 me -- what I'm hearing you saying is that they just did not
16 tell you; is that right?

17 A. Well, I think it's both -- I think -- I think they
18 refused and they didn't -- didn't do it.

19 Q. Okay. How did they refuse?

20 A. Well -- well, I guess refuse -- I see refused
21 it's -- so well , I guess they just failed me. They just
22 failed not to tell me that.

23 Q. Okay. And now did you go to any probation
24 officer -- officers ever to seek a COR?

25 A. Well -- well, the probation officer I was assigned

1 to was supposed to have done all of that. Because I was
2 meeting -- I was meeting -- because I had to go there monthly
3 just to check in with him on a monthly basis.

4 Q. And how long did that last?

5 A. Well, 24 months.

6 Q. How many? 24 months, right? Is that right?

7 A. Yes.

8 Q. And so that ended in 2008?

9 A. Yes.

10 Q. Okay. And so did you go to your probation officer
11 after you ended your probation in 2008?

12 A. No.

13 Q. Did you go to any probation office after 2008?

14 A. No.

15 Q. Okay. And let me circle back a minute to when you
16 were paying off your debt through the bankruptcies. Other
17 than paperwork that you would get from your lawyer in the
18 bankruptcies, do you have any records indicating that you
19 kept up with how much you owed, how much you paid in court
20 costs, fines, that kind of thing?

21 A. No. I don't have any. Any records. I lost that
22 in my house fire. I lost all of that in my house fire.

23 Q. When was your house fire?

24 A. In 20 -- I had a house fire in 20 -- was it 2020, I
25 believe. I don't recall. But I had a house fire here where

1 I live at now.

2 Q. And at your current address?

3 A. Yes, uh-huh.

4 Q. And what all burned in the fire?

5 A. Really -- really it was fire within the wall, it
6 was an electrical fire and really a lot of -- lot of smoke
7 damage and we just threw everything out. I didn't seek to
8 save anything.

9 Q. So you threw out your papers?

10 A. Yeah, uh-huh.

11 Q. All of your pictures?

12 A. Yeah. A lot of that was damaged a lot of smoke
13 damage was done to it.

14 Q. Okay. Going back to the paragraph 40 in Exhibit 1,
15 the first amended complaint. It says, "In August of 2020,
16 the Shelby County Clerk of Courts Office refused to fill out
17 his COR stating by e-mail that he still owed \$1,116.10 in
18 court costs" -- I'm gonna scroll down, sorry -- "on his
19 case". Did I read that correctly?

20 A. Yes.

21 Q. Okay. I'm going to stop sharing the complaint for
22 a moment and will share another -- or actually I should
23 probably, okay.

24 Can you see what I have on the screen?

25 A. Yes.

1 MS. JORDAN: The e-mail chain. And this will be
2 marked as Exhibit No. 2.

3
4 (WHEREUPON, Exhibit No. 2 was marked.)

5
6 BY MS. JORDAN:

7 Q. And you see in the middle of the page, there is a
8 from Horton, Cassandra; do you see that?

9 A. Uh-huh.

10 Q. Is that a "yes"?

11 A. Yes.

12 Q. And is this the e-mail that you were referring to
13 in the complaint?

14 A. Yes.

15 Q. And this is an e-mail from a Cassandra Horton to
16 Blair Bowie; is that right?

17 A. Yes.

18 Q. And Ms. Bowie is on the deposition with us?

19 A. Yes.

20 Q. She's one of your attorneys?

21 A. Yes.

22 Q. Okay. Now, is the complaint back up, do you see
23 that? No?

24 A. Not yet, e-mail is.

25 Q. E-mail is still up there?

1 A. Yes.

2 Q. Okay. Now you're seeing the complaint again,
3 Exhibit 1?

4 A. Yes.

5 Q. Now, it says -- goes on to say that at the time of
6 the original filing in this case, however, his records showed
7 that his only outstanding LFO was a criminal fine of \$952.10;
8 did I read that correctly?

9 A. Yes.

10 Q. Okay.

11

12 MS. JORDAN: Now, do you see what we are going to
13 mark as Exhibit Number 3?

14

15 (WHEREUPON, Exhibit No. 3 was marked.)

16

17 BY MS. JORDAN:

18 Q. And this is at the left top left it says the State
19 of Tennessee versus Lamar Perry; is that right?

20 A. Yes.

21 Q. Okay. And I'm going to scroll through here, I hope
22 I don't -- and is this all looking familiar to you? And if
23 you need me to scroll up or down, you just let me know.

24 A. I'm fine.

25 Q. Okay. All right. And is this the document that

1 your relying on to claim that you only owed \$952.10 in fines?
2 And I will go up to you can see it. There we go. It's right
3 here, the fines.

4 A. Can you go back up some so I can see the date of
5 that --

6 Q. Absolutely. Absolutely. Does that help?

7 A. Yes, that is the balance. Yes.

8 Q. So is this the document that you relied on?

9 A. Yes.

10 Q. And it says this document was printed on
11 10-26-2020; is that correct?

12 A. Yes. That was -- that's what it has on the bottom,
13 yes, ma'am.

14 Q. Did you obtain this document yourself?

15 A. No, I didn't.

16 Q. Okay. And who obtained this document?

17 A. I do not know.

18 Q. Who gave it to you?

19 A. Blair.

20 Q. Okay. Now, do you understand what is required for
21 you to get your rights restored?

22 A. I beg your pardon? Can you repeat that again?

23 Q. Yeah, I'm sorry. Yes. Do you understand what it
24 is that you are required to do or what the requirements are
25 for you to get your rights restored?

1 A. I thought I did, but it looks like now I have to
2 pay a fine just in order to get it back.

3 Q. Okay. Do you understand court costs and fees,
4 right?

5 A. Now I -- yes, I do now. Yeah, I do.

6 Q. Okay. And also you need to be current in child
7 support obligations; do you understand that?

8 A. I don't even understand why they got me on child
9 support. I've been fighting that battle for a while. I just
10 understand it from you telling me this.

11 Q. Okay. This is the first time you have understood
12 that to be the case?

13 A. Yes, as far as the -- as far as the child support
14 goes and I was surprised about court costs and fined as well
15 too.

16 Q. That that was what was a requirement?

17 A. Yes.

18 Q. Okay. How many times all together have you
19 actually affirmatively sought to get a COR?

20 A. I tried myself once I learned -- one I learned upon
21 completion of the Second Chance Program, and after that, I
22 seen a couple of commercials on TV about an organization that
23 would help you -- that would help me get them back,
24 particularly in my case, and so I reached out to them.

25 And after I reached out to them, I've been working

1 with them, working with them. And honestly, they've been
2 doing all of the leg work and contact of trying to -- trying
3 to -- trying to help me get my voting rights back.

4 Q. Okay. After you, after the -- and let me make sure
5 I understand. The last time you sought a COR was in 2020?

6 A. Yes.

7 Q. And that was through these different agencies that
8 you learned about on TV?

9 A. Yes.

10 Q. Have you gone to -- have you been involved in that
11 process at all?

12 A. Yes, I have.

13 Q. Okay. Explain that for me, if you would.

14 A. In it -- everything -- anything and everything that
15 comes up new, I will receive a call on either -- either an
16 e-mail, just keep me acclimated on this -- on the -- on the
17 steps and the --

18 Q. Can I hold -- if your about to talk about anything
19 that you talked about with any of your attorneys, please
20 don't tell me about that.

21 A. I'm not.

22 Q. Okay. Thank you. Then go right ahead.

23 A. Yeah, but everything -- but every -- but every step
24 in the process of what they've done, they keep me abreast of
25 what's -- of what's -- of what's going on.

1 Q. And you have been corresponding with them via
2 e-mail?

3 A. Phone majority of the time.

4 Q. But do you have some e-mails?

5 A. I received some, but I don't have any -- I don't
6 save e-mails. I just go ahead and keep my inbox cleared out.

7 Q. Okay. Who are those -- who are the agencies that
8 you have been dealing with?

9 A. Well, I wouldn't say -- well, let me retract. I
10 wouldn't say agency, I just say my attorney, Blair, she just
11 keep me abreast of what's going on.

12 Q. Okay. Okay. Like I said, I don't want to know
13 what the two of you talked about and I don't need any e-mails
14 regarding that. But you have received some e-mails that Ms.
15 Bowie has -- Ms. Bowie has responded to maybe not agencies,
16 but --

17 A. No, I wouldn't say they corresponded with other
18 agency, just let me know the steps of where this process is
19 going.

20 Q. Okay. That's -- I'm going to get into what you all
21 discussed or agreed on. I want to be very careful about
22 that.

23 Okay. And after you were denied a COR or whoever
24 had asked for a COR denied you a COR, did you seek any
25 administrative remedies?

1 A. No, I didn't.

2 Q. Okay. And just so we are clear, have you done
3 anything with respect to in the legal sense other than filing
4 this complaint?

5 A. No.

6 Q. Have you paid the \$952.10?

7 A. No.

8 Q. Have you paid any of it?

9 A. No.

10 Q. And why not?

11 A. Because I just -- I -- I just don't understand why
12 that court fines would prevent me from getting voting rights.
13 That doesn't -- that doesn't make sense to me. So that's
14 why -- that's why I'm just trying to see how this -- this --
15 my case going to -- going to pan out before I make another
16 financial obligation.

17 Q. And just so we are clear, you do understand that
18 your bankruptcies did not discharge that debt?

19 A. Yeah. I -- I know now. I know now.

20 Q. Okay. In the 2017 bankruptcy, that was dismissed
21 in 2022; is that right.

22 A. I don't recall that in 2022. I think it was
23 before, but don't quote me on it, so I don't recall. I'm not
24 going to speculate.

25 Q. That's fine. I've got some documents here. Can

1 you see on my screen?

2

3 MS. JORDAN: This will be what we will mark as
4 Exhibit 4.

5

6 (WHEREUPON, Exhibit No. 4 was marked.)

7

8 BY MS. JORDAN:

9 Q. And this is in the United States Bankruptcy Court
10 Western District of Tennessee; is that right?

11 A. Yes.

12 Q. And this is your 2017 bankruptcy, right?

13 A. Yep, that's it.

14 Q. And this is a document of Chapter 13 Standing
15 Trustees Final Report and Account; is that right?

16 A. Yep, that's it.

17 Q. And did you ever receive a copy of this from your
18 lawyer?

19 A. Can you scroll -- can you take it up some so I can
20 look at it for --

21 Q. Yes, absolutely. Absolutely.

22 I'm sorry, it's actually dismissed in 2021. So I
23 beg your pardon about that. Do you see that?

24 A. Yeah, I see that.

25 Q. I beg your pardon about that, I thought it was

1 2022. I beg your pardon.

2 A. But I don't recall receiving one of these.

3 Q. Okay. Can you see here where it says schedule of
4 creditors?

5 A. Yes.

6 Q. We are still on Exhibit 4. And we've gone down
7 here and it says, Heidi Kuhn Criminal Court Clerk; do you see
8 that?

9 A. Yes, I see that.

10 Q. And it says claim -- under claim schedule, it says
11 \$2,616.10.

12 A. Yes, I see that. Yes.

13 Q. And it says -- then it's got claim allowed not
14 applicable and nothing is paid on that; do you see that?

15 A. Yes.

16 Q. And then go down further, it's Heidi Kuhn Criminal
17 Court Clerk, claim allowed \$3,064.10; did I read that
18 correctly?

19 A. Yes.

20 Q. And the principal paid is \$2,028; is that right?

21 A. It's what they got, it's got on there.

22 Q. Okay. And this was -- let's see, let's go down.
23 And it was filed February 1, 2022; is that right? Right
24 here.

25 A. Yeah, I see it.

1 Q. Okay. Yeah, it was filed in two -- so at least as
2 of February 1, 2022, according to the bankruptcy trustee, you
3 still owed Heidi Kuhn Criminal Court Clerk, correct?

4 A. Yes. That's what the paperwork got, yeah.

5 Q. Okay.

6
7 MS. JORDAN: We will mark this one as Exhibit 5.

8
9 (WHEREUPON, Exhibit No. 5 was marked.)

10
11 BY MS. JORDAN:

12 Q. Do you see at the top, case 17-31205?

13 A. Yes, I see it.

14 Q. And the debtor is Lamar Perry, which is you,
15 correct?

16 A. Yes.

17 Q. And this is a proof of claim; is that right?

18 A. Yes.

19 Q. And it lists the creditor as the criminal court
20 clerk's office; is that right?

21 A. It does.

22 Q. And in this paragraph seven it says, "how much is
23 the claim," and it's \$3,064.10; is that right?

24 A. Yes.

25 Q. Do you recall receiving this from your lawyer?

1 A. I do not.

2 Q. Okay. And this was filed January 5th, of 2018?

3 A. Yes, that's what's the date on it is written on
4 there, yes.

5

6 MS. JORDAN: All right. Mark this next exhibit as
7 Exhibit 6.

8

9 (WHEREUPON, Exhibit No. 6 was marked.)

10

11 BY MS. JORDAN:

12 Q. So Mr. Perry, do you see at the top it says in the
13 United States District Court for the Middle District of
14 Tennessee, Nashville division; do you see that?

15 A. Yes.

16 Q. Okay. And we will scroll down, this is still
17 Exhibit 6. Plan of Lamar Perry's responses and objections to
18 defendant's third set of interrogatories; did I read that
19 correctly?

20 A. Yes.

21 Q. And I can scroll down and show you these, but I
22 just want to make sure that you saw these, read these and
23 approved these before they were sent over to us. Do you want
24 me to scroll down?

25 A. Yes, please. Yeah, you can scroll down.

1 Q. Okay. And if I'm going to too fast, you can let me
2 know.

3 A. Yes, I -- I remember this.

4 Q. Okay. We will just go over, general objections.
5 Now, in answer to interrogatory number 1 -- okay.
6 Interrogatory number 1, it says that, "Who told you in 2013
7 that you did not qualify for a COR because you had been
8 assessed \$3,288.10? And in your response, include an
9 explanation as to why you believed that you did not owe
10 anything." Did I read that correctly?

11 A. Yes.

12 Q. And then part of your answer -- I'm not going to
13 read the whole answer, but part of your answer is:
14 "Plaintiff does not remember the name of the person who
15 informed him that he did not qualify for a COR in 2013
16 because one decade had passed since that initial request. He
17 did not believe that he owed any legal debt on this
18 conviction because he had successfully completed two years on
19 probation and a Second Chance Program as described in the
20 first amended compliant, doc number 102." Did I read that
21 correctly?

22 A. Yes.

23 Q. Now, why -- what lead to -- why would you believe
24 that after you have completed two years of probation, the
25 Second Chance Program, that you would have fulfilled or paid

1 off your court costs?

2 A. Because what I understood that -- that my -- that
3 restitution -- restitution fees when I paid all of that back
4 in two months has -- has taken care of all -- all of that.

5 Q. Okay. And then on interrogatory number 2, which
6 says in part, I'm not going to read the whole thing. Do you
7 need a break Mr. Perry, are you okay?

8 A. I'm good. I'm fine.

9 Q. Okay. Interrogatory number 2 reads in part, "State
10 all facts and identify all persons and documents which
11 support your allegation in paragraph 40 of the amended
12 complaint that because probation officers in Shelby County
13 routinely refuse to fill out CORs, did I read that correctly?"

14 A. Yes.

15 Q. And where do you get that information that
16 probation officers in Shelby County routinely refused to fill
17 out CORs?

18 A. Like then we just had the discussion about that
19 word "refused", right there.

20 Q. So what you had said before?

21 A. Yes.

22 Q. Okay. That's fine. And the part of your response
23 states that, "Plaintiff Perry responds as follows with
24 respect to his individual claims: Plaintiff and his agents
25 did not ask any Shelby County probation officers to fill out

1 his COR". Did I read that correctly?

2 A. Yes.

3 Q. I understand I didn't read the whole thing, but
4 that part I read correctly?

5 A. Yes.

6 Q. Who are the agents you are referring to?

7 A. I do not know who -- what agents are there.

8

9 MS. JORDAN: Okay. We are going to mark this as
10 Exhibit 7.

11

12 (WHEREUPON, Exhibit No. 7 was marked.)

13

14 BY MS. JORDAN:

15 Q. And the title of this document is: "Plaintiff
16 Lamar Perry's responses and objections to defendant's second
17 set of interrogatories." Is that right?

18 A. Yes.

19 Q. And I will cross through this and just make sure
20 that you have seen this document before. It's very similar
21 to the first set.

22 A. Yes, I remember the document, yes.

23 Q. Okay. And I'm going to scroll down, interrogatory
24 3. It says in interrogatory number 3, which states in part
25 that, "To your knowledge please identify any potential class

1 member including name, their felony convictions, other
2 identifying information, documentation that such person is
3 not subject to a disqualifying conviction as defined in Tenn
4 Code Annotated section mark 40-29-204 and other documentation
5 supporting that each potential class member has satisfied the
6 requirements of Tenn Code Annotated section mark 40-29-202 as
7 described in paragraph 122 of your first amended complaint".

8 Did I read that correctly?

9 A. Yes.

10 Q. Okay. And in part -- I'm going to bring part of
11 this paragraph here, "Plaintiff Perry responds as follows
12 with respect to his individual claims: Plaintiff Perry
13 identifies himself as a member of the punitive class. He
14 states that he has been disenfranchised because of a felony
15 conviction and has requested or attempted to request a COR
16 from the pardoning, incarcerated or supervising authority,
17 but to date has not received a COR sufficient to restore his
18 voting rights". Did I read that correctly?

19 A. Yes.

20 Q. And we've talked about this previously, but just so
21 we are clear, in order to get your rights restored, one of
22 the things that you have to do is to be current on your child
23 support obligations; do you understand that?

24 A. I do now. I didn't know it had anything to do with
25 it until you just spoke it earlier.

1 Q. All right. And you do acknowledge that you owe
2 child support, correct?

3 A. I do.
4

5 MS. JORDAN: Okay. And we will mark this as
6 Exhibit 8.
7

8 (WHEREUPON, Exhibit No. 8 was marked.)
9

10 BY MS. JORDAN:

11 Q. And can you see that this is a document from the
12 Juvenile Court of Memphis and Shelby County, Tennessee; do
13 you see that?

14 A. Yes, I do.

15 Q. And it's State of Tennessee ex rel LaKeva Shanell
16 Johnson as a petitioner versus Lamar Dwayne Perry, defendant;
17 is that correct?

18 A. Yes.

19 Q. And Lamar Dwayne Perry is you, correct?

20 A. Yes.

21 Q. And it's docket number S5375; is that right?

22 A. I don't see the docket number. I can't --

23 Q. It's over on the right-hand side. Do you see that
24 docket number where my curser is?

25 A. Yeah, I see it now.

1 Q. Okay. And this is the order which ordered you to
2 pay child support, have you seen this? Is that correct?

3 A. Yeah, it's been a while ago, but I've seen it,
4 that's correct.

5

6 MS. JORDAN: Okay. Last exhibit, which I will mark
7 as Exhibit 9.

8

9 (WHEREUPON, Exhibit No. 9 was marked.)

10

11 BY MS. JORDAN:

12 Q. Okay. Can you see this spreadsheet that is in
13 front of you?

14 A. Yes, I can see it.

15 Q. Okay. And again, it says docket number S5375; do
16 you see where the cursor is?

17 A. Yes, I see it.

18 Q. And that was the same docket number that we just
19 saw in Exhibit No. 8, right?

20 A. Right.

21 Q. And it LaKeva Johnson as the petitioner?

22 A. Yeah, that's my wife.

23 Q. And Lamar Perry as a respondent?

24 A. Yes.

25 Q. Okay. And I didn't go back all of way, but just

1 starting in 2019 -- in 2019 -- or I should say, October 1,
2 2019, it shows that you owed or you are in arrears
3 \$16,053.59, correct?

4 A. Yeah. But I have a court date with child support
5 on the 30th of June coming up to dispute all of this because
6 I took -- we took marriage license down there, my wife gave
7 them a letter and showing that the kid been living -- all
8 three kids have been living with me since day -- since day
9 one. So...

10 Q. Well, okay. Let's just keep going. The last time
11 that you paid any child support was --

12 A. 2021 right there.

13 Q. March 1, 2021, in the amount of \$6,735, correct?

14 A. Yes.

15 Q. Okay. And you haven't paid any child support
16 since, right?

17 A. Right.

18 Q. On March 1, 2021, was not a voluntary payment, you
19 were forced to make that payment, correct?

20 A. Well, they just took my income tax.

21 Q. Okay. Well, it wasn't a voluntarily payment?

22 A. No.

23 Q. Okay. Sorry, let me make sure, it was not a
24 voluntary payment; is that correct?

25 A. Yeah, that's correct.

1 Q. Okay. Now, how do you claim that your due process
2 rights have been violated by the COR process?

3 A. Read that again, now?

4 Q. Sure. How do you claim that your due process
5 rights have been violated by the whole COR process?

6 A. Again, back to my previous answer I gave that I --
7 I don't understand what -- what -- what fines and now child
8 support has to do with me getting my voting rights. I'm
9 still confused about that whole thing. And I see that and
10 that's how you made you case against me, charged that too.
11 So -- but I don't understand and I still don't understand
12 what voting has to do with criminal court charges and child
13 support. Because that's -- I think child support is --
14 that's my personal life, you know, that shouldn't have
15 anything to do with voting rights. So again, you know, it is
16 what it is.

17 Q. And what do you expect to get out of this lawsuit?

18 A. I expect to get my voting rights back, that's my
19 expectation.

20 Q. Anything other than that?

21 A. Yeah. And I can have a voice -- a voice -- a voice
22 of who that I think would be a great candidate who should be
23 in office, that's -- that's my right.

24

25 MS. JORDAN: That's all I've got. Thank you,

1 Mr. Perry. You've been most patient. Appreciate it. Thank
2 you.

3 MS. BOWIE: Can we take a quick break.

4
5 (Break was taken.)

6
7 EXAMINATION BY MS. BOWIE:

8 Q. Mr. Perry, I just have a couple of quick questions.
9 You mentioned earlier that you learned about the possibility
10 of restoring your voting rights through your Second Chance
11 Program; is that correct?

12 A. Yes.

13 Q. And was that program through the Shelby County
14 Office of Reentry?

15 A. Yes.

16 Q. Okay. And they provided you with some information
17 instructions on how to restore your voting rights through a
18 certificate of restoration; is that right?

19 A. Yes.

20 Q. And that information directed you to the Shelby
21 County Criminal Clerk's Office; is that right?

22 A. Yes.

23 Q. Did it mention the probation office at all in
24 relation to the restoration of your voting rights?

25 A. No.

1 MS. BOWIE: Okay. That is all I have.

2

3 FURTHER EXAMINATION BY MS. JORDAN:

4 Q. Just a couple of real short questions for you,
5 Mr. Perry.

6 Remember I had asked you about a probation
7 violation and you couldn't recall it; do you remember that?

8 A. Yes.

9 Q. And I was looking through -- I just want to make
10 sure, I don't think this will have any bearing on anything,
11 but just to make sure: In November of 2001, do you recall
12 being arrested for a violation of probation?

13 A. I do not.

14 Q. And do you recall on November of 2001 being found
15 in possession of a controlled substance which probably is
16 what lead to a violation of probation?

17 A. No. I know that's -- that charge was my brother
18 charge. And it's -- I remember the charge of a controlled
19 substance charge, but they gave that charge to my brother
20 Zachary, to my brother Zach, but somehow I guess they gave me
21 a citation or for some of it of the sort.

22 Q. Okay. So it was your brother that had these issues
23 not you?

24 A. Yeah, they got -- you got all of that -- got all of
25 that confused up, yes.

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Q. Okay. Sorry about that then.

MS. JORDAN: But thank you, Mr. Perry, you've been most patient. And I'm very happy that you've done so well. Thank you.

THE WITNESS: Okay.

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REPORTER'S CERTIFICATE

**STATE OF TENNESSEE
COUNTY OF DAVIDSON**

I, SHANA C. CRAWFORD, Licensed Court Reporter, with offices in Nashville, Tennessee, hereby certify that I reported the foregoing deposition of Lamar Perry, by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me.

I further certify that I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

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LCR #859 - Expires: 6/30/2024

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TN CONF OF THE NATL ASSOC FOR THE ADVANCEMENT OF COLORED PEOPLE

vs

LEE, et al.

REGINALD HENDRIX

May 16, 2023

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Deborah H. Honeycutt, LCR

Chattanooga (423)266-2332 Jackson (731)425-1222
Knoxville (865)329-9919 Nashville (615)595-0073 Memphis (901)522-4477

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1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 TENNESSEE CONFERENCE OF THE
5 NATIONAL ASSOCIATION FOR THE
6 ADVANCEMENT OF COLORED PEOPLE,
7 et al.,

8 Plaintiffs,

Case No. 3:20-cv-01039

Judge Campbell

9 vs.

Magistrate Judge

Frensley

10 WILLIAM LEE, et al.,

Class Action

11 Defendants.

12
13 Volume 1

14 Videoconference Deposition of:

15 REGINALD HENDRIX

16 Taken on behalf of the Defendants

17 May 16, 2023

18 Commencing at 1:03 p.m.

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22
23 Elite-Brentwood Reporting Services
24 www.elitereportingservices.com
25 Deborah H. Honeycutt, LCR, Associate Reporter
555 Marriott Drive
Nashville, TN 37214
(615)595-0073

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A P P E A R A N C E S

For the Plaintiffs:

**MS. ALICE HULING
MS. BLAIR BOWIE
MS. ELLEN BOETTCHER
Attorneys at Law
Campaign Legal Center
1101 14th Street NW, Suite 400
Washington, DC 20005
(202)736-2200
ahuling@campaignlegalcenter.org
bbowie@campaignlegalcenter.org
eboettcher@campaignlegalcenter.org**

For the Defendants:

**MR. PABLO A. VARELA
MS. DAWN JORDAN
Attorneys at Law
Public Interest Division
Office of the Attorney General
P.O. Box 20207
Nashville, TN 37202-0207
(615)532-4098
pablo.varela@ag.tn.gov
dawn.jordan@ag.tn.gov**

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1
2 **S T I P U L A T I O N S**
3

4 **The videoconference deposition of**
5 **REGINALD HENDRIX was taken by counsel for the**
6 **Defendants, by Notice, with all participants**
7 **appearing at their respective locations, on May 16,**
8 **2023, for all purposes under the Tennessee Rules of**
9 **Civil Procedure.**

10 **All objections, except as to the form of**
11 **the question, are reserved to the hearing, and said**
12 **deposition may be read and used in evidence in said**
13 **cause of action in any trial thereon or any**
14 **proceeding herein.**

15 **It is agreed that Deborah H. Honeycutt,**
16 **Notary Public and Licensed Court Reporter for the**
17 **State of Tennessee, may swear the witness remotely,**
18 **and that the reading and signing of the completed**
19 **deposition by the witness was not discussed.**
20
21
22
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24
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1 * * *

2
3 THE REPORTER: Good afternoon. My name
4 is Deborah Honeycutt. I am a stenographic reporter
5 with Elite-Brentwood Reporting Services. My license
6 number is 472.

7 Today's date is May 16, 2023, and the
8 time is approximately 1:03 p.m. Central time.

9 This is the deposition of
10 Reginald Hendrix in the matter of Tennessee
11 Conference of the National Association for the
12 Advancement of Colored People, et al., vs. William
13 Lee, et al., filed in the United States District
14 Court, Middle District of Tennessee, Nashville
15 District. The case number is 3:20-cv-01039.

16 This deposition is being taken by
17 videoconference, and the oath will be administered
18 remotely by me. Any digital exhibits marked during
19 this deposition will be deemed as "original" for
20 purposes of said deposition.

21 At this time, I will ask counsel to
22 identify yourselves and state whom you represent.
23 If you have any objections with the procedures I've
24 outlined, please state so when you introduce
25 yourself. We will start with the noticing attorney.

1 MR. VARELA: Good afternoon. My name is
2 Pablo Varela and I'm here with Dawn Jordan of the
3 Tennessee Attorney's General Office representing the
4 State Defendants in this case.

5 MS. HULING: Good afternoon. My name is
6 Alice Huling. I'm here on behalf of Plaintiffs.
7 I'm with Campaign Legal Center. And I'm here with
8 my colleagues, Blair Bowie and Ellen Boettcher, both
9 also with Campaign Legal Center.

10
11 * * *

12 REGINALD HENDRIX,
13 was called as a witness, and after having been duly
14 sworn, testified as follows:

15
16 EXAMINATION

17 QUESTIONS BY MR. VARELA:

18 Q. Good afternoon, Mr. Hendrix. My name is
19 Pablo Varela. I'll be taking your deposition this
20 afternoon.

21 MR. VARELA: Before we get started,
22 Alice, I just wanted to run a couple of things by
23 you. I'm going to be dropping the exhibits into the
24 Chat and as I bring them up. And then I will share
25 my screen if that's okay, Ms. Honeycutt, to go

1 through them.

2 BY MR. VARELA:

3 Q. Mr. Hendrix, do you have capability there to
4 download those documents and to read them where you
5 are?

6 A. I am not computer savvy. Okay? I am not.

7 Q. What I will be doing then is sharing my
8 screen, and when I do that, the documents I'm
9 referring to will be on your screen and you'll be
10 able to read them. Okay?

11 A. Okay.

12 Q. We may need to -- I may need to scroll
13 through documents so that you get to read the whole
14 thing since you're not going to be able to download
15 them and you may not be able to download them and
16 look at them locally. Is that okay?

17 A. Yes.

18 Q. Okay. So a couple of ground rules. Have you
19 ever taken a deposition or given a deposition
20 before?

21 A. No, sir.

22 Q. A deposition is just a lawyer asking
23 questions of a witness, just like as if we were in
24 the courtroom talking to the judge or a jury or
25 whatever. I will be asking questions to you and

1 you'll be answering them. I may not ask a very
2 clear question sometimes and I'm prone to do that.
3 So if I ask you a question that's confusing or you
4 don't understand it and you want me to rephrase it,
5 just tell me and I'll try to do that. Okay?

6 A. Okay.

7 Q. If you answer one of my questions, is it okay
8 if I assume that you understood what I was asking?

9 A. Yes.

10 Q. Okay. During the deposition you may hear the
11 lawyers for the NAACP make an objection. They are
12 noting that objection for the record. However,
13 you're still required to answer, unless they tell
14 you not to answer and have a legal basis for telling
15 you not to answer the question. Does that make
16 sense?

17 A. Yes.

18 Q. Okay. We can take as many breaks as you
19 need. If you're feeling like you need to get up and
20 stretch, use the facilities, whatever, just let me
21 know. I'm glad to take a five-, ten-minute break
22 whenever you need it.

23 A. Okay.

24 Q. And I'll do the same. I may need a break
25 from time to time. And the only thing I'd ask is

1 that if I have asked a question that you don't --
2 you want to take a break, you answer the question
3 first and then we'll take a break after the answer.

4 Is that okay?

5 A. That's fine.

6 Q. Okay. So first thing I want to present is
7 this document. Okay. See if that works. Do you
8 see the document?

9 A. Yes, I sure do.

10 Q. Have you seen -- have you been provided a
11 copy of this document, Mr. Hendrix?

12 A. Yes, I have.

13 Q. And this is the notice of your deposition; is
14 that right? Hold on a second. I need to put that
15 in the chat. I'm going to ask that that be marked
16 as Exhibit 1. Can you still see it?

17 A. Yes, I do. I see it.

18 (WHEREUPON, a document was marked as
19 Exhibit Number 1.)

20 BY MR. VARELA:

21 Q. Pause sharing that. So tell me right now,
22 where are you located, Mr. Hendrix? Are you in
23 somebody's office? Are you at home?

24 A. I'm at home.

25 Q. Is there anybody else with you in the room?

1 A. My dog. She's -- no. It's just my dog.

2 Q. Well, I think like we all know from the Bush
3 Beans commercial, the dogs keep the secret, right?

4 Okay. So when did you get -- when were you
5 told that you were going to be giving your
6 deposition?

7 A. I was told -- I think it's been about a week
8 now. About a week now.

9 Q. And what did you do to prepare for the
10 deposition?

11 A. I just went over the documents and everything
12 that was given, the information I gave, and make
13 sure it was verified.

14 Q. So what document -- were you provided with
15 documents to review in preparation for the
16 deposition?

17 A. Yes.

18 Q. Can you tell me what those documents were?

19 A. Well, the depositions, and the complaint, and
20 the amended judgments, and everything that you have.

21 Q. And do you have any documents with you in
22 front of you?

23 A. No.

24 Q. No documents?

25 A. No.

1 Q. So in preparation for your deposition, did
2 you talk to anybody about it?

3 A. Well, I went over -- I went over some points
4 with -- with the attorneys. Yes.

5 Q. With the counsel? I'm not asking what you
6 talked about. But anybody other than the attorneys
7 for the NAACP? Did you speak to anyone?

8 A. No.

9 Q. When you spoke with counsel for the NAACP,
10 was it just you and an attorney, or were there other
11 people present?

12 A. Attorney and I.

13 Q. All right. If you don't mind, tell the court
14 where you currently reside.

15 A. I reside in Nashville, Tennessee.

16 Q. And how long have you lived in Nashville?

17 A. Most of my entire life.

18 Q. And that's in Davidson County?

19 A. Yes, sir.

20 Q. Have you ever lived anywhere else?

21 A. No.

22 Q. So you said most of your entire life. Was
23 there a time that you didn't live in Davidson
24 County, Nashville?

25 A. Yes. This is when I was incarcerated. I

1 lived in another county.

2 Q. Okay. Can you -- do you know which county
3 that was?

4 A. Only, Tennessee.

5 Q. Are you married?

6 A. No. I'm divorced.

7 Q. Any children?

8 A. No.

9 Q. Any children other than like not related to
10 your wife or just at all, no children?

11 A. None.

12 Q. Are you currently employed?

13 A. Yes, I am.

14 Q. Can you briefly give me a description of
15 where you are employed, what you do?

16 A. I'm, basically, a handyman. I just cut grass
17 and take care of my mom and, you know, just little
18 odds and ends jobs and stuff like that.

19 Q. And so you own your business; is that
20 accurate?

21 A. I mean, it's not really a -- it's a small
22 little grass-cutting, handyman thing.

23 Q. How long have you been doing that?

24 A. Off and on since I was released. Uh-huh.

25 Q. When was that, roughly?

1 A. It was --

2 Q. Do you remember?

3 A. Vaguely, it's like 2016 or so. I'm not
4 exactly sure.

5 Q. So since about 2016 you've been
6 self-employed, handyman, doing lawn work and that
7 sort of thing?

8 A. Yeah.

9 Q. Is that right?

10 A. Yes.

11 Q. How long were you incarcerated then?

12 A. Off and on, I'm not exactly sure. It's
13 probably about nine years.

14 Q. Okay.

15 A. Not exactly sure.

16 Q. Were you employed at all during that
17 nine-year period when you weren't incarcerated?

18 A. No.

19 Q. So that would be roughly 2007 to 2016 that
20 you were incarcerated?

21 A. Yes.

22 Q. And, I apologize, I have been doing this, I
23 have been kind of talking over your answers and
24 that's my bad. I apologize. I'll try not to do
25 that. That's one of the standard ground rules that

1 we have because the court reporter is trying to
2 write down what we say. So I'll try not to talk
3 over you and if you wouldn't mind let me finish the
4 question before answering. It'll slow down a little
5 bit but also it'll let her write down what we're
6 talking about and it makes sense. Okay?

7 Okay. So prior to incarceration, were you
8 employed?

9 A. Yes.

10 Q. What were you employed as?

11 A. I was a -- I was a landscaper.

12 Q. During what time period? What years?

13 A. Before incarceration? I can't remember. I
14 honestly can't remember.

15 Q. Well, what other employment did you have
16 prior to landscaping?

17 A. I worked in restaurants. And I was like a
18 musician. I played sparingly as a musician.

19 Q. What do you play?

20 A. I play bass guitar and keyboards.

21 Q. Upright?

22 A. Either, upright and. I started off playing
23 classical in high school, symphony.

24 Q. So are you a member of the Tennessee Chapter
25 of the NAACP?

1 A. No, I'm not.

2 Q. You're not?

3 A. No.

4 Q. Okay. And how then -- okay. Let's talk a
5 little bit then about the complaint that was filed
6 in this case.

7 How did you come to be involved in this
8 lawsuit then?

9 A. Initially, when I was -- after I had --
10 had -- was released from probation, paid all my
11 fines and all that, I had a, you know -- I had some
12 obstacles trying to get through and wasn't given
13 proper information to -- to vote. I was trying to
14 get my voting rights restored and I tried other
15 organizations but nobody would never respond. And I
16 was never -- by the state -- when I was on state
17 probation, I never had given -- nobody has never
18 given me the resources.

19 So what happened, I found -- I was
20 unsuccessful initially, and then I found a service
21 and they connected me with a service that could help
22 me get my restoration restored of voting, to vote.

23 Q. So you were looking to get your voting rights
24 restored after you completed your sentence and
25 everything related to the felonies; is that right?

1 A. Yes, sir.

2 Q. You reached out to several organizations to
3 try to help you do that; is that correct?

4 A. Correct.

5 Q. Do you remember what the name of those
6 organizations were or some of them?

7 A. I don't. I really don't.

8 Q. Do you still have any contact information for
9 those organizations somewhere?

10 A. Oh, yeah, probably on my phone. Yes.

11 MR. VARELA: Okay. Could I ask that you
12 provide those to your counsel and that they turn
13 those over to the State after the deposition. Is
14 that okay, Alice?

15 MS. HULING: Certainly. I think we can
16 circle back on that at the end of the deposition and
17 touch base on what that is.

18 MR. VARELA: Okay, great.

19 BY MR. VARELA:

20 Q. And, Mr. Hendrix, what I'm asking for is that
21 you provide your attorneys for the NAACP a list of
22 the organizations you reached out to and contacts
23 for those organizations so that they can provide
24 those to the State.

25 So, Mr. Hendrix, if I understood your

1 testimony just now, you finally found an
2 organization that was able to help you; is that
3 right?

4 A. Correct.

5 Q. Which organization was that?

6 A. It was through -- it wasn't really an
7 organization. It was some -- I don't exactly know
8 the name. I don't know the name.

9 Q. Do you know who you spoke with?

10 A. Amy.

11 Q. Amy?

12 A. Yeah.

13 Q. Do you still have contact information for
14 Amy?

15 A. I sure do. That's the organization. Yes, I
16 do. Yes.

17 Q. And what you said is that that organization
18 connected you to the NAACP; is that right?

19 A. Right, exactly.

20 Q. So then how did it come about that you --
21 were you asked to join the lawsuit?

22 A. No.

23 Q. Did you ask to join the lawsuit?

24 A. No.

25 Q. Well, then how did it come about that you are

1 a named plaintiff in this lawsuit?

2 A. Excuse me. I misunderstood the question.

3 Can you repeat that, again?

4 Q. Sure. Let me do this. Let me share --

5 A. Okay.

6 Q. -- the complaint. Or the amended complaint.

7 Do you see that on your screen?

8 A. Yes.

9 Q. Do you see right here where I'm highlighting?

10 A. Oh, yes, yes. Okay. I remember. Yes.

11 Q. So my question is like how did it come about
12 that you decided to join the lawsuit? How did you
13 join this lawsuit?

14 A. Yes, through the organization, through the
15 NAACP. Yes.

16 Q. Did you ask them to join the lawsuit?

17 A. Yes, I did.

18 Q. Did they tell you -- first of all, did you
19 talk with anybody at the NAACP that was not a
20 lawyer?

21 A. No.

22 Q. So you only spoke with counsel at the NAACP?

23 A. Yes.

24 Q. In your own words, what is this case about?

25 A. This case is about -- was about, you know,

1 people that's been formerly incarcerated was just
2 having problems, you know, you know, voting again.
3 My whole gist of this is what I have -- basically
4 what I had to go through in order to vote. I was
5 just like -- I wasn't given information or anything
6 like that. It was kind of frustrating.

7 Q. What I hear you saying is that this case is
8 about the process to get your rights to vote back?

9 A. Yes.

10 MR. VARELA: So in the complaint -- and
11 I'm going to drop that in the chat. I'm going to
12 ask that the first amended complaint be marked as
13 Exhibit 2, please.

14 (WHEREUPON, a document was marked as
15 Exhibit Number 2.)

16 BY MR. VARELA:

17 Q. Mr. Hendrix, if I can turn your attention to
18 page two, right here that should be on your screen.

19 A. Okay.

20 Q. Of the first amended complaint. Do you see
21 that?

22 A. Yes.

23 Q. Do you see the word introduction at the top?

24 A. Yes.

25 Q. And then paragraph one, I'm going to

1 highlight a sentence. It says: Plaintiffs' claims
2 arise under the Due Process and Equal Protection
3 Clauses of Fourteenth Amendment of the United States
4 Constitution and the Twenty-Fourth Amendment of the
5 United States Constitution. Did I read that
6 correct?

7 A. Yes.

8 Q. And it also says: Plaintiffs also challenge
9 aspects of the voter registration process for
10 individuals with felony convictions under the
11 National Voter Registration Act, NVRA. Did I read
12 that correct?

13 A. Yes.

14 Q. So in the complaint, you're alleging that
15 your due process and equal protection rights have
16 been violated by what?

17 MS. HULING: Objection to the extent
18 that calls for a legal conclusion. Mr. Hendrix, you
19 can answer to the extent you know.

20 THE WITNESS: Can you please repeat
21 that, please?

22 BY MR. VARELA:

23 Q. Absolutely. I think it was a terrible
24 question also, so I'll try to rephrase it.

25 So in your complaint you're alleging that

1 your due process rights were violated by the State's
2 restoration process, the voting rights restoration
3 process; is that right?

4 A. Correct.

5 Q. What due process was violated by the State's
6 restoration process? Which of your due processes
7 were violated?

8 MS. HULING: Same objection.

9 MR. VARELA: Go ahead.

10 MS. HULING: Go ahead. Mr. Hendrix, you
11 can go ahead.

12 THE WITNESS: Well, the process how --
13 it was kind of hard for me to, to register to vote.
14 Every -- I wasn't given any kind of information of
15 how to vote after I was released and after I had
16 paid my fines and dues for the court. Okay? I was
17 just running into shut doors after, you know --
18 nobody would not give me any information. That's
19 why I had to reach out to these organizations in
20 order to get my rights restored as a voter.

21 BY MR. VARELA:

22 Q. So if I understand you correctly, the process
23 violated your due process rights because it was
24 difficult? Is that what you're saying?

25 MS. HULING: Same objection. You can go

1 ahead, Mr. Hendrix, to the extent you know.

2 THE WITNESS: Not particularly that.

3 It's just that I wasn't given any information how
4 this process worked through the State. I was under
5 State probation and I, you know, the probation
6 officer, any of those, they have never given me any
7 kind of avenues to do this. I, basically, had to go
8 and seek my own -- the process of how to restore my
9 voting, you know. Through the meetings, the
10 Alcoholics Anonymous meetings that I went through,
11 and a lot of people in recovery had gone through
12 that process as well, you know. And I just, you
13 know -- I was kind of like dumbfounded to -- to --
14 how to get it restored.

15 Q. So you testified earlier that you were
16 incarcerated; is that correct?

17 A. Correct.

18 Q. And you were released in 2016; is that right?

19 A. Yeah.

20 Q. Approximately?

21 A. Yeah.

22 Q. Can you walk me through like on your last day
23 or leading up to your release date, what happens
24 when you're being released?

25 A. Well, actually, I was in the Williamson

1 County Drug Court and it wasn't -- I wasn't
2 released. I was released from probation. I was
3 released from probation. I wasn't released from a
4 prison itself. I went through Drug Court in
5 Williamson County. I don't know the judiciary
6 district. I successfully was under Judge Timmy
7 Sterr (phonetic) and -- and I graduated and paid my
8 fines. And after I had paid my fines and all that,
9 I was just trying to, you know, get my voting rights
10 restored. And it was just like ran into obstacles
11 after obstacles.

12 Q. Did you -- we'll get to the history. I'm
13 just curious. When you were released from Drug
14 Court, were you provided any documents from the
15 court, from the attorneys that represented you or
16 were prosecuting or presenting you for graduation to
17 the court?

18 A. No.

19 Q. And at that time, did you have any
20 restitution that was ordered for you to pay?

21 A. Yes.

22 Q. And were there court costs assessed against
23 you related to those criminal cases?

24 MS. HULING: Objection to the extent
25 these are calling for legal analysis. But you can

1 go ahead, Mr. Hendrix.

2 THE WITNESS: Yes.

3 BY MR. VARELA:

4 Q. I wasn't quite clear on your testimony. Did
5 you say that when you graduated those had already
6 been paid, your court costs and your restitution, or
7 did you then pay it?

8 MS. HULING: Same objection. Go ahead,
9 Mr. Hendrix.

10 THE WITNESS: I paid them as I -- yes.
11 In order for me to be formally released, I had to
12 pay my restitution and fines.

13 BY MR. VARELA:

14 Q. So that was a condition to graduating from
15 the Drug Court?

16 A. No, sir. No. It's just to be -- to get to a
17 point of, you know, of getting released from -- from
18 probation, you know. Because I was told at the time
19 that if the fines and restitution is not paid, I
20 don't think I could be released from probation.

21 Q. Okay.

22 A. I don't know if that's fact or legal. I
23 don't know.

24 Q. Did you have representation in your criminal
25 cases?

1 A. Yes.

2 Q. In Williamson County?

3 A. Yes.

4 Q. Was that court appointed or did you retain an
5 attorney?

6 A. It was retained.

7 Q. And did your attorney explain to you anything
8 related to the probation process, the restoration of
9 rights process, the graduation from Drug Court
10 process?

11 A. No. She represented me and moved to -- I did
12 not have any contact with her after my sentence.
13 She never -- she explained what I -- when I was
14 sentenced, what I would owe as far as restitution
15 and fines and I, you know -- during the -- the --
16 the incarceration I never -- I never -- I never
17 heard anything else from her from that point.

18 Q. Okay. I'm going to turn your attention to
19 the amended complaint, page 37 now. Can you see
20 that?

21 A. Yes.

22 Q. Do you see where it says class allegations on
23 your screen?

24 A. Yes.

25 Q. Paragraph number 120, it reads that:

1 Plaintiffs Perry, Gray, Weare, Tournier, Scott, and
2 Hendrix seek to represent the class of COR seekers.
3 COR or is certificate of restoration of rights; is
4 that right?

5 A. Yes.

6 Q. Did I read that correctly?

7 A. Yes.

8 Q. It goes on to say: This class consists of
9 Tennessee residents who have been disenfranchised
10 because of a felony conviction and have requested or
11 attempted to request a COR from the pardoning,
12 incarcerating, or supervising authority, but to date
13 have not received a COR sufficient to restore their
14 voting rights; is that correct?

15 A. Yes.

16 Q. So paragraph 120, is it fair to say that it
17 defines what the class is in this case?

18 MS. HULING: Objection to the extent
19 that's calling for a legal conclusion.

20 BY MR. VARELA:

21 Q. Are you a member of this class?

22 MS. HULING: Objection to the extent
23 that calls for a legal conclusion. Go ahead,
24 Mr. Hendrix.

25 THE WITNESS: Yes.

1 BY MR. VARELA:

2 Q. So you requested a COR and did not receive
3 one?

4 A. I did receive one after -- after I had gone
5 through the process.

6 Q. Okay. So did you get your voting rights
7 restored?

8 A. Eventually, I did.

9 Q. So, currently, do you have the right to vote?

10 A. I do.

11 Q. So are you currently a member of this class
12 then?

13 MS. HULING: Objection to the extent
14 that calls for a legal conclusion.

15 BY MR. VARELA:

16 Q. You can go ahead, Mr. Hendrix.

17 A. Yes.

18 Q. Do you still consider yourself a member of
19 this class that does not have a COR and has not had
20 their voting rights restored?

21 A. No.

22 MS. HULING: Same objection. This is
23 all legal analysis and legal conclusions.

24 MR. VARELA: Noted.

25 / /

1 BY MR. VARELA:

2 Q. So you don't consider yourself a member of
3 this class now?

4 A. No.

5 MS. HULING: And same objection.

6 BY MR. VARELA:

7 Q. Paragraph 121 states: Individual plaintiffs
8 do not to seek claims for compensatory relief. They
9 seek only declaratory and injunctive relief that is
10 broadly applicable to all class members. Did I read
11 that correctly?

12 A. Yes.

13 Q. Is that correct?

14 A. Yes.

15 Q. So, in your own words, what are you asking
16 this court to do in this case?

17 MS. HULING: Same objection to the
18 extent that's calling for legal analysis.

19 Mr. Hendrix, you can go ahead to the
20 extent you know.

21 THE WITNESS: Well, I think to that
22 extent, make it easier and more informative and make
23 it easy for people who want to get their rights
24 restored. That's -- that's -- make it easier for
25 people that is incarcerated to easily have their

1 voting rights restored.

2 BY MR. VARELA:

3 Q. Is that -- in your opinion, is it fair to say
4 that to make it easier for incarcerated persons to
5 get their voting right restored, that you're asking
6 the court to provide something to protect your
7 rights that you're complaining were violated here?

8 MS. HULING: Objection. Legal
9 conclusion. Go ahead.

10 THE WITNESS: No. It's just an easier
11 path for people to have information, how to get
12 their rights restored after paying their fines,
13 going through everything in the court system, and
14 just making it easier. It's just like -- I mean,
15 I -- it was just kind of frustrating. And I know
16 some people that doesn't have any kind of formal
17 education and finish and done all the things they
18 were supposed to do according to the law of
19 restoration, make it easier for them and give them
20 information. The State did not give me any
21 information how to get my rights restored after I
22 had paid my fines.

23 Q. Okay. If I understand correctly, and you
24 correct me, in this complaint you're alleging that
25 your right to this process was violated; is that

1 right?

2 MS. HULING: Same objection. Legal
3 conclusion. Go ahead.

4 THE WITNESS: Yes.

5 BY MR. VARELA:

6 Q. And if I understand what you're saying,
7 you're asking the court to order the defendant to
8 make it easier by providing information to
9 incarcerated individuals who have lost the right to
10 vote on how to restore those rights; is that
11 correct?

12 MS. HULING: Same objection.

13 THE WITNESS: Correct.

14 BY MR. VARELA:

15 Q. I'm sorry?

16 A. Correct.

17 Q. So now that you've gone through the process
18 of obtaining your certificate of restoration of
19 rights and your voting rights back, what is your
20 understanding of how that works?

21 A. My understanding of --

22 MS. HULING: Same objection. I'm sorry,
23 Mr. Hendrix. Go ahead.

24 THE WITNESS: Now can you repeat that?
25 I'm just kind of --

1 BY MR. VARELA:

2 Q. Now that you've gone through the process and
3 gotten your certificates of restoration of rights
4 and your voting right back, what is your
5 understanding of how the process works?

6 A. Well, my understanding of how the process
7 works now that you have to really, you know, find --
8 find someone that -- that can, you know, kind of
9 guide you through the process. Because me, I'm not
10 a legal expert or anything like that. I just --
11 somebody to help you just kind of, you know, going
12 through the path of restoration.

13 BY MR. VARELA:

14 Q. Did you ever go to the Tennessee Division of
15 Correction's parole office and ask for a certificate
16 of restoration of rights?

17 A. After -- after I -- after -- after --
18 afterwards, yes, I did.

19 Q. And when you say afterwards, do you mean
20 after you found out that you had to go and ask for
21 them?

22 A. I had to go, yes.

23 Q. That makes sense.

24 A. Yeah.

25 Q. So what you're saying is the first thing is

1 you needed to find out the information, right?

2 A. Uh-huh.

3 Q. And then you had to get a certificate of
4 restoration of rights; is that right?

5 A. Correct.

6 Q. And there's a process to that, correct?

7 A. Right.

8 Q. What is your understanding of what a
9 certificate of restoration of rights is?

10 A. My understanding is that you have done your
11 time, you have paid your restitution, and you have
12 paid your fines, and after that process you go back
13 petition the courts and to get whatever information
14 you need. I don't know in legal terms what. That's
15 why I had to seek help.

16 Q. I'm going to share with you another document,
17 Mr. Hendrix. Do you see the document on your screen
18 titled TCA Section 40-29-203?

19 A. Yes.

20 Q. And underneath that box, in the citation, it
21 says -- it's titled: 40-29-203. Certificate of
22 voter rights restoration; voter registration card.
23 Is that correct? Is that right?

24 A. Yes.

25 MR. VARELA: Okay. I'm going to ask

1 that that be marked as the next exhibit.

2 (WHEREUPON, a document was marked as
3 Exhibit Number 3.)

4 BY MR. VARELA:

5 Q. Section A says that: A person eligible to
6 apply for a voter registration card -- sorry, let me
7 scratch that.

8 A person eligible to apply for a voter
9 registration card and have the right of suffrage
10 restored, pursuant to 40-29-202 may request and then
11 shall be issued a certificate of voter rights
12 restoration upon a form prescribed by the
13 coordinator of elections. Did I read that
14 correctly?

15 A. Yes.

16 Q. Is it your understanding that a certificate
17 of voting rights restoration is a form?

18 MS. HULING: Objection to the extent
19 that's a legal conclusion.

20 THE WITNESS: Yes.

21 BY MR. VARELA:

22 Q. And do you understand by what I have read
23 here that it is a form that's prescribed by the
24 coordinator of elections?

25 A. Yes.

1 Q. Thank you, Mr. Hendrix. I'm going to
2 share -- I'm going to share another document with
3 you. Let me know if you see a document entitled
4 certificate of restoration of voting rights on your
5 screen. Do you see that?

6 A. Yes.

7 Q. Have you seen one of these before?

8 A. I sure have.

9 Q. What is this document?

10 A. A certificate of registration.

11 Q. Certificate of voter -- of restoration?

12 A. Yes. Yes, sir.

13 MR. VARELA: I'm going to ask that that
14 be marked as the next exhibit.

15 (WHEREUPON, a document was marked as
16 Exhibit Number 4.)

17 BY MR. VARELA:

18 Q. Thank you. Is it your understanding that
19 this document is provided to you upon request?

20 A. Excuse me. Can you repeat that?

21 Q. Is it your understanding that you have to ask
22 for a certificate of restoration of voting rights?

23 A. Yes. After I had, you know, gone through the
24 formal.

25 Q. And what is your understanding about what

1 needs to be filled out on this form?

2 A. It's --

3 MS. HULING: Sorry. Objection for legal
4 conclusions there. But go ahead, Mr. Hendrix.

5 THE WITNESS: Yes. Just applying my
6 information, my prison sentences and all that, you
7 know.

8 BY MR. VARELA:

9 Q. But that's not filled out by you, correct?

10 A. Excuse me?

11 Q. You don't fill out this form, do you?

12 A. No. Huh-uh.

13 Q. Turning your attention to this gray box at
14 the top of the certificate of restoration of voting
15 rights form, the second sentence, I'm going to read
16 that. It says: A separate form must be completed
17 for each felony conviction with a different docket
18 case number. Did I read that correctly?

19 A. Yes.

20 Q. What does that mean to you?

21 MS. HULING: Objection to the extent it
22 calls for a legal conclusion. Go ahead.

23 THE WITNESS: Okay. Yeah. It's just
24 basically all a separate form. Basically, all my
25 convictions, the convictions I made, I have to fill

1 them out to the extent of what kind of crime it was.

2 Q. Okay. So if I understood you correctly, you
3 understand that this form needs to be filled out for
4 each separate felony conviction that has a separate
5 docket number; is that right?

6 A. (No response.)

7 MS. HULING: Same objection.

8 BY MR. VARELA:

9 Q. Is that a yes, Mr. Hendrix? I'm sorry.

10 A. Yes.

11 Q. If I can turn your attention to Section 2.
12 I'm going to highlight. Would you please read that
13 to yourself and let me know when you're done.

14 A. Okay.

15 Q. What is Section 2 addressing on this form?

16 A. This, basically, the sentences, okay. And
17 when you were released in, you know, the supervision
18 of -- of, you know, probation and parole.

19 Q. Is it fair to say that Section 2 addresses if
20 a person has completed their sentence for a
21 probation or parole or of incarceration?

22 A. Correct.

23 MS. HULING: Objection to the extent
24 that's a legal conclusion.

25 / /

1 BY MR. VARELA:

2 Q. Is it your understanding that the entity or
3 the organization that issues this form has to verify
4 that those sentences were complete?

5 A. Correct.

6 MS. HULING: Same objection.

7 BY MR. VARELA:

8 Q. Under Section 3, can you read to yourself and
9 let me know when you're done.

10 A. Okay.

11 Q. What does Section 3 discuss or address?

12 A. About restitution and fines, court fines.

13 Q. Is it your understanding that this section
14 requires the entity or organization issuing the form
15 to verify that restitution and court costs or court
16 fines have been paid before issuing it?

17 A. Correct.

18 MS. HULING: Same objection.

19 BY MR. VARELA:

20 Q. Now, in some cases you may not be ordered to
21 pay restitution; is that right?

22 MS. HULING: Same objection.

23 THE WITNESS: Correct.

24 BY MR. VARELA:

25 Q. And then would you do the same for Section 4.

1 Read that to yourself and let me know when you're
2 done.

3 A. Okay.

4 Q. What is Section 4 addressing on that form?

5 A. If these fines have been paid.

6 Q. Which fines are those?

7 A. Court fines.

8 MS. HULING: Same objection.

9 BY MR. VARELA:

10 Q. Is it your understanding that the issuing
11 entity has to verify that your court costs have been
12 paid in Section 4?

13 A. Correct.

14 MS. HULING: Same objection.

15 BY MR. VARELA:

16 Q. So you understand that the form can't be
17 issued unless this information in each of these
18 sections is verified; is that right?

19 MS. HULING: Same objection.

20 THE WITNESS: Correct.

21 BY MR. VARELA:

22 Q. Okay. All right. Let's go back -- let's go
23 now and talk about the felony convictions related
24 to -- your felony convictions related to this case.
25 Let me share with you a document. First let's go to

1 the complaint. Direct you back to the first amended
2 complaint. Mr. Hendrix, let me know when you see
3 that on your screen.

4 A. I see it.

5 Q. On page 17 of the first amended complaint, do
6 you see paragraph 45?

7 A. Yes.

8 Q. And in paragraph 45, the third sentence
9 states: Mr. Hendrix struggled with drug addiction
10 and was convicted of a series of drug and theft
11 crimes in Williamson and Davidson County over a
12 roughly 15-year period starting in his early 30's;
13 is that correct?

14 A. Yes?

15 Q. Thank you, Mr. Hendrix. And now let me
16 direct your attention to this document. I'm sharing
17 with you a document that is titled at the top
18 Tennessee Board of Probation and Parole
19 Post-Sentence Report. Do you see that on your
20 screen?

21 A. Yes.

22 Q. And the name under defendant information, is
23 that referring to you?

24 A. Yes, sir.

25 Q. Is the address listed there the address that

1 you live at or lived at in 2012?

2 A. Yes.

3 Q. And I'll direct you to page two of the
4 report. Down near the bottom, it lists a series of
5 years, case years, and a docket number. Do you see
6 that?

7 A. Yes.

8 Q. And that docket number reads. I-CR095913; is
9 that correct?

10 A. Correct.

11 Q. And then if I direct you to page three, this
12 page is entitled official version. Is that what it
13 says at the top?

14 A. Yes.

15 Q. If you could read that to yourself and let me
16 know when you're done.

17 Is this related to a felony conviction of
18 yours from 2012 in Williamson County?

19 A. Yes, sir.

20 Q. And there are six counts on this page; is
21 that correct?

22 A. Correct.

23 Q. Three of them are for burglary and three of
24 them are for theft over \$500.00; is that right?

25 A. Correct.

1 Q. On page four, in the middle of the page,
2 there's a section entitled prior record. Do you see
3 that?

4 A. Yes.

5 Q. Okay. And I'm going to scroll through this
6 to the end so we can discuss about how many pages
7 because I believe it's in reverse chronological
8 order. So this I'm showing you now page ten of the
9 report. Do you see that?

10 A. Yes.

11 Q. And at the top, it's still got that section
12 prior record. Do you see that?

13 A. Yes.

14 Q. And there's only one offense date on that
15 page. Do you see that up there?

16 A. Yes.

17 Q. And that's dated 1991?

18 A. Yes.

19 Q. And then four lines down, the disposition
20 date was in 1992; is that correct?

21 A. Correct.

22 Q. And then on page nine, at the bottom, it's
23 showing an offense date of 1991 for a separate
24 offense; is that right?

25 A. Correct.

1 MS. HULING: Counsel, to the extent it's
2 helpful, I just want to state that we can stipulate
3 to his convictions, if that makes things easier on
4 your end. But the sort of contours of his
5 convictions aren't really relevant to the case.

6 MR. VARELA: I understand what you're
7 saying, Alice, and I appreciate the offer to
8 stipulate to his convictions. I'm going to go ahead
9 and move this into evidence as the next exhibit.

10 (WHEREUPON, a document was marked as
11 Exhibit Number 5.)

12 BY MR. VARELA:

13 Q. But I wanted to discuss with you,
14 Mr. Hendrix, starting on page nine, there are a
15 series of offenses and convictions and they were in
16 1992. Do you see that?

17 A. Yes.

18 Q. Okay. And I'm going to see if I can direct
19 you to the parts of pages that I'm looking at. On
20 page nine, at the top, the third offense down,
21 there's an offense with a Docket Number 39-A-114.

22 Do you see that?

23 A. Yes.

24 Q. And that's for aggravated burglary; is that
25 correct?

1 A. Correct.

2 Q. And you see one above that with a separate
3 docket number, 93-B-734; is that correct?

4 A. Correct.

5 Q. Also for aggravated burglary?

6 MS. HULING: I'm sorry, I just would put
7 in again that if you're putting this into evidence
8 and we're stipulating to the convictions, I think we
9 are getting close to harassing here to go through
10 all of these. I'd -- I mean --

11 MR. VARELA: Your objection is noted,
12 Alice. I'm not trying to harass. I'm trying to
13 make a point here and it's not to harass
14 Mr. Hendrix.

15 MS. HULING: And, again, he's --

16 MR. VARELA: And I will make an
17 objection here to your speaking objection at this
18 point.

19 MS. HULING: Agreed to the convictions.
20 He's not trying to argue them. That's not a point
21 in contention.

22 MR. VARELA: I'm not making that point,
23 Alice. If you would let me finish.

24 MS. HULING: I'll -- yes, you can
25 continue but --

1 BY MR. VARELA:

2 Q. Let me make this a little bit easier. I
3 apologize for having to go through all of the
4 convictions. I'm not trying to put those out there.
5 What I am trying to indicate to you is that on this
6 page there are three separate docket numbers for
7 three separate felony convictions in 1993; is that
8 correct?

9 A. Right.

10 Q. Now, on page eight, there are four docket
11 numbers, and I can point those out to you for four
12 separate felony convictions; is that correct?

13 A. Correct.

14 Q. Now I'm going to read those docket numbers so
15 that they're on the record. And that would be
16 93-B-731 for aggravated burglary; 93-B-730, same;
17 93-B-729, same; and 93-B-853. Do you see that one
18 at the bottom?

19 A. Yes.

20 Q. And that one lists a conviction offense of
21 aggravated assault; is that correct?

22 A. Correct.

23 Q. Now, on page seven, starting at the bottom,
24 there are three more docket numbers, 93-B-726,
25 93-B-732, and 93-B-727, all for separate docket

1 numbers for separate felony offenses; is that
2 correct?

3 A. Right.

4 Q. And that's 1993. So by my count, that's ten
5 separate docket numbers in 1993, nine of them for
6 aggravated burglary and one for an aggravated
7 assault. Did I count those correctly?

8 A. Correct.

9 Q. Do you know if restitution was ordered in any
10 of those cases?

11 A. Yes. I'm exactly not a hundred percent sure,
12 but I'm almost certain it did.

13 Q. Now, aggravated assault is not a drug crime,
14 is it?

15 A. No, sir.

16 Q. Aggravated assault --

17 MS. HULING: Objection. Objection to
18 the extent these are calling for legal conclusions.
19 Go ahead.

20 BY MR. VARELA:

21 Q. Aggravated assault is also not a theft crime,
22 is it?

23 A. Correct.

24 MS. HULING: Same objection.

25 / /

1 BY MR. VARELO:

2 Q. Now, turning to page five and six, these list
3 several docket numbers for convictions in 1995. Do
4 you see that?

5 A. Yes.

6 Q. And on page six, there's one offense, Docket
7 Number 94-B-2262. Do you see that?

8 A. Yes.

9 Q. And on page five, there's four more docket
10 numbers for separate felony offenses and
11 convictions; is that correct?

12 A. Yes.

13 Q. Okay. And so in 1995 by my count in
14 Williamson County there were five separate docket
15 numbers, four felony convictions for theft and one
16 for forgery. Did I count those up correctly?

17 A. Yes.

18 Q. And then on page four -- I'm sorry. Do you
19 know if restitution was ordered in any of those
20 cases in 1995?

21 A. I'm almost certain it was, yes.

22 Q. And on page five at the top, there are --
23 there's a criminal conviction for a case in 2002.
24 Do you recall that conviction? It's Docket
25 Number 2002-I-890?

1 A. I don't remember. I don't remember.

2 Q. Okay. That's fair. And then on page four, I
3 think there are -- there's one more separate felony
4 conviction with a separate docket number.

5 Now, by my counting in this document is
6 reflected at least 18 separate felony convictions
7 with separate docket numbers. Did I count those up
8 correctly, Mr. Hendrix?

9 A. Yes, I guess. Yes.

10 Q. Now, after these convictions, did you have
11 any other convictions in 2012?

12 A. I think so. I vaguely remember because
13 during that period I was -- I wasn't in recovery.

14 Q. Was that maybe in Davidson County?

15 A. In 2012?

16 Q. Yes.

17 A. I can't remember.

18 Q. That's fair. Now, after conviction, after
19 you served your sentences and paid restitution, did
20 you ever seek expungement of any of your criminal
21 record?

22 A. Yes. I did in Davidson County.

23 Q. And what was the result of that?

24 A. I can't remember.

25 Q. You don't remember if the record was expunged

1 or not?

2 A. I can't remember.

3 Q. Okay. Did you seek to expunge your record in
4 Williamson County?

5 A. No.

6 Q. Why not?

7 MS. HULING: Objection. I'm not sure
8 how this is relevant, why. But you can answer to
9 the extent you can, Mr. Hendrix.

10 THE WITNESS: I just never did. I just
11 don't know why.

12 BY MR. VARELA:

13 Q. Okay. All right. Going back to the amended
14 complaint. On page nine, I believe -- no, sorry.
15 Page 17. In the complaint, you allege that you
16 requested -- you requested a COR from parole and
17 probation office in Williamson County and was given
18 two complete CORs covering his five convictions in
19 that county; is that right?

20 A. Correct.

21 Q. What did you do after you received those
22 two --

23 A. Yes. Okay. Basically, after I was trying to
24 get the criminal restoration, okay, restored, this
25 is when I had to -- I had to do, okay, for

1 Williamson County.

2 Q. After you received them, what did you do with
3 those CORs after you received them?

4 A. I can't remember.

5 Q. Did you submit them to an election office to
6 get your rights restored?

7 A. Yes, yes, yes. Yes, I did.

8 Q. Is it fair to say that the first step was to
9 get the CORs and then the next step was to present
10 the CORs to the election office to get your voting
11 rights back?

12 MS. HULING: Objection to the extent
13 that calls for a legal conclusion. Go ahead,
14 Mr. Hendrix.

15 THE WITNESS: Correct.

16 BY MR. VARELO:

17 Q. So you didn't get to register to vote through
18 the Tennessee Division of Corrections parole office,
19 did you?

20 A. No.

21 Q. Is it fair to say that your understanding is
22 that TDOC does not restore your right to vote?

23 MS. HULING: Same objection.

24 THE WITNESS: No. I don't think so.

25 / /

1 BY MR. VARELA:

2 Q. No, they don't or no, that's not your
3 understanding?

4 A. They don't. I don't think so. I'm not sure.

5 Q. So is it fair to say that the Division of
6 Elections is the body that restores your right to
7 vote or allows you to register to vote?

8 MS. HULING: Same objection.

9 THE WITNESS: Correct.

10 BY MR. VARELA:

11 Q. And what happened after you presented those
12 two certificates of restoration of rights to the
13 election commission?

14 A. I was rejected because they said that I had
15 not at that time -- I had paid all my fines and
16 restitutions.

17 Q. How did they notify you that you were denied
18 your right to register to vote?

19 A. Through mail.

20 Q. Now, was that the Davidson County Election
21 Commission?

22 A. Yes.

23 Q. So they sent you a letter in the mail; is
24 that right?

25 A. Uh-huh.

1 Q. And was a copy of that letter provided to the
2 State Defendants in discovery?

3 A. Yes.

4 Q. That was provided to your attorneys?

5 A. Yes.

6 MR. VARELA: Okay. I'm going to go back
7 and check, Alice, but I looked for that and I
8 couldn't find it. So if you wouldn't mind resending
9 that?

10 MS. HULING: I believe that it was
11 actually contained within Defendants' production but
12 we can talk about it.

13 MR. VARELA: That's fine. I didn't go
14 look there yet. But I'll take a look, and if I find
15 it I'll let you know.

16 BY MR. VARELA:

17 Q. Mr. Hendrix, when you got that letter, what
18 did you do?

19 A. With the organization that was helping me,
20 that was helping me, they had went back to the court
21 and to find out whatever I owed in Davidson County
22 in order to get it, you know -- they said all the
23 fines wasn't paid, basically. Fines and restitution
24 wasn't paid.

25 Q. At the time you presented the certificates of

1 restoration from Williamson County, had you -- did
2 you present also certificates of restoration for
3 your felony convictions from Davidson County?

4 A. I'm not sure of the time. I'm not sure.

5 Q. I'm sorry, I -- maybe I wasn't clear. But --
6 so you got two certificate of restoration from
7 Williamson County; is that right?

8 A. Correct.

9 Q. And then you presented those to the election
10 commission to get the right to vote back, right?

11 A. Correct.

12 Q. At any time, did you ask to get your
13 certificates of restoration for your convictions
14 from Davidson County before you presented those to
15 the election commission?

16 A. Yes. At that time, I didn't know if I owed
17 any fines because it was so many convictions I did
18 not, you know -- things was popping up on me, like I
19 didn't even -- they didn't even know initially when
20 I first started paying the court's fines and all
21 that. And so, you know, more and more, that the
22 crimes that I -- that was -- I was convicted of, you
23 know, these fines they found out that other fines
24 wasn't paid in certain cases.

25 Q. At a certain point after you received that

1 rejection letter, did you ever ask the election
2 commission to appeal that rejection?

3 A. Yes.

4 Q. And what was the response?

5 A. I can't remember. I cannot.

6 Q. Did you present an appeal to the election
7 commission?

8 A. I believe -- I believe the organization that
9 was helping me get the restoration did.

10 Q. So your rights to this process of getting
11 your certificate of restoration and then your voting
12 rights restored, in your mind, would it protect your
13 rights if there was an appeal process where a
14 rejection can be appealed to an authority?

15 MS. HULING: Objection to the extent it
16 calls for a legal conclusion. Go ahead.

17 THE WITNESS: I don't know. I really
18 don't know.

19 BY MR. VARELA:

20 Q. You understand that if you were to appeal a
21 rejection of those rights you would have an
22 opportunity to present your case to somebody, some
23 authority; is that right?

24 A. Yeah, I understand that. Yes.

25 Q. And they can make a determination on whether

1 that was properly or improperly rejected; is that
2 right?

3 A. I don't know.

4 MS. HULING: Same objection.

5 BY MR. VARELA:

6 Q. And is that correct? I'm sorry, I didn't
7 hear what your response was.

8 A. That's correct.

9 Q. And so would that protect you, to make sure
10 that your rights weren't being violated as to the
11 voting rights restoration?

12 MS. HULING: Same objection.

13 THE WITNESS: I don't know.

14 BY MR. VARELA:

15 Q. Okay. Let me turn your attention to another
16 document. I'm sharing with you a document,
17 Mr. Hendrix, entitled Plaintiff Reginald Hendrix's
18 Responses and Objections to Defendant's First Set Of
19 Interrogatories. Do you see that?

20 A. Yes.

21 Q. And I'm going to turn your attention to page
22 seven, interrogatory number three at the bottom. Do
23 you see that?

24 A. Yes.

25 Q. And I want to read that. It says: Identify

1 all documents relating to your answers to each of
2 these interrogatories, including all documents
3 relied upon in answering Defendant's first set of
4 interrogatories; is that correct?

5 A. Right. Yes.

6 Q. And then if I turn your attention to page
7 nine -- well, let's start on page eight. There's
8 interrogatory number four. Do you see that?

9 A. Yes.

10 Q. And it states: To your knowledge, please
11 identify any potential class members, including
12 name, their felony conviction, other identifying
13 information, documentation that such person is not
14 subject to a disqualifying conviction under
15 Tennessee Code Annotated 40-29-204 and other
16 documentation supporting that each potential class
17 member has satisfied the requirements of Tennessee
18 Code Annotated 40-29-202 as described in
19 paragraph 122 of your first amended complaint. Did
20 I read that correctly?

21 A. Correct.

22 Q. And on page nine, in the middle of the page,
23 your response states: Without waiving the above
24 objection Plaintiff Hendrix responds as follows with
25 respect to his individual claims: Plaintiff Hendrix

1 identifies himself as a member of the punitive
2 class. He states that he has been disenfranchised
3 because of a felony conviction and has requested or
4 attempted to request a COR of the pardoning,
5 incarcerating, or supervising authority but to date
6 has not received a COR sufficient to restore his
7 voting rights. Did I read that correctly?

8 A. Correct.

9 Q. Are you saying here that you asked for a COR
10 and you did not get one sufficient to get your
11 voting right back?

12 A. Correct.

13 Q. If I turn your attention to page ten, the
14 last sentence at the top portion, it says: Despite
15 this improper rejection, Plaintiff Hendrix restarted
16 the process seeking additional CORs for his Davidson
17 County convictions from the Davidson County
18 Probation Office and submitted them to the Davidson
19 County Election Office. His COR was approved and
20 his voting right restored 11 days after the first
21 amended complaint was filed. Did I read that
22 correctly?

23 A. Correct.

24 Q. So my question to you, Mr. Hendrix, is which
25 is it? Did you ask for CORs and didn't get them or

1 did you get them and now have your voting rights
2 back?

3 MS. HULING: Objection. Form.

4 THE WITNESS: I requested them and I did
5 not receive them and then later it was approved.

6 BY MR. VARELA:

7 Q. So you did get them and you do have your
8 voting right now?

9 A. Yes, I do. Now I do.

10 Q. Now, were copies of your certificates of
11 restoration that you received provided to your
12 counsel in this case and provided to Defendants in
13 response to discovery requests?

14 A. Repeat that, sir.

15 Q. Did we get copies of your CORs that you
16 received?

17 MR. VARELA: That's what I'm asking,
18 Alice.

19 THE WITNESS: Yes.

20 MR. VARELA: Alice, are those in our
21 production as well?

22 MS. HULING: I believe so. I believe
23 they're in the elections division production, to be
24 more clear.

25 MR. VARELA: Okay. How about we take a

1 short break? Is that okay?

2 MS. HULING: Yes. So we'll be back on
3 at 2:20.

4 (Recess observed.)

5 BY MR. VARELA:

6 Q. Mr. Hendrix, just a few more questions.
7 Thank you for your patience. I know this is not the
8 most fun thing in the whole world. Question to you.

9 Now that you've had your voting right
10 restored, I think your complaint said that it
11 happened in May of 2022; is that correct?

12 A. Correct.

13 Q. Is that not correct?

14 MS. HULING: That's not correct. That's
15 not what the complaint says.

16 MR. VARELA: Never guess. Always
17 verify, right?

18 BY MR. VARELA:

19 Q. I'm sorry. That's when your first attempt
20 was denied because there were additional criminal
21 felony convictions that were not on the COR; is that
22 right?

23 A. Correct.

24 Q. After that, you received CORs from Davidson
25 County, submitted those to the elections division,

1 and then you were approved; is that correct?

2 A. Correct.

3 Q. How were you informed that you were approved
4 to have your voting right restored?

5 A. The election commission contacted me.

6 Q. By phone, by email, by letter?

7 A. By phone.

8 MR. VARELA: By phone, okay. And so,
9 Alice, what you're saying is that a letter has not
10 yet been sent from the election commission
11 confirming that Mr. Hendrix has his rights restored?

12 MS. HULING: That the elections division
13 has all of them for the State and so should also
14 have Mr. Hendrix and they produced the denials and
15 approvals up to a certain date but his approval came
16 after that date and we've not gotten a supplement
17 that included that.

18 MR. VARELA: Got you. And if you don't
19 mind, just putting that in an email specifically,
20 about whatever date supplement went through, we'll
21 work on getting that.

22 BY MR. VARELA:

23 Q. Mr. Hendrix, last question. Do you have your
24 voter registration card.

25 A. Yes, I do.

1 MR. VARELA: Congratulations. I have no
2 further questions.

3 MS. HULING: I do have a few questions.
4 Mr. Hendrix, I'm sure you were hoping that that was
5 it, but just a few more and I promise to be brief.
6

7 EXAMINATION

8 QUESTIONS BY MS. HULING:

9 Q. When you were speaking with Mr. Varela -- am
10 I saying that correctly?

11 MR. VARELA: That's right.

12 BY MS. HULING:

13 Q. When you were speaking with Mr. Varela, I
14 believe you said that someone helped you in the
15 process of getting the completed CORs and submitting
16 them?

17 A. Correct.

18 Q. Okay. And when Mr. Varela said that you
19 submitted something to your elections office, was
20 that you personally or with the help of the
21 volunteer who you were working with?

22 A. The help of the volunteer. I was kind of
23 confused a little bit.

24 Q. Absolutely. Not a problem. We all use
25 shorthand sometimes. Okay.

1 And so just to the best of your understanding
2 through that process, when you were first working
3 with that volunteer, you-all asked the designated
4 official from the Department of Corrections [sic]
5 for CORs; is that correct?

6 A. Correct.

7 Q. Okay. And then -- actually -- and I'm going
8 to pull up, actually, the denial letter here since
9 we have it. One second, please. I'm going to share
10 my screen in a minute.

11 All right. Mr. Hendrix, do you see a
12 document here? It says at the top, Tennessee
13 Secretary of State on that top line?

14 A. Yes.

15 Q. Okay. And I'm going to scroll down. So you,
16 with the help of the volunteer that you were working
17 with, contacted an official from the Department of
18 Correction seeking CORs that you needed to get your
19 rights restored; is that accurate?

20 A. Yes.

21 Q. And do you recognize the document that I've
22 scrolled down to here, the certificate of
23 restoration?

24 A. Yes.

25 Q. It looks like here we see two of them. Are

1 these the two CORs you received at that time
2 covering some of your convictions, it looks like?

3 A. Yes.

4 Q. And with the help of the volunteer you were
5 working with, were these then submitted for your
6 rights restoration?

7 A. Yes, it was.

8 Q. And it looks like these were then submitted.
9 And if we scroll up to the top here, we have this
10 letter, which if you look at the bold in the middle,
11 that says reason for denial of restoration and this
12 is that May 13, 2022 date. Do you see that?

13 A. Yes.

14 Q. Have you seen this letter before?

15 A. Yes, I have. I received that letter.

16 Q. Okay. Do you know who you received that
17 from?

18 A. It came from the State, I believe, if I'm not
19 mistaken. I could be wrong. I can't -- vaguely
20 remember. Because I remember seeing that letter.

21 Q. Okay. But you're not sure who exactly shared
22 it with you?

23 A. No.

24 Q. Okay. This says the reason for denial of
25 restoration is additional convictions not listed on

1 the COR. Do you see that?

2 A. Yes.

3 Q. What did you understand that to mean?

4 A. There was more convictions that -- that --
5 that hadn't -- hadn't been submitted.

6 Q. Okay. I'm going to scroll down back through
7 the fax and the CORs that we just looked at to the
8 last page here. This is an email. It is sent from
9 Jessica -- someone named Jessica Limm to someone
10 named Carlatina Hampton. Do you see this?

11 A. Yes.

12 Q. Have you ever seen this email before?

13 (Technical difficulty. Court Reporter
14 lost connection at 2:30 p.m.)

15 (Transcript continues in Volume 2,
16 page 65.)

17 * * *

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REPORTER'S CERTIFICATE

STATE OF TENNESSEE

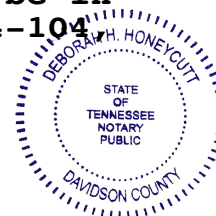
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TN CONF OF THE NATL ASSOC FOR THE ADVANCEMENT OF COLORED PEOPLE

VS

LEE, et al.

Volume 2

REGINALD HENDRIX

May 16, 2023



Shana Crawford, LCR

Chattanooga (423)266-2332 Jackson (731)425-1222
Knoxville (865)329-9919 Nashville (615)595-0073 Memphis (901)522-4477

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TENNESSEE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,
Et al.,

Plaintiffs,

Vs.

Case No. 3:20-cv-01039
Judge Campbell
Magistrate Judge Frensley
Class Action

WILLIAM LEE, et al.,

Defendants.

Volume 2

Videoconference Deposition of:

REGINALD HENDRIX

Taken on behalf of the Defendants

May 16, 2023

Shana C. Crawford LCR,

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24
25

For the Plaintiffs:

**MS. ALICE HULING
MS. BLAIR BOWIE
MS. ELLEN BOETTCHER
Attorneys at Law
Campaign Legal Center
1101 14th Street NW, Suite 400
Washington, DC 20005
(202)736-2200
Ahuling@campaignlegalcenter.org
Bbowie@campaignlegalcenter.org
Eboettcher@campaignlegalcenter.org**

For the Defendants:

**MR. PABLO A. VARELA
MS. DAWN JORDAN
Attorneys at Law
Public Interest Division
Office of the Attorney General
P.O. Box 20207
Nashville, TN 37202-0207
(615)532-4098
Pablo.varela@ag.tn.gov
Dawn.jordan@ag.tn.gov**

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Interrogatories

Exhibit No. 7 69
Letter Labeled Tennessee
Secretary of State

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1 (WHEREUPON, Shana Crawford, LCR, was the
2 stenographer for the remaining deposition of
3 Reginald Hendrix:)

4
5 * * *

6
7 MS. HULING: This document that's up right now, I
8 don't think we moved that into evidence, but I would like to
9 move that into evidence.

10 MR. VARELA: Not yet, and I was going to suggest
11 that. If you wouldn't mind dropping it in the chat as well.

12 MS. HULING: Yeah. Let me actually see if Ellen --
13 Ellen, if you can hear me, would you be able to drop that
14 into the chat?

15 MS. BOETTER: Yes, I can do that.

16 MS. HULING: Thank you, so much.

17 MR. VARELA: And just -- could we ask that it be
18 redacted? I think that there are social security numbers and
19 stuff on some of those pages, Alice.

20 MS. HULING: Got it.

21 MS. BOETTER: Do you want me to redact it before I
22 put it in the chat?

23 MR. VARELA: It would be better.

24 MS. HULING: Or if it's -- if it's all the same, we
25 could also follow up via e-mail with the redacted copy to Ms.

1 Crawford and everybody on the call. If you can't do it then,
2 Ellen, but if you can, that would be great.

3 MS. BOETTER: Okay.

4 MS. HULING: Okay. Great.

5 MR. VARELA: One last thing, Alice, do you recall
6 what exhibit we were on for the court reporter?

7 MS. HULING: You know what, I think I might
8 actually. Let me see, I think this would be Exhibit 6.

9 MR. VARELA: Did we move the interrogatories in too
10 as an exhibit?

11 MS. HULING: I'm not positive. If we did, this
12 would be Exhibit 7.

13 MR. VARELA: Okay. I think that would -- we should
14 have. I may not have dropped them in the chat. Why don't we
15 do that right now. The interrogatory responses, I will put
16 them in chat as Exhibit 6 and then you can put this in the
17 chat as Exhibit 7, how about that?

18 MS. HULING: That sounds good.

19

20 (Exhibits Number 6 and 7 were marked.)

21

22 CONTINUED EXAMINATION BY MS. HULING:

23 Q. All right. Mr. Hendrix, we were talking about this
24 letter it says: Tennessee Secretary of State on the top line
25 there; do you see this on your screen?

1 A. Yes.

2 Q. Okay. Great. Do you recognize this letter?

3 A. Yes.

4 Q. Okay. Do you see halfway down this letter where it
5 says, "reason for denial of restoration"?

6 A. Yes.

7 Q. Okay. And it reads: Additional convictions not
8 listed on COR, do you see that?

9 A. Yes.

10 Q. So is it that your understanding that's why your
11 restoration application was rejected?

12 A. Correct.

13 Q. As opposed to saying that you were ineligible?

14 A. Correct.

15 Q. And I -- I'm sorry I scrolled very quickly down
16 there. These are the certificate of restorations, the first
17 ones that you had received that were submitted and the letter
18 denying restoration was in response to these. And here at
19 the end, we have an e-mail from Jessica Lim to a Carlatina
20 Hampton; do you see that?

21 A. Yes.

22 Q. And have you seen this e-mail before?

23 A. No.

24 Q. If you would take a minute to look at this, it say
25 that's it's attached the denial letter for you. The reason

1 for the denial is that Mr. Hendrix has 18 additional felony
2 convictions in Davidson County for which he must submit CORs;
3 do you see that?

4 A. Yes.

5 Q. And it lists them out in the next paragraph with
6 bulleted points. And then in the final paragraph it says,
7 "As you can see, the CORs he submitted cover only the last
8 five felony convictions in Williamson County. To get his
9 voting rights restored, Mr. Hendrix must have an authorized
10 agent complete CORs for his first 18 felony convictions from
11 1993 to 2002, all of which were in Davidson County"; do you
12 see that?

13 A. Yes.

14 Q. And nowhere in this e-mail does it say that you are
15 ineligible to have your rights restored; is that correct?

16 A. Yes.

17 Q. Scrolling back up to the top to the denial letter,
18 you said you received this; is that correct?

19 A. I received that first page, I did.

20 Q. Okay. And when you -- when you received this, what
21 action did you take next?

22 A. I called the organization and they looked into the
23 matter.

24 Q. The organization that was helping you with your
25 rights restoration?

1 A. Correct.

2 Q. Okay. When you say that they looked into the
3 matter, is that helping you to get the additional COR forms?

4 A. Right. Yes.

5 Q. And did they reach out to Department of
6 Correction -- them, or with them with you, reach out to a
7 Department of Corrections official to get the original CORs
8 that you had not been given?

9 A. Right, they did.

10 Q. Okay. And then you were able to get the additional
11 COR forms that you needed when you went back to the
12 Department of Correction officials at that point?

13 A. Correct.

14 Q. When I said "you" there, that is you and/or the
15 volunteer that you were working with?

16 A. Yes. The volunteer, yes.

17 Q. And then those additional COR forms were submitted
18 to your elections office; is that correct?

19 A. Correct.

20 Q. And at that point were your rights restored?

21 A. Yes.

22 Q. Okay. Was there any -- you may remember earlier
23 you and Mr. Varela were talking about whether you appealed
24 the case; do you remember that conversation?

25 A. Yes. Yes, I do.

1 Q. Was there anything else outside of the process that
2 we just discussed that you -- any other sort of appeal beyond
3 getting the additional CORs that happened?

4 A. No, not that I know of.

5 Q. Okay. So when you said that there was an appeal,
6 it was continued -- you continued to work on getting
7 everything you needed to?

8 A. Right. Right. Exactly.

9 Q. Okay.

10 A. That was -- that was kind of a misstatement.

11 Q. Not at all. I just wanted to make sure we were all
12 clear. Thank you.

13
14 MS. HULING: Okay. I think then with that, those
15 are all of the questions that I have. Thank you very much.

16 MR. VARELA: I don't have anything else.

17 FURTHER DEPONENT SAITH NOT.
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REPORTER'S CERTIFICATE

STATE OF TENNESSEE
COUNTY OF DAVIDSON

I, SHANA C. CRAWFORD, Licensed Court Reporter, with offices in Nashville, Tennessee, hereby certify that I reported the foregoing deposition of REGINALD HENDRIX, by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me.

I further certify that I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

I further certify that in order for this document to be considered a true and correct copy, it must bear my original signature and that any unauthorized reproduction in whole or in part and/or transfer of this document is not authorized, will not be considered authentic, and will be in violation of Tennessee Code Annotated 39-14-104, Theft of Services.



SHANA C. CRAWFORD, LCR
Licensed Court Reporter (TN)
LCR #859 - Expires: 6/30/2024

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TN CONF OF THE NATL ASSOC FOR THE ADVANCEMENT OF COLORED PEOPLE

VS

LEE, et al.

CURTIS GRAY

May 21, 2023

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Melissa M. Smith, RPR, LCR, CCR

Chattanooga (432)266-2332 Jackson (731)425-1222
Knoxville (865)329-9919 Nashville (615)595-0073 Memphis (901)522-4477
www.elitereportingservices.com

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE MIDDLE DISTRICT OF TENNESSEE**
 NASHVILLE DIVISION

3 **TENNESSEE CONFERENCE OF THE**
4 **NATIONAL ASSOCIATION FOR THE**
5 **ADVANCEMENT OF COLORED PEOPLE,**
 et al.,

6 **Plaintiffs,**

7 **vs.**

No. 3:20-cv-01039

8 **Judge Campbell**
9 **WILLIAM LEE, et al.,** **Magistrate Judge Frensley**

Defendants.

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13
14 **Videoconference Deposition of:**

15 **CURTIS GRAY**

16 **Taken on behalf of the Defendants**
17 **May 21, 2023**

18 **Commencing at 7:02 a.m.**

19
20
21
22 **Elite-Brentwood Reporting Services**
23 **www.elitereportingservices.com**
24 **MELISSA M. SMITH, RPR, LCR, CCR**
 Senior Managing Associate
 Chattanooga, Tennessee
25 **(423)266-2332**

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A P P E A R A N C E S

For the Plaintiffs:

**MS. BLAIR BOWIE
MS. ELLEN BOETTCHER
Attorneys at Law
Campaign Legal Center
1101 14th Street NW, Suite 400
Washington, DC 20005
(202) 736-2200
bbowie@campaignlegalcenter.org
eboettcher@campaignlegalcenter.org**

For the Defendants:

**MS. DAWN JORDAN
Assistant Attorney General
Office of the Attorney General
Civil Rights and Claims Division
P.O. Box 20207
Nashville, TN 37202
(615) 532-4098
dawn.jordan@ag.tn.gov**

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S T I P U L A T I O N S

The videoconference deposition of CURTIS GRAY was taken by counsel for the Defendants, by Agreement, with all participants appearing at their respective locations, on May 21, 2023, for all purposes under the Federal Rules of Civil Procedure.

All objections, except as to the form of the question, are reserved to the hearing, and said deposition may be read and used in evidence in said cause of action in any trial thereon or any proceeding herein.

It is agreed that MELISSA M. SMITH, RPR, Notary Public and Licensed Court Reporter for the State of Tennessee, may swear the witness remotely, and that the reading and signing of the completed deposition by the witness was not discussed.

1 * * *

2
3 THE REPORTER: Good morning. My name
4 is Melissa Smith. I am a stenographic reporter
5 with Elite-Brentwood Reporting Services, and my
6 license number is 122.

7 Today's date is May 21, 2023, and the
8 time is approximately 7:02 a.m. central time.

9 This is the deposition of Curtis Gray
10 in the matter of Tennessee Conference of the
11 National Association for the Advancement of
12 Colored People, et al. versus William Lee, et
13 al., filed in the United States District Court
14 for the Middle District of Tennessee. The case
15 number is 3:20-cv-01039.

16 This deposition is being taken by
17 videoconference, and the oath will be
18 administered remotely by me. Any digital
19 exhibits marked during this deposition will be
20 deemed as "original" for purposes of said
21 deposition, with the actual original document
22 retained by counsel introducing the exhibit for
23 purposes possibly needed for in-court hearing.

24 At this time, I'll ask counsel to
25 identify yourselves and state whom you represent.

1 If you have any objections with the procedures
2 I've outlined, please state so when you introduce
3 yourself.

4 We will start with the noticing
5 attorney.

6 MS. JORDAN: Yes. Good morning my
7 name is Dawn Jordan. I'm here on behalf of the
8 State defendants.

9 MS. BOWIE: Blair Bowie on behalf of
10 plaintiffs, and I'm joined by Ellen Boettcher,
11 also on behalf of plaintiffs.

12
13 * * *

14 CURTIS GRAY,

15 was called as a witness, and after having been duly
16 sworn, testified as follows:

17
18 EXAMINATION

19 QUESTIONS BY MS. JORDAN:

20 Q. Good morning, Mr. Gray. We're not able to
21 meet in person, but my name is Dawn Jordan. I'm
22 with the Tennessee Attorney General's Office, and
23 I represent the State defendants in this matter.
24 What we'll be doing this morning is what we'll be
25 calling taking your deposition.

1 Have you ever given a deposition before?

2 A. No.

3 Q. Have you ever testified in court before?

4 A. No.

5 Q. Okay. And just a few ground rules.

6 You understand that you've been placed

7 under oath, right?

8 A. Yes.

9 Q. And you know what that means?

10 A. Yes.

11 Q. And so what will be happening is that I'll

12 be asking you questions which you will then

13 answer, and the court reporter is taking down

14 everything that everybody says. So if you would,

15 just wait until I finish my question before you

16 begin your answer. And I, likewise, will try not

17 to interrupt you. That way, the court reporter

18 can get a fair and accurate reporting for

19 everybody. Is that fair?

20 A. Yes.

21 Q. And I may be reminding you of that from

22 time to time, but I'm not meaning to crack wise

23 or make you uncomfortable. I'm just trying to

24 make sure we get a good, good record; is that

25 fair?

1 A. Yes.

2 Q. For every question that calls for a
3 yes-or-no answer, that's what you will need to
4 say, is "yes" or "no," not "uh-huh" or a "huh-uh"
5 or nod or shake of the head because the court
6 reporter cannot take down those things
7 accurately. Is that fair?

8 A. Yes.

9 Q. And, again, I may be reminding you of that
10 or prompting you of that from time to time.

11 Everybody does it. Don't worry about it.
12 I'm just trying to get a fair record. Is that
13 okay?

14 A. Yes.

15 Q. Okay. If there are any questions that
16 I ask that you do not understand, please ask me
17 to either restate the question or say it again or
18 clarify in some respect. Otherwise, I will
19 assume you understood the question; is that fair?

20 A. Yes.

21 Q. Do you have any medical condition that
22 will prevent you from testifying accurately
23 today?

24 A. No.

25 Q. Are you under any kind of medications that

1 will prevent you from testifying accurately
2 today?

3 A. No.

4 Q. And is there anybody else in the room with
5 you? I don't see anybody.

6 A. No.

7 Q. I'm assuming there will be somebody? Are
8 you waiting for somebody?

9 A. No. Not to my understanding we're not.

10 Q. Okay.

11 MS. BOWIE: It was just a tech person
12 from Baker Donelson helping out.

13 MS. JORDAN: Oh, okay.

14 BY MS. BOWIE:

15 Q. Do you have a telephone, cell phone with
16 you?

17 A. No.

18 Q. And what did you do to prepare for this
19 deposition?

20 A. Read over the transcripts and stuff like
21 that a little bit to refresh my memory. That's
22 all.

23 Q. Did you read the complaint?

24 A. Yes.

25 Q. Did you read your answers to some

1 interrogatories, to some discovery questions that
2 we had?

3 A. Yes.

4 Q. Okay. And did you talk with your
5 attorneys?

6 I don't want to know what you said or
7 anything, but did you talk with them?

8 A. Yes. Yes.

9 Q. Now, are you a member of the NAACP?

10 A. No.

11 Q. Do you contribute to the NAACP?

12 A. No.

13 Q. Okay. What is your date of birth?

14 A. 1/30/60.

15 Q. And your place of birth?

16 A. Fort Bragg, North Carolina.

17 Q. So you are a military brat?

18 A. Yes.

19 Q. And what is your current address?

20 A. 2179 Albany, Memphis, Tennessee 38108.

21 Q. 2179 Albany? Is that what you said?

22 A. Albany, yeah.

23 Q. And who all lives there with you?

24 A. Me and my mama. My mother.

25 Q. Is that Delores Gray?

1 A. Yes.

2 Q. Who is Janice Norwood?

3 A. That's my younger sister.

4 Q. Does she live there with you as well?

5 A. No.

6 Q. Who is Lionel Gray?

7 A. That's my first son.

8 Q. Does he live there with you?

9 A. No. Just me and my mom.

10 Q. Okay. Where does Mr. Gray live?

11 A. Mr. Gray? I'm Mr. Gray.

12 Q. I'm sorry. Lionel Gray, where is Lionel

13 Gray?

14 A. Oh, Lionel. He stays in another house out

15 in another part of Memphis.

16 Q. Okay. So he lives in Memphis as well?

17 A. Yes.

18 Q. Who is Curtis J. Perkins?

19 A. That's one of my sons.

20 Q. Do you have any other children other than

21 Lionel and Curtis?

22 A. I had three, but one passed away.

23 Q. Do you owe any child support for either of

24 your children?

25 A. No.

1 Q. Have you ever voted, Mr. Gray?

2 A. No.

3 Q. Have you ever been married?

4 A. No.

5 Q. And except for North Carolina and
6 Tennessee, what all states have you lived in
7 since you were about age 20?

8 MS. JORDAN: Oh. Where did he go?

9 THE WITNESS: What?

10 MS. JORDAN: For some reason, the
11 view -- there we go. That's better.

12 For some reason you were farther
13 away, but you're back now so that's good.

14 BY MS. JORDAN:

15 Q. Now, other than North Carolina, where you
16 were born, and Tennessee, where you live
17 currently, what all states have you lived in
18 since you were age 20?

19 A. Well, at the age of -- only really here in
20 Memphis itself. I got out of the service in '81,
21 so I've been here ever since then, nowhere else
22 but here. I was in the service for like three
23 years.

24 Q. For three years. Okay.

25 Well, I won't ask you where all you were

1 in the service because you probably were moved
2 around a bit.

3 A. Yeah.

4 Q. So you've lived in Memphis pretty much
5 since then?

6 A. Yes.

7 Q. Did you ever live in Mississippi?

8 A. No.

9 Q. Can you tell us about your education?

10 A. Well, I graduated high school, and I did a
11 year or two -- graphic designs for two years.
12 That's about it.

13 Q. Where did you go for graphic designs?

14 A. Tennessee -- they keep changing the name
15 so I don't know what it is now. It was a
16 technical school here in Memphis.

17 Q. I hear that. They do change them quite
18 frequently, don't they?

19 A. Yes.

20 Q. Did you get any kind of certificate or
21 degree for your graphic design?

22 A. Yes.

23 Q. And what is it called? What is it
24 referred to?

25 A. Excuse me?

1 Q. What is your certificate called? What is
2 it referred to as?

3 A. That's what -- it's graphic design, like
4 printing and different things like that.

5 Q. So what did you -- I'm sorry to interrupt
6 you. Go ahead, sir.

7 A. That's it.

8 Q. Is that what you do for a living, is
9 graphic design?

10 A. No. I don't do anything now. I'm
11 retired.

12 Q. Where are you retired from?

13 A. Well, I just stopped working.

14 Q. Okay. Can you tell us about your work
15 history?

16 A. You want to know every job I had?

17 Q. Well, I understand you were in the service
18 for three years.

19 A. Yeah.

20 Q. Then after you were in the service or you
21 left the service, what did you do?

22 A. Did some security work, all kind of jobs,
23 different jobs.

24 Q. So you did some security work and what
25 else?

1 A. Warehouse work. I -- so many different
2 jobs.

3 Q. Have you ever been fired from any of your
4 jobs?

5 A. No. I was always laid off. I guess you
6 would call it firing if you want to say that.

7 Q. No. It wasn't that you -- you were fired
8 for any particular reason by punishment?

9 A. No.

10 Q. Okay. And what is the last place that you
11 worked?

12 A. WM Barr. WM Barr. It's a chemical
13 company.

14 Q. Can you spell that for us?

15 A. W-M B-A-R-R.

16 Q. WM Barr. Okay.

17 And what did you do for WM Barr?

18 A. Put labels on boxes.

19 Q. When did you leave WM Barr?

20 A. I can't recall when I left there
21 because -- it had to be back in the '90s. Ever
22 since then I've been doing -- been working for
23 myself mostly.

24 Q. So you have your own business?

25 A. I did, like a yard-cutting service.

1 Q. Okay. When did you stop doing that?

2 A. Have to be January 30th, for health
3 reasons.

4 Q. January 30th of this year, 2023?

5 A. Yes.

6 Q. What health reasons? Why did you have to
7 leave your job?

8 A. My back. I was having problems with my
9 back and with my stomach also. They working on
10 that now, trying to find out what is wrong.

11 Q. So you haven't worked since January 30th
12 of this year?

13 A. No. So that's why I said I just retired.
14 I just stopped working.

15 Q. Are you getting social security now?

16 A. Not yet.

17 Q. Do you plan on going back to work?

18 A. If they can solve my problem, I will, with
19 my stomach. I know mostly what is wrong with my
20 back, but they're trying to figure out my
21 stomach, that's causing the problem. If not,
22 probably, no.

23 Q. Did you have anybody work with you on your
24 yard service?

25 A. A number of people. I just picked up

1 friends of mine and different things like that,
2 but mostly by myself.

3 Q. And other than this lawsuit, have you ever
4 filed any other lawsuits?

5 A. No.

6 Q. Have you ever been a defendant in any
7 lawsuit?

8 A. No.

9 Q. Have you ever been sued for child support?

10 A. No.

11 Q. And then with respect to your criminal
12 history, we understand that you were convicted of
13 one count of drug possession in 1989?

14 A. Yes.

15 Q. Was that here in Tennessee?

16 A. Yes.

17 Q. Do you have any convictions in
18 Mississippi?

19 A. No.

20 Q. Did you serve any of your parole or
21 probation in Mississippi?

22 A. No.

23 Q. Did you ever serve any time in a
24 department of correction facility?

25 A. No.

1 Q. You were always on probation?

2 A. Yeah. For three years.

3 Q. When did you complete your probation?

4 A. Probably three years after I was
5 convicted. That was -- I can't remember the
6 number. I can't recall. '92 or something like
7 that when I finished up.

8 Q. Were you ever convicted of any
9 misdemeanors?

10 MS. BOWIE: I'm going to object to
11 relevance there.

12 BY MS. JORDAN:

13 Q. Go ahead. You can answer.

14 A. No.

15 Q. Did you ever review the amended complaint
16 before it was filed?

17 A. Yes.

18 MS. JORDAN: I'm going to pull that
19 up as the first exhibit.

20 (WHEREUPON, a document was marked
21 Exhibit Number 1.)

22 BY MS. JORDAN:

23 Q. So, Mr. Gray, do you see on the screen
24 where it says in the "United States District
25 Court"?

1 A. No.

2 MS. BOWIE: We can't see your screen
3 yet, Dawn.

4 (Technical discussion had off the
5 record.)

6 BY MS. JORDAN:

7 Q. Mr. Gray, can you see that now?

8 A. Not really.

9 Q. "In the United States District Court," do
10 you see that?

11 A. Yes. But not clear.

12 Q. Can you take a seat a little closer to the
13 screen and see if that helps?

14 A. Okay. I can see now.

15 Q. Do you have problems with your eyesight,
16 Mr. Gray?

17 A. No. Yeah. These are glasses.

18 Q. Right. Okay. Okay. So do you see it
19 now? "In the United States District Court," at
20 the top, do you see that?

21 A. Yes.

22 Q. And if we scroll down -- well, it says
23 Tennessee Conference for the National Association
24 for the Advancement of Colored People on behalf
25 of itself and its members and Lamar Perry, Curtis

1 Gray Junior, and some other people.

2 Do you see that?

3 A. Yes.

4 Q. I'm assuming that Curtis Gray Junior is
5 you?

6 A. Yes.

7 Q. If we can, scroll down to Paragraph 41.
8 Do you see Paragraph 41, Mr. Gray?

9 A. Yes.

10 Q. And it says "Plaintiff Curtis Gray Junior
11 is a resident of Shelby County, Tennessee"?

12 A. Uh-huh.

13 Q. Did I read that correctly?

14 A. Yes.

15 Q. If you kind of read through this paragraph
16 and just let us know if everything in there is
17 correct.

18 A. Okay. (Reviews document.)

19 Okay. I'm finished.

20 Q. Is everything in that paragraph correct?

21 A. Not to my recognition it's not because
22 I don't even remember how much they had fined me
23 and...

24 Q. Okay.

25 A. I can't recall.

1 Q. Okay. That's fair enough.

2 A. I never got a printout of anything.

3 Q. You've never been shown a printoff of your
4 court costs and fines?

5 A. No.

6 Q. If we go to this sentence, just make sure
7 we're all on the same page. Do you see where my
8 cursor is?

9 It says "His court records show that he
10 owes on \$279 in court costs and no restitution."
11 Did I read that correctly?

12 A. Yeah. That's what it's saying.

13 Q. But you're unaware of that?

14 A. They never charged me for court costs.

15 Q. Have you ever paid anything to the circuit
16 court clerk?

17 A. No.

18 Q. Have you ever paid anything to the circuit
19 court clerk?

20 A. Not that I could recall. I never got a
21 printout. Never sent me anything.

22 Q. Did you go to the circuit court clerk and
23 ask them about your court costs and fines?

24 A. No.

25 Q. Did you ask anybody at the probation

1 office about your court costs and fines?

2 A. No.

3 Q. Have you asked anybody about your court
4 costs and fines?

5 A. No.

6 Q. Okay. Have you ever taken any steps to
7 get a Certificate of Restoration of your voting
8 rights?

9 A. No.

10 Q. Do you want to vote?

11 A. Yeah, I would like to. I would like to be
12 able to vote.

13 Q. Have you taken any steps to get your
14 voting rights restored?

15 A. No.

16 Q. Have you ever gone to any office to ask
17 for a Certificate of Restitution?

18 A. No.

19 Q. So just so I'm clear, you haven't asked
20 anybody from department of correction, Shelby
21 County elections, the circuit court clerk, or
22 anybody for a Certificate of Restitution for your
23 voting rights?

24 A. No. I didn't know I could get them back.

25 No.

1 Q. And just so I'm clear, you have not paid
2 any court costs to the circuit court clerk?

3 A. No.

4 Q. Am I correct about that, that you have
5 not?

6 A. Yes, you're correct.

7 MS. JORDAN: So let's quit sharing
8 this. That was Exhibit 1.

9 This will be Exhibit 2.

10 (WHEREUPON, a document was marked
11 Exhibit Number 2.)

12 BY MS. JORDAN:

13 Q. So, Mr. Gray, what we have up on here is
14 Exhibit 2. Do you see that it says "Curtis James
15 Gray"?

16 A. Yes.

17 Q. And the date is 9-19-91. Do you see that?

18 A. Yes.

19 Q. Have you ever seen this before?

20 A. Not until probably last week.

21 Q. Okay. Do you know what this is?

22 A. Look like a printout where they tell you
23 what to pay and you pay. I don't recall nothing.

24 Q. Have you paid any amounts towards this,
25 what we see in Exhibit 2?

1 A. No. I don't recall.

2 Q. How did you find out about this lawsuit,
3 Mr. Gray?

4 A. Probably on the web. It was -- it was on
5 Facebook, advertisement or something, and I just
6 wanted to try to see could I get my voting rights
7 back.

8 Q. Then who did you contact?

9 A. Well, I don't remember who I contacted,
10 but I did talk to someone.

11 Q. And was that someone with the NAACP, or
12 was it a different organization?

13 A. I don't recall.

14 Q. Did you respond on this Facebook page, or
15 did you actually call somebody?

16 A. I don't remember.

17 Q. Do you have any reason to dispute the
18 costs and fines that are shown in this **Exhibit 2**?

19 A. This page here you're talking about?

20 Q. Yes.

21 A. Well, I can't remember paying anything.

22 Q. I understand that, but do you have any
23 reason to dispute that they're saying you owe
24 this amount?

25 A. No. I don't dispute it because they

1 that's what they say I owe. It's up to them.

2 Q. But you do recall seeing this for the
3 first time last week?

4 A. Last week, yes. A printout like that,
5 yes. I never got anything in the mail all these
6 years.

7 Q. Am I correct that you did not follow up
8 with the county clerk's office to see whether you
9 owed any court costs or fines after your
10 conviction?

11 A. No, I did not.

12 MS. JORDAN: Okay. We can stop
13 sharing that one.

14 We'll mark this as Exhibit Number 3.

15 (WHEREUPON, a document was marked
16 Exhibit Number 3.)

17 BY MS. JORDAN:

18 Q. Mr. Gray, can you see what we have shared,
19 Exhibit 3?

20 A. No.

21 Q. Do you see anything on the screen where it
22 says "Mail, Blair Bowie, Outlook"? Can you see,
23 Mr. Gray, what's on the screen?

24 A. Yes, I can.

25 Q. And do you see that at the very top it

1 says "Mail, Blair Bowie, Outlook"?

2 A. Yes.

3 Q. Have you -- do you recall seeing this
4 document before?

5 A. No, I don't recall.

6 Q. Do you see at the very bottom, Mr. Gray,
7 where it says, "Good morning. These are the
8 court costs still owed by Mr. Gray." Do you see
9 that?

10 A. It's kind of in small print. Yeah. I see
11 it, yeah.

12 Q. Do you see at the very bottom it says
13 these are the court costs still owed by Mr. Gray?
14 Do you see that?

15 A. Yes.

16 Q. And this is on Exhibit 3, the e-mail that
17 we've been referring to.

18 A. Yes.

19 Q. Have you ever seen this e-mail? Have you
20 ever seen this document, Exhibit 3?

21 A. No, I have not.

22 Q. Other than filing this lawsuit, Mr. Gray,
23 have you done anything to try to get your voting
24 rights restored?

25 A. No.

1 Q. Have you ever sought expungement of your
2 conviction?

3 A. No. I thought about it, but no.

4 Q. Have you tried to get a pardon for your
5 conviction?

6 A. No.

7 Q. And did you provide any documents to your
8 attorneys for any kind of document production?

9 A. No.

10 Q. Have you provided any documents to your
11 attorneys at all?

12 I'm not trying to get into any
13 attorney/client privilege, but have you provided
14 them with any documents?

15 A. Like what? What kind of documents?

16 Q. Anything about your conviction, your
17 probation, anything to do with your criminal
18 history.

19 A. No.

20 Q. Okay. Now, I assume that you've been
21 e-mailing back and forth. I don't want to know
22 about that, or any telephone conversation,
23 anything like that.

24 What do you expect to get out of this
25 lawsuit?

1 A. Trying to get a chance to get my voting
2 rights back. That's it.

3 Q. Do you understand what you need to do in
4 order to get your rights restored?

5 A. No.

6 Q. Have you been provided with any
7 information from anybody about how to go about
8 getting your rights restored?

9 A. No.

10 Q. Have you done any research on your own in
11 order to determine how to get your voting rights?

12 A. No.

13 MS. JORDAN: That's all the questions
14 I have.

15 MS. BOWIE: Why don't we take a quick
16 5-minute break.

17 (Short break.)

18 MS. BOWIE: We have just a few
19 questions on redirect.

20

21 EXAMINATION

22 QUESTIONS BY MS. BOWIE:

23 Q. Mr. Gray, a little bit earlier the
24 Attorney General's Office was asking you about
25 your effort to get your voting rights restored.

1 When you responded to those questions,
2 were you responding for yourself personally, like
3 you have not asked the Shelby County Clerk
4 personally for a Certificate of Restitution?

5 A. Yes.

6 Q. So let's clarify that a little bit.

7 You mentioned earlier that you saw an ad
8 on Facebook. Do you remember when that was?

9 A. Had to be 2020.

10 Q. Okay. And then -- after you responded to
11 that ad, did you have a conversation with someone
12 about getting your voting rights restored?

13 A. Yes.

14 Q. And did that person explain to you how to
15 get your voting rights restored through a
16 Certificate of Restitution?

17 A. Yeah. They explained some of the details,
18 and they looked into it.

19 Q. And you authorized them to reach out to
20 the proper authorities to try to get that?

21 A. Yes.

22 Q. And what was the result of that effort?

23 A. They came back to me and said that
24 I couldn't get them back because I owed fines.

25 Q. Did they say who told you that -- sorry,

1 did they say who told them that?

2 A. Shelby County Clerk's Office.

3 Q. So you found out in 2020 that the Shelby
4 County Clerk's office said you couldn't get your
5 voting rights back because of fines; is that
6 correct?

7 MS. JORDAN: Object to the form, but
8 go ahead.

9 THE WITNESS: Yes.

10 BY MS. BOWIE:

11 Q. You can answer.

12 A. Yes.

13 Q. Okay. So you said earlier that you
14 haven't heard that Shelby County thinks you owe
15 court costs or fines. You meant that the clerks
16 never told you that; is that correct?

17 A. Yes.

18 Q. So in the decades after your conviction
19 they never gave you notice you owed outstanding
20 legal financial obligations; is that right?

21 A. No.

22 Q. No one from the probation office ever told
23 you you could get your voting rights restored; is
24 that right?

25 A. No.

1 Q. But you did try to get your voting rights
2 back in 2020?

3 MS. JORDAN: Object to the form. Go
4 ahead.

5 THE WITNESS: Yes. Yes, I did try.

6 MS. BOWIE: Okay. That's all I have.

7 MS. JORDAN: And then one point of
8 clarification, Mr. Gray.

9

10 EXAMINATION

11 QUESTIONS BY MS. JORDAN:

12 Q. The only efforts you have made have been
13 through this lawsuit; is that correct?

14 A. (No response.)

15 Q. The only efforts you've made to get your
16 voting rights restored has been through this
17 lawsuit; is that correct?

18 A. Yes.

19 Q. And you never reached out to the county
20 clerk's Office to see if you owed any fines or
21 costs; is that correct?

22 A. No.

23 Q. Am I correct?

24 A. Yes.

25 Q. Okay. It was not a very good question. I

1 apologize for that.

2 Am I correct in saying that you did not
3 reach out to the probation office to make sure
4 you did not owe any court costs or fines?

5 A. No.

6 Q. Am I correct about that?

7 A. Yes.

8 Q. And do you have any of your paperwork for
9 your conviction?

10 A. No.

11 Q. Were you provided any paperwork relating
12 to your conviction?

13 A. I can't remember. Been so long ago.

14 Q. I assume that you pled guilty?

15 A. Yes.

16 Q. And then you were placed on probation for
17 three years?

18 A. Yes.

19 Q. And, as part of that, there was a hearing
20 in front of the judge; is that right?

21 A. Yes.

22 Q. And the judge sentenced you to three years
23 of probation; is that correct?

24 A. Yes.

25 Q. And did you have an attorney with you at

1 that time?

2 A. Yes.

3 Q. Did the attorney explain the details of
4 your probation to you?

5 A. I can't remember, but I'm sure she did.

6 Q. And the Court would have explained the
7 details of your probation to you; is that
8 correct?

9 A. Yes.

10 MS. JORDAN: That's all I've got.
11 Thank you.

12

13

EXAMINATION

14 QUESTIONS BY MS. BOWIE:

15 Q. Mr. Gray, that initial outreach that you
16 did with the person who was helping you try to
17 get your voting rights restored in 2020, do you
18 remember when in the year that was?

19 A. No, I don't. I can't remember.

20 Q. Was it before the election?

21 A. Yes, it was.

22 Q. Okay. Is that because you wanted to vote
23 in the presidential election?

24 A. Yes. Yes.

25 Q. And was that -- you were asked if that was

1 in the context of a lawsuit. Was there a lawsuit
2 happening at that time?

3 A. No.

4 Q. Did anyone say anything about a lawsuit at
5 that time, at the initial outreach?

6 A. No.

7 Q. So that wasn't part of the lawsuit?

8 A. No.

9 Q. Okay. That was a separate effort to get
10 your voting rights restored with the help of a
11 person who was working with you; is that correct?

12 A. Yes.

13 MS. BOWIE: That's all. Thank you.

14 MS. JORDAN: That's all I have.

15 Thank you, Mr. Gray, and I wish you the best with
16 your issues, and I hope you're able to get back
17 to work if that's what you want to do. Good luck
18 to you in general.

19 THE WITNESS: Okay. Fine.

20 (WHEREUPON, the reporter requested
21 orders on the record.)

22 THE REPORTER: Ms. Jordan, would you
23 like this written up?

24 MS. JORDAN: Yes.

25 THE REPORTER: Ms. Bowie, would you

1 like a copy?

2 MS. BOWIE: Yes.

3 FURTHER DEPONENT SAITH NOT

4 (WHEREUPON, the deposition was

5 concluded at 8:00 a.m.)

6

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REPORTER'S CERTIFICATE

STATE OF TENNESSEE
COUNTY OF HAMILTON

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MELISSA M. SMITH, RPR, CCR, LCR
Elite-Brentwood Reporting Services
Senior Managing Associate



LCR # 122 - Expires: 6/30/2024

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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TENNESSEE CONFERENCE of the NATIONAL ASSOCIATION for the ADVANCEMENT of COLORED PEOPLE, on behalf of itself and its members, et al.,

Plaintiffs,

v.

WILLIAM LEE, in his official capacity as Governor of the State of Tennessee, et al.,

Defendants.

Civil No. 3:20-cv-01039

JUDGE CAMPBELL

MAGISTRATE JUDGE
FRENSLEY

[Class Action]

**PLAINTIFF TENNESSEE CONFERENCE OF THE NATIONAL
ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
RESPONSES AND OBJECTIONS TO DEFENDANTS' FIRST SET OF
INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff Tennessee Conference of the National Association for the Advancement of Colored People (TN NAACP) hereby responds and objects to Defendants' Second Set of Interrogatories (the "Interrogatories"). In preparing these responses, Plaintiff TN NAACP has relied on the information presently available to Plaintiff TN NAACP. If further information or documents are discovered during this phase of the litigation, Plaintiff TN NAACP will supplement its responses based on any such information

and produce any such documents to the extent required under Federal Rule of Civil Procedure 26.

GENERAL STATEMENT

Plaintiff TN NAACP provides these objections and answers based upon the investigation conducted in the time available since service of the Interrogatories. These objections and answers are made to the best of Plaintiff TN NAACP's present knowledge, information and belief. In the future, Plaintiff TN NAACP may discover or acquire additional information, documents, or facts bearing on the Interrogatories and its objections and answers thereto. Plaintiff TN NAACP reserves the right: (a) to make subsequent revisions or amendments to its objections or these answers based upon information, evidence, documents, facts, or other things that hereafter may be discovered, or the relevance of which may hereafter be discovered; and (b) to introduce or rely upon additional or subsequently acquired or discovered writings, evidence, and information in any proceedings or at any trial held hereafter.

Further, any answer by Plaintiff TN NAACP to a particular Interrogatory is not intended, and shall not be construed, as an admission of the existence of any fact, assertion, or other matter expressed or implied in the Interrogatory. Plaintiff TN NAACP's objection to, or failure to object to, any particular Interrogatory is not, and shall not be construed as, an admission that responsive information exists. Moreover, Plaintiff TN NAACP's decision to answer any specific Interrogatory, notwithstanding its objectionable nature or its related definitions or instructions, also should not be construed as an admission to the relevancy or materiality of the information

requested, or an agreement that future similar Interrogatories will be treated in a similar manner. With these answers and objections, Plaintiff TN NAACP does not in any way waive, or intend to waive, the right to object on any and all grounds to (a) the evidentiary use of the information contained herein or (b) discovery requests relating to these objections and answers.

Defendants' Second Set of Requests for Production included a general request in Request for Production No. 1 that Plaintiff TN NAACP produce all documents supporting its responses to Defendants' Interrogatories. Subject to the below objections, Documents relevant to this case that are supportive of Plaintiff TN NAACP's responses to each Interrogatory will be produced to Defendants concurrently with Plaintiff TN NAACP's responses to Defendants' Requests for Production.

GENERAL OBJECTIONS

1. Plaintiff TN NAACP objects to the Interrogatories to the extent they impose obligations, seek answers, or use instructions or definitions other than those permitted under Federal Rules of Civil Procedure 26 and 33, the Local Rules of the U.S. District Court for the Middle District of Tennessee, any Order of this Court, and any prior agreement of the parties.
2. Plaintiff TN NAACP objects to each and every one of the Interrogatories to the extent they seek information or documents protected by the attorney-client privilege, the work-product doctrine, or any other applicable privilege,

exemption, immunity, principle, doctrine, or rule of confidentiality. If any protected information or material is disclosed, such disclosure is not intentional and shall not be deemed a waiver of any privilege or protection.

3. To the extent the Interrogatories require the disclosure of confidential or sensitive private information implicating the privacy interests of Plaintiff TN NAACP or other individuals, including other Plaintiffs, Plaintiff TN NAACP agrees to provide such information subject to a protective order agreed upon by the parties.
4. Plaintiff TN NAACP objects to each and every one of the Interrogatories to the extent they seek information already in the possession, custody, or control of the Defendant, or otherwise equally available to the Defendant.
5. Plaintiff TN NAACP objects to each and every one of the Interrogatories to the extent they seek materials not in Plaintiff's possession, custody, or control. Plaintiff TN NAACP further objects to the Interrogatories as overly broad and unduly burdensome to the extent that they impose an obligation to survey third parties.
6. Plaintiff TN NAACP objects to each and every one of the Interrogatories insofar as they seek information that is publicly available or otherwise equally available and/or uniquely available from third parties.

7. Plaintiff TN NAACP objects to the Interrogatories to the extent that they seek answers or information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to any party's claim or defense.
8. Plaintiff TN NAACP objects to the Interrogatories insofar as they seek documents that are unreasonably cumulative or duplicative.
9. Plaintiff TN NAACP objects to each and every one of the Interrogatories to the extent that they are unclear, ambiguous, overly broad, unduly burdensome, and/or not proportional to the needs of this case.
10. Plaintiff TN NAACP objects to each and every one of the Interrogatories to the extent that they assume facts that do not exist or are incorrect.
11. By answering these Interrogatories, Plaintiff TN NAACP does not concede the relevance or materiality of any of the information requested, nor of the subject matter to which any particular Interrogatory refers. Rather, these responses are made expressly subject to, and without in any way waiving or intending to waive any question or objection as to the competency, relevance, privilege, or admissibility of any of the matters referred to in these responses as evidence.
12. Plaintiff TN NAACP expressly reserves:
 - a. The right to object, on grounds of competency, relevance, materiality, privilege, or any other applicable ground, to the use of responses provided to these Interrogatories or the subject matter thereof, in any subsequent filing, proceeding, or hearing in this or any other action;

- b. The right to object on any ground to any additional Interrogatories or other discovery proceedings involving or relating to the subject matter of these Interrogatories; and
- c. The right to amend, withdraw, or supplement its responses should further investigation or discovery disclose additional information.

SPECIFIC RESPONSES AND OBJECTIONS

In addition to the foregoing general objections, Plaintiff TN NAACP asserts the following specific responses and objections to each Interrogatory:

INTERROGATORY NO. 1: Identify all persons who assisted you in answering these interrogatories and describe the assistance provided.

RESPONSE: Subject to the above objections, Plaintiff TN NAACP further objects that Interrogatory No. 1 seeks information protected by attorney-client privilege and work-product doctrine. Without waiver of the above objections, TN NAACP responds that the following officers of the Tennessee NAACP and its local chapters provided information or documents to help answering these interrogatories: Gloria Sweet-Love, President of TN NAACP; Marilyn Brown, Vice President; Loretta Morris, Vice President Montgomery-Clarksville Chapter; Jimmie Garland, Vice President Middle; Tiffany Boyd, President Dyersburg NAACP.

INTERROGATORY NO. 2: Identify all documents relating to Your answers to each of these Interrogatories, including all documents that were relied upon in answering Defendants' Second Set of Interrogatories.

RESPONSE: Subject to the above objections, Documents responsive to Interrogatory No. 2, if any exist, will be produced to Defendants concurrently with Plaintiff's responses to the Request for Production 2.

INTERROGATORY NO. 3: To Your knowledge, please identify any potential class member, including name, their felony convictions, other identifying information, documentation that such person is not subject to a disqualifying conviction as defined in Tenn. Code Ann. § 40-29-204, and other documentation supporting that each potential class member has satisfied the requirements of Tenn. Code Ann. § 40-29-202 as described in paragraph 122 of Your First Amended Complaint (DE 102).

RESPONSE: In addition to the above objections, Plaintiff further objects that Interrogatory No. 3 seeks information protected by attorney-client privilege. Moreover, Plaintiff objects to Interrogatory No. 3 on the grounds that it seeks documents or information outside of Plaintiff's possession, custody, or control, insofar as they seek documents or information in the possession of Plaintiff's attorneys that was not obtained in conjunction with this litigation. Plaintiff asserts that Interrogatory No. 3 is overbroad and overburdensome to the extent that it asks him to identify circumstances around any potential class member. Plaintiff also objects that Interrogatory No. 3 seeks information that is in the possession of, control of, or equally accessible to Defendants, including but not limited to lists of Tennessee residents who have been convicted of felonies in the possession of Defendant Helton, information on payment of court cost and restitution in the possession of county

clerks, information on child support payments from the Department of Human Services, files notating requests for Certificates of Restoration in the possession of Defendant Helton, and records of requests for Certificates of Restoration in the possession of Defendant Goins. Plaintiff objects that Interrogatory No 3. requires conclusions of law regarding interpretations of eligibility under Tenn. Code Ann. 40-29-202 that are at issue in this litigation. Finally, Plaintiff TN NAACP objects that Interrogatory No. 3 misstates the putative class definition as provided in the First Amended Complaint and therefore is based on improper assumptions.

Without waiving any of the above objections, Plaintiff TN NAACP responds as follows with respect to its individual claims:

In addition to the lists already produced by TN NAACP in response to Defendants' first set of interrogatories, Plaintiff TN NAACP has attached a list of individuals it has since identified as potential members of the putative class: individuals who have lost the right to vote because of a felony conviction and who have requested or attempted to request Certificates of Restoration but to date have not received a COR sufficient to restore their voting rights (Attachment A). However, the TN NAACP again objects that describing the circumstances around each individual in the putative class's efforts to obtain a Certificate of Restoration is overburdensome and may be information that is in the possession, control, or equally accessible to Defendants. Moreover, Plaintiff asserts that any underlying documents, records, and notes describing such would be protected by attorney-client privilege and/or attorney work product.

Date:

11/17/22

Name:

Gloria J. Sweet-Love

Title:

President/Director-TN State Conference NAACP

A handwritten signature in black ink that reads "Gloria J. Sweet-Love". The signature is written in a cursive style with a horizontal line underneath the name.

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ATTACHMENT A

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Name	DOB
Abernathy, Minard	09/09/65
Amos, Tiffany L.	05/08/78
Anderson, Angela	02/07/75
Anderson, Steven	10/19/72
Anderson, Tyrone L.	11/02/90
Andre, Brandon	04/12/83
Awad, Guirguis K	03/04/62
Ayers, Evolve T.	05/30/53
Aylward, Robert J	12/28/56
Baker, Antonio C	03/07/82
Ballard, Ebony Q.	03/19/82
Barbee, Frederick	03/08/61
Batey, Coreatha	02/14/62
Batey, Shirley L.	12/19/71
Battle, Thomas K.	10/03/55
Baungardner, Matthew R	07/16/82
Beach, Steve L.	07/10/83
Beard, Carlos E	11/01/74
Bell, Edwin L.	06/12/56
Bell, Lekisha A.	07/04/74
Bender, Tamika R	08/02/83
Bennett, Roman H.	03/31/66
Bennett, Susan N.	06/26/64
Benson, Bridgette	09/03/81
Berry, Donyon S	06/05/73
Black, Pernel T.	12/03/66
Blair, Kevin E	08/14/78
Blockman, Deborah D.	05/24/64
Bobbit, Robert E.	06/03/52
Bodenhamer, David	06/04/52
Boles, Calvin J	03/12/57
Bonillas-Arias, Raul	01/05/95
Bonner, Hullen	06/10/46
Booker, Antonio L.	10/11/76
Booker, Cherita L	01/01/81
Booker, Mary O	09/25/69
Booker, Thomas Jr.	02/07/69
Bowman, Travis C	05/22/89
Boyd, Cherita D	07/16/77
Boyd, Michael A. Jr.,	11/13/97
Boyd, Theron Lamont	05/06/70
Boynton, Christopher D	11/28/88
Bozeman, Roosevelt E	09/29/78

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Braden, Reginald D.	01/06/82
Breedlove, Randy E	12/05/64
Brewer, April D.	11/04/71
Briggs, Billy Ray	11/15/85
Britton, Darryl B	01/28/80
Brooks, Lamont D.	12/05/84
Brooks, Robert C.	09/17/59
Brown, Carla A (Whitaker	11/13/74
Brown, Kelvin D	02/24/73
Brown, Kevin F.	07/17/68
Brown, Mark E	06/12/63
Brown, Octavious S.	04/18/77
Brown, Peter D.	07/06/73
Brown, Roger D	05/17/55
Brown, Ronald O.	08/01/80
Broyles, Jakimberly Y.	12/25/79
Buchanan, Jimmie	05/26/56
Buckley,Mark E	06/22/81
Buckner, Bruce Q.	11/11/85
Buford, Ivan L, jr	07/14/70
Burke, Justin E.	09/09/86
Burns, Courtavious	12/18/97
Butler, Amilcar C.	05/18/74
Butler, Danti L.	07/16/80
Byas, Brenda	08/30/51
Bybee, Julie	08/22/1963
Byrd, Ann M.	10/19/61
Cain, Khalfani	01/10/78
Calloway, Delliano Q.	06/02/89
Campbell, Teresita Y.	06/18/91
Cannon, Lakeisha A.	08/04/69
Carpenter, Deneika L	10/15/82
Carter, Amanda L.	10/18/78
Carter, Basil F	11/06/55
Carter, William I	07/19/55
Carter-Hall, Latonya	01/26/74
Castille, Carlton M.	06/07/76
Caudle, Joel P.	09/21/63
Cheeks, Alonzo	08/06/70
Christian, Calvin D	08/27/65
Clay, Bennie E.	02/14/57
Cleaves, Alonzo E	10/31/64
Cobbins, Timothy A.	12/17/88
Cochrane, James T	07/07/75

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Coffey, Donald J.	02/14/92
Colley, Andrew E.	11/01/79
Collins, Daniel M.	06/14/90
Collins, Shawn D.	11/22/74
Conner, Derrick J	08/07/81
Connor, Anthony	07/03/90
Conway, DeShai T.	08/24/97
Copeland, Claude D.	12/01/58
Covington, Askia E	02/03/73
Covington, Chesare L.	03/18/95
Cozart-Mazwell, Bradley	07/20/90
Crawley, Michael D.	04/21/71
Crockett, Walter E.	06/25/46
Crowler, Donnell B	04/09/68
Crump, Angel	03/17/84
Crump, Latnisha N.	01/02/85
Crutcher, Robert L.	05/03/51
Curry, Thomas D. Jr.	04/14/91
Dardy, Geneva	05/12/65
Davis, Christopher	09/01/92
Davis, George W.	05/11/68
Davis, Josiah M	08/09/90
Davis, Marcus A.	10/08/71
Dennis, Michelle Y.	02/26/67
Diel, Rachel M.	11/30/85
Dixon, Clark R	03/14/71
Dobson, Andrew	09/05/86
Dobson, Gregory E.	08/05/67
Dunaway, Gregory	08/01/62
Duncan, Lawrence S.	07/26/96
Duncan, Leslie K	07/13/69
Duncan, Thomas D.	05/12/62
Eason, Brian	09/07/68
Eddy, Buddy L.	09/01/79
Edwards, Angela D (Ower	08/07/68
Elam, Charles B	07/02/73
Elliot, Lebrendon	12/19/91
Ellison, Clifton	05/03/48
Ellison, Rycine R	11/01/70
Everett, Jeffrey L.	01/20/73
Everson, Stephanie E.	03/22/81
Ewing, William John	03/03/75
Ezell, Dajuan E.	01/31/95
Fanning, Charles A	05/18/83

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Farmer, Walter	10/07/92
Finney, Patrick J.	11/21/94
Fisher, Michelle	11/16/68
Fisher, Tony	10/30/59
Fizer, Thomas J.	04/08/74
Flenoy, Kenneth M	09/13/75
Fletcher, Roneshia M.	11/02/96
Flood, Richard E II	07/17/70
Foley, Shannon	01/05/84
Forrest, Jaquail J.	04/17/95
Fortner, Derrick T.	11/05/64
Foster, James A.	01/26/65
Foxx, Robbie D	02/05/84
Frazier, Trevarius M	12/09/93
Frison, Tierney S	08/06/93
Frost, Brandi N	04/01/82
Fuqua, Alexander	05/18/86
Garner, Daryl L	04/12/82
Garrison, Mitchell	10/21/71
Gebrhiwot, Addis B.	05/22/82
Gibbons, Laura L	07/08/70
Goldsmith, Kenretha R	06/30/71
Gonzalez, Efrain D.	01/10/91
Gooch, John A.	09/10/70
Gooch, Joseph E.	09/05/70
Goodwin, David	12/11/70
Gordon, Claudia J	11/06/49
Gordon, Ronald S	04/09/72
Gordon, Tierra	11/12/22
Grady, Reginald	08/10/58
Graves, Steven T	06/13/76
Gray, Randy C	05/19/60
Green, Darell L	01/12/73
Grimes, Alvin N.	02/11/90
Guinn, Anthony G	10/07/76
Gwynne, Dannielle M.	10/01/75
Hague, Michael E. Jr.	01/21/94
Haire, Brian E Jr	09/16/74
Hall, Vincent	07/27/88
Hall, William J	03/09/78
Hambrick, Samuel Jr.	11/12/61
Hamer, Deontaye	06/11/82
Hamilton, Tommy T.	11/03/78
Hanna, Christopher	03/18/91

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Hardiman, Patricia L	11/03/81
Harleston, Quintin R.	04/05/88
Harris, Charles J.	08/04/74
Harris, David Jr.,	04/12/82
Harris, Jimmie R	01/13/55
Harris, Justin D.	07/11/86
Harris, Marcus T.	09/13/76
Harris, William B.	07/21/81
Harris, William M Jr	04/28/71
Harvey, Brandon	05/15/71
Harvey, Darrin A	08/24/78
Hawkins, Tamichael S.	07/17/91
Hawkins, Timothy	01/24/66
Hayes, Carey	08/31/50
Haynes, William A.	09/01/75
Hebb, William H	08/15/55
Henderson, Dalen C.	12/07/78
Hendrix, Reginald Lamar	08/20/61
Henry, Ardail Jr.,	05/15/41
Henry, Johnathan C.	08/02/84
Hereford, Ronald E.	06/27/54
Higgs, Gregory W.	09/03/67
Hill, Namon E	12/17/75
Hindieh, Mohamed S.	05/13/85
Hoang, Dien D	06/30/71
Holbrooks, Larry A. Jr.	07/16/76
Holder, Felece R	11/20/55
Holman, Bobby T	12/28/64
Holmes, Paul Jr	11/29/59
Holt-Rogers, Gwendolyn	06/20/54
Hooten, Tevin L.	10/11/92
Hornsby, Orlando L.	11/06/71
Horton, Recardo A.	12/05/74
Houston, Henry D.	8/12/630
Howard, Calvin	01/13/76
Howse, Vickie Lynn	08/20/55
Huey, Karen D	02/02/59
Hutchins, Eric L.	08/30/82
Hylar, Jemane H.	03/28/82
Hylar, Jenarus D	04/09/85
Isaacs, Travis W.	03/04/89
Jackson, Andrew	08/13/94
Jackson, Eric L.	05/23/67
Jackson, Jennifer M.	04/17/90

Jackson, Raymond O	06/15/53
Jackson, Shamille N.	01/12/81
James, Lawrence E.	12/14/46
Jamieson, Christopher C.	04/15/82
Jarmon, John L	07/31/49
Jenkins, Daniel	07/18/73
Jenkins, Roydell A.	01/16/71
Jenkins, Tiffany N	02/10/73
Jenkins, William R	04/21/73
Jennings, Shemika	01/15/77
Jeter, Kathryn D.	03/28/59
Johnson, Angel A	07/04/85
Johnson, Antonio R.	02/27/79
Johnson, Gregory C.	01/21/76
Johnson, Jimmy A.	11/21/75
Johnson, Kenneth M.	04/19/91
Johnson, LeMarvin	01/01/66
Johnson, Patrick D.	02/05/87
Johnson, Tarsha N	12/12/78
Jones, Kenny M.	10/22/73
Jones, Tawana D.	07/27/69
Jordan, Alex H.	01/24/67
Jordan, Rico L.	04/28/81
Jordan, Trevonda Y.	04/11/77
Joseph, Paul S	03/12/41
Joyce, Derek L.	02/13/84
Joyce, Kenneth C.	03/12/57
Junker, Steven Clifford	08/31/69
Kain, Khalfani G	
Kaylor, Richard A. Jr.	02/04/76
Kendall, Eric	09/08/83
Kendrick, David A.	05/16/64
Kerley, Tomaz P.	02/11/75
Key, Glennis A.	06/13/60
Kilpatrick, Marco	09/28/78
Kimbrow, Rodney E.	04/06/65
King, Donald	05/01/79
Kinnard, Gregory D	03/15/86
Kirk, Taj T.	05/27/78
Knight, Troy L.	05/22/71
Kwatelai-Quartley, Dean	11/02/77
Lackey, Casandra L	08/06/76
Langston, Michael L.	03/18/58
Latimer, Ashley N.	09/06/88

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Leal, Seneca C	12/10/80
Legget, Rodney D. Sr.,	01/02/73
Leggett, Kervin K.	03/09/74
Lesley, Neal A.	12/18/22
Lewis, Donald R.	05/20/75
Lewis, Lamont M.	02/03/74
Lewis, Sabrina	05/28/64
Lewis, Wedell L.	02/18/78
Lockett, Crystal C	08/20/75
London, Wilkes III	07/12/90
Lopez, Luis P	08/25/47
Mack, James	07/11/53
Majors, Latanya	11/07/81
Marthel, Eric L.	08/22/69
Martin, Denise A.	01/21/94
Martin, Emani C.	10/12/83
Martin, Janis	03/26/67
Martin, Keylon	07/16/86
Martin, Pamela E.	06/30/71
Martin, William L.	08/20/91
Maryland, Jeffrey D.	11/03/59
Mason, Alfred N.	07/08/52
Massey, Alethia A	05/28/66
Matheny, Jerry W. Jr.,	06/16/64
Mathis, David E.	03/01/65
Mayfield, Chance D	08/04/88
Mays, Alexis L.	01/17/52
McAdoo, Darryl W	06/11/67
McClinton, Shatika K.	07/25/71
McComb, Melissa J.	04/05/72
McCoy, Stanley D.	05/19/79
McCrary, Quentin	07/20/83
McCullough, Rachel	12/09/82
McDonald-Horton, Danie	12/09/85
McDowell, Danny T.	04/06/54
McElrath-Campbell, Katri	05/20/67
McEwen, Robert B. III	11/07/78
McGee, James	05/20/54
McGee, William P. Jr.,	08/11/61
McGlother, Ronnie D	05/01/79
McNeil, James R	04/03/55
Middleton, Takiyah S.	11/04/77
Miles, Brian	09/11/88
Miles, Lucy A.	09/14/46

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Miller, Ricky	05/11/59
Mingua, Thomas Y	11/27/79
Mitchell, Rickey D.	02/04/55
Moore, Clarence L.	08/17/59
Moore, Donna	09/14/59
Moore, Jamonta J.	07/25/91
Moore, Michael Angelo	05/18/75
Morris, Lester	11/29/60
Morsette, Victor	08/21/41
Morton, Ronquez D	02/06/86
Morton, Simmie W	03/16/89
Moseley, Robert L.	12/03/78
Mosley, Charles	05/01/76
Myah, Clifton M.	10/24/82
Nance, Lamont A.	01/25/66
Nelson, Ricky R.	02/21/60
Newby, Landon A.	05/23/85
Newsome, Frank III	06/10/86
Norris, Leroy Jr.	10/27/56
Northcutt, Cortez D.	10/13/90
Odom, Cortez L.	03/03/80
Oneal, Neacole M.	07/21/72
Ortiz, Damacio	07/23/67
Osborne, Corey M.	05/19/87
Owens, Angela D.	08/07/68
Owens, Christopher D.	06/10/74
Parris, Paul A III	03/07/65
Parrish, Eddie	09/05/80
Peebles, Santonio D.	07/12/93
Perry, Gregory W	06/18/72
Peterson, Eugina D	08/12/81
Petway, Antonio R.	05/11/79
Phelps, Dedrick L.	07/05/69
Pitts, William A.	04/27/59
Pointer, Harold	05/06/54
Pollard, Greeko C.	11/05/79
Pollock, Richard L.	02/28/63
Posey, Frank P.	01/22/69
Powell, Quinetta L.	06/08/92
Pryor, Theodroe E.	12/02/69
Pucket, Keontay I.	08/18/93
Puckett, Steven W	08/01/62
Randolph, Jason C	07/06/90
Rash, Lindsey	10/14/83

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Redmond, Connie J	01/01/49
Reid, Nigel	12/06/59
Richbourg, Edward B	11/23/52
Rickman, Emily K.	02/07/82
Rigsby, Michael	09/13/57
Robbins, Torey A.	05/19/71
Roberts, Victor	10/22/68
Roberts, William C	11/06/68
Robertson, Jaron L.	07/27/87
Robinson, Bruce A.	09/10/55
Robinson, John P	07/22/59
Robinson, Kenneth	10/28/74
Robinson, Topeka/Tapice	08/23/78
Rodgers, Corey Q.	11/21/79
Rodgers, Joshua Q.	10/05/87
Rolin, Lewis	05/06/58
Ross, Kevin J.	02/15/78
Rust, David M.	03/29/62
Sales, Travis	02/02/81
Sambat, Byron	04/08/76
Samuels, Jonath D.	12/26/81
Santana, Travis	03/31/85
Sayre, Robert	05/26/89
Schild, John	08/14/84
Scott (Glenn), Mildred)	08/31/53
Sherrill, Antonio D.	04/15/74
Shook, Andre L.	01/11/77
Shropshire, Daasher M.	09/11/77
Simmons, Fready Jr	09/23/69
Simpson, Chanz D	01/11/81
Skidmore, Steven D	03/24/65
Smith, Camille L.	01/21/83
Smith, James E. III	12/08/95
Smith, Kontreal T.	10/02/79
Smith, Mary M	02/01/67
Sneed, Kim A	03/07/68
Snyder, Christopher O	01/23/76
Sobel, Richard A III	01/12/76
Southall, Eric N	07/24/69
Spann, Douglas T	11/21/62
Sparkman, Jennifer	08/22/82
Sparkman, Melvin E.	08/08/58
Springer, Lynnita D.	05/20/67
Stafford, Carlton	09/18/60

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Starks, Ivy C.	12/19/67
Steinruck, Steven E.	08/19/77
Stewart, Donald E.	03/08/64
Stewart, Michael W.	07/10/58
Striplin, Nelson N.	08/02/78
Sullivan, Debbie D.	02/18/74
Sutton, Donnie J	03/22/75
Sweeney, Franklin D	10/25/62
Talley, Oscar L.	04/26/22
Tant, Stephen	05/27/79
Taylor, Anthony T	04/11/62
Taylor, Gladys	02/05/64
Taylor, Herman	09/28/64
Taylor, Jeffrey A.	07/10/59
Taylor, Marcus B.	03/22/75
Taylor, Tavarius N	06/16/82
Teague, Darlene	04/27/58
Terrell, Aguirre L.	09/13/66
Thomas, Dorothy	03/31/54
Thomas, Robert L.	04/26/53
Tipton, Robert	05/22/82
Towns, Charles W	12/25/62
Traverso, Joseph T.	05/02/64
Truitt, Keshawn D.	03/04/88
Tung, David	08/22/60
Turner, Alaina H	07/20/76
Turner, Denise L.	11/22/69
Tyler, Frank	09/04/55
Tyus, Steven	06/08/63
Valentine, Larry E.	08/19/67
Wade, George A. Jr.,	09/14/67
Wade, Michael L.	01/14/69
Walker, Joshua L.	01/03/95
Walker, Ricky A.	04/03/61
Ward, Dequandre	11/25/89
Ward, Shanna K.	11/13/81
Watkins, Kennda J.	04/26/78
Webb, Crystal C.	06/10/68
Webb, Fred D.	07/18/22
West, Robert Thomas	02/06/52
Whitaker, Eric T	06/01/65
Whitaker, Reco T	04/01/79
White, David L	08/01/55
Whittaker, Kristie	09/26/69

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Wiley, Devon E.	08/30/62
Williams, Aspen K.	07/25/97
Williams, Calvin F	05/13/58
Williams, Cedric L.	11/25/67
Williams, Frederick L.	06/27/87
Williams, Kevin L.	05/26/85
Williams, Linda F	03/14/72
Williams, Robert T.	10/01/86
Williams, Verdell L	09/17/64
Wilson, Patrick L.	08/31/71
Winfrey, Richard L.	03/11/82
Wisdom, Michael L	07/13/77
Woods, David T III	12/02/75
Woods, Kerry D.	02/18/67
Woods, Larry J.	07/03/80
Woods, Nikitha S.	09/03/74
Woodton, David J.	05/05/22
Word, Denotrice N.	07/04/85
Wright, Jarrell D	03/24/87
Wright, Keyona S.	12/08/83
Wright, Travis D.	10/16/82
Wyatt, Alton R.	05/04/56
Yarbro, JK Jr.,	01/02/60

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on November 18_, 2022 via email on the following:

JANET M. KLEINFELTER (BPR
#13889)
Deputy Attorney General
Janet.kleinfelter@ag.tn.gov

ALEXANDER S. RIEGER (BPR
#29362)
Assistant Attorney General
Alex.rieger@ag.tn.gov

PABLO A. VARELA (BPR #29436)
Assistant Attorney General
Pablo.varela@ag.tn.gov

Office of the Tennessee Attorney
General
Public Interest Division
P.O. Box 20207
Nashville, TN 37202

Attorneys for State Defendants

Blair Bowie

Blair Bowie

Attachment A			
First	Last	Phone	County of Residence
Adarius	Kershaw	865-661-7876	Knox
Ahemiah Jynell	Clark	931-272-6272	Montgomery
Alton Brooks	Sullivan	901-643-1791	Shelby
Amius Jawan	Smith	931-241-7521	Montgomery
Andre	Glenn	615-475-3883	Davidson
Andrew	Downey	901-210-1780	Shelby
Andrew	Wade	615-750-2203	Davidson
Andy	White Jr.	865-406-8129	Blount
Angel	Romero	865-936-2315	Knox
Angelo	Mcghee	901-652-1959	Shelby
Angelo	Frye	901-340-7337	Shelby
Anthony	Williams	931-538-2586	Montgomery
Anthony	Scott	901-304-7978	Shelby
Anthony	Albright	901-364-2141	Shelby
Antonia	Albury	931-378-2901	Montgomery
Antonio Dwayne	Peoples	931-217-9764	Montgomery
April	Westbrooks	901-833-7875	Shelby
Aqueelah	Shereef	865-393-1200	Knox
Arthur	Jamison	615-475-3692	Davidson
Ashlee	Sellers	615-779-8042	Davidson
Asia Laporsh	Camell	931-255-3445	Montgomery
Auburn	Hunter	270-348-8278	Montgomery
Augusta	Robinson	865-403-0105	Knox
Aundrenetta	Cartmell	615-226-2702	Davidson
Author	Church	615-512-8189	Davidson
Barbara	Mills	865-455-9247	Knox
Betty	Davenport	865-443-2894	Knox
Bill	Davidson	865-896-8157	Knox
Brian	Tillman	901-503-2981	shelby
Calvin	McGee	615-586-4029	Davidson
Carlos	Osby	901-502-1523	Shelby
Carlos	Adams	901-299-3342	Shelby
Cataluna Felicia	Legardy	931-302-1506	Montgomery
Catherine	Hellerd	865-318-2778	Knox
Cecil	Campbell Whitmon	615-753-5902	Davidson
Charles	Matthews	865-275-6571	Knox
Charles	Vanhook	901-327-5964	Shelby
Charles Wayne	Childress Jr	931-272-1862	Montgomery
Chris	Fistunen	6155430596	Montgomery
Christopher	Taylor	901-433-9092	Shelby
Christopher Lynn	Hoosier Jr	931-302-1150	Montgomery
Clarissa	Red	865-282-9192	Knox
Claudell	Whitfield	901-505-9550	Shelby
Cynthia	Thomas	901-440-6971	Shelby

Damon E.	Williams	931-999-5865	Montgomery
Danny	Jones	901-900-6988	Shelby
Danny	Adams	901-518-2996	Shelby
Danny	Breeden	865-242-8690	Knox
Darrell	Banks	901-430-7272	Madison, Shelby
David	Dowell	629-200-4701	Davidson
David	Wicks	901-628-3912	Shelby
DeAngelo	Freeman	865-308-3720	Knox
Deb	Taylor	6158043727	Montgomery
Delvin	Davis	9312913266	Montgomery
Denise	Hall	9312915891	Montgomery
Derek Andre	Willis	931-291-1215	Montgomery
Derrick	Patterson	615-423-1894	Davidson
Dominique Lauert	Lee	615-715-3452	Montgomery
Donna	Baugher	865-280-9784	Knox
Dwayne	Oatneal	615-900-8293	Davidson
Elton Lee	Bell	865-203-4240	Knox
Eric Von	Brandt II	931-263-3012	Montgomery
Ernest	Moore	901-578-5268	Shelby
Eulonda	Malone	9015707884	Shelby
Felisha	Sanders	9312184501	Montgomery
Frank	Johnson	901-721-5613	Shelby
Frankie	Osbourne	865-973-2731	Knox
Frederick	Whitson	615-881-8697	Davidson
Gordon "Shane"	Johnson	865-466-7046	Knox
Harv	Smith	731-277-8350	Knox
Hope	Moore	901-282-3582	Shelby
Hubert	Hurt	901-502-9675	Shelby
Hunter Paige	Neel	270-839-2578	Montgomery
Idonnis Renee	Stevenson	615-414-3527	Montgomery
Irmon	Jones	901-930-3944	Shelby
Isaiah Andrew	Garuin	931-302-3487	Montgomery
James	Oliver	865-963-6382	Knox
James	Newsom	615-429-3792	Davidson
James	Robinson	615-569-2647	Davidson
James Timothy	McCullen	931-444-9789	Montgomery
Jamyca Tajana	McCullen	931-218-9646	Montgomery
Jannie	Williams	901-406-4833	Shelby
JaQuette	Wilson	9015007048	Montgomery
Jatai H.	Garland	931-218-0467	Montgomery
Jeffery	Penson Jr	865-566-1958	Blount
Jennifer	Miller	931-216-4885	Montgomery
Jerome	Lee	865-338-6951	Knox
Jo	Rittenberry	931-444-6074	Davidson
Johnnie Leallen	Cummings	931-472-4700	Montgomery
Johnny	Asberry	619-236-1139	Shelby

Jomyra	Green	901-643-3017	Shelby
Jordon Xavier	Lofton	931-771-6536	Montgomery
Joseph	Brown	865-384-3206	Knox
Josh	Beach	901-293-4098	Knox
Juan	Salvana	9315053894	Montgomery
Juston	Cathey	9318204777	Montgomery
Kaleb	McClanahan	865-275-1123	Knox
Kanicka	Gadson	931-346-9364	Montgomery
Kayahja	Rias	615-901-4911	Knox
Kelly	Hulsey	901-453-9624	Shelby, Sebastion
Kenneth	Cooper	901-612-4757	Shelby
Korey	Johnson	901-237-9220	Shelby
Kristi	Goodman	423-920-7626	Knox
Kristina	Griffin	865-804-3691	Knox
Larry	Elrod	9312663258	Montgomery
Larry	Wilson	901-826-5941	Shelby
Larry	Craig	615-589-6964	Davidson
Latashua Raye	Coleman	931-218-0967	Montgomery
Latisha	Green	850-293-6508	Davidson
Latoya	Slater	901-605-3174	Shelby
Lavon Terrell	Garrett	910-442-5313	Montgomery
Lejuene	Franklin	901-461-5178	Madison
Leslie	Alexander	615-763-5546	Davidson
Lister	Wallace	865-548-1582	Knox
Lonnie	Burnett	901-801-1986	Shelby
Lori	Olson	865-337-3963	Knox
Louvella	Davis	901-308-9200	Shelby
Lue	Holcomb	901-205-7323	Shelby
Lynora	Davis	901-671-3741	Shelby
Marcus	Miles	901-691-0746	Shelby, Obion
Mario	Coleman	901-490-0958	Shelby
Mark	Needham	9312062681	Montgomery
Marlos	Shields	901-708-9834	Shelby
Mary	Green	731-487-5633	Madison
Mattie	Sweeney	615-720-4416	Davidson
Megan	Jones	865-221-5283	Knox
Melvin	Linton	615-779-3641	Davidson
Michael	Smith	4439554421	Montgomery
Michael	Taylor III	615-554-8161	Davidson
Michael	Tyler Jr.	901-600-0386	Shelby
Michael	Hamer	901-364-7650	Shelby
Michael Anthony	Miner	931-503-0257	Montgomery
Michael W.	Jones	901-297-7064	Shelby
Michelle	Cherry	865-438-2826	Knox
Mildred	LaRue	615-417-8684	Williamson
Nelson	Armstrong	901-864-5446	Shelby

Nena Rae	Bailey	931-249-6624	Montgomery
Otis	Swanson	270-560-8515	Davidson
Paris Devonte	Bush	931-980-2093	Montgomery
Parnell	Williams	901-283-5201	Shelby
Phillip	Cobb	9314366596	Montgomery
Phynes	Holden	9313026732	Montgomery
Ramon	Stewart III	719-799-0302	Knox
Randy	Sadler	865-279-3927	Knox
Raven	Harris	901-315-9978	Shelby
Ricky	Burks	901-691-4497	shelby
Rico	Gurley	615-473-3984	Davidson
Rita	Shaw	615-906-2409	Davidson
Robert	Coats	901-425-8650	Shelby
Robert Darnell	Ward	615-707-5797	Montgomery
Robert Lee	Wooten	931-648-1430	Montgomery
Ronald F.	Turner	931-255-3278	Montgomery
Ronnie	Brooks	615-403-6491	Davidson
Royal	Schaap	865-415-9219	Knox
Samantha Lynn	Harvey	931-218-4785	Montgomery
Samuel	Galloway	901-502-3863	Shelby
Sean	Murray	615-525-6147	Davidson
Shana Alexander	Bennett	931-220-2253	Montgomery
Shaneka Anjel	Long	931-561-5894	Montgomery
Shantel LaJune	Denshore	931-218-5892	Montgomery
Shateka	Long	9316145828	Montgomery
Shelia	Landrum	270-990-7426	Shelby
Steven	Owens	901-364-4767	Shelby
Tafaria	Townsend	901-399-4811	Shelby
Taheera	DaCosta	678-622-4605	Knox
Tahjanekia	Elliot	931-266-1718	Montgomery
Tamarcus	Carter	901-426-0394	Shelby
Tamica	Gibson	615-207-3396	Davidson
Tamica	Henderson	901-502-9367	Shelby
Tashia	Griffin	865-200-7682	Knox
Te'a Bennie	Lagardy	931-302-1506	Montgomery
Terrance	Lundy	865-679-2959	Knox
Terrius	Patton	901-619-6363	Shelby
Thomas	Moore	865-280-1307	Monroe
Tirsi Vailanie	Woodson	931-771-6477	Montgomery
TJ Deshun	Shields	901-801-1506	Shelby
Tracy Lynn	Savage	615-336-4551	Davidson
Troyan	Gentry	901-526-8403	Criaghead
Tyesha Nicholle	Anderson	931-302-5714	Montgomery
Tyler	Hurst	856-972-6124	Knox
Tyrone	Johnson	901-690-4642	Shelby
Vonez	Williams	931-561-3357	Montgomery
Wayne	Traylor	9312494749	Montgomery

William	Gardner	615-593-8425	Davidson
William	Clark	865-321-0228	Knox
William	Mitchell	901-830-2024	Knox

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Attachment B			
First	Last	Phone	County of Residence
Adarius	Kershaw	865-661-7876	Knox
Alton Brock	Sullivan	901-643-1791	Shelby
Andrew	Downey	901-210-1780	Shelby
Angel	Romero	865-936-2315	Knox
Angelo	Mcghee	901-652-1959	Shelby
Anthony	Scott	901-304-7978	Shelby
Anthony	Albright	901-364-2141	Shelby
April	Westbrook	901-833-7875	Shelby
Arthur	Jamison	615-475-3692	Davidson
Ashlee	Sellars	615-779-8042	Davidson
Augusta	Robinson	865-403-0105	Knox
Betty	Davenport	865-443-2894	Knox
Brian	Tillman	901-503-2981	shelby
Calvin	McGee	615-586-4029	Davidson
Carlos	Osby	901-502-1523	Shelby
Carlos	Adams	901-299-3342	Shelby
Charles	Vanhook	901-327-5964	Shelby
Cynthia	Thomas	901-440-6971	Shelby
Danny	Jones	901-900-6988	Shelby
Danny	Adams	901-518-2996	Shelby
Darrell	Banks	901-430-7272	Madison, Shelby
David	Wicks	901-628-3912	Shelby
David	Dobson	615-582-1988	Davidson
Dawn	Harrington	323-706-7731	Davidson
Denise	Hall	9312915891	Montgomery
Elton Lee	Bell	865-203-4240	Knox
Ernest	Moore	901-578-5268	Shelby
Eugene	Peele	208-830-7002	Davidson
Frank	Johnson	901-721-5613	Shelby
Frankie	Osbourne	865-973-2731	Knox
Hope	Moore	901-282-3582	Shelby
Hubert	Hurt	901-502-9675	Shelby
Irmon	Jones	901-930-3944	Shelby
Jeffery	Penson Jr	865-566-1958	Blount
Jerome	Lee	865-338-6951	Knox
John	Contreras	916-396-7492	Blount
Johnny	Asberry	619-236-1139	Shelby
Jomyra	Green	901-643-3017	Shelby
Joseph	Brown	865-384-3206	Knox
Juan	Salvana	9315053894	Montgomery

Kaleb	McClanahan	865-275-1123	Knox
Kenneth	Cooper	901-612-4757	Shelby
Korey	Johnson	901-237-9220	Shelby
Kristina	Griffin	865-804-3691	Knox
Larry	Wilson	901-826-5941	Shelby
Latoya	Slater	901-605-3174	Shelby
Lue	Holcomb	901-205-7323	Shelby
Marcus	Miles	901-691-0746	Shelby, Obion
Mario	Coleman	901-490-0958	Shelby
Michael	Tyler Jr.	901-600-0386	Shelby
Michael	Hamer	901-364-7650	Shelby
Milton	Thomas	615-573-0831	Davidson
Randy	Sadler	865-279-3927	Knox
Raven	Harris	901-315-9978	Shelby
Ricky	Burks	901-691-4497	shelby
Royal	Schaap	865-415-9219	Knox
Sean	Murray	615-525-6147	Davidson
Steven	Owens	901-364-4767	Shelby
Tafaria	Townsend	901-399-4811	Shelby
Tamarcus	Carter	901-426-0394	Shelby
Terrius	Patton	901-619-6363	Shelby
Thomas	Moore	865-280-1307	Monroe
Tyler	Hurst	856-972-6124	Knox
Tyrone	Johnson	901-690-4642	Shelby
William	Clark	865-321-0228	Knox
William	Mitchell	901-830-2024	Knox

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Attachment C			
First	Last	Phone	County of Residence
Adarius	Kershaw	865-661-7876	Knox
Anthony	Scott	901-304-7978	Shelby
Arthur	Jamison	615-475-3692	Davidson
Ashlee	Sellers	615-779-8042	Davidson
Calvin	McGee	615-586-4029	Davidson
David	Wicks	901-628-3912	Shelby
Dawn	Harrington	323-706-7731	Davidson
Denise	Hall	9312915891	Montgomery
Eugene	Peele	208-830-7002	Davidson
Hubert	Hurt	901-502-9675	Shelby
Irmon	Jones	901-930-3944	Shelby
Jeffery	Penson Jr	865-566-1958	Blount
John	Contreras	916-396-7492	Blount
Juan	Salvana	9315053894	Montgomery
Louvella	Davis	901-308-9200	Shelby
Milton	Thomas	615-573-0831	Davidson
Sean	Murray	615-525-6147	Davidson

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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TENNESSEE CONFERENCE of the NATIONAL ASSOCIATION for the ADVANCEMENT of COLORED PEOPLE, on behalf of itself and its members, et al.,

Plaintiffs,

v.

WILLIAM LEE, in his official capacity as Governor of the State of Tennessee, et al.,

Defendants.

Civil No. 3:20-cv-01039

JUDGE CAMPBELL
MAGISTRATE JUDGE FRENSELY

[Class Action]

PLAINTIFF TENNESSEE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE RESPONSES AND OBJECTIONS TO DEFENDANTS' THIRD SET OF INTERROGATORIES AND THIRD REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure, Plaintiff Tennessee Conference of the National Association for the Advancement of Colored People ("Plaintiff TN NAACP") hereby responds and objects to Defendants' Third Set of Interrogatories (the "Interrogatories") and Third Request for Production of Documents. In preparing these responses, Plaintiff TN NAACP has relied on the information and documents presently available to it. If further information or documents are discovered during this phase of litigation, Plaintiff TN NAACP will supplement its responses based on any such information and produce any such documents to the extent required under Federal Rule of Civil Procedure 26.

GENERAL STATEMENT

Plaintiff TN NAACP provides these objections and responses based upon the investigation conducted in the time available since service of the Interrogatories and Request for Production of

Documents. These objections and responses are made to the best of Plaintiff TN NAACP 's present knowledge, information, and belief. In the future, Plaintiff TN NAACP may discover or acquire additional information, documents, or facts bearing on the Interrogatories and Request for Production of Documents and its objections and responses thereto. Plaintiff TN NAACP reserves the right: (a) to make subsequent revisions or amendments to its objection or these answers based upon information, evidence, documents, facts, or other things that hereafter may be discovered, or the relevance of which may hereafter be discovered; and (b) to introduce or rely upon additional or subsequently acquired or discovered writings, evidence, and information in any proceedings or at any trial held hereafter.

Further, any answer by Plaintiff TN NAACP to a particular Interrogatory or Request for Production of Documents is not intended, and shall not be construed, as an admission of the existence of any fact, assertion, or other matter expressed or implied in the Interrogatory or Request for Production of Documents. Plaintiff TN NAACP's objection to, or failure to object to, any particular Interrogatory or Request for Production of Documents is not, and shall not be construed as, an admission that responsive information exists. Moreover, Plaintiff TN NAACP's decision to answer any specific Interrogatory or Request for Production of Documents, notwithstanding its objectionable nature or its related definitions or instructions, also should not be construed as an admission to the relevancy or materiality of the information or documents requested, or an agreement that future similar Interrogatories or Requests for Production of Documents will be treated in a similar manner. With these responses and objections, Plaintiff TN NAACP does not in any way waive, or intend to waive, the right to object on any and all grounds to (a) the evidentiary use of the information contained herein or (b) discovery requests relating to these objections and answers.

GENERAL OBJECTIONS

1. Plaintiff TN NAACP objects to the Interrogatories to the extent they impose obligations, seek answers, or use instructions or definitions other than those permitted under Federal Rules of Civil Procedure 26 and 33, the Local Rules of the U.S. District Court for the Middle District of Tennessee, any Order of this Court, and any prior agreement of the parties.
2. Plaintiff TN NAACP objects to each and every one of the Interrogatories to the extent they seek information or documents protected by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, exemption, immunity, principle, doctrine, or rule of confidentiality. If any protected information or material is disclosed, such disclosure is not intentional and shall not be deemed a waiver of any privilege or protection.
3. To the extent the Interrogatories require the disclosure of confidential or sensitive private information implicating the privacy interests of Plaintiff TN NAACP or other individuals, including other Plaintiffs, Plaintiff TN NAACP agrees to provide such information subject to the protective order agreed upon by the parties.
4. Plaintiff TN NAACP objects to each and every one of the Interrogatories to the extent they seek information already in the possession, custody, or control of the Defendant, or otherwise equally available to the Defendant.
5. Plaintiff TN NAACP objects to each and every one of the Interrogatories to the extent they seek materials not in Plaintiff's possession, custody, or control. Plaintiff TN NAACP further objects to the Interrogatories as overly broad and unduly burdensome to the extent that they impose an obligation to survey third parties.

6. Plaintiff TN NAACP objects to each and every one of the Interrogatories insofar as they seek information that is publicly available or otherwise equally available and/or uniquely available from third parties.
7. Plaintiff TN NAACP objects to the Interrogatories to the extent these seek answers or information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to any party's claim or defense.
8. Plaintiff TN NAACP objects to the Interrogatories insofar as they seek documents that are unreasonably cumulative or duplicative.
9. Plaintiff TN NAACP objects to each and every one of the Interrogatories to the extent that they are unclear, ambiguous, overly broad, unduly burdensome, and/or not proportional to the needs of this case.
10. Plaintiff TN NAACP objects to each and every one of the Interrogatories to the extent that they assume facts that do not exist or are incorrect.
11. By answering these Interrogatories, Plaintiff TN NAACP does not concede the relevance or materiality of any of the information requested, nor of the subject matter to which any particular Interrogatory refers. Rather, these responses are made expressly subject to, and without in any way waiving or intending to waive any question or objection as to the competency, relevance, privilege, or admissibility of any of the matters referred to in these responses as evidence.
12. Plaintiff TN NAACP expressly reserves:
 - a. The right to object, on grounds of competency, relevance, materiality, privilege, or any other applicable ground, to the use of responses provided to these

Interrogatories or the subject matter thereof, in any subsequent filing, proceeding, or hearing in this or any other action;

- b. The right to object on any ground to any additional Interrogatories or other discovery proceedings involving or relating to the subject matter of these Interrogatories; and
- c. The right to amend, withdraw, or supplement its responses should further investigation or discovery disclose additional information.

SPECIFIC RESPONSES AND OBJECTIONS

In addition to the foregoing general objections, Plaintiff TN NAACP asserts the following specific responses and objections to each Interrogatory:

INTERROGATORY NO. 1: What have You done to verify the statistics claimed by You in paragraphs 33 and 34 of the First Amended Complaint?

RESPONSE: In addition to the above objections, Plaintiff TN NAACP further objects to the extent Interrogatory No. 1 seeks documents or information outside of Plaintiff TN NAACP's possession, custody, or control, insofar as they seek documents or information in the possession of Plaintiff TN NAACP's attorneys that was not obtained in conjunction with this litigation. Plaintiff TN NAACP further objects that Interrogatory No. 1 is overbroad and overburdensome to the extent that it asks about Plaintiff TN NAACP or Plaintiff TN NAACP's counsel work outside of this litigation.

Subject to the above objections, Plaintiff TN NAACP asserts that the statistics in paragraphs 33 and 34 of the First Amended Complaint were produced by scholars with more than "20 years of work chronicling the scope and distribution of felony disenfranchisement in the

United States.” Christopher Uggen *et al.*, *Locked Out 2022: Estimates of People Denied Voting Rights*, THE SENTENCING PROJECT (Oct. 25, 2022), <https://www.sentencingproject.org/reports/locked-out-2022-estimates-of-people-denied-voting-rights/>. This work has been widely cited by numerous other scholars and news outlets. *See, e.g., The Sentencing Project, Criminal Justice Experts and Formerly Incarcerated People Discuss New Report on Felony Disenfranchisement*, THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS (Oct. 14, 2020), <https://civilrights.org/2020/10/14/the-sentencing-project-criminal-justice-experts-and-formerly-incarcerated-people-discuss-new-report-on-felony-disenfranchisement/>; Ashley Lopez, *In the U.S., some 4.6 million people are disenfranchised due to a felony conviction*, NPR (Oct. 25, 2022), <https://www.npr.org/2022/10/25/1130622918/felon-voting-state-laws-disenfranchisement-rates>. Further, Plaintiffs in this case have introduced an independent expert report which includes similar findings regarding the disparate impact of felony disenfranchisement on Black Tennesseans. *See* Expert Report of Dr. Traci Burch (“Burch Expert Rep.”), Feb. 13, 2023, at 13.

INTERROGATORY NO. 2: State all facts and identify all persons and documents which support Your claim in paragraph 109 of the Amended Complaint that “[t]he Election Division instructs the County Administrators of Elections not to place on the voter rolls any registrants who affirm on the new voter registration form that their only felony conviction(s) occurred between January 15, 1973 and May 17, 1981 *unless* and *until* those registrants provide additional documentation proving the date of their conviction.” (emphasis in original).

RESPONSE: In addition to the above objections, Plaintiff TN NAACP objects that Interrogatory No. 2 seeks information that is in the possession of, control of, or equally accessible to Defendants, including but not limited to documents produced by Defendants Goins and Hargett,

as well as deposition testimony provided by Defendant Goins' 30(b)(6) designee. Plaintiff TN NAACP further objects that Interrogatory No. 2 is overbroad and overburdensome to the extent that it asks Plaintiff TN NAACP to state "all facts" and identify "all persons and documents."

Subject to the above objections, Plaintiff TN NAACP identifies testimony of Ms. Jessica Lim, Elections Attorney for the Tennessee Secretary of State Elections Division office in support of Amended Complaint paragraph 109. Ms. Lim answered in the affirmative when asked "[individuals with convictions from January 5, 1973 to May 17, 1981] won't be registered to vote until you have that verification." *See* Oct. 29, 2021 Dep. of Jessica Cunningham-Lim ("Lim Tr.") at 175:2 – 176:25. This is consistent with the training guidance provided by the Elections Division to the administrative offices of elections. *See, e.g.*, Elections Division Production, DEF000122; TP008676 – TP008677. Additionally, the record contains numerous examples of individuals with convictions between January 5, 1973 and May 17, 1981 who have been denied registration by the Elections Division and Offices of Elections for not providing additional documentation. *E.g.*, Dawes_Hickman_May_2020, Elections Division "Flash Drive 3" production on July 6, 2022; Richardson Shelby June 2021, Elections Division "Flash Drive 3" production on July 6, 2022; Reece Cocke County October 2020, Elections Division "Flash Drive 3" production on July 6, 2022; Carter Davidson County October 2020, Elections Division "Flash Drive 3" production on July 6, 2022; Strand Union County September 2020, Elections Division "Flash Drive 3" production on July 6, 2022. *See also, e.g.*, Kearley Cumberland July 2019, Elections Division "Flash Drive 3" production on July 6, 2022; Kirby Sumner October 2019, Elections Division "Flash Drive 3" production on July 6, 2022 (requiring documentation before verifying eligibility).

INTERROGATORY NO. 3: State all facts and identify all persons and documents which support Your allegation in paragraph 110 of the Amended Complaint that, “[t]he Election Division also instructs the County Administrators of Elections not to place on the voter rolls any registrants who affirm on the new voter registration form that their only felony conviction(s) were prior to January 15, 1973 *unless* and *until* those registrants provide additional documentation proving the date of their conviction and that their judgement (sic) did not render them infamous.” (emphasis in original).

RESPONSE: In addition to the above objections, Plaintiff TN NAACP objects that Interrogatory No. 3 seeks information that is in the possession of, control of, or equally accessible to Defendants, including but not limited to documents produced by Defendants Goins and Hargett, as well as deposition testimony provided by Defendant Goins’ 30(b)(6) designee. Plaintiff TN NAACP further objects that Interrogatory No. 3 is overbroad and overburdensome to the extent that it asks Plaintiff TN NAACP to state “all facts” and identify “all persons and documents.”

Subject to the above objections, Plaintiff TN NAACP identifies Ms. Lim’s testimony that the Elections Division “would have to get some type of verifying documentation confirming” eligibility for any individual with a pre-January 15, 1973 conviction in support of Amended Complaint paragraph 110. *See* Lim Tr. at 179:10 – 180:22.

INTERROGATORY NO. 4: State all facts and identify all documents and persons which support Your allegation in paragraph 154 of the Amended Complaint that “[t]he State Form fails to fully inform applicants with felony convictions of their eligibility under Tennessee law,” including a clarification of what the “State Form” is.

RESPONSE: In addition to the above objections, Plaintiff TN NAACP objects that Interrogatory No. 4 seeks information that is in the possession of, control of, or equally accessible to Defendants, including but not limited to documents produced by Defendants Goins and Hargett, as well as deposition testimony provided by Defendant Goins' F.R.C.P. 30(b)(6) designee. Plaintiff TN NAACP further objects that Interrogatory No. 4 is overbroad and overburdensome to the extent that it asks Plaintiff TN NAACP to state "all facts" and identify "all documents and persons."

Subject to the above objections, Plaintiff TN NAACP asserts that the Tennessee Mail-In Application for Voter Registration is the State Form. A copy of that form was attached as Exhibit B to the originally filed complaint in this case and Exhibit 10 to the October 29, 2021 deposition of Jessica Cunningham-Lim is a copy of the since-updated version of the State Form. The updated form states that "if you have had a felony conviction, your eligibility to register and vote depends upon the crime you were convicted of and the date of your conviction. To assist in processing your application, provide the required information in box 4 and any responsive documents you have," and directs individuals to the Secretary of State's website. The form does not explain that felony convictions between May 18, 1981 and January 15, 1973 are not disqualifying. It also does not explain that felony convictions prior to January 15, 1973 are not disqualifying unless there was a specific judgment rendering the person infamous. It also does not explain what documentation the state requires to register when an individual has a felony during those periods or what documentation a person with an out-of-state conviction would need to submit to register to vote under the current policies of the Elections Division. The Secretary of State website informs applicants how certain felony convictions before January 15, 1973, between January 15, 1973 and May 18, 1981, and after May 18, 1981 affect an individual's eligibility to register to vote and states, "the Division of Elections will need to verify you were convicted during this time period."

Tennessee Secretary of State, *Restoration of Voting Rights*, <https://sos.tn.gov/elections/guides/restoration-of-voting-rights> (last visited 3/14/2023). Neither version of the State Form includes the complete eligibility information and instructions for registration. *See* Compl. Ex. B (ECF 1-2); Lim Tr., Ex. 10. For example, neither version of the form informs applicants that felony convictions between January 15, 1973 and May 18, 1981 are not disqualifying. The version of the form in use at the time of the filing of this complaint did not explain that individuals whose convictions have been expunged should answer “No” on the voter registration form when asked if they have a felony conviction. *Id.*

INTERROGATORY NO. 5: State all facts and identify all documents and persons which support Your allegation in paragraph 154 of the Amended Complaint that, “[t]o the contrary, it plainly misinforms voters of the eligibility requirements by stating that no individual with a felony conviction may register to vote unless she has undergone the restoration or rights process.”

RESPONSE: In addition to the above objections, Plaintiff TN NAACP objects that Interrogatory No. 5 seeks information that is in the possession of, control of, or equally accessible to Defendants, including but not limited to documents produced by Defendants Goins and Hargett, as well as deposition testimony provided by Defendant Goins’ 30(b)(6) designee. Plaintiff TN NAACP further objects that Interrogatory No. 5 is overbroad and overburdensome to the extent that it asks Plaintiff to state “all facts” and identify “all documents and persons.”

Subject to the above objections, Plaintiff asserts that the quoted language from the Amended Complaint refers specifically to the older version of the State Form, which is still the operative form provided on some official county election websites throughout the state. *See, e.g.,* Knox County Tennessee, Elections, <https://www.knoxcounty.org/election/pdfs/registration.pdf> (last visited Mar. 27, 2023); Chester County Election Commission, Voters,

<https://votechestercountytn.gov/wheretovote/#register> (last visited Mar. 27, 2023); DeKalb County Election Commission, Voter Registration Information,

<https://www.dekalbelections.com/voter-registration-information/> (last visited Mar. 27, 2023).

Even when the newer version of the State Form is provided, it fails to fully inform applicants of their eligibility, as described in response to Interrogatory 4.

INTERROGATORY NO. 6: State all facts and identify all documents and persons which support Your allegation in paragraph 163 of the Amended Complaint that Defendants Goins and Hargett have a “policy of rejecting *all* registration forms on which the applicant affirmed that they have a felony conviction....” (emphasis in original).

RESPONSE: In addition to the above objections, Plaintiff TN NAACP objects that Interrogatory No. 6 seeks information that is in the possession of, control of, or equally accessible to Defendants, including but not limited to documents produced by Defendants Goins and Hargett, as well as deposition testimony provided by Defendant Goins’ 30(b)(6) designee. Plaintiff TN NAACP further objects that Interrogatory No. 6 is overbroad and overburdensome to the extent that it asks Plaintiff TN NAACP to state “all facts” and identify “all documents and persons.”

Subject to the above objections, Plaintiff TN NAACP identifies Ms. Lim’s testimony in support of Amended Complaint paragraph 163. *See* Lim Tr. at 101:5-11. This is consistent with the instructions on the Secretary of State’s website which states that “[a]ny conviction for a crime that is a felony in Tennessee . . . causes you to lose your voting rights.” *See* Tennessee Secretary of State, *Restoration of Voting Rights*, <https://sos.tn.gov/elections/guides/restoration-of-voting-rights> (last visited 3/14/2023). Additionally, the record contains numerous examples of the Elections Division instructing Tennessee registrars to reject voter registration forms where an

individual has indicated they have a felony conviction. *See, e.g.*, Elections Division Production, DEF000122, DEF000339.

INTERROGATORY NO. 7: Provide the full name, address, and date of birth of the person referred to in paragraph 7 of the Amended Complaint who was prosecuted for a felony for submitting a COR.

RESPONSE: In addition to the above objections, Plaintiff TN NAACP objects that Interrogatory No. 7 seeks information that is in the possession of, control of, or equally accessible to Defendants, several of whom were directly involved in the prosecution referred to in paragraph 7 of the Amended Complaint. Plaintiff TN NAACP further objects that Interrogatory No. 7 is overboard to the extent that the individual's address and date of birth are confidential information and unrelated to this litigation.

Subject to the above objections, Plaintiff TN NAACP identifies *State v. Pamela Moses*, No. 19-06482 (Shelby Cnty Crim. Ct. 2019), as the prosecution referenced in paragraph 7 of the Amended Complaint. *See also* Sophie Kasakove and Eduardo Medina, *Charges Dropped Against Tennessee Woman Who Was Jailed Over Voter Fraud*, N.Y. TIMES (April 23, 2022).

INTERROGATORY NO. 8: State all facts and identify all documents and persons which support your allegation in paragraph 8 of the Amended Complaint that “[t]he implementation failures of the rights restoration process create an unequal, scattershot system across Tennessee’s ninety-five counties, causing disparate results for similarly situated individuals, in violation of the Equal Protection Clause.”

RESPONSE: In addition to the above objections, Plaintiff TN NAACP objects that Interrogatory No. 8 seeks information that is in the possession of, control of, or equally accessible

to Defendants, including but not limited to documents produced by Defendants Goins and Hargett, as well as deposition testimony provided by Defendant Goins' 30(b)(6) designee. Plaintiff TN NAACP further objects that Interrogatory No. 8 is overbroad and overburdensome to the extent that it asks Plaintiff TN NAACP to state "all facts" and identify "all documents and persons."

Subject to the above objections, Plaintiff TN NAACP identifies the expert reports of Dr. Traci Burch and Dr. Jennifer Selin in support of paragraph 8 of the Amended Complaint. *See* Burch Expert Rep.; Expert Report of Dr. Jennifer Selin, Feb. 13, 2023.

INTERROGATORY NO. 9: Describe in detail how You compiled Exhibit A to Your responses to the First Set of Interrogatories.

RESPONSE: In addition to the above objections, Plaintiff TN NAACP objects to the extent that Interrogatory No. 9 seeks information protected by attorney-client privilege and work-product doctrine.

Without waiver of the above objections, Plaintiff TN NAACP asserts that Exhibit A, compiled in response to Interrogatory 4 in State Defendant's First Set of Interrogatories, was created by counsel combining individuals assisted in the COR process by the Tennessee Conference of the NAACP and by the Restore Your Vote project. Interrogatory 4 asked, "To Your knowledge, please identify any potential class member, including name, their felony convictions, other identifying information, documentation that such person is not subject to a disqualifying conviction as defined in Tenn. Code Ann. § 40-29-204, and other documentation supporting that each potential class member has satisfied the requirements of Tenn. Code Ann. §40-29-202 as described in paragraph 104 of Your Complaint (DE 1)." The persons listed in Exhibit A, to the best of theirs and Plaintiff TN NAACP's knowledge all (1) are Tennessee residents, (2) have at

least one felony conviction after 1981 and (3) have not, or had not at the time of response, been restored their voting rights.

INTERROGATORY NO. 10: Describe in detail how You compiled Exhibit B to Your responses to the First Set of Interrogatories.

RESPONSE: In addition to the above objections, Plaintiff TN NAACP objects to the extent that Interrogatory No. 10 seeks information protected by attorney-client privilege and work-product doctrine.

Without waiver of these objections, Plaintiff TN NAACP asserts that Exhibit B, compiled in response to Interrogatory 5 in State Defendant's First Set of Interrogatories, was created by counsel combining individuals assisted in the COR process by the Tennessee Conference of the NAACP and by the Restore Your Vote project. Interrogatory 5 asked, "To Your knowledge, please identify and describe the events and circumstances around any refusal to issue a certificate of restoration as described in paragraphs 64-66 of Your Complaint (DE 1)." The persons listed in Exhibit B, to the best of theirs and Plaintiff TN NAACP's knowledge, all (1) are Tennessee residents otherwise qualified to vote, (2) have at least one felony conviction after 1981, (3) have requested a COR or, at their request, an advocate requested one on their behalf from the appropriate officials, and (4) were refused issuance of a COR by at least one appropriate official.

INTERROGATORY NO. 11: Describe in detail how You compiled Exhibit C to Your responses to the First Set of Interrogatories.

RESPONSE: In addition to the above objections, Plaintiff TN NAACP objects to the extent that Interrogatory No. 11 seeks information protected by attorney-client privilege and work-product doctrine.

Without waiver of these objections, Plaintiff TN NAACP asserts that Exhibit C, compiled in response to Interrogatory 6 in State Defendant's First Set of Interrogatories, was created by counsel combining individuals assisted in the COR process by the Tennessee Conference of the NAACP and by the Restore Your Vote project. Interrogatory 6 asked, "To Your knowledge, please identify and describe any erroneous deprivation allegedly caused by the Certificate of Restoration process, as alleged in paragraphs 84-85 of Your Complaint (DE 1). Note: this Interrogatory does not ask for documentation of potential risk of erroneous deprivation, but deprivations that actually occurred which You contend were erroneous." The persons listed in Exhibit C, to the best of theirs and Plaintiff TN NAACP's knowledge, all (1) are Tennessee residents otherwise qualified to vote, (2) have at least one felony conviction after 1981, (3) meet the eligibility criteria for voting rights restoration listed under T.C.A. 40-29-202, (4) have requested a COR or, at their request, an advocate requested one on their behalf from the appropriate officials, and (5) have not been restored to the right to vote or, if they have since received a restoration, missed at least one election after they requested restoration while eligible for such.

INTERROGATORY NO. 12: Are you claiming attorneys' fees and/or damages separate and apart from fees incurred in pursuing this litigation? If so, please provide the following information: (a) The attorneys (and other staff members) who you claim have spent this time; and (b) a detailed accounting of the hours spent by each attorney (and other staff members), hourly rate, a description of the work performed, and the date on which the work was performed.

RESPONSE: No.

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1: Produce all documents that support your answers to the Interrogatories, above.

RESPONSE: Subject to the foregoing objections, Plaintiff asserts that any documents within its custody or control that were used, referenced, or reviewed during the process of answering State Defendants' Third Set of Interrogatories have already been produced. Any other documents used, referenced, or reviewed during the process of answering State Defendants' Third Set of Interrogatories were either produced by State Defendants and are within State Defendants' custody or control, or are publicly available.

Date: 3/27/2023
Name: Gloria J. Sweet-Love
Title: President/Director-TN State Conference NAACP



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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was served on March 29, 2023, via email on the following:

DAWN JORDAN
Special Counsel
Dawn.Jordan@ag.tn.gov

ALEXANDER S. RIEGER (BPR #29362)
Assistant Attorney General
Alex.rieger@ag.tn.gov

PABLO A. VARELA (BPR #29436)
Assistant Attorney General
Pablo.varela@ag.tn.gov

ZACHARY L. BARKER
Assistant Attorney General
Zachary.Barker@ag.tn.gov

Office of the Tennessee Attorney General
Public Interest Division
P.O. Box 20207
Nashville, TN 37202

Attorneys for State Defendants

/s/ Blair Bowie
Blair Bowie

In the Matter of:

NAACP, et al.

VS

LEE, et al.

VICTORIA RICCI

March 27, 2023

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BERES & ASSOCIATES
COURT REPORTERS

www.beresandassociates.com
615.742.2550 | info@beresandassociates.com

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TENNESSEE CONFERENCE of the NATIONAL
ASSOCIATION for the ADVANCEMENT of
COLORED PEOPLE, on behalf of itself
and its members, et al.,

Plaintiffs,

vs.

Case No. 3:20-CV-01039

WILLIAM LEE, in his official capacity
as Governor of the State of Tennessee,
et al.,

Defendants.

30(b)(6) Deposition of:

VICTORIA RICCI

Taken on behalf of the Plaintiffs
March 27, 2023
Commencing at 9:31 a.m.

Reported by: Georgette K. Arena, RPR, LCR
BERES & ASSOCIATES
Licensed Stenographic Court Reporters
Post Office Box 190461
Nashville, Tennessee 37219-0461
(615) 742-2550

A P P E A R A N C E S

1
2
3
4 For the Plaintiffs:

5 MS. BLAIR BOWIE
6 MS. VALENCIA RICHARDSON
7 Attorneys at Law
8 Campaign Legal Center
9 1101 14th St. NW
10 Suite 400
11 Washington, DC 20005
12 (202) 736-2200
13 BBowie@campaignlegal.org
14 VRichardson@campaignlegal.org

15 and

16 MR. CHARLES K. GRANT
17 Attorney at Law
18 Baker, Donelson, Bearman,
19 Caldwell & Berkowitz, PC
20 1600 West End Avenue
21 Suite 2000
22 Nashville, TN 37203
23 (615) 726-5600
24 CGrant@BakerDonelson.com

25 For the Defendants:

MS. DAWN JORDAN
Special Counsel
MR. MICHAEL M. STAHL
Assistant Attorney General
Office of the Tennessee Attorney General
P.O. Box 20207
Nashville, TN 37202-0207
(615) 741-3491
Dawn.Jordan@ag.tn.gov
Michael.Stahl@ag.tn.gov

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I N D E X

Page

Examination
By Ms. Bowie 6

E X H I B I T S

Page

Exhibit No. 1 9
Notice of Deposition Pursuant to Fed. R.
Civ. P. 30(b)(6)

Exhibit No. 2 29
Ms. Ricci's notes

Exhibit No. 3 35
2022 Statistical Abstract

Exhibit No. 4 41
Policy 705.06

Exhibit No. 5 43
Policy 511.06

Exhibit No. 6 44
Policy 511.06

Exhibit No. 7 46
Eligibility to Vote after a Felony
Conviction

Exhibit No. 8 46
Certificate of Restoration of Voting
Rights

Exhibit No. 9 54
Memo dated 6.14.22

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Exhibit No. 10	55
Bates Stamp No. TDOC 000085 - 103 - Emails	
Exhibit No. 11	102
Memo dated 3.10.21	
Exhibit No. 12	112
Spreadsheet for SCCF	
Exhibit No. 13	113
Spreadsheet for HCCF	
Exhibit No. 14	113
Spreadsheet MLCC	
Exhibit No. 15	114
Spreadsheet for BCCX	

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S T I P U L A T I O N S

The 30(b)(6) deposition of VICTORIA RICCI was taken by counsel for the Plaintiffs, by Notice, at the offices of Baker Donelson, 1600 West End Avenue, Suite 2000, Nashville, Tennessee, on March 27, 2023, for all purposes under the Federal Rules of Civil Procedure.

The formalities as to notice, caption, certificate, transmission, et cetera, are expressly waived.

It is agreed that GEORGETTE K. ARENA, RPR, Notary Public and Licensed Court Reporter for the State of Tennessee, may swear the witness.

* * * * *

1 * * *

2 MS. JORDAN: Before we get started on
3 the questioning, I just want to say that we raise
4 objections that we raised in our March 30, 2023,
5 email. And we are raising them at all the
6 deposition, and we will just raise those here. And
7 that's all we need to say about it.

8 And I want to mention to Ms. Bowie and
9 Valencia, that she brought with this her today. Do
10 you want us to make a copy of this for you?

11 MS. BOWIE: Yes, please.

12 MS. JORDAN: All right.

13 MR. STAHL: Do you want me to?

14 (An off-the-record discussion was
15 held.)

16
17 VICTORIA RICCI,
18 was called as a witness, and after having been duly
19 sworn, testified as follows:

20
21 EXAMINATION

22 QUESTIONS BY MS. BOWIE:

23 Q. All right. We can go back on.

24 Good morning.

25 A. Good morning.

1 Q. My name is Blair Bowie. I represent the
2 plaintiffs in this case, Tennessee NAACP versus Lee.
3 I'm going to be asking you some questions today, as
4 you know.

5 Before we get started, I'm going to go over
6 some instructions, but before I get to that, can
7 you please state your name for the record?

8 A. Victoria Ricci.

9 Q. Okay.

10 MS. BOWIE: Do you need that spelled?

11 THE COURT REPORTER: No.

12 Q (BY MS. BOWIE) All right. Ms. Ricci, have
13 you ever taken a deposition before --

14 A. No.

15 Q. -- have you ever sat for a deposition?

16 Okay. So we will talk a little bit more
17 about that in a moment, but, generally, I'm going
18 to be asking you some questions. The court
19 reporter is here to transcribe everything we say.
20 To make things easier on her, we are going to try
21 not to speak over each other, speak at the same
22 time. So I would appreciate it if you can please
23 wait for me to finish asking any question before
24 you give an answer. And I'll try to do the same.

25 So that the reporter is able to get

1 everything on the record, please answer out loud
2 with words rather than nodding, shaking your head,
3 saying huh-uh (negative), just to make sure that we
4 have a clear transcript.

5 A. Okay.

6 Q. If you don't understand a question, please
7 tell me, and I'll try to clarify it. If you answer
8 a question, I'll assume that you understood it.

9 A. Okay.

10 Q. Okay. You might hear your attorneys object
11 to a question I ask. That objection will be noted
12 for the record, but you must still answer the
13 question.

14 A. Okay.

15 Q. If you need a break at any time, just let us
16 know, and we will be happy to accommodate you. I
17 just ask that if I've asked a question, that you
18 wait to take the break until after you've answered
19 that question.

20 A. Okay.

21 Q. Okay. Do you understand that you are under
22 oath today?

23 A. Yes.

24 Q. Okay. Is there any reason why you cannot
25 give truthful answers to my questions today?

1 A. No.

2 Q. Okay. Are you taking any medications that
3 impair your memory?

4 A. No.

5 Q. Do you have any conditions that impair your
6 memory?

7 A. No.

8 Q. Okay. I want to talk a little bit about how
9 you prepared for the lawsuit today.

10 And before I do that, I'm going to introduce
11 Exhibit 1.

12 (WHEREUPON, the above-mentioned
13 document was marked as Exhibit Number 1.)

14 Q (BY MS. BOWIE) Okay. Have you seen this
15 document before?

16 A. Yes, ma'am.

17 Q. Okay. What do you understand this document
18 to be?

19 A. This is the lawsuit against William Lee.

20 Q. This is the deposition notice.

21 A. Oh, deposition notice.

22 Q. Yeah. So it has the same caption. It looks
23 the same at the top?

24 A. Uh-huh (affirmative).

25 Q. Do you understand that this is the document

1 that's setting the terms of the deposition today?

2 A. Yes, ma'am.

3 Q. Okay. And you have seen this document
4 before?

5 A. Yes.

6 Q. Okay. And you understand that even though it
7 says March 27 here, that this deposition is a
8 continuation of one that started on March 27 --

9 A. Yes.

10 Q. -- is that right?

11 A. Yes.

12 Q. Did you look at any documents in preparation
13 for the deposition today?

14 A. I looked at a memo that was created by myself
15 on the process. I looked at the policy pertaining
16 to restoration of voters' rights.

17 Q. Do you remember which policy that is?

18 A. 706.05.

19 Q. Okay.

20 A. I looked at our pre-release orientation
21 booklet, so the pre- -- pre-release training manual.
22 I looked at the TEPE spreadsheet, and then various
23 emails that were from Bryce, Brian, Josh, and
24 Thomas.

25 Q. What were those emails about?

1 A. They were about -- they included the
2 spreadsheet in there, the information pertaining to
3 how restoration of voters' rights are completed
4 within our facilities. I believe that was it.

5 Q. Which spreadsheet are you referring to?

6 A. The TEPE spreadsheet.

7 Q. Okay. Did you look at any other documents in
8 preparation for the deposition today?

9 A. I'm trying to remember everything I've looked
10 at. I looked at the restoration of voters' rights
11 application along with the instructions as well.

12 Q. Okay.

13 A. And then reviewed our reentry policy 511.06.

14 Q. Okay. Anything else?

15 A. Not that I can recall.

16 Q. All right. Okay. Did you speak to anyone in
17 preparation for today's deposition?

18 A. I spoke to Jody Kahn, who is one of our
19 reentry specialists that was here before I assumed
20 the position in 2019.

21 Q. Okay.

22 A. And I spoke to Jenny Brenner, who is our
23 general counsel for Tennessee Department of
24 Correction.

25 Q. Okay. I'm not going to ask any questions

1 about conversations you had with attorneys. I'm not
2 going to ask about the content of any of those
3 conversations.

4 How many times did you meet with Ms. Kahn.

5 A. We spoke over the phone.

6 Q. Okay.

7 A. Talked for about ten -- ten minutes.

8 Q. Ten minutes, okay. What did you speak about?

9 A. We spoke about what was the process before I
10 assumed the position on restoration of voters'
11 rights.

12 Q. How far back did her knowledge on that go?

13 A. Approximately 2009.

14 Q. Okay. And you covered all that in ten
15 minutes?

16 A. Yeah, it wasn't very much. We just talked
17 about what did she do for restoration of voters'
18 rights.

19 Q. And she had your position?

20 A. She did not. She was the reentry specialist.
21 Before me, there was not a position for reentry
22 director.

23 Q. Okay. Got it.

24 How many times did you meet with -- and I'm
25 sorry, can you remind me of the name of the second

1 person?

2 A. Jen Brenner.

3 Q. Jen Brenner. And you said she's an attorney
4 at TDOC?

5 A. Yes, ma'am.

6 Q. Okay. How many times did you meet with
7 Ms. Brenner?

8 A. We did not meet. We conversed over email.

9 Q. Okay. Did you meet with anyone else?

10 A. Just the attorneys. So, no.

11 Q. Okay. You mean these attorneys?

12 A. Yes, ma'am.

13 Q. Okay. How many times did you meet with these
14 attorneys?

15 A. Two.

16 Q. Okay. And at about how long did you spend in
17 those meetings?

18 A. Approximately two, two and a half hours.

19 Q. Each?

20 A. Yes. Each time.

21 Q. Each time. Okay. When were those meetings?

22 A. The first one was on Monday. The second one
23 was on Thurs -- what's today? Yesterday. So
24 Wednesday.

25 Q. Wednesday. Okay. Was there anyone else

1 present in those meetings?

2 A. Just myself and the attorneys.

3 Q. Okay. When were you asked to testify at this
4 deposition?

5 A. Last Thursday.

6 Q. Okay. Prior to that, were you aware of this
7 lawsuit?

8 A. Only a week before that was I aware of this
9 lawsuit.

10 Q. How did you become aware of the lawsuit?

11 A. Jen Brenner communicated to myself and my
12 supervisor about the lawsuit.

13 Q. What did she say about it?

14 A. She just asked for anyone that had knowledge
15 of restoration of voters' rights inside the
16 facilities.

17 Q. Have you ever been asked to produce any
18 documents for this lawsuit?

19 A. I produced policy 511.06. I produced the
20 pre-release orientation manual. I produced our
21 reentry packet, which is contained in Policy 511.06.

22 Q. Okay. Got it.

23 And when you said earlier that you reviewed
24 the pre-release training manual, is that the same
25 or different than that packet?

1 A. That is -- the -- so the packet is the
2 release packet. The manual is the class that the
3 inmates take before they are released. So they are
4 separate.

5 Q. Okay. Did you produce any materials from
6 that class?

7 A. It's all in the pre-release orientation
8 manual.

9 Q. It's all in the manual. Is that the same as
10 that policy?

11 A. No. The policy is separate from that.

12 Q. Okay. Did you produce the manual?

13 A. Yes. I see it right there.

14 Q. Okay. Great.

15 And did you help produce the spreadsheet
16 from the TEPE database?

17 A. I did not.

18 Q. Okay. Do you know who produced that?

19 A. I believe it was Bryce.

20 Q. Okay. All right. So you learned about this
21 lawsuit, it sounds like, last week; is that correct?

22 A. I was asked to do the deposition last week.
23 The week prior, I learned about the lawsuit.

24 Q. Okay. So two weeks ago.

25 What is your understanding of what this

1 lawsuit is about?

2 A. My understanding is that inmates -- everyone
3 get the opportunity to apply for the restoration of
4 voters' rights.

5 Q. That's the goal of this lawsuit?

6 A. Yes.

7 Q. Okay. Did you speak with anyone else in
8 preparation for this deposition?

9 A. No.

10 Q. Okay.

11 A. I take that back. I talked to my supervisor,
12 Carissa Miniard, just letting her know that I was
13 doing this deposition.

14 Q. Okay. So not about any of the content?

15 A. Not about any of the content, no.

16 Q. Okay. So aside from what we've already
17 discussed, did you do anything else to prepare for
18 this deposition?

19 A. I read over the documents that were provided
20 to me.

21 Q. Uh-huh (affirmative). And those were the
22 ones that we've already talked about?

23 A. Correct.

24 Q. Okay. All right. Let's look at Exhibit 1
25 again. So this is the deposition notice?

1 A. Uh-huh (affirmative).

2 Q. If you turn to Page 4, please, and then
3 continuing on through Page 8, these are the topics
4 for today's deposition. Do you understand that?

5 A. Yes, ma'am.

6 Q. Okay. And you've looked through these
7 before?

8 A. I briefly looked through them, yes.

9 Q. Okay. Do you feel prepared to testify on all
10 these topics?

11 A. I'm prepared to testify the best I can.

12 Q. Okay. Are there any limitations on what you
13 are prepared to testify on today?

14 A. I cannot testify as to what they do in
15 community supervision.

16 Q. Uh-huh (affirmative).

17 A. I can only testify to what our process is
18 inside the facilities, and our reentry counselors.

19 Q. Okay.

20 A. I also cannot testify to what they do at the
21 election boards' offices.

22 Q. Sure. And you understand that you are a
23 representative of TDOC for purposes of this
24 deposition --

25 A. Yes, ma'am.

1 Q. -- is that correct?

2 Okay. All right. Let's turn to your
3 professional and educational background.

4 A. Uh-huh (affirmative).

5 Q. Could you please start by describing or
6 summarize your educational background?

7 A. Yes. So I received my bachelor's degree at
8 John Jay College of Criminal Justice in Manhattan.
9 And then I am currently enrolled in my master's of
10 public administration at Tennessee State University.

11 Q. Okay. And can you please describe your work
12 history?

13 A. Yes. So I started as a case manager at
14 Trousdale Turner Correctional facility in 2016.

15 Q. Sorry. Is that Tennessee?

16 A. Yes. Trousdale Turner Correctional facility
17 in Hartsville, Tennessee.

18 Q. In Hartsville, okay.

19 A. From there, I became the risk needs
20 assessment quality assurance for Middle Tennessee.

21 Q. That's also with TDOC?

22 A. Yes, ma'am.

23 Q. Okay. Is that in a central office for --

24 A. It's in -- we were located at -- Day
25 Reporting Center is where our office was, but we

1 would do quality assurance of risk needs assessments
2 for the entire state.

3 Q. Okay.

4 A. And then from there, I obtained the case
5 manager coordinator position within TDOC, overseeing
6 the case management process. And now I am currently
7 the director of reentry services for Tennessee
8 Department of Correction.

9 Q. Okay. When you were a case manager at the
10 Trousdale facility, what did your work involve?

11 A. It involved handling day-to-day activities of
12 the offenders within the unit, classifying them to
13 their custody level, doing PREA assessments --

14 Q. Sorry. What does that mean?

15 A. PREA, Prison Rape Elimination Act.

16 Q. Okay.

17 A. You would have to do assessments to make sure
18 that they don't qualify as an aggressor or as a
19 victim. So you would just go over their history
20 with them. And then we did risk needs assessments
21 starting in 2016.

22 Q. What does that entail?

23 A. Risk needs assessment, it has a guide --
24 interview guide, and there's approximately 40
25 questions that you go through with them. You input

1 it into our software. And then it comes out with
2 their risks and their needs. And then you complete
3 a case plan for them, so which program we would put
4 them in.

5 Q. Okay. And this is for when people are
6 exiting the facility or --

7 A. No. This is for when people are inside the
8 facility.

9 Q. Okay. When they are entering or just at some
10 point while they are inside?

11 A. So they get it as they are entering and every
12 year.

13 Q. Okay.

14 A. Once a year.

15 Q. Okay. Got it.

16 And then your next position was risk needs
17 assessment for the -- the entire division --

18 A. Uh-huh (affirmative).

19 Q. -- is that right?

20 A. Correct.

21 Q. And what does that position entail?

22 A. We would collect approximately 10 to 15
23 assessments throughout the state at random and go
24 through each questionnaire and make sure that the
25 information was accurate compared to what was

1 provided to us in the OMS system.

2 Q. Okay. So you were sort of getting the
3 underlying documents and then checking that against
4 what was put in the OMS system --

5 A. Yes.

6 Q. -- is that right?

7 A. Yes, ma'am.

8 Q. Okay. And that would be a random sample for
9 across the division?

10 A. Exactly, yes.

11 Q. And what did you do if you found that those
12 did not match what was in the OMS system?

13 A. We had to request that they would update the
14 information into the OMS system to match what we had
15 found.

16 Q. Okay. What were some common errors that you
17 might see?

18 A. I would see a lot of alcohol and drug use.
19 They would mark that they didn't have a problem, but
20 they would have charges from out of state and such
21 that did involve drugs.

22 Q. So they may have missed those out-of-state
23 charges?

24 A. Uh-huh (affirmative).

25 Q. But you were able to see that?

1 A. Yes.

2 Q. How do you find the out-of-state charges?

3 A. We would have to look at their judgment
4 orders or their NCSCs.

5 Q. Were the officers who were doing that initial
6 risk assessment supposed to do that as well?

7 A. Sometimes they do not have access to that.

8 Q. Okay. If you found that there were
9 inconsistencies or problems with the risk
10 assessments, would you recommend retrainings for the
11 officers?

12 A. Yeah. So if they scored below an 80, they
13 were at that point in time -- I don't know what the
14 process is now -- but they did have to go through a
15 retraining process if they scored under 80.

16 Q. What does that mean, score under 80?

17 A. So there's ten different sections. And then
18 if they miss two sections, it would equal them to be
19 80. If they ever scored 80 and below, they would
20 have to go back through retraining or kind of like a
21 coaching session.

22 Q. Uh-huh (affirmative). Got it.

23 And how big were the random samples,
24 typically?

25 A. Approximately 10 to 15.

1 Q. 10 to 15. And how often did you review them?

2 A. Monthly.

3 Q. Monthly. Okay.

4 A. But I was not the only one.

5 Q. Right. Okay.

6 How many risk needs assessments would be
7 done on a monthly basis?

8 A. Throughout the state?

9 Q. Throughout the division.

10 A. I'm not positive.

11 Q. Because you were only looking at the
12 division, right?

13 A. I was only looking at this division, and I
14 was one of two people.

15 Q. Okay. Yeah. I was just sort of asking.

16 Do you know what percentage of the total
17 that 10 to 15 might represent?

18 A. I think it was 5 percent, to the best of my
19 knowledge.

20 Q. Okay. Got it.

21 All right. And remind how long were you in
22 that position?

23 A. I was only in that position for seven months.

24 Q. Seven months?

25 A. Uh-huh (affirmative).

1 Q. Okay. And what years were those or --

2 A. That was 2018.

3 Q. Okay. And then you moved into the role of
4 case manager coordinator; is that right?

5 A. Yes, ma'am.

6 Q. Okay. And is that also based in the middle
7 division?

8 A. That is based at our central office division.

9 Q. So were you covering the whole state then?

10 A. Yes.

11 Q. Okay. And you were in that position from
12 2018 until when?

13 A. Until 2021.

14 Q. Okay. And that's when you became the
15 director of reentry?

16 A. Yes, ma'am.

17 Q. As case manager coordinator, can you tell me
18 what your responsibilities were?

19 A. I overseen the correctional counselor initial
20 training for new employees coming in. Correctional
21 counselor booster, which is a yearly training that
22 each counselor receives on any updates that may have
23 occurred within the year. I oversaw -- I did
24 oversee the reentry process during that time because
25 my position was reclassified to the director of

1 reentry services.

2 Q. Where was it before that?

3 A. What was that?

4 Q. You said it was reclassified. Where was it?

5 A. Yeah. So the case manager coordinator was
6 reclassified to the director of reentry because
7 there was never a director of reentry before me.

8 Q. So that job became the director of reentry?

9 A. Yes.

10 Q. Okay.

11 A. Yes. However, the duties have now been more
12 aligned to just focus on reentry.

13 Q. Okay.

14 A. I did oversee the reentry process. I oversaw
15 Policy 511.06, 508.04.

16 Q. I'm not familiar with that one.

17 A. 508.04 is counseling services.

18 Q. Okay.

19 A. I oversaw Policy 511.05 and Policy 511.08.

20 Q. And what are those policies about?

21 A. 511.05 is the driver's license issuance
22 process.

23 Q. What is that?

24 A. So inside our facilities our -- every
25 eligible offender that is being released is provided

1 a driver's license or ID inside the facility. We
2 have kiosks inside there. And our reentry
3 counselors or the issuance staff issue them a
4 driver's license free of charge --

5 Q. Uh-huh (affirmative).

6 A. -- before they are released.

7 Q. Okay. And then 511.08?

8 A. 511.08 is driver's license and Social
9 Security card issuance. So every offender that is
10 being released also receives a birth certificate and
11 a Social Security card if they request it or if they
12 are eligible.

13 Q. Okay. Any other responsibilities in that
14 position as case manager coordinator?

15 A. The reentry process, I mentioned that.

16 Q. Uh-huh (affirmative).

17 A. I was facilitating CBIP, C-B-I-P training,
18 which is our Cognitive Behavioral Intervention
19 Program training. So anyone that was going to
20 facilitate that class, I would prep them to
21 facilitate that class.

22 Q. Okay. And what did that consist of?

23 A. That consists of training them on group
24 facilitation skills and understanding the CBIP
25 material.

1 Q. Okay. Did you produce materials in that role
2 as well?

3 A. We had a PowerPoint that was used, and we
4 trained through Teams.

5 Q. Okay. And you didn't make that PowerPoint?

6 A. That PowerPoint was made in conjunction with
7 the staff that oversees CBIP training.

8 Q. Got it. Okay. And then your current role as
9 director of reentry, can you describe your
10 responsibilities, please?

11 A. Yeah. So I oversee 22 different reentry
12 counselors that are spread throughout our state.
13 There's at least one reentry counselor in each
14 facility. So at this point now I keep track of the
15 reentry applications that are completed. I keep
16 track of the driver's license, and issuance, who
17 gets those and the amount of -- that are issued,
18 along with the financial report that comes in
19 monthly that we pay to Department of Safety. I
20 oversee the birth certificate process, the Social
21 Security card process, all the policies listed
22 previously in the case management coordinator
23 position. The restoration of voters' rights, I
24 oversee that process for our reentry team. And then
25 anything pertaining to an inmate that is being

1 released falls under my purview.

2 Q. Okay. And what month in 2021 did you start
3 that position?

4 A. I cannot tell you an exact date.

5 Q. That's okay. Do you remember the season?

6 A. I remember -- yeah, it was summertime.

7 Q. Okay.

8 A. It was about summertime when it got
9 reclassified.

10 Q. Got it. Okay.

11 Are there any other roles or jobs that you
12 you've had that we haven't talked about yet?

13 A. Previously, in New York I worked with DHS,
14 the child support division.

15 Q. Okay. Was that while you were in school?

16 A. That was when I graduated college, and I was
17 only there for about four months before we relocated
18 here.

19 Q. Okay. Then you started at Trousdale?

20 A. Yes.

21 Q. Okay.

22 MS. BOWIE: Before we move on, I want to
23 introduce this document into evidence as well.

24 These are your notes.

25 THE WITNESS: Oh, yeah, yeah.

1 MS. BOWIE: So this is going to be
2 Exhibit 2.

3 (WHEREUPON, the above-mentioned
4 document was marked as Exhibit Number 2.)

5 Q (BY MS. BOWIE) Can you say for the record
6 what that is?

7 A. These are my notes that I made last night
8 while I was preparing.

9 Q. Okay. Thank you.

10 All right. I would like to ask you some
11 questions about the structure of TDOC.

12 A. Uh-huh (affirmative).

13 Q. And, apologies, if these questions are -- you
14 know, reveal my limited knowledge of how it's
15 structured. But can you sort of give me an outline
16 of the basic structure of the organization?

17 A. So at the top is the Commissioner of
18 Tennessee Department of Correction. From there,
19 there is a deputy commissioner. And then it falls
20 down to the assistant commissioners, one that covers
21 prison operations, one that covers rehabilitative
22 services, one that covers community supervision, and
23 then one that covers project management. And then
24 from there, underneath there, they have direct
25 support staff, which would include correctional

1 administrators and directors.

2 Falling into community supervision, what I
3 do know is that they have a district director, a
4 manager, and then probation/parole officers.

5 At the facility level, they have a warden,
6 at least two assistant wardens, one for security,
7 one for treatment. Then they have a chief
8 counselor, correctional counselors. And within the
9 correctional counselors, they have specific roles.
10 So whether it be reentry specialist, classification
11 specialist, or orientation specialists, or a unit
12 counselor.

13 Q. I'm sorry. This is -- you are -- that is a
14 lot. That was under rehabilitative services or
15 prison operations?

16 A. So the prisons fall with -- all three have
17 services and prison operations. So AC of Rehab
18 Services covers the counselor side.

19 Q. Okay.

20 A. Along with education and medical -- well,
21 they do not cover medical anymore. There is an
22 assistant commissioner, if I can go back, of medical
23 services now.

24 Q. Okay.

25 A. And then on the security side, I believe

1 there's a major, a corporal, a lieutenant, and then
2 correctional officers.

3 Q. Okay. And reentry falls under which part?

4 A. Rehab services.

5 Q. Rehab services.

6 A. So it's the reentry counselor. Their direct
7 supervisor is the chief counselor, and then it goes
8 up to assistant warden of treatment, and then to the
9 warden.

10 Q. Okay. And reentry deals with people who are
11 being released from prison; is that correct?

12 A. Yes.

13 Q. Okay. Is that always the case?

14 A. What do you mean, is that always the case?

15 Q. Is it only people who are being released from
16 prison that go into the reentry programs?

17 A. So it's not, per se, a program. It's more
18 like case management.

19 Q. Okay.

20 A. So, yes, it's anyone that is either paroling
21 or expiring that meets with the reentry specialist.

22 Q. Okay. And so folks who are expiring, that
23 just means they are being released from prison and
24 their sentence is over; is that correct?

25 A. Correct.

1 Q. And if they're paroling, they are now on
2 community supervision, but they still also have a
3 reentry case manager; am I understanding that
4 correctly?

5 A. So, yeah, the people that are releasing on
6 parole will still meet with our reentry specialists
7 to prepare them for the free world. When they are
8 released on parole, they will have to do parole
9 intake and meet with their parole officer.

10 Q. And then is that case transferred --

11 A. The case is transferred --

12 Q. -- to supervision?

13 A. -- yes.

14 Q. So that's sort of the interim stuff there?

15 A. Yes.

16 Q. Okay. Can you describe the structure of the
17 reentry side one more time?

18 A. So the staff, or what the reentry counselors
19 do?

20 Q. The staff.

21 A. Okay. So it starts with the reentry
22 specialist, is overseen by the chief counselor. The
23 chief counselor is then overseen by the AWT, which
24 is the assistant warden of treatment --

25 Q. Okay.

1 A. -- who then is overseen by the warden.

2 Q. And is that divided by region, or how does
3 that --

4 A. So each facility has their own warden and
5 their own team.

6 Q. So each of them are associated with an
7 incarcerating facility?

8 A. Yes.

9 Q. How many incarcerating facilities are there
10 in the state?

11 A. I believe there's 16 facilities to include
12 the CoreCivic facilities.

13 Q. Okay. What are the CoreCivic facilities?

14 A. Our Trousdale Turner Correctional facility in
15 Hartsville, Tennessee. Whiteville Correctional
16 facility in Whiteville, Tennessee. Hardeman
17 Correctional facility in Whiteville. And then South
18 Central facility in Clifton, Tennessee.

19 Q. And the CoreCivic prisons are run by a
20 private company; is that right?

21 A. Yes, ma'am.

22 Q. Okay. That they are contracting with TDOC?

23 A. Yes.

24 Q. All right. Okay. I think I understand. But
25 if I have to come back to it later, I apologize.

1 A. Yeah.

2 Q. I think you have here in your notes something
3 about the numbers of people expiring their sentences
4 as of March 2023. Do you know what that -- what
5 does that number mean?

6 A. Yeah. So approximately 1400 inmates expired
7 as of March 2023. That data also included expiring
8 for various reasons. So that's why I cannot give
9 you an exact number of the actual inmates that
10 expired, but I can give you an approximate number.

11 Q. And does that mean that that's how many
12 people expired their sentence in March --

13 A. No.

14 Q. -- or so far --

15 THE COURT REPORTER: One at a time,
16 please.

17 THE WITNESS: Yeah. Can you repeat your
18 question, please?

19 Q (BY MS. BOWIE) What time period does that
20 number cover?

21 A. That covers from July 2022 to March 2023.

22 Q. Okay. And you anticipated my question
23 because I was trying to get a handle on the number
24 of folks who are expiring directly from prison.

25 Can we make this Exhibit 3, please?

1 (WHEREUPON, the above-mentioned
2 document was marked as Exhibit Number 3.)

3 Q (BY MS. BOWIE) Have you seen this report
4 before?

5 A. I have.

6 Q. Okay. Is this where you got that number?

7 A. Let me review it real quick because there's
8 multiple reports.

9 This is not where I got that number.

10 Q. Okay. Where did you get that number?

11 A. I got this number off our current data that
12 is tracked in our TDOC web page, statistical data.

13 Q. Okay.

14 A. That's updated monthly.

15 Q. And is it your understanding that that will
16 be what populates next year's report?

17 A. Yes.

18 Q. Okay. So this is from last year?

19 A. Correct.

20 Q. Can you point me to which column corresponds
21 with the number you gave me for this year?

22 A. If you go to the first table, go over to
23 expiration and others.

24 Q. Okay.

25 A. And fall down to March, it would have all of

1 those expiration and others in that column. And
2 down below in the total section, it would give me
3 the total of the 1468.

4 Q. Got it.

5 So the corresponding number from last year
6 was 2,422 for the year; is that right?

7 A. Yes, ma'am.

8 Q. Okay. So the number is about the same this
9 year, if we are thinking about how many months have
10 passed, is that -- would you say that you are seeing
11 about the same number of folks being released?

12 A. I would say that there is less --

13 Q. Okay.

14 A. -- this year than what it looks like last
15 year.

16 Q. In your experience is there roughly an
17 average number per year?

18 A. I would say the average -- I can give you
19 monthly. The average monthly is about 175 --

20 Q. Okay.

21 A. -- from the data that I looked at this year.

22 Q. Got it.

23 And do you know what these other tables are
24 referring to? Do you know what TDOC backup is?

25 A. I do not know what TDOC backup is.

1 Q. Okay. How about locally sentenced?

2 A. Those are the individuals that will -- were
3 locally sentenced at the county jails that now
4 obtained a TDOC sentence.

5 Q. Okay. So if those folks were released
6 from --

7 A. The county.

8 Q. -- county jail, that would be that column,
9 that same column there?

10 A. Yes, ma'am.

11 Q. And are they now under TDOC supervision?

12 A. If they are on parole, yes. If they have
13 expired, no.

14 Q. Okay. So is the right figure to look at for
15 everyone who has been released, or who has expired
16 their sentence, can it be that top one, TDOC, or
17 System Total, from your understanding?

18 A. Since I cannot speak to the TDOC backup, I
19 can't -- I cannot answer if that would be the system
20 total.

21 Q. Okay.

22 A. The number that I focus on is the felon
23 inmates released in Tennessee, that first table.

24 Q. That first table. So the one that just says,
25 TDOC?

1 A. Uh-huh (affirmative).

2 Q. And do you know if that includes the
3 CoreCivic facilities?

4 A. It does.

5 Q. Okay. So, just to make sure I'm
6 understanding, those folks who are expiring, does
7 that mean that they are being released, or might
8 some of those folks be headed to parole?

9 A. That number includes the people that are
10 expiring their sentence. They are not going to
11 parole. However, they can have a detainer in
12 another county for another charge or another state
13 for another charge. So that number doesn't reflect
14 those who have a detainer.

15 Q. And if they have a detainer, does that mean
16 that they are going to be transferred into someone
17 else's custody?

18 A. Yes.

19 Q. Okay. But for TDOC's purposes, they've been
20 fully released and completed their sentence?

21 A. Yes.

22 Q. All right. Okay. Let's talk a little bit
23 about the voting rights restoration process. What
24 is TDOC's role in the restoration of voting rights
25 for people with past felony convictions?

1 A. So on my side, the reentry specialist will
2 review anyone that is eligible. So that means that
3 they have expired. They do not have a detainer. We
4 can verify all their court costs and fees and fines
5 have been paid off. And they fall within the
6 purview of not having the specific crimes allowed.

7 If they know that they are eligible, or the
8 offender asks to be reviewed to be eligible, our
9 reentry specialists are then going to complete
10 Section 1 of that application, and then Section 2,
11 which is the court fines and fees. They can only
12 fill out the court fines and fees, though, if they
13 can verify from the county clerk, or that the
14 offender has paperwork stating that these fines and
15 fees have been paid off.

16 Once they are done completing that
17 application, we are going to keep a copy in the
18 inmate's file, and we are going to put a copy in
19 the reentry release packet.

20 The reentry release packet will then be
21 given to them upon release. And they are to bring
22 it to the county's election office. And then they
23 would determine their eligibility further by
24 checking the information that they need to.

25 Every offender is given the opportunity of

1 completing a COR. And we ensure that by talking
2 about it at their milestone assessments. We talk
3 about it in their pre-release orientation class.
4 And we provide an application in the release packet
5 and instruct them, if they are going out on parole,
6 or they just didn't fill it out during expiration,
7 they can go to the local probation/parole office
8 and have that process completed.

9 Q. It's a thorough summary.

10 We are going to talk about some of the
11 pieces --

12 A. Okay.

13 Q. -- of that a little bit more.

14 But is it your understanding that that --
15 that policy that you just described has always been
16 how the reentry services handle voting rights
17 restoration?

18 A. So voters' restoration is not listed in
19 Policy 511.06 yet. We are working on getting that
20 inside our policy.

21 However, there was a memo sent out. I don't
22 have the memo in front of me, so I can't tell you
23 the exact date.

24 But prior to my position in 2019, the COR
25 paperwork was just provided in the reentry packets

1 and instructed to be filled out by the parole
2 offices.

3 Q. Okay. So the reentry specialists at that
4 time would not fill out any of it?

5 A. They did not. They were instructed to give
6 it to the parole offices to fill out.

7 Q. Okay. And that was prior to?

8 A. 2019.

9 Q. 2019. Not prior to when you sent that memo?

10 A. No. Because I started instructing them in
11 2019 to start on the voters' restoration process.

12 Q. Okay. All right. So we talked -- you
13 mentioned a few policies. I want to look at those
14 in some detail. The two policies that you've
15 mentioned a few times are 705.06.

16 A. 706.05.

17 Q. Is this the correct policy? And this is an
18 older one. We are going mark this as Exhibit 4.

19 (WHEREUPON, the above-mentioned
20 document was marked as Exhibit Number 4.)

21 Q (BY MS. BOWIE) Actually, I gave you one that
22 I had written on. I'll give you this.

23 Okay. I just wanted to give you that.

24 All right. So what's your understanding of
25 this policy?

1 A. This is the community supervision's policy
2 that covers restoration of voters' rights.

3 Q. Okay. And we are looking at an old version
4 of this, this one. Do you see effective date there?

5 A. I do.

6 Q. Can you say what it is?

7 A. May 15, 2013.

8 Q. Okay. And you said this is just for
9 community supervision; is that right?

10 A. Yes, ma'am.

11 Q. Okay. So this would not apply to reentry at
12 all?

13 A. No. We are not covered in this policy.

14 Q. Okay. Got it. Do you think that there's
15 ever been any confusion about that?

16 A. Not to my knowledge.

17 Q. Okay. So it's your understanding that
18 reentry officers have never used this policy?

19 A. I cannot say whether they have or have not
20 used this document policy prior to me coming in
21 2019.

22 Q. But it's your understanding that this has not
23 applied to reentry services?

24 A. They have not had to directly be part of this
25 policy, no.

1 Q. Okay. I'm going go ahead and set those
2 aside.

3 And the other policy that you mentioned a
4 couple times is 511.06; is that right?

5 A. Yes, ma'am.

6 Q. Okay. This is Exhibit 5.

7 (WHEREUPON, the above-mentioned
8 document was marked as Exhibit Number 5.)

9 Q (BY MS. BOWIE) And what is this policy?

10 A. This is the reentry services policy.

11 Q. Okay. And we are looking at an older version
12 of this, right? Do you see the effective date?

13 A. Yes. August 15, 2014.

14 Q. Okay. And so just so we are on the same page
15 about language, is this policy the pre-release
16 training manual?

17 A. No.

18 Q. That's a different document. Okay.

19 Does this policy include the pre-release
20 packet?

21 A. This contains the packet checklist of what is
22 printed on the manila envelope. However, this one
23 is very outdated.

24 Q. Okay. All right. And this one, in 2014, I
25 think you said earlier that this policy does not

1 include voting rights; is that right?

2 A. Correct.

3 Q. And that you are trying to get voting rights
4 included in this policy; is that right?

5 A. Correct. We have a newer version of this
6 policy that was released in 2021. And since then,
7 we have gone back and now added voters' rights
8 restoration, and it's way, in the process. So it's
9 in the queue.

10 Q. So this older policy wouldn't have it?

11 A. No.

12 Q. Okay.

13 A. And this is very outdated.

14 Q. Yeah. But it's your understanding at this
15 point it's still not in the policy?

16 A. No, it's not.

17 Q. Okay.

18 A. The only it thing that is in the policy
19 related to restoration of voters' rights is that it
20 be on the reentry packet checklist.

21 Q. Okay. Got it. So that's all matching. So
22 let's look at that, the most recent version of this
23 policy.

24 This is Exhibit 6.

25 (WHEREUPON, the above-mentioned

1 document was marked as Exhibit Number 6.)

2 Q (BY MS. BOWIE) Is this the correct version of
3 this policy?

4 A. Yes.

5 Q. Okay. Is the effective date on this is --

6 A. Okay.

7 Q. Sorry, go ahead.

8 A. June 1st, 2022.

9 Q. Okay. I suspect you may know already because
10 you may have reviewed this, but do you know where it
11 mentions voting rights in here?

12 A. Page 7 (i), It describes what will be in
13 their release packet.

14 Q. Okay.

15 A. And it says that the restoration of voters'
16 rights information will be in that packet.

17 Q. What does that refer to?

18 A. That refers to the information -- so on the
19 COR, it's two pages, of my understanding, and on the
20 backside, it has the instructions with it, and then
21 the information pertaining to who is eligible and
22 who is not.

23 Q. Is this part of it?

24 A. Yes.

25 MS. BOWIE: Okay. So let's just go

1 ahead and bring that in now. This is Exhibit 7.

2 (WHEREUPON, the above-mentioned
3 document was marked as Exhibit Number 7.)

4 Q (BY MS. BOWIE) And then the other part is the
5 COR itself?

6 A. Yes, ma'am.

7 MS. BOWIE: Okay. So let's go ahead and
8 bring that in as eight.

9 (WHEREUPON, the above-mentioned
10 document was marked as Exhibit Number 8.)

11 Q (BY MS. BOWIE) So when it says voting rights
12 information here, it's referring to these two
13 documents; is that right?

14 A. Yes.

15 Q. Okay. Anything else?

16 A. These are the two documents provided in the
17 reentry release packet.

18 Q. Okay. Do you see where else it mentions
19 voting rights in here?

20 A. It mentions it again on Page 7(b).

21 Q. Okay.

22 A. That they'll receive the application.

23 Q. Uh-huh (affirmative).

24 A. So what is Exhibit 8?

25 Q. 7(b). And does it say here that they will

1 fill out the application?

2 A. It does not.

3 Q. Okay. I think there's also mention on
4 Page 11?

5 A. Correct. So Page 11, Section N, No. 16.
6 Again, it's just stating that we will put the
7 restoration of voters' rights
8 information/application into their reentry release
9 packet.

10 Q. Okay. And Page 12 there, do you see the
11 expiration date?

12 A. Expiration date is June 1st, 2025.

13 Q. Thank you. And now are the attachments
14 here -- is this the packet, the reentry packet?

15 A. Yes. And, again, that's printed on a manila
16 envelope, which is a packet, and the paperwork is
17 put inside that packet.

18 Q. Got it. So this reentry packet checklist
19 envelope, that's what's printed on it?

20 A. Yes.

21 Q. And it does mention restoration of voting
22 rights there at the bottom?

23 A. Yes.

24 Q. Okay. And, again, it just says, information
25 and application, so these -- these two documents

1 Exhibit 7 and 8?

2 A. Yes.

3 Q. Okay. So would you agree nowhere in here
4 does it say that the certificate of restoration
5 should be filled out?

6 A. Not to my memory.

7 Q. Okay. And is there any requirement in here
8 that the officers who are discharging someone verify
9 whether or not the individual is eligible to have
10 their voting rights restored?

11 A. So do you mean parole officers?

12 Q. I think that this applies to anyone being
13 discharged. Is that right?

14 A. So this policy is just for reentry
15 specialists, which is the counselors, so...

16 Q. Okay. So there's nothing in here requiring
17 reentry specialists to determine whether or not
18 somebody is eligible for voting rights restoration;
19 is that right?

20 A. Again, not to my memory. I would have to
21 read this.

22 Q. Yeah. It's a long document, and that's fair.

23 But it sounds like you are working on trying
24 to get that included in an updated version of this
25 policy; is that correct?

1 A. Correct. I already have that written out and
2 everything.

3 Q. What would you like to see in that updated
4 version of this policy?

5 A. That every eligible offender that is leaving
6 our custody have a completed COR with their verified
7 information.

8 Q. Okay. Is there anything else you would like
9 to see in an updated version of that policy?

10 A. Pertaining to the voters' rights restoration?

11 Q. Yeah.

12 A. That they would have to then bring it to the
13 local county elections office --

14 Q. Okay.

15 A. -- to complete their steps of regaining their
16 voters' rights.

17 Q. That the reentry officers would do that?

18 A. No. The inmate could have to do that
19 themselves.

20 Q. So there would be instructions --

21 A. Yes.

22 Q. -- to that end?

23 A. Yes.

24 Q. Okay. Do you think that the current
25 instructions are helpful on that?

1 A. Not on this piece of paper because it doesn't
2 list out where the county elections office is. But
3 I do know that we do have a list in our reentry
4 offices of where those county elections offices are.

5 Q. Right.

6 A. That can be provided to the inmate that is
7 bringing the completed application.

8 Q. Okay. Does this Exhibit 7, does this
9 describe the voting rights restoration process?

10 A. This describes the people that are eligible
11 to regain their voters' restoration process.

12 Q. Does it describe people who are eligible to
13 regain their voting rights or people who are
14 eligible to vote despite having a felony conviction?

15 A. Let me reread this.

16 Q. Okay.

17 A. So my understanding is that this describes
18 the people that are eligible at the top. So this
19 page also describes those that are not eligible
20 based on the crimes that were committed and the
21 charges that they have.

22 Q. Okay. So it describes people who may have
23 the right to vote despite having a felony
24 conviction, like people who are convicted between
25 January 15, 1973 and May 17th, 1981, right?

1 A. So my understanding would be that these
2 people are not eligible to vote that have, for
3 example, voter fraud, treason, first-degree murder,
4 aggravated rape.

5 Q. Those people are not eligible to restore
6 their right to vote --

7 A. Uh-huh (affirmative).

8 Q. -- right?

9 A. Yes. Sorry.

10 Q. So it describes one of the eligibility
11 factors -- taking just that section at the top,
12 Conviction on or after May 18, 1981, it describes
13 one of the eligibility factors for rights
14 restoration, which is not having been conviction of
15 one of these specific felonies; is that right?

16 A. Yes.

17 Q. Okay. But it doesn't describe the other
18 eligibility criteria, right?

19 A. It does not.

20 Q. Okay. So it doesn't say anything about court
21 costs, restitution, child support --

22 A. It does not.

23 Q. -- completion of sentence?

24 Okay. When you started in your role, in
25 your current role, which, I guess we can say is a

1 continuation of case manager coordinator, if that's
2 fair?

3 A. Yes.

4 Q. You said earlier that you started instructing
5 the reentry officers to help with voting rights
6 restoration in 2019; is that right?

7 A. I did. But they are reentry specialists.

8 Q. Okay. Thank you.

9 What made you do that?

10 A. So we have been noticing a trend of offenders
11 asking us information on restoration of voters'
12 rights. So we knew that we could fill it out at the
13 parole offices. But after reviewing the
14 documentation, it just says that it needs to be an
15 agent or officer of the incarcerating authority.
16 And upon my research, I learned that the reentry
17 specialists are able to fill out that paperwork
18 representing TDOC.

19 Q. Okay. So to summarize, you felt that there
20 was no policy currently covering reentry specialists
21 regarding voting rights restoration at that time?

22 A. Correct.

23 Q. Okay. How did it come to your attention that
24 that was missing from the policies?

25 A. Upon speaking with our reentry counselors,

1 they informed me that that was a need that the
2 inmates were asking a lot of.

3 Q. Okay. So inmates had been asking to get
4 their voting rights restored?

5 A. Yes.

6 Q. And had they not been completing the forms
7 because there was no policy?

8 A. I'm not sure prior -- about any other
9 policies prior to mine. But at that time, there was
10 no policy covering reentry specialists to complete
11 the voters' rights restoration or instructions.

12 Q. Okay. So do you have a sense of how that was
13 playing out? Were the specialists filling out the
14 paperwork or not filling out the paperwork?

15 A. They were -- sorry. They were not filling
16 out the paperwork.

17 Q. Okay. Up until 2019?

18 A. Correct.

19 Q. Okay. Do you know if they ever wrote down or
20 otherwise recorded any of those requests for a
21 certificate of restoration?

22 A. Not at that time, no.

23 Q. Okay. So let's look at the policy that you
24 wrote.

25 Mark that as No. 9.

1 (WHEREUPON, the above-mentioned
2 document was marked as Exhibit Number 9.)

3 Q (BY MS. BOWIE) Have you seen this document
4 before?

5 A. Yes, ma'am.

6 Q. Can you describe what it is, please?

7 A. This is not policy. This is a memo to
8 instruct the reentry specialists on what the
9 procedure needs to be in order to help restore the
10 voting rights of our incarcerated individuals.

11 Q. Okay. And what's the date on this?

12 A. This is June 14, 2022.

13 Q. And just so it's clear for the record, who
14 wrote this?

15 A. Victoria Ricci. So myself.

16 Q. Yeah, okay. So prior to this, was there any
17 written document instructing the reentry specialists
18 to help with certificates of restoration?

19 A. No, there was not.

20 Q. You are saying it was part of your oral
21 instructions to them; is that correct?

22 A. Correct.

23 Q. Okay. Was it included in any trainings at
24 that time?

25 A. Not that I can recall.

1 Q. Okay. So what was the reason for putting
2 that instruction down in writing?

3 A. To have record of me instructing them to
4 begin the restoration of voters' rights.

5 Q. Is there any particular reason why you did
6 this at this time, in 2022?

7 A. Not that I can recall. First -- if I had to
8 remember something, it would be because we had a
9 larger number of newer reentry specialists. So I
10 thought it was important to make sure that they had
11 clear instructions.

12 Q. Okay. All right. I'll come back to this in
13 a few minutes.

14 You mentioned that you reviewed some emails
15 when you were preparing for today's deposition?

16 A. Yes.

17 MS. BOWIE: This is going to be
18 Exhibit 10.

19 (WHEREUPON, the above-mentioned
20 document was marked as Exhibit Number 10.)

21 Q (BY MS. BOWIE) Are these the emails that you
22 were talking about? You can take a moment...

23 A. Yes.

24 Q. Okay. All right. If you turn to the third
25 page, please, do you see who this email was from?

1 A. Yes. It's from Sharon N. Rose.

2 Q. Okay. Who is she?

3 A. To my understanding, she's the warden.

4 Q. Okay.

5 A. Associate warden of security at The Women's
6 Therapeutic Residential Center.

7 Q. Okay. So here she says that the reentry
8 packet is given to the offender, and within the
9 packet is SS-3041. Is that the certificate of
10 restoration form?

11 A. Yes.

12 Q. Okay. And then she says, If the offender
13 chooses to request restoration of their voting
14 rights, the reentry counselor must fill out Box 1
15 and signed by the appointing authority providing
16 this information. Did I read that correctly?

17 A. Yes.

18 Q. Okay. So here if the person being discharged
19 asks for the certificate to fill out, they will fill
20 it out; is that right?

21 A. Correct.

22 Q. Okay. But they won't, on their own, do an
23 eligibility assessment and fill it out without that
24 request; is that correct?

25 A. Correct.

1 Q. Okay. So they fill out Box 1 and then send
2 it to the inmate records department for Box 2. Is
3 that what it says?

4 A. That is what she states in her email, yes.

5 Q. Okay. What is the inmate records department?

6 A. That is the department that has contact with
7 our county courts and clerks.

8 Q. Okay.

9 A. And they keep files for all individual
10 inmates.

11 Q. Is there one of those in each facility?

12 A. There is.

13 Q. Okay. So if the person requests it, it
14 sounds like Box 1 and 2 would be filled out, and
15 then the form would be given to the person being
16 released; is that correct, based on this email?

17 A. Let me read the bottom of the email.

18 That is what she states in the email, yes.

19 Q. Okay. So this facility was not filling out
20 Box 3 or 4 at the time of this email; is that
21 correct?

22 A. That's what it states in the email, yes.

23 Q. Okay. So at this facility, it doesn't appear
24 that they would assess the person being discharged
25 eligibility for voting rights restoration before

1 filling out Box 1 or 2 either; is that right?

2 A. By the email, that's the way it looks.

3 Q. Okay. And do you see in the second to the
4 last sentence here it says, It will be the
5 ex-offender's responsibility to take it to the
6 courts or proper authorities for Box 3 and 4 to be
7 filled out regarding offender's restitution, court
8 fines, and signed by the appointing authority
9 providing this information. Did I read that
10 correctly?

11 A. Yes.

12 Q. Okay. Is it your understanding that court
13 fines impact the right to vote?

14 A. To my understanding, it does.

15 Q. Okay. All right. If you wouldn't mind
16 flipping over to the page that has some highlighting
17 on it. I think it's about three pages further. Do
18 you see who this email was from?

19 A. This is from Melinda K. Shell.

20 Q. Who is that?

21 A. I am not positive who that is.

22 Q. What is NWCX?

23 A. Northwest Correctional Complex.

24 Q. Okay. So is it your understanding that this
25 email is describing, according to the NWCX's records

1 department their process regarding restoration of
2 voting rights?

3 A. Give me one second.

4 That is what Melinda Shell describes in her
5 email.

6 Q. Okay. And it says, When we sign them out to
7 go home, inmates have to sign that they received a
8 copy of the restoration of citizenship rights, and
9 it's kept in his file after inmate leaves.

10 Did I read that correctly?

11 A. Correct.

12 Q. All right. So is it doesn't say here that
13 they would fill it out; is that right?

14 A. It does not say that in her instructions, no.

15 Q. Okay. And it doesn't say here that they
16 would check the person's eligibility for voting
17 rights restoration, right?

18 A. It does not say that in that email.

19 Q. Okay. And when they say that they have to
20 sign that they received it, is it your understanding
21 that that's checking to make sure that everything on
22 the outside of the envelope is included the packet,
23 and then signing that it's all there?

24 A. That would have to be an assumption because
25 it doesn't necessarily state that in the email what

1 they are signing.

2 Q. Is that part of the process when someone is
3 being discharged?

4 A. They do not sign the packet.

5 Q. Okay.

6 A. I would have to review the packet.

7 Q. Is there anything that they sign that says
8 that they received the packet?

9 A. I know they sign some release forms when they
10 leave the prison.

11 Q. Okay.

12 A. So it may be included in that.

13 Q. Okay.

14 A. But I would have to review that
15 documentation.

16 Q. Okay. When they sign that form, is that kept
17 in the a file?

18 A. Yes.

19 Q. Yeah. Okay.

20 A. So they do not have to sign the reentry
21 packet checklist envelope, no.

22 Q. Okay. Yeah. I am making an assumption, and
23 I figured that you have more insight into the
24 process and would know what that means.

25 A. Yeah. I am not sure what she's referring to

1 that they are signing.

2 Q. Okay. All right. And if we could jump ahead
3 a couple of pages to where there's an email from
4 James W. Bowman, and this one has the stamp at the
5 bottom, and it's 000093.

6 A. Got it.

7 Q. Okay. Do you see here that -- we are going
8 to look at the email from James W. Bowman. Do you
9 see that?

10 A. I do.

11 Q. On Wednesday, June 1, 2022?

12 A. I do.

13 Q. Okay. Who is James W. Bowman?

14 A. He is my reentry specialist at Northeast
15 Correctional Complex.

16 Q. Okay. So that's NECX, correct?

17 A. Yes.

18 Q. Okay. Okay. Can you take a moment to read
19 this email and let me know when you looked it
20 through?

21 A. Okay.

22 I completed it.

23 Q. Okay. Can you summarize what he says here
24 was their process at the time?

25 A. So in summary of this email, he explains that

1 at that point in time, they were discussing the
2 voters' -- restoration of voters' rights in the
3 Planning for Your Success handbook, which is the
4 pre-release orientation class. And that they
5 provide the application in the release packets upon
6 release.

7 Q. Okay. And he says here, We are only
8 instructed to discuss the form, logistics therein;
9 is that right?

10 A. Correct.

11 Q. And then he goes on to say, The offender has
12 to appear before the judge following their release
13 and petition to have their rights restored; is that
14 right?

15 A. That's what he says in the email.

16 Q. Right. Is that your understanding of how the
17 process is supposed to work?

18 A. Not to my knowledge.

19 Q. Okay. So according to this would they fill
20 out the certificate of restoration?

21 A. Not according to this email.

22 Q. Okay. It seems like they would instruct them
23 to take it to the county election commission; is
24 that correct?

25 A. That's what it looks like in this email.

1 Q. Okay. And then it says at the bottom,
2 Outside of this, not much we can do?

3 A. That is what he states in the email.

4 Q. Okay. And you see that that email was sent
5 at 8:33 a.m.?

6 A. Yes.

7 Q. Okay. And then if you go to the one that's
8 stamped 97 at the bottom, please. Okay. Do you see
9 that this is another email from James W. Bowman?

10 A. Yes.

11 Q. Okay. And this one sent later that same day;
12 is that right?

13 A. Correct.

14 Q. Okay. All right. So in this one he says
15 that -- again, that they go through the certificate
16 of restoration of voting rights at the pre-release
17 orientation class; is that right?

18 A. Yes.

19 Q. Okay. And then offer the opportunity to ask
20 any further questions they may have concerning the
21 materials discussed including assistance in any form
22 presented in the class; is that correct?

23 A. Correct.

24 Q. But he says, I have not received any
25 handwritten requests for assistance in completing

1 the form, nor have I completed one in the classroom
2 setting; is that correct?

3 A. Correct.

4 Q. Okay. Do you know why he would need a
5 handwritten request to complete the form?

6 A. Inside the facilities they use an inmate
7 request form. And that is my assumption of what he
8 is referring to. So an inmate can request
9 assistance through the inmate request form.

10 Q. Okay.

11 A. And that's how they communicate if they are
12 not able to see their staff in person.

13 Q. Got it. Okay. And so here the reentry
14 specialist wouldn't fill out a form unless there is
15 a request; is that your understanding of what he is
16 saying here?

17 A. That is my understanding of the email.

18 Q. Okay.

19 THE WITNESS: Could I take a break to
20 use the bathroom?

21 MS. BOWIE: Why don't we take a
22 15-minute break.

23 (Short break.)

24 Q (BY MS. BOWIE) Back on the record.

25 Okay. So before we took a break, we were

1 looking at these emails, and I was just about to
2 ask you to you turn to the one that says, 102, at
3 the bottom, please?

4 A. Okay.

5 Q. Okay. So we are looking at an email here
6 from Ashlee Wheeler; is that right?

7 A. Yes, ma'am.

8 Q. Okay. Who is Ashlee Wheeler?

9 A. Ashlee Wheeler is the chief correctional
10 counselor at the special needs facility in
11 Nashville.

12 Q. Okay. And here she says that they provide
13 the same booklet for reentry, is that what we were
14 talking about before? Is that your understanding of
15 that? Which would be the booklet including the
16 information on voting rights restoration and the
17 certificate of restoration; is that what she means?

18 A. To my understanding, if I had to guess off of
19 the email, I believe she would be talking about the
20 pre-release orientation booklet.

21 Q. The pre-release orientation booklet?

22 A. Uh-huh (affirmative).

23 Q. Okay. On here it says, It provides detailed
24 information to the offender on how to restore voting
25 rights. What is she referring to there?

1 A. That would include the information that we
2 had talked about previously, the application
3 instructions.

4 Q. Okay. So that's Exhibits 7 and 8, I believe,
5 the certificate itself with the instructions and
6 then the eligibility to vote after a felony
7 conviction document from the Secretary of State; is
8 that correct?

9 A. Correct, Exhibits 7 and 8.

10 Q. Okay. All right. And then she says,
11 According to Policy 705.06, community supervision
12 are the only staff designated to assist with the
13 process; is that correct? Did I read that right?

14 A. That's what she says in her email.

15 Q. And that also comports with your
16 understanding, right?

17 A. At that time or currently?

18 Q. Both.

19 A. They are not the only staff that can complete
20 that process, no.

21 Q. Who else can complete that process?

22 A. The reentry specialists.

23 Q. We are talking about the exhibit that we
24 looked at earlier, Policy 705.06, right?

25 A. Okay. Yeah. If you are talking about

1 705.06?

2 Q. Uh-huh (affirmative).

3 A. Yes. That is for community supervision.

4 Q. I see. So you are saying Policy 705.06 only
5 covers community supervision staff, but you disagree
6 with her conclusion that community supervision is
7 the only staff that can assist with the process?

8 A. Correct.

9 Q. Okay. I understand.

10 And then she says that according to reentry
11 policy 511.06, voting rights are not covered. Is
12 that your understanding as well?

13 A. According to her email, yes.

14 Q. Okay. And would -- in terms of the substance
15 of what she says there, would your potential only
16 disagreement with that be that it does talk about
17 including the paperwork, but it doesn't talk about
18 filling out the paperwork, right, according to what
19 we just went through?

20 A. It does not include it, no.

21 Q. Okay. All right. That's all that of the
22 emails.

23 And you see that the dates on these emails
24 sort of range from May 31 to June 1st, 2022; is
25 that right?

1 A. From May 31 to June 1st is where I see the
2 emails ranging from.

3 Q. Okay. Yeah.

4 So going back to your memo, which you issued
5 on June 14th, did these emails have anything to do
6 with the timing of your memo?

7 A. I do not remember seeing these emails prior
8 to writing my email -- or writing my memo. I
9 apologize.

10 What I do remember from that time, as I'm
11 sitting here talking about it, is that upper
12 management was talking more about restoration of
13 voters' rights. And that's kind of my
14 understanding of it. And that's where I came up
15 with this memo. But I do not recall ever seeing
16 these emails prior to writing my memo.

17 Q. Okay. Well, it looks like your memo was
18 needed.

19 A. Yes.

20 Q. All right. Let's look at your memo a little
21 bit more closely.

22 So you say, Article 4.2 of the Tennessee
23 Constitution provides that the Tennessee
24 legislature may deny the right to vote to persons
25 convicted of infamous crimes. Pursuant to this

1 provision in the Tennessee Constitution, the
2 Tennessee legislature has excluded individuals
3 convicted of various felonies from the right of
4 suffrage. What do you mean by various felonies
5 there?

6 A. I did not write that article, so I can't come
7 to a conclusion of that. That is directly pulled
8 from statute.

9 Q. This first section?

10 A. Article 4.

11 Q. So I'm asking about various felonies, not
12 infamous crimes.

13 A. Okay. Give me one second. Are you still in
14 the first paragraph there?

15 Q. Yeah. I'm in the first paragraph there.

16 A. Again, I did not write that paragraph.

17 Q. Okay.

18 A. That is an excerpt from that Article 2.
19 That's in Tennessee law.

20 Q. An excerpt from Article 2?

21 A. From Article 4.

22 Q. From Article 4, Section 2. An excerpt from?

23 A. Tennessee law.

24 Q. That this is what Article 4, Section 2 says?

25 A. Yes.

1 Q. Is this like a summary of Article 4, Section
2 2 that was pulled from somewhere?

3 A. It's not a summary. That is verbatim what it
4 says in Article 4, Section 2. That's available on
5 the Tennessee Secretary of State's website.

6 Q. So this is a summary from the Tennessee
7 Secretary of State of Article 4, Section 2?

8 A. Again, it's not a summary. It's exactly
9 pulled from there. So I can't come to a conclusion
10 of what they mean by that.

11 Q. Okay. I think Article 4, Section 2 does say
12 that the legislation -- Tennessee legislature may
13 deny the right to vote to persons convicted infamous
14 crimes, but that this is not its exact wording.

15 MS. JORDAN: I'll object to the form.
16 Go ahead and answer if you can.

17 THE WITNESS: Yeah. I'm not positive
18 unless I can pull it up in front of me.

19 Q (BY MS. BOWIE) Okay. But you think that you
20 got this whole paragraph from the statute?

21 MS. JORDAN: Object to the form.
22 Go ahead.

23 THE WITNESS: I believe that it came
24 from the website of the Tennessee Secretary of
25 State.

1 Q (BY MS. BOWIE) Okay. That sounds right to
2 me.

3 Okay. Do you -- when it says, Various
4 felonies, does that mean all felonies or just some
5 felonies?

6 A. To my understanding, it would mean the list
7 of felonies that are found on Exhibit 7.

8 Q. Okay. So those are the felonies that take
9 away the right to vote?

10 A. Yes, to my understanding.

11 Q. Okay. Or are those the felonies for which
12 you can't get the right to vote restored?

13 A. Repeat your previous question, please.

14 Q. Okay. Is it your understanding that any
15 felony conviction takes away the right to vote in
16 Tennessee, or just these?

17 A. No. Just certain felonies take away the
18 right to vote.

19 Q. Okay. Okay. And then once somebody has lost
20 their right to vote, can anyone get their voting
21 rights restored?

22 A. To my understanding, no.

23 Q. Okay. Who cannot get their voting rights
24 restored?

25 A. Those who have infamous crimes.

1 Q. And what are the infamous crimes?

2 A. Infamous crimes. I'm going to have to review
3 this document to answer you.

4 Q. Okay. No worries.

5 A. So according to the document and my
6 understanding, you're never eligible to register to
7 vote if you were convicted of specific felonies, and
8 they have different date ranges.

9 So voter fraud, treason, first-degree
10 murder, aggravated rape -- any degree of murder,
11 rape, certain felonies involving bribery,
12 misconduct involving public officials or employees,
13 sexual offenses, violent sexual offenses. And,
14 again, they have different date ranges on them.

15 Q. Okay. So if you are convicted of one of
16 those, you're never eligible to register to vote?

17 A. That is my understanding.

18 Q. Meaning you can never get your voting rights
19 restored; is that right?

20 A. That is my understanding.

21 Q. Okay. But are those the only felony
22 convictions that take away the right to vote to
23 begin with?

24 A. No.

25 Q. Okay. Do all felony convictions take away

1 the right to vote to begin with?

2 A. To my knowledge.

3 Q. Okay. All right. So anyone who is coming
4 through reentry who has served time for a felony
5 conviction has lost the right to vote; is that
6 correct?

7 A. To my knowledge, yes.

8 Q. Okay. All right. So then you go on to say,
9 It's the responsibility of the reentry specialist to
10 offer eligible offenders an application to restore
11 their voting rights. Am I reading that correctly?

12 A. Yes, ma'am.

13 Q. And that they shall follow the following
14 procedure?

15 A. Yes, ma'am.

16 Q. First, offer any eligible offender that will
17 be releasing from TDOC custody the opportunity to
18 complete a restoration of voting rights application?

19 A. Yes.

20 Q. So this is just an offer to complete the
21 form, right? You wouldn't fill it out for anyone
22 unless they say that they want it?

23 A. Correct. We would not force it upon them.

24 Q. Okay. And you say to offer any eligible
25 offender. How do you know if they were eligible?

1 A. According to the COR application, which is
2 Exhibit 8 and Exhibit 7, they would follow the
3 instructions on those.

4 Q. Okay. So you use the criteria on the
5 certificate of restoration to determine if they are
6 eligible?

7 A. Correct.

8 Q. Before or after you ask them if they want
9 their voting rights restored?

10 A. To my understanding, they should review their
11 charges beforehand.

12 Q. Before they ask?

13 A. Before they ask.

14 Q. Okay. And if they are -- if they determine
15 that they are not eligible, they are not going to
16 ask them?

17 A. No. They would not ask them, but the inmates
18 would be able to request it still.

19 Q. Is there anything that they would say to them
20 about their voting rights if they are not eligible?

21 A. They discuss it during the pre-release
22 orientation class.

23 Q. Okay. But with any specificity to that
24 person's situation, is there something that they
25 would say?

1 A. If they are eligible?

2 Q. If they are not eligible.

3 A. If they are not eligible?

4 Q. Yeah.

5 A. If they had asked, they would instruct them
6 to go to the parole office upon release because they
7 may be ineligible due to still owing court fines and
8 fees or still being on supervision.

9 Q. Okay. And if they don't ask and they are
10 determined to not be eligible, there's just not
11 going to be a conversation about it at all?

12 A. Can you repeat that?

13 Q. Yeah. Let me give a better question.

14 A. Okay.

15 Q. Do they -- will the officers review the
16 eligibility for everyone that they are releasing,
17 per your memo?

18 A. So the reentry specialists --

19 Q. Yes.

20 A. -- not officers?

21 Q. Yes. Sorry.

22 A. I just don't want to get it confused with the
23 parole officers.

24 Yes, they discuss the eligibility with every
25 inmate in the pre-release orientation class because

1 every inmate takes that pre-release orientation
2 class unless they have refused that class.

3 Q. Right. And that is a general discussion of
4 voting rights restoration, not sort of reviewing
5 each person taking the class's circumstances; is
6 that right?

7 A. Correct. That's like going to go through the
8 overview of what the eligibility is and --

9 Q. Okay.

10 A. -- such.

11 Q. Got it.

12 And then after that, will the specialist,
13 when they are preparing to release an individual,
14 review their eligibility for voting rights
15 restoration?

16 A. Yes. To my knowledge, yes.

17 Q. Well, I am asking about what you are
18 directing people to --

19 A. Oh, yes. Yes. Sorry.

20 Q. For every person that's being released,
21 you're directing them to review their eligibility?

22 A. I am directing them.

23 Q. Okay. And then if they determine that they
24 are eligible, they will offer to fill out the
25 certificate of restoration; is that right?

1 A. According to my memo, yes.

2 Q. Okay. And if they determine they are not
3 eligible, does your memo direct them to do anything?

4 A. This memo does not cover if they are
5 ineligible.

6 Q. Okay. So if they are ineligible, they won't
7 necessarily be told that?

8 A. I can't say on a firsthand, like what each
9 specialist tells the inmates. So I'm not positive.

10 Q. But pursuant to your memo --

11 A. Pursuant to my memo, it doesn't not state
12 that they would tell them.

13 Q. And it wouldn't require them to say in
14 writing, You're not eligible, and here's why?

15 A. There is not anything.

16 Q. Okay.

17 So, and to determine eligibility, they would
18 need to look at the certificate of restoration and
19 verify that they meet the eligibility criteria; is
20 that correct?

21 A. To my understanding, yes.

22 Q. And that's effectively the same thing as
23 filling it out; is that correct, because they will
24 be walking through it and filling it out like a
25 worksheet; is that correct?

1 A. Yeah. They would follow the worksheet and
2 fill it out.

3 Q. Okay.

4 A. Uh-huh (affirmative).

5 Q. And who -- what kind of training do they
6 receive on how to fill out the certificate of
7 restoration?

8 A. There has not been any training, just besides
9 the directives that have been sent out.

10 Q. Okay. And I think we talked a little bit --
11 you may have mention this document earlier, but is
12 this a training that the reentry specialists
13 receive?

14 A. No.

15 Q. Okay. Have you seen this before?

16 A. I have not.

17 Q. Okay. So reentry specialists don't receive
18 that training.

19 And, to your knowledge, there's no training
20 on how to fill out a certificate of restoration
21 that reentry specialists receive?

22 A. Not on our reentry specialists side, no.

23 Q. Okay.

24 A. What they do is, obviously, they look at this
25 memo. But they -- I instruct them to follow the

1 instructions on this certificate of restoration of
2 voting rights and to read the information that is
3 included on the website that's provided on the
4 Tennessee Secretary of State.

5 Q. Okay. If they had a question about how to
6 fill this out, who would they ask?

7 MS. JORDAN: Object the form. Who is
8 they?

9 MS. BOWIE: Thank you.

10 Q (BY MS. BOWIE) If the reentry specialist had
11 a question about how to fill this out, who would
12 they ask?

13 A. That would be myself.

14 Q. Okay. So let's walk through the form a
15 little bit then.

16 A. Can I go back one second?

17 Q. Sure.

18 A. That would also -- they would ask their
19 supervisors, which is the chief counselors.

20 Q. Okay. So they might ask you, or they might
21 ask their supervisors; is that right?

22 A. Correct.

23 Q. Okay. And if the supervisors didn't know,
24 would they ask you?

25 A. Correct.

1 Q. So all roads lead back to you?

2 A. Yes.

3 Q. All right. Okay. So Section 1 here has some
4 basic information about the individual; is that
5 correct?

6 A. Are you on Exhibit 8?

7 Q. Yes. We are looking at the certificate.
8 Thank you.

9 So Section 1 has some basic information
10 about the individual; is that correct?

11 A. Yes.

12 Q. Is this all information that the reentry
13 specialist would have on hand for a person that they
14 are discharging?

15 A. They would have that information for
16 Tennessee sentences, yes.

17 Q. Do reentry specialists know if someone that
18 they are -- managing, I guess would be right word --
19 has an out-of-state conviction?

20 A. If it's available in our OMS system, they
21 would be able to tell that way. Or they would need
22 to communicate with our records office.

23 Q. Okay. And this was an issue that you
24 mentioned earlier, it came up when you were
25 reviewing -- sorry, help me out with the word.

1 A. It's the risk --

2 Q. Quality control?

3 A. The risk needs assessment.

4 Q. Right. For the risk needs assessment, that
5 sometimes the -- the specialist wouldn't know about
6 out-of-state convictions; is that right?

7 A. Correct.

8 Q. Okay. What about federal convictions, would
9 they know about federal convictions?

10 A. If they are available on the OMS system.

11 Q. Okay. And are they -- would they be able --
12 what would make them available on the OMS system?

13 A. I am not sure how they are put into the OMS
14 system. That is a different department that I've
15 not dived into.

16 Q. And when you are talking about that, are you
17 talking about, like, the case notes?

18 A. No. So there has to be someone that inputs
19 the judgment orders into the OMS system --

20 Q. Okay.

21 A. -- and different charges.

22 Q. Would the records department have records of
23 each person being released with felony convictions
24 from other jurisdictions?

25 A. Only if it was included in the NCIC that was

1 pulled for them.

2 Q. Okay. And the NCIC is a statewide -- that --
3 the NCIC only covers people whose sentences were
4 transferred to Tennessee; is that correct?

5 A. I am unsure.

6 Q. Okay. Would they ask the person who they are
7 releasing if they had any felony convictions from
8 out of state or federal court?

9 A. We can ask them.

10 Q. Uh-huh (affirmative).

11 A. But we need to be able to verify that.

12 Q. Okay. And if the person volunteers that
13 information or is asked that information, would the
14 reentry specialist then research that conviction and
15 fill out a certificate of restoration for them?

16 A. Yes. They would have to verify that.

17 Q. Is that in your memo anywhere?

18 A. That particular step, no.

19 Q. Okay. Do you think it would be helpful to
20 include that in writing somewhere for the
21 specialists?

22 A. Yes, it's something to take into account.

23 Q. Okay. And do they need a certificate for --
24 let's say, they are being released from one felony
25 conviction, but they have priors in Tennessee.

1 Would the reentry specialist see those convictions?

2 A. Yes, they could see prior convictions of
3 Tennessee.

4 Q. And would they fill out a certificate for
5 those convictions as well?

6 A. Yes. Because Exhibit 8 states that a
7 separate form must be completed for each felony
8 conviction from within different docket case
9 numbers.

10 Q. And are they required to check to see if that
11 person has prior felony convictions?

12 A. They are. That's part of the collateral.

13 Q. Okay. Would it be helpful to have that
14 written down somewhere for the reentry specialists?

15 A. It would be helpful to take into account.

16 Q. Okay. All right. Let's go to Section 2
17 here. If somebody is being released from prison and
18 going -- and working with a reentry specialist, is
19 there a particular box in this section that would
20 always be checked, or could it be any one of these
21 four?

22 A. Let me review it real quick.

23 Okay. Can you repeat the question now that
24 I've read it?

25 Q. Yeah. If a person is being released from a

1 Tennessee facility and is working with a reentry
2 specialist, which of these boxes would be checked?

3 A. The one that matches to that individual.

4 Q. So it could be any of the four?

5 A. It could be any of the four.

6 Q. What's your understanding of the difference
7 between check box 2 and check box 3 here?

8 A. So the maximum sentence imposed for such
9 infamous crime has expired. The maximum sentence
10 imposed for such infamous crime has been served by
11 the above individual; or the maximum sentence
12 imposed for such infamous crime has expired.

13 To me, in my understanding, they mean the
14 same thing.

15 Q. Okay. So if an officer asked you which one
16 of those to check, what would you say?

17 A. Both of them because they both served and
18 expired.

19 Q. How about that last one there, what's the
20 different there?

21 A. I would also check that one if I'm filling it
22 out for an eligible inmate because they are finally
23 being released.

24 Q. Okay. And this has come up as a confusing
25 part of this form in many different contexts, but do

1 you see it -- at the top of this section it says,
2 Check one?

3 MS. JORDAN: Object to the form of the
4 question.

5 But go ahead and answer.

6 THE WITNESS: I do see that.

7 Q (BY MS. BOWIE) Okay. But to your
8 understanding, that may be a flaw with the form?

9 A. That could be a flaw with the form.

10 Q. Okay. All right. Let's go to the next box 3
11 here. This box relates to restitution; is that
12 right, this section?

13 A. To my understanding, yes.

14 Q. Okay. How will a specialist know whether or
15 not the person they are releasing has paid or owes
16 restitution?

17 A. The first step is going to be to review the
18 OMS system to see if there's anything listed on
19 there. They can be provided paperwork from the
20 individual or contact the county clerk.

21 Q. So if OMS doesn't say anything about
22 restitution, is that enough information to sign off
23 on this box?

24 A. No.

25 Q. Okay. So in that case, they would either

1 rely on the person to present documentation, or they
2 would call the county clerk; is that correct?

3 A. Correct.

4 Q. All right. Do you direct them to do one or
5 the other of those two things?

6 A. They need to have some way to verify.

7 Q. Are they required to call the county clerk?

8 A. If the inmate cannot provide verification
9 that there is no restitution.

10 Q. So first they would ask the person being
11 released to provide it?

12 A. Correct.

13 Q. And then if they don't have it, are they
14 required to call the county clerk?

15 A. Yes.

16 Q. Does it say that in your memo?

17 A. It does not.

18 Q. Okay. Do you think that would be helpful to
19 spell out?

20 A. Yes.

21 Q. Okay. Now, did you say earlier that
22 specialists would only be filling out a certificate
23 of restoration if the person being released is
24 eligible for voting rights restoration?

25 A. Yes.

1 Q. Okay.

2 A. I believe so.

3 Q. So is there any situation in which you would
4 ever check the fourth box in this section?

5 A. That I would -- that the reentry specialist
6 would ever check one?

7 Q. Right. Do you see what that last box says?

8 A. Are you on Section 4?

9 Q. No. Sorry. I'm on Section 3 still. So the
10 last box that says, Restitution ordered by the court
11 is owed. Do you see that?

12 A. To my understanding, if restitution is owed,
13 they would not be eligible then.

14 Q. Okay. So in that case they wouldn't be
15 filling out or receiving this form, right?

16 A. They would not receive a completed form.

17 Q. Okay.

18 A. They would be instructed to go to the parole
19 office when they can --

20 Q. Okay.

21 A. -- provide the right paperwork.

22 Q. So that box doesn't really serve much
23 purpose, does it?

24 A. Not for our reentry specialists, no.

25 Q. Okay. All right. Let's go to the last

1 section here, Section 4. This is about court costs.

2 Do you see that?

3 A. I do.

4 Q. Okay. Would the reentry specialists have
5 information to verify whether or not someone owes
6 court costs?

7 A. Again, it would be the same process as the
8 restitution.

9 Q. Okay. So they would check the OMS notes
10 first; is that correct?

11 A. Yes.

12 Q. But if the OMS notes just don't say anything
13 about court costs, that's not enough to verify that
14 they don't owe any; is that correct?

15 A. That is correct.

16 Q. Okay. At that point they would ask the
17 person being released if they have documents showing
18 they don't owe court costs?

19 A. Correct.

20 Q. How often would a person being released have
21 that kind of documentation from the court when they
22 are being released from prison?

23 A. They have the opportunity to contact the
24 court via mail to request that paperwork.

25 Q. So sometimes they request the judgments or

1 whatever they need?

2 A. They can.

3 Q. And then if they don't have it, the officer
4 will call the court?

5 A. The reentry specialists will call the court.

6 Q. Thank you. The reentry specialists will call
7 the court.

8 But that's not laid out in any written
9 instructions anywhere?

10 A. Not at this time, no.

11 Q. Okay. How will the officer know -- strike
12 that.

13 Are all legal debts tracked by courts
14 considered court costs?

15 A. I do not know.

16 Q. Okay. Are you familiar with the terms fines,
17 fees, court costs?

18 A. They sound familiar, yes.

19 Q. Okay. Do you know of any difference between
20 those different terms?

21 A. I do not know the difference between each of
22 those terms.

23 Q. Okay. So if an officer came to you and said
24 somebody owes fines, should I check -- what should I
25 check on this court costs section, would you know

1 the answer to that question?

2 A. In our OMS system it just lists it as fees,
3 fines, et cetera.

4 Q. Okay.

5 A. So to my knowledge, they would be the same
6 thing. That's why I don't know what the difference
7 would be --

8 Q. Got it.

9 A. -- between them.

10 Q. So if you saw that somebody owed fines in
11 OMS, you would say that they are not eligible for a
12 certificate of restoration?

13 A. To my understanding.

14 Q. Okay. And if any of the specialists had
15 confusion about that, they might ask you or they
16 might ask their managers to comment on it; is that
17 right?

18 A. Can you repeat that? I got distracted.

19 Q. Sorry. If any of the specialists had
20 questions about this, while they were filling it
21 out, they would either ask you or their supervisors;
22 is that right?

23 A. They could. And then if I did not know the
24 answer, I would do research to obtain the answer for
25 them.

1 Q. And if the supervisor didn't know, they would
2 also ask you, right?

3 A. Correct.

4 Q. Has this question come up before?

5 A. It has not.

6 Q. Okay. So based on what you said before, you
7 would consider fines part of court costs; is that
8 right?

9 A. To my understanding, yes.

10 Q. Okay. So it probably wouldn't have elevated
11 to the level of something that you might research?

12 A. It has not yet, no.

13 Q. Okay.

14 A. The question has not come up.

15 Q. Got. Got it. Okay.

16 Next in No. 2 here, you ask the specialists
17 to confer with your assigned child support
18 coordinator to ensure there is no hold, correct?

19 A. Correct.

20 Q. Can you say what that means?

21 A. So there is child support coordinators within
22 DHS that have access to know if someone owes child
23 support. And then I have asked them to do the extra
24 due diligence of checking with them to see if they
25 have any child support holds.

1 Q. Okay. And what does it mean to have a child
2 support hold?

3 A. That the individual owes money in arrears to
4 child support.

5 Q. Okay. If they have an ongoing child support
6 obligation, would that be a hold?

7 A. To my understanding, yes.

8 Q. Okay.

9 A. If it's in arrears.

10 Q. If it's in arrears?

11 A. Yes.

12 Q. Not if they have been paying on it?

13 A. No.

14 Q. Are people who are incarcerated often able to
15 pay on their child support debts or do they
16 typically fall behind?

17 A. I cannot tell you the most accurate answer to
18 that because I don't have the data on that.

19 Q. Okay.

20 A. So I'm not sure.

21 Q. Do people rack up arrears while they are
22 incarcerated?

23 A. I am sure they do. Again, I don't have the
24 data to support an answer on that.

25 Q. So as far as you know, there's no law or

1 policy that stops in the position of child support
2 when somebody is incarcerated?

3 A. The Tennessee law that has taken effect
4 July of 2021 states that anyone that is incarcerated
5 more than 180 days will have their child support
6 case modified down to \$100 at minimum.

7 Q. \$100 month?

8 A. Uh-huh (affirmative). Yes, ma'am.

9 Q. So they can still be racking up arrears while
10 they are incarcerated?

11 A. They can.

12 Q. There's just a maximum on it if they're in
13 for 100 days or more; is that right?

14 A. 180 days or more.

15 Q. 180 days. Okay. Thank you.

16 Okay. So if the specialist hears from the
17 child support coordinator that the individual does
18 have arrears, what should they do with this form?

19 A. They will not be able to complete this form.
20 They will have to instruct the individual to take
21 care of their child support holds and have the
22 parole office complete this form when they are
23 eligible.

24 Q. Okay. At that point they are not going to
25 get the partially filled out certificate of

1 restoration, right?

2 A. Not necessarily.

3 Q. Not necessarily, can you explain that?

4 A. They could fill out the part and leave the
5 rest blank for the parole office to fill out, but it
6 also states at the second page, that a person not
7 eligible to apply for a voter's restoration card
8 have their voting rights restored. Before restoring
9 their voting rights of an applicant, the coordinator
10 of elections will also verify with the Department of
11 Human Services that the applicant does not have
12 outstanding child support payments or arrears.

13 So we could still fill this out for them.
14 But then the county elections will have the
15 ultimate responsibility of confirming the child
16 support holds.

17 Q. All right. And you mentioned that they could
18 partially fill out the form. And I think we saw
19 that in the emails earlier, that at least one of the
20 -- one of the facilities that reported in said that
21 they had only been filling out boxes 1 and 2; is
22 that right?

23 A. That is what it said in the email.

24 Q. Okay. Is it your directive in this memo that
25 they should fill out the entire form?

1 A. It does not necessarily say that it needs to
2 be completely filled out. It just says bring the
3 completed application. So the offender will need to
4 fill it out.

5 Q. Is that your intent, that this memo instruct
6 them to fill out the whole form?

7 A. No.

8 Q. No. Why not?

9 A. Because at some points we can only fill out
10 certain sections.

11 Q. When are those?

12 A. When we cannot verify the information of
13 court fines, fees, restitution, and child support.

14 Q. Okay. And you at what point would you say
15 that the specialists made enough of an effort to
16 verify that to just say, I'm not filling out this
17 box?

18 A. When they can verify. So they need to -- if
19 they are not receiving the paperwork from the
20 inmate, they need to take the initiative to call the
21 county court clerks. If they are unable to receive
22 that information, they are going to contact, now,
23 everything. So from there, they've made enough
24 effort in my understanding.

25 Q. Right. Do you think that you'll revise this

1 memo to spell that out?

2 A. I can.

3 Q. Are you planning on doing that?

4 A. I would have to confer with my supervisor.

5 Q. Okay. Are you planning to confer with your
6 supervisor?

7 A. Yes.

8 Q. Okay. At what point in filling out this
9 form -- well, let me back up.

10 Is there anything else that the specialists
11 should do to verify that somebody is eligible for
12 voting rights restoration besides what we walked
13 through on the form?

14 A. To my understanding, not anything else that
15 we have not gone through.

16 Q. Do they need to make sure that the person
17 doesn't have one of the convictions listed on this
18 form, on Exhibit 7?

19 A. Yes. But I believe we went through that.

20 Q. When did we -- at what point did they do that
21 in this process?

22 A. They would need to do that before even
23 knowing that someone is eligible.

24 Q. Okay. Is that in your memo somewhere?

25 A. Within Article 4, Section 2 at the top of the

1 page, it lists that they could not be convicted of
2 those infamous crimes, so --

3 Q. So -- sorry.

4 A. No. Go ahead.

5 Q. No. You can finish.

6 A. To my understanding, that would be enough of
7 an instruction. However, I can include it more into
8 the memo.

9 Q. Okay. So it's your understanding that these
10 are the infamous crimes, this list?

11 A. That is my understanding.

12 Q. Okay. And would you use the list on
13 Exhibit 7, this Secretary of State's instructions,
14 to determine whether or not somebody has been
15 convicted of one these permanently disqualifying
16 crimes?

17 A. That is the list that I would use.

18 Q. Okay. How would you know if a given felony
19 conviction involves bribery, misconduct involving
20 public officials and employees, or interference with
21 government operations?

22 A. I believe they would be felonies, to my
23 understanding, or it would be listed in their
24 judgment order. But I am not positive.

25 Q. When you say it would be listed in their

1 judgment order, what do you mean?

2 A. Their judgment order is the order from the --
3 that we received from the court that has the
4 judgment instructions in it.

5 Q. So it says the name of the conviction?

6 A. It says the name of the conviction and
7 describes the conviction --

8 Q. Okay.

9 A. -- to my knowledge.

10 Q. So you would base that on the name and
11 description of the conviction from the judgment
12 order?

13 A. To my understanding, yes.

14 Q. Okay. And that question hasn't come up to
15 you, has it?

16 A. It has not come up to me, no.

17 Q. Okay. If you look at a certificate of
18 restoration form on the second page --

19 A. What are you -- oh.

20 Q. On the Exhibit 8, on the second page on
21 instructions, there's a section that says, Persons
22 convicted of any of the following cannot have his or
23 her voting rights restored. Do you see that?

24 A. Yes, ma'am.

25 Q. So this section, when we are talking about

1 the corresponding after July 1st, 2006, do you see
2 that this lists statute numbers?

3 A. Neither paper lists statute numbers that I
4 can see.

5 Q. Are you looking at the second page of the
6 instructions there?

7 A. Yes. I see it now.

8 Q. Okay.

9 A. I apologize.

10 Q. So could you compare the statute numbers to
11 determine whether it's one of those permanently
12 disqualifying convictions?

13 A. Yes, you can use those statute numbers.

14 Q. Okay. And do the reentry specialists have
15 access to the statute numbers?

16 A. They do.

17 Q. Okay. The top two time periods for the
18 permanently disqualifying convictions also list
19 voter fraud as one of the convictions. Do you see
20 that?

21 A. I do.

22 Q. That one doesn't have any statute numbers
23 associated with it; is that right?

24 A. Not that I'm aware of.

25 Q. Okay. How would you know if a conviction is

1 considered voter fraud?

2 A. To my understanding, it would be a felony, so
3 the sentence itself would be voter fraud, and that
4 would be listed in our OMS system.

5 Q. Do you think it would be helpful to you if
6 this form included more instructions on those
7 questions?

8 A. It could prove helpful.

9 Q. All right. So No. 3 here, you say, Place a
10 copy of the application in the offender's file, a
11 copy in their reentry release packet. The offender
12 will need to bring the completed application to the
13 proper county election commissions office. Is that
14 right?

15 A. That is correct.

16 Q. And so it should be the specialist who
17 directs the person to take it to the county
18 elections office?

19 A. Yes.

20 Q. Okay. And you say that the list is in the
21 reentry drive. When you say that, are you
22 instructing the officer to find the correct office
23 and tell the person the address?

24 A. Again, the reentry specialist should give the
25 list -- should be looking at the list to give the

1 instruction to the offender, yes.

2 Q. Okay. No. 4, you say, Place a contact note
3 in OMS under contact note with code RESP, with a
4 comment notifying that the restoration of voting
5 rights application was completed. Who came up with
6 that particular code?

7 A. That code has been in existence before I had
8 come over to the state.

9 Q. What does it stand for?

10 A. Reentry -- I'm trying to remember exactly. I
11 apologize. It it's a reentry contact that -- so the
12 reentry specialist had contact with the offender --

13 Q. Okay.

14 A. -- in summary.

15 Q. Got it. But that code in and of itself
16 doesn't refer to voting rights?

17 A. It does not.

18 Q. That would have to be in the content of the
19 note?

20 A. Yes.

21 Q. Okay. Would they make a note if they are not
22 going to issue a certificate of restoration because
23 the person is not eligible?

24 A. That has not been instructed to do.

25 Q. Okay. Would they make a note if they've

1 offered the restoration, but the person said that
2 they didn't want?

3 A. They have not been instructed to do that.

4 Q. Okay. Do they need to include in the note --
5 strike that.

6 I'm going to introduce Exhibit 11.

7 (WHEREUPON, the above-mentioned
8 document was marked as Exhibit Number 11.)

9 Q (BY MS. BOWIE) Have you seen this before?

10 A. I've briefly seen this when we were going
11 over all the paperwork that was provided to me.

12 Q. Okay. So this memo is directed to Community
13 Supervision Staff; is that right?

14 A. That's what it states in the memo.

15 Q. So this wouldn't apply to your department?

16 A. It would not.

17 Q. Okay. I want you to look here under PPO
18 Responsibilities, that first big paragraph, the
19 second to the last bullet point. It says, The
20 supervising officer will enter the VRRE or VRRRI code
21 indicating whether the offender is eligible or
22 ineligible. Is that correct?

23 A. That's what it states in the memo.

24 Q. Okay. Were you aware that the supervision
25 side has these codes?

1 A. Not until last week.

2 Q. Okay. Do you think that having similar codes
3 would be helpful?

4 A. We will not be having similar codes. We are
5 going to have facility-specific codes that I'm
6 actually working on.

7 Q. What does that mean, facility-specific codes?

8 A. So we are working on creating a contact code
9 where I would be able to pull the amount of voters'
10 restoration applications that were completed by the
11 reentry specialist. So we will separate that.

12 Q. Can you give an example of what that might
13 look like?

14 A. So it could be, like, VRRF, or something.
15 Just a different contact code. We would not keep
16 the same contact codes as community supervision.

17 Q. Okay. What would be VRRF mean?

18 A. That was just an example, so...

19 Q. But the F is the facility --

20 A. Facility.

21 Q. -- type thing that you are changing?

22 A. Uh-huh (affirmative).

23 Q. Okay. But that wouldn't indicate whether or
24 not the person has been deemed eligible or
25 ineligible; is that right?

1 A. To my understanding right now, we have not
2 come up with a clear solution to that, so I don't
3 have an answer to that.

4 Q. Okay. What is your goal with the new contact
5 codes?

6 A. To be able to pull data to know how many
7 people have filled out a voters' restoration
8 application.

9 Q. Only to know how many people have filled them
10 out?

11 A. As of right now, yes.

12 Q. Would it also be useful to be able to know
13 how many people had requested but been denied?

14 A. It would be helpful, but I have to take that
15 into consideration of their workload.

16 Q. Okay. What is spurring creating new contact
17 codes?

18 A. Last week when I realized that we did not
19 have a specific contact code where I could pull
20 data.

21 Q. Okay. Right. Because this contact code only
22 indicates that the entry was being made by a reentry
23 specialist, not anything about the subject matter of
24 the entry; is that right?

25 A. Exactly.

1 Q. Okay. So you want to create a new code that
2 indicates something about voting rights. But so far
3 you're only considering making one where the form
4 was issued; is that correct?

5 A. At this point, yes.

6 Q. Will there be a code to say that the form was
7 issued but only partially filled out?

8 A. I am unsure.

9 Q. Okay. And will there be a code to show that
10 the form was not issued because the person was
11 ineligible?

12 A. I am unsure at this point.

13 Q. Okay. Why do you want to be able to pull
14 data on voting rights restoration?

15 A. For me I want to be able to track the amount
16 of applications that my reentry specialists have
17 completed.

18 Q. Okay. How do you track that now?

19 A. Currently, they fill out facility
20 spreadsheets, but it's not proved to be effective.

21 Q. Okay. Why not?

22 A. Because they have not been completing them
23 the way they should be.

24 Q. Okay. How long have they been -- supposed to
25 fill those out?

1 A. Since this memo was issued June 14th, 2022.

2 Q. Okay. And that's No. 5 here, Update your
3 respective facility's spreadsheet located in the
4 reentry drive?

5 A. Correct.

6 Q. Okay. You said earlier that you can't have
7 the same codes as community supervision. Why is
8 that?

9 A. Not that we can't have the same codes, but if
10 I want to be able to pull my data, I need to be able
11 to make a different contact code --

12 Q. Okay.

13 A. -- to get my specific data.

14 Q. Okay. Got it.

15 And just to back up, one thing that we
16 talked about earlier is that if someone is not
17 eligible for the certificate of restoration, that
18 they won't be offered the opportunity to have one
19 completed for them; is that right?

20 A. Not by the reentry specialist. They will be
21 instructed to have the parole office complete it
22 when they are eligible.

23 Q. Through the class that they take when they
24 are being discharged, correct?

25 A. Correct. That is the -- the main place that

1 they would receive that information.

2 Q. Uh-huh (affirmative).

3 A. They could receive it possibly during their
4 reentry meetings that they have with them.

5 Q. Right. But there's -- there's no requirement
6 that that one-on-one conversation will occur?

7 A. It's not a requirement, no.

8 Q. Okay.

9 A. But I can't track what's said in each office
10 at each time.

11 Q. Sure. Okay.

12 When I asked you a couple questions earlier
13 about whether you'd update the memo, you said you
14 would need to confer with your supervisor; is that
15 right?

16 A. Correct.

17 Q. Who is that that you needed to confer with?

18 A. Carissa Miniard.

19 Q. And does that person have decision-making
20 authority on what could go in an updated memo?

21 A. She would also have to confer with her
22 supervisor, which is assistant commissioner Rachel
23 Riley Coe.

24 Q. Okay. How often do you issue memos like
25 this?

1 A. This is probably one of the only memos that I
2 ever issued.

3 Q. Okay. What's the purpose of a memo?

4 A. When we cannot get it into policy in an
5 efficient time. We wrote this memo so we can get
6 that directive out there before policy could be
7 published.

8 Q. Okay. How long did it take you to get this
9 approved?

10 A. I am unsure. I don't remember how long it
11 took me to get it approved.

12 Q. It is like days, weeks?

13 A. I believe it was -- if I had to make my best
14 educational guess, it would probably be about a
15 week.

16 Q. How long did it take for policies to get
17 approved?

18 A. Months.

19 Q. Uh-huh (affirmative). What's the chain of
20 approval for policies?

21 A. It starts with the policy writer. It then
22 goes through an edit process by one of our admin
23 assistants that's assigned to that job duty. It
24 goes through our chain of command, which in my case
25 would be the correctional administrator, the AC. It

1 would have to go through legal. And then go through
2 finally to the commissioner to be approved.

3 Q. Would you have an opportunity to provide
4 input towards what should go in a policy?

5 A. Yes.

6 Q. At what point in the process?

7 A. When I'm writing the policy.

8 Q. Okay. So you could be the person who writes
9 the policy?

10 A. Correct.

11 Q. Okay. Are you aware of efforts to write any
12 new voting rights restoration policies?

13 A. Not that I'm aware of. Not specific to
14 restoration of voter's rights.

15 Q. Okay. But you mentioned earlier that you
16 would like to see more about restoration of voting
17 rights in the discharge policies, correct?

18 A. He reentry policy 511.06, yes.

19 Q. Okay. Yeah.

20 And is that in process?

21 A. Yes.

22 Q. Okay. How far along is that?

23 A. It's been sitting in policy for about three
24 months now, in the queue.

25 Q. Okay. Do you know what started that process?

1 A. Once I started going through and knowing that
2 people were not doing the facility spreadsheets the
3 way they need to be and after we wrote this memo,
4 the next time we edited the policy, we were putting
5 it into the policy.

6 Q. Got it. So you started the process?

7 A. Yes.

8 Q. Okay.

9 MS. BOWIE: All right. We can take a
10 quick break because I'm going to pull up some of
11 those spreadsheets.

12 (Short break.)

13 Q (BY MS. BOWIE) Back on the record.

14 We are going to look at some of the
15 recordkeeping that you were talking about.

16 A. Okay.

17 Q. So do you see this document?

18 A. I do.

19 Q. Okay. What is this?

20 A. This is the spreadsheet from -- it looks like
21 South Central -- who they completed a voters'
22 restoration application for.

23 Q. Okay. And what are they tracking here?

24 A. The people that they completed applications
25 for.

1 Q. And the categories that they got here are:
2 Name, conviction, application date, TDOC number.
3 That's all they are tracking?

4 A. That is all that is included in that
5 spreadsheet, yes.

6 Q. Did you make the format of this spreadsheet?

7 A. I did.

8 Q. Okay. Is that all you wanted them to track?

9 A. That's all I needed at that time.

10 Q. Why do you need these pieces of information?

11 A. I need to know their names so I know who's
12 getting the application. The TDOC number kind of
13 correlates with their name in our department. The
14 conviction, because I know they have to fill out a
15 different form for each conviction. So if they've
16 listed multiple convictions, I know they've
17 completed multiple forms. And then the date that
18 the application was completed on.

19 Q. Okay. And have you looked at the -- do they
20 keep copies of the certificates that they issue?

21 A. They are supposed to.

22 Q. Okay. And have you looked at any of these?
23 Do you know if they did?

24 A. I have not looked at any of them, no.

25 Q. You said before they weren't doing a good job

1 with this recordkeeping. What did you mean by that?

2 A. As you can see after -- if you scroll down,
3 they stopped completing them on 7/10/2020. So
4 our -- at least over there, it lasted about two
5 months.

6 Q. Okay. And do you think that's a record
7 keeping problem, or do you think they are not
8 issuing them?

9 A. It is a record keeping problem.

10 Q. How do you know that they are still issuing
11 them?

12 A. Because we talk about it on our monthly
13 reentry calls.

14 Q. Why did they stop keeping records?

15 A. Staff turnover.

16 Q. Okay. Look at the next one, the one with the
17 HCCL?

18 MS. RICHARDSON: Do you want to mark
19 this one as an exhibit?

20 MS. BOWIE: Yeah, let's mark this as
21 Exhibit 12.

22 MS. RICHARDSON: What's the document
23 name for it, for Exhibit 12?

24 MS. BOWIE: SCCF, Exhibit 12.

25 (WHEREUPON, the above-mentioned

1 document was marked as Exhibit Number 12.)

2 MS. BOWIE: HCCF is going to be
3 Exhibit 13.

4 (WHEREUPON, the above-mentioned
5 document was marked as Exhibit Number 13.)

6 Q (BY MS. BOWIE) Have you seen this before?

7 A. I have.

8 Q. Can you describe what it is, please?

9 A. It is the same spreadsheet as South Central;
10 however, now this is Hardeman County's information
11 that they have provided.

12 Q. Okay. Any flaws you see here?

13 A. Yeah. They stopped completing the record
14 keeping after 3/4/2020.

15 Q. All right. So they just it on one day?

16 A. It looks that way.

17 Q. Okay. Let's go to the next one, Exhibit 14,
18 MLCC.

19 (WHEREUPON, the above-mentioned
20 document was marked as Exhibit Number 14.)

21 Q (BY MS. BOWIE) Can you describe what this is?

22 A. This is, as well, the spreadsheet that
23 tracked the data for voters' restoration
24 applications that were completed at Mark Luttrell.

25 Q. And this is the same format as the other

1 ones?

2 A. That is correct.

3 Q. Okay. And any problems with this one?

4 A. Can you scroll down?

5 Q. Yep.

6 A. They stopped completing it on 11/23/2020.

7 Q. Okay. And this is the last one that was
8 produced to us, BCCX. Can you describe that one,
9 please?

10 A. That is the spreadsheet that tracks the
11 restoration of voter's rights application at Bledsoe
12 Correctional Complex.

13 Q. Okay.

14 MS. RICHARDSON: And this is going to be
15 15.

16 MS. BOWIE: This is going to be
17 Exhibit 15.

18 (WHEREUPON, the above-mentioned
19 document was marked as Exhibit Number 15.)

20 Q (BY MS. BOWIE) Any deficiencies with this
21 one?

22 A. They stopped completing it on September 30,
23 2022. At least, they have done it a little bit
24 further ahead.

25 Q. Is this also what you wanted? Did you want

1 them to list the date under conviction or the name
2 under the conviction?

3 A. They supposed to list the name of conviction.

4 Q. Okay. Why did you create this tracking
5 system?

6 A. To try to track the amount of applications
7 that were being completed by our reentry
8 specialists.

9 Q. Why do you want to know that?

10 A. It is numbers that we do need to report of,
11 or at least have a knowledge of.

12 Q. According to who?

13 A. At that time I don't remember who was asking
14 for it specifically. But for us, in our department,
15 it's important to track data and keep records of the
16 things that we are doing.

17 Q. Was there some point in time where people
18 said, We need to start tracking these?

19 A. I believe in 2019 after I did that big push
20 of wanting more people to have the application
21 completed, in 2020 that assistant commissioner at
22 the time was asking for the numbers.

23 Q. So in 2020 they were asking for the numbers?

24 A. Uh-huh (affirmative). I believe so.

25 Q. Do you remember around when?

1 A. I don't.

2 Q. Okay. Are these the only four of these
3 trackers that you have?

4 A. That I have knowledge of, yes.

5 Q. Okay. Did you send it to all the facilities?

6 A. Yes.

7 Q. Okay. But they haven't reported it back to
8 you?

9 A. They have not.

10 Q. I'm sorry. We talked a little bit before,
11 much earlier in the deposition, about the quality
12 checks you did when you worked on risk needs
13 assessment, right?

14 A. Yes.

15 Q. And there you said that when you doing
16 qualifying checks, that you would pull the
17 underlying documents associated with the
18 determinations that were being made by the
19 specialists; is that right?

20 A. For the risk needs assessment, yes.

21 Q. Right. Do you think this would be useful to
22 have more information here to be able to assess
23 whether these were properly issued?

24 A. I am not sure what other information I could
25 put in there.

1 Q. Okay. Well, knowing that they have a certain
2 number of convictions may tell you how many
3 certificates they should have issued, but does it
4 necessarily tell you how many they did issue?

5 A. No. You would have to make an assumption.

6 Q. Okay. Would it be good to have them have to
7 write down, yes, I did issue four CORs?

8 A. I can do that.

9 Q. Okay. Have you considered tracking
10 determinations of ineligibility, so certificates
11 that are not issued?

12 A. I have not at this time because I need to
13 take into account their workload that they already
14 have.

15 Q. Well, if they are making that
16 determination -- you said they have to make it for
17 everyone, right?

18 A. They do.

19 Q. So would it take much more time to track it?

20 A. It would take much more time for them.

21 Q. Do you think that there's a possibility they
22 might be making errors when they are assisting
23 whether or not somebody is ineligible?

24 A. I cannot assume that they are making errors.

25 Q. Can you assume that they are not making

1 errors?

2 A. I cannot assume either one.

3 Q. As somebody who's worked specifically on
4 assessing the quality of a certain service within
5 reentry, did you see a decent number of errors in
6 your assessments?

7 MS. JORDAN: I'll object to the form.

8 But go ahead.

9 THE WITNESS: So that was risk needs
10 assessment. I've never done quality assurance on
11 this particular document, so I cannot speak to that.

12 Q (BY MS. BOWIE) Right. Is there any quality
13 assurance that happens on these documents?

14 A. Not at this time.

15 Q. Are they completed by the same officers that
16 do the risk needs assessments?

17 A. No.

18 Q. Who does the risk needs assessments?

19 A. That is unit counselors.

20 Q. Okay. Did you see a decent number of errors
21 on risk needs assessment?

22 MS. JORDAN: I'll object to the form.

23 But go ahead.

24 THE WITNESS: At that time it was a
25 newer process. So I've seen a few but not a lot.

1 Q (BY MS. BOWIE) Why is there a whole
2 department that does assessments -- that does
3 quality checks on risk needs assessments?

4 A. I am not sure.

5 Q. Was there a mandate, do you think, to create
6 that?

7 A. I do not know.

8 Q. Do you think it was necessary?

9 A. I do not have the data to support that
10 answer, so I do not know.

11 Q. Do you think that your job was useful at that
12 time?

13 A. Yes.

14 Q. Do you think it was helping reentry achieve
15 its goals?

16 A. That was not so much reentry as it was the
17 day-to-day activity assessments of the individuals.

18 Q. Do you think it was helping TDOC achieve its
19 goals?

20 A. What goals would you specifically be pointing
21 to?

22 Q. What goals does TDOC have?

23 A. Well, the mission is to operate safe and
24 secure prisons.

25 Q. Okay.

1 A. So is that what you are referring to?

2 Q. Yeah, sure.

3 A. Yes. I believe it was because we are
4 double-checking the work of that assessment at that
5 time, yes.

6 Q. Okay. And, to your knowledge, is there any
7 quality check that goes into assessments of
8 eligibility or ineligibility in the certificate of
9 restoration process for reentry?

10 A. For the reentry side, at this time, no.

11 Q. Okay.

12 A. However, it should be reviewed by the
13 election board.

14 Q. The ones that are completed?

15 A. Correct.

16 Q. But nobody reviews the ones that are not
17 completed?

18 A. Not at this time.

19 Q. Okay. You want to create some new TEPEs --
20 or some new OMS contact notes to show when somebody
21 is issued a certificate; is that right?

22 A. Correct.

23 Q. And are you hoping that that system will
24 replace this system?

25 A. Correct.

1 Q. Okay. If you are only going to track
2 certificates that are issued, that will help you --
3 what is the purpose of that?

4 A. To track the amount of applications that we
5 have completed on the TDOC side for -- pertaining to
6 reentry specialists.

7 Q. So quantity?

8 A. Quantity.

9 Q. But not quality?

10 A. That report would not show quality.

11 Q. Is there a way to assess quality through
12 those notes?

13 A. Not through those notes, no.

14 Q. Have you thought about creating a way to
15 assess quality?

16 A. At this time, no.

17 Q. Do you think that leaving this deposition you
18 might think about that?

19 A. Possibly.

20 Q. Okay. But at this time, there's no way to
21 assess the quality of the determinations of
22 eligibility?

23 A. At this time, no.

24 Q. Okay. Do you think having a quality check on
25 assessments of eligibility would be helpful?

1 A. It could be helpful.

2 Q. Okay. Why would you say that?

3 A. Any work that is double-checked is useful
4 inside of any kind of work setting.

5 Q. That makes good sense to me.

6 MS. BOWIE: Okay. I think we can take
7 another short break, and I think I'm almost done.

8 (Short break.)

9 Q (BY MS. BOWIE) Okay. In your preparation
10 notes, you say, Bryce put together a large PDF in
11 conjunction with district directors. What does
12 that mean?

13 A. From my memory --

14 Q. Sorry. That is Exhibit 2, I think.

15 A. Yeah, let me look back. You put so many
16 papers in front of me, Blair.

17 Q. I think it's the yellow piece of paper there.

18 A. Oh, that's -- okay.

19 In the emails that I had seen during my
20 preparation, I had seen that Bryce and the district
21 directors had put together, like, the TEPES,
22 spreadsheets, and the different amounts of
23 paperwork that was previously provided to y'all.

24 Q. Okay. So the large PDF is things that were
25 already produced?

1 A. Correct.

2 Q. Okay. Because I see you have the TEPE
3 spreadsheet also written down here?

4 A. Yeah. I wrote out what it was --

5 Q. Okay.

6 A. -- just so I understood from my knowledge.

7 Q. Okay. Got it.

8 And then you referred back to your
9 conversation with Ms. Kahn, and we touched on that
10 briefly earlier. But she effectively held your
11 position before you, right, even though your
12 position didn't exist?

13 A. She did not effectively hold my position, no.

14 Q. Can you remind who she is?

15 A. She is the reentry specialist for Riverbend
16 special -- Riverbend Maximum facility.

17 Q. And what did she tell you when you spoke?

18 A. That prior to 2019, that they were putting
19 the application and the instructions into the
20 pre-release orientation -- or sorry -- into the
21 reentry release packet.

22 Q. Okay. But not filling them out?

23 A. Correct.

24 Q. Okay.

25 A. They were instructed --

1 Q. Go ahead.

2 A. I'm sorry. They were instructing them to go
3 to the parole office to have it completed.

4 Q. And then you say here, Jen Brenner assistance
5 in process of P-O-S. None that are aware. What
6 does that mean?

7 A. Assistance in any prosecutions for, I
8 believe -- voter fraud we were talking about.

9 Q. Oh, okay. Did you learn anything else about
10 that?

11 A. I did not. She said she is unaware of any at
12 this time.

13 Q. Okay.

14 MS. BOWIE: All right those are all my
15 questions?

16 MS. JORDAN: No questions. Thank you.

17 FURTHER DEPONENT SAITH NOT
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REPORTER'S CERTIFICATE

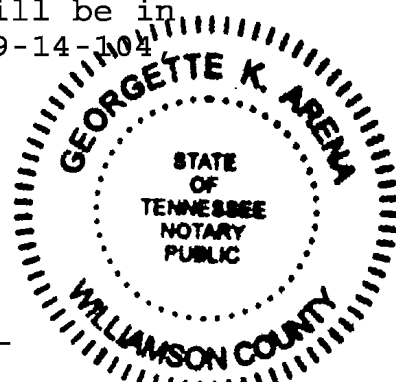
STATE OF TENNESSEE
COUNTY OF WILLIAMSON

I, Georgette K. Arena, RPR, Licensed Court Reporter, with offices in Franklin, Tennessee, hereby certify that I reported the foregoing deposition of VICTORIA RICCI by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me. I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

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E R R A T A P A G E

I, VICTORIA RICCI, having read the foregoing deposition, do hereby certify said testimony is a true and accurate transcript, with the following changes (if any):

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Historical - sup. by # 705.06 (8-15-16)

 <p>ADMINISTRATIVE POLICIES AND PROCEDURES State of Tennessee Department of Correction</p>	Index #: 705.06	Page 1 of 3
	Effective Date: May 15, 2013	
	Distribution: C	
	Supersedes: BOPP 705.06 (6/15/07) BOPP PCN 008-01 (6/1/11)	
Approved by: <i>Jack A. [Signature]</i>		
Subject: RESTORATION OF OFFENDER VOTING RIGHTS		

- I. AUTHORITY: TCA 4-3-603; 4-3-606; TCA 40-20-112; 40-29-101 through 105; TCA 40-29-202; TCA 40-29-204; TCA 40-39-202 (20); 40-39-202 (28), and TCA 40-20-112.
- II. PURPOSE: To establish procedures for the issuance of voting rights.
- III. APPLICATION: Deputy Commissioner of Operations, Assistant Commissioner of Community Supervision, all Tennessee Department of Correction (TDOC) Field Services staff, and probationers or parolees.
- IV. DEFINITIONS:
 - A. Executive Clemency: An act of mercy or leniency providing relief from certain consequences of a criminal conviction. The power, including pardon, exoneration, and commutation, is exercised by the Governor in the State of Tennessee.
 - B. Exoneration: An act of clemency declaring innocence. It differs from a pardon by eradicating the existence of a conviction and expunging all records of the person's arrest, indictment, and conviction. It automatically restores all rights of citizenship to the person.
 - C. Pardon: An act of clemency forgiving a crime. It does not eradicate the existence of a conviction but remits any penalty or civil disability suffered as a result.
 - D. Suffrage: The right or privilege of voting and the exercise of that right.
- V. POLICY: The TDOC requires that all offender requests for restoration of voting rights be dealt with according to statute and mandates of the State of Tennessee Division of Elections.
- VI. PROCEDURES:
 - A. Criteria to have voting rights restored
 - 1. Upon completion of probation or parole supervision, the officer will assess whether the offender meets the criteria to have voting rights restored under TCA 40-29-202.
 - 2. Pursuant to TCA 40-29-204, the offender is disqualified from having his or her voting rights restored if the offender has at any time been convicted of one of the following offenses during the specified time period:
 - a. Between July, 1986, and June 30, 1996 – first degree murder, aggravated rape, treason, or voter fraud
 - b. Between July 1, 1996, and June 30, 2006 – murder, rape, treason, or voter fraud.

EXHIBIT 4

V RICCI

5/18/23

Georgette Arena, RPR, LGR

Subject: RESTORATION OF OFFENDER VOTING RIGHTS

c. On or after July 1, 2006 – any of the above, or any degree of murder or rape or any felony offense under TCA Title 39, Chapter 16, parts 1, 4, or 5; or any sexual offense under TCA 40-39-202 (20) or any violent sexual offense under TCA 40-39-202 (28) designated as a felony where the victim of such offense was a minor.

d. The offender will be advised by the officer if any of the disqualifying crimes apply.

(1) It is possible that offenders whose supervision expired in the past might make application under the new code. TDOC staff will fill out the form only if TDOC (or the predecessor agencies), was the supervising agency.

(2) The Deputy Director will ensure that a list of those offenses is available on the network drive, which should be identified as N-drive for Field Services Staff.

3. The officer will also confirm that the offender was convicted after May 18, 1981.

a. If convicted on or before that date the offenders' voting rights either were not lost and thus do not have to be restored, or

b. The offender will have to seek a court order to have his or her voting rights restored.

B. Use of Certificate of Restoration (of voting rights) Form

1. Certificate of Restoration, SS-3041 (Rev. 8/11), is provided by the Department of State, Division of Elections.

2. Officers should copy the form to their pc or laptop and save it for copies.

a. The computer can be used to type directly onto the form and print it.

(1) The form must be typed or computer-printed except for the signature and each section must be completed.

(2) Any items left blank will mean the form will not be accepted.

b. If the offender completing supervision is eligible under TCA 40-29-202, the officer will complete Sections 1-4 of the form.

c. It is important that all known conviction offenses for which the offender is or was supervised be listed on 1. c. and d. of the form.

d. The only box under Section 3 that an officer will check is the fourth and final box.

(1) Any other boxes would have to be done by the pardoning authority, or

(2) The releasing authority in the event an offender served a sentence in full.

Subject: RESTORATION OF OFFENDER VOTING RIGHTS

3. The offender must take the form to the Court Clerk for certification that restitution has been paid. The Secretary of State's office will confirm child support payments with the Department of Human Services.

C. Completion of Process

1. After the officer has completed Sections 1 through 4, he/she will give the original form to the offender.
2. In order to register to vote, the offender must take the original SS-3041 to the Administrator of Elections in the offender's count of residence.
3. The officer will mail a completed copy of the SS-3041 to:

Secretary of State
Division of Elections
312 Eighth Avenue North; 9th Floor
William Snodgrass Tower
Nashville, TN 37243.

VII. ACA STANDARDS: 3-3010.

VIII. EXPIRATION DATE: May 15, 2016.

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TN CONF OF THE NATL ASSOC FOR THE ADVANCEMENT OF COLORED PEOPLE

VS

LEE, et al.

TRACI BURCH, PH.D.

May 12, 2023

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1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 TENNESSEE CONFERENCE OF THE
5 NATIONAL ASSOCIATION FOR THE
6 ADVANCEMENT OF COLORED PEOPLE,
7 et al.,

8 Plaintiffs,

9 vs.

10 WILLIAM LEE, et al.,

11 Defendants.

12 Case No. 3:20-cv-01039
13 Judge Campbell
14 Magistrate Judge
15 Frensley
16 Class Action

17 Videoconference Deposition of:

18 TRACI BURCH, Ph.D.

19 Taken on behalf of the Defendants
20 May 12, 2023

21 Commencing at 10:14 a.m.

22 Elite-Brentwood Reporting Services
23 www.elitereportingservices.com
24 Deborah H. Honeycutt, LCR, Associate Reporter
25 555 Marriott Drive
Nashville, TN 37214
(615)595-0073

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A P P E A R A N C E S

For the Plaintiffs:

MR. CHARLES K. GRANT
Attorney at Law
Baker, Donelson, Bearman, Caldwell &
Berkowitz, P.C.
1600 West End Avenue, Suite 2000
Nashville, TN 37203
(615)726-5600
cgrant@bakerdonelson.com

MR. ASEEM MULJI
MS. BLAIR BOWIE
MS. VALENCIA RICHARDSON
MS. ELLEN BOETTCHER
MS. ALICE HULING
Attorneys at Law
Campaign Legal Center
1101 14th Street NW, Suite 400
Washington, DC 20005
(202)736-2200
amulji@campaignlegalcenter.org
bbowie@campaignlegalcenter.org
vrichardson@campaignlegalcenter.org
eboettcher@campaignlegalcenter.org
ahuling@campaignlegalcenter.org

For the Defendants:

MR. ALEX RIEGER
MR. ZACHARY L. BARKER
Attorneys at Law
Assistant Attorney General
Public Interest Division
Office of the Attorney General
P.O. Box 20207
Nashville, TN 37202-0207
(615)532-4098
alex.rieger@ag.tn.gov
zachary.barker@ag.tn.gov

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1
2 **S T I P U L A T I O N S**
3

4 **The videoconference deposition of**
5 **TRACI BURCH, Ph.D., was taken by counsel for the**
6 **Defendants, by Notice, with all participants**
7 **appearing at their respective locations, on May 12,**
8 **2023, for all purposes under the Tennessee Rules of**
9 **Civil Procedure.**

10 **All objections, except as to the form of**
11 **the question, are reserved to the hearing, and said**
12 **deposition may be read and used in evidence in said**
13 **cause of action in any trial thereon or any**
14 **proceeding herein.**

15 **It is agreed that Deborah H. Honeycutt,**
16 **Notary Public and Licensed Court Reporter for the**
17 **State of Tennessee, may swear the witness remotely,**
18 **and that the reading and signing of the completed**
19 **deposition by the witness is not waived.**
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1 * * *

2
3 THE REPORTER: Good morning. My name is
4 Deborah Honeycutt. I am a stenographic reporter
5 with Elite-Brentwood Reporting Services. My license
6 number is 472.

7 Today's date is May 12, 2023, and the
8 time is approximately 10:14 a.m. Central time.

9 This is the deposition of Traci Burch,
10 Ph.D. in the matter of Tennessee Conference of the
11 National Association for the Advancement of Colored
12 People, et al., vs. William Lee, et al., filed in
13 the United States District Court, Middle District of
14 Tennessee, Nashville District. The case number is
15 3:20-cv-01039.

16 This deposition is being taken by
17 videoconference, and the oath will be administered
18 remotely by me. Any digital exhibits marked during
19 this deposition will be deemed as "original" for
20 purposes of said deposition.

21 At this time, I will ask counsel to
22 identify yourselves and state whom you represent.
23 If you have any objections with the procedures I've
24 outlined, please state so when you introduce
25 yourself. We will start with the noticing attorney.

1 MR. RIEGER: My name is Alex Rieger with
2 the Attorney General's Office, and I'm joined by
3 Zachary Barker, also with my office.

4 MR. CHARLES GRANT: I'm Charles Grant,
5 here on behalf of the plaintiffs. And I'll ask my
6 co-counsel to also identify themselves.

7 MS. BOWIE: Blair Bowie with the
8 plaintiffs.

9 MS. RICHARDSON: Vanessa Richardson with
10 the plaintiffs.

11 MS. HULING: Alice Huling with the
12 plaintiffs.

13 MR. MULJI: Aseem Mulji with the
14 plaintiffs.

15 MS. BOETTCHER: Ellen Boettcher with the
16 plaintiffs.

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* * *

TRACI BURCH, Ph.D.,
was called as a witness, and after having been duly
sworn, testified as follows:

EXAMINATION

QUESTIONS BY MR. RIEGER:

Q. Good morning. My name is Alex Rieger, and I
am with the Attorney General's Office, I'm
representing the defendants in this matter,
accompanied on this Zoom by my co-counsel, Zachary
Barker.

Dr. Burch, could you start by introducing
yourself for the record, please.

A. Yes. I am Traci Burch.

Q. And could you spell your last name, please.

A. B-U-R-C-H.

Q. Before we start, there are always a series of
preliminary questions. I note in your expert report
that you've been an expert witness multiple times so
I bet you're familiar with a lot of these but we
need to go over them for the record.

Have you been deposed before?

A. Yes.

1 Q. How many times?

2 A. In several cases. I'd say about -- sorry.
3 If I might refer to my CV just to make sure I have
4 an accurate count here? Seven times before this.

5 Q. Did any of those depositions have any
6 relation to this case?

7 A. No.

8 Q. Have you ever testified at a trial before?

9 A. Yes.

10 Q. How many times?

11 A. Sorry, I'm referencing my CV to be accurate.
12 Four times.

13 Q. Did your testimony in any of those instances
14 have any relation to this case?

15 A. No.

16 Q. So even though you seem like you're an
17 experienced hand at deposition testifying, I do
18 still want to go over a couple of ground rules if
19 that's all right.

20 Start, if you don't understand a question
21 that I ask, either because you can't hear me, which
22 seems to be a problem today, it's all on me, or
23 because the question is just unintelligible, please
24 ask me to repeat or rephrase the question and I'll
25 do my best to rephrase or re-ask for you. Is that

1 all right?

2 A. Yes.

3 Q. If your attorney objects to any question that
4 I ask, please don't answer until your attorney has
5 fully stated their objection and, if necessary, they
6 and I finish discussing it. Then I'll either ask
7 you to answer the question or I may try to rephrase
8 to address the objection or your attorney may just
9 simply tell you not to answer. But, if you could,
10 please try to let the objection process work out
11 before you start talking. Is that all right?

12 A. Yes.

13 Q. Please don't guess at any answer that I ask.
14 If you don't recall specifically the information,
15 it's fine to say that you don't recall or if you
16 want to provide a reasonable estimate of anything
17 that I might ask at the time but please no
18 guesswork. Is that all right?

19 A. That's fine.

20 Q. If during the deposition, if at any point you
21 recall information that relates to a previous
22 question that I asked, that you might not have
23 remembered at the time but maybe another question
24 jogs your memory, would you please let me know if
25 that happens so we can make sure the record is

1 complete?

2 A. Yes.

3 Q. We're also going to try to make the court
4 reporter's job as easy as we can. There will be
5 crosstalk at times. But, ideally, only one of us
6 should be speaking at a time so that the court
7 reporter can have an easier job reporting what's
8 being said.

9 If I talk over you or cut into you while you
10 were answering a question, please let me know that
11 you weren't done and I'll apologize and certainly
12 give you the opportunity to finish your answer. If
13 it's all right with you, if you could try not to
14 interrupt me if I'm asking a question, even if you
15 think you know where it's going, that way we don't
16 have crosstalk; is that all right?

17 A. Yes.

18 Q. One of my deposition rules is that I don't
19 believe a deposition should be endurance sports. So
20 if at any time -- I usually try to take a break once
21 an hour for at least five minutes for a comfort
22 break. If you want a break besides that, all you
23 have to do is let me know.

24 If there's a question pending, I may ask you
25 to answer the question, and then we can go on break,

1 but I'm not going to be rude about that. If you
2 need to take a break for whatever reason, that's
3 fine. Please just let me know and I'll make sure to
4 accommodate it.

5 A. Okay.

6 Q. And do you have any questions regarding the
7 conduct of the deposition itself or anything that we
8 talked about?

9 A. No.

10 Q. Is there anything that you're aware that
11 would prevent you from testifying truthfully and
12 accurately this morning?

13 A. No.

14 Q. No alcohol, no drugs, no medications, nothing
15 like that?

16 A. No.

17 Q. I'm sorry. I always have to ask those
18 questions to make sure that the deposition is valid.
19 Sometimes they can come across as a little bit rude.
20 I just asked and I appreciate your answer. Sorry,
21 actually.

22 A. I know. It's always great to get asked that
23 at ten in the morning.

24 Q. Some people start early, I suppose. If we
25 could, I'd like to talk a little bit about your --

1 if I could, I'd like to talk about your preparation
2 for the deposition. What, if any, documents did you
3 review in preparation for this deposition?

4 A. Just my report.

5 Q. Anything besides your report that you can
6 recall?

7 A. No.

8 Q. Did you speak with anyone about this
9 deposition? And if -- did you speak with anyone
10 about this deposition?

11 A. Just the -- some of the attorneys who are
12 present today.

13 Q. Other than reviewing your expert report and
14 speaking to counsel, did you do anything else to
15 prepare for this deposition?

16 A. No.

17 Q. I'm going to start with your expert report
18 and I'm going to attempt to share it and we'll see
19 how this goes. All right.

20 MR. RIEGER: Ms. Honeycutt, these are
21 not premarked. So at this time, hopefully everyone
22 has got what I'd like to call deposition **Exhibit 1**
23 which is the expert report. If you'll let me know
24 whenever you have that and have it up, opened up.

25 MR. CHARLES GRANT: Counselor, I see the

1 link. Are you going to open it at this time?

2 MR. RIEGER: Yes.

3 THE WITNESS: And if it's okay, I also
4 have a clean copy of it here in front of me as well.

5 BY MR. RIEGER:

6 Q. Are you familiar with this document,
7 Dr. Burch?

8 A. I can't see it. Do I need to open it?

9 Q. Yes, please.

10 A. Oh, okay. I'm sorry, I don't know where it
11 went on my computer. Let me see. Open file. All
12 right. Yes. This appears to be a copy of my
13 report.

14 MR. RIEGER: At this time,
15 Ms. Honeycutt, if I could introduce this as
16 deposition Exhibit Number 1.

17 MR. CHARLES GRANT: No objection.

18 (WHEREUPON, a document was marked as
19 Exhibit Number 1.)

20 BY MR. RIEGER:

21 Q. And, Dr. Burch, if I could, I'd like to start
22 with Exhibit A to deposition Exhibit 1, which is
23 your CV which I believe starts on page 43 of the
24 PDF. If I could, could I get you to turn to
25 Exhibit A?

1 A. Yes. I have it.

2 Q. Can you identify this for me?

3 A. It appears to be a copy of my CV.

4 Q. Do you recall at what date this CV was
5 created?

6 A. I don't but probably sometime in February.

7 Q. Do you have any updates to your CV since?

8 A. Yes. I believe I provided an updated CV to
9 my attorneys earlier this week.

10 Q. I'd like to upload another document into the
11 chat. And if everyone could open that for me.

12 And, Dr. Burch, are you familiar with this
13 document?

14 A. Yes.

15 Q. And what is it?

16 A. It is the updated CV that I provided earlier
17 this week.

18 MR. RIEGER: At this time, I'd like to
19 introduce the updated CV as deposition **Exhibit 2**.

20 MR. CHARLES GRANT: No objection.

21 (WHEREUPON, a document was marked as
22 **Exhibit Number 2**.)

23 BY MR. RIEGER:

24 Q. Are there any further updates to this CV that
25 aren't mentioned in here?

1 A. I don't believe so.

2 Q. If I could, I'd like to start with your
3 educational background.

4 Would you mind giving me a brief description
5 of it?

6 A. Yes. I finished my undergraduate work at
7 Princeton in politics, which is what they call
8 political science, and a minor in African-American
9 studies. And then my Ph.D. is in government, which
10 is what they call political science and social
11 policy, which is a separate field, a separate
12 department at Harvard University.

13 Q. I note that your CV does not include a date
14 that you received your Ph.D. Do you know what that
15 is off the top of your head?

16 A. 2007.

17 Q. 2007. Did any of your Ph.D. education at
18 Harvard include -- did any of your Ph.D. education
19 at Harvard involve voting rights?

20 A. Yes. We studied all aspects of elections and
21 participation.

22 Q. Did that include felon voter
23 re-enfranchisement?

24 A. Yes.

25 Q. When I talk about felon voter

1 re-enfranchisement, I may use them interchangeably,
2 felon voter restoration.

3 Am I right to say those -- do you understand
4 those terms are synonymous?

5 A. Yes, that's fine.

6 Q. Did any part of your Ph.D. education at
7 Harvard involve any aspect of Tennessee's either
8 voter rights process or felon voter
9 re-enfranchisement process?

10 A. No.

11 Q. Did any part of your Ph.D. education at
12 Harvard involve procedural due process politics?

13 A. I'm sorry, could you repeat that?

14 Q. Did any part of your Harvard Ph.D. education
15 include the concepts of procedural due process?

16 A. Yes.

17 Q. Can you elaborate for me?

18 A. We studied and read articles, for instance,
19 related to, just off the top of my head, the impact
20 of professions of procedural due process on beliefs
21 about the justice system.

22 Q. And do you recall the names or any more
23 specifics about those articles?

24 A. Some of them were by Tom Tyler.

25 Q. Anything else that you remember?

1 A. Not off the top of my head.

2 Q. And who is -- is it Mr. or Dr. Tyler?

3 A. Dr. Tyler.

4 Q. Can you tell me about him, please.

5 A. Tell you about Dr. Tyler, who -- his
6 articles?

7 Q. Yes, ma'am.

8 A. He is a professor who is at -- for some
9 reason I think he's at Yale, but I could be wrong
10 about that, and does experimental work on
11 perceptions of due process and procedural justice,
12 fairly well known in modern society circles.

13 Q. Do you recall if any of Dr. Tyler's works
14 regarding the perceptions of due process involve the
15 voting context?

16 A. I don't know. There -- a lot of them are
17 related to criminal justice so -- and processes more
18 generally, but there are dozens of articles.

19 Q. Could you describe your Ph.D. dissertation
20 for me, please?

21 A. Yes. The dissertation titled Punishment and
22 Participation looked at several aspects of voting
23 among people with felony convictions including,
24 measuring whether people in several different states
25 re-registered to vote after a felony conviction, as

1 well as looking at some of the -- some state
2 regulations and trying to predict what factors led
3 to the certain states adopting the restrictions as
4 they did on felony voting and, finally, a more -- a
5 spatial analysis of removals from communities and
6 the effect of those removals on the voting
7 participation of people who are left behind.

8 Q. Do you recall if your dissertation discussed
9 or evaluated Tennessee's restoration process?

10 A. It did not.

11 Q. Did it discuss Tennessee at all?

12 A. It did not.

13 Q. Could you tell me about your undergraduate
14 education, please?

15 A. I'm sorry, what aspect?

16 Q. Just describe it generally, please.

17 A. I'm sorry. I'm having a really hard time
18 answering that question.

19 Q. I could certainly rephrase.

20 A. Okay, thank you.

21 Q. Where did you go to school for undergraduate
22 education?

23 A. At Princeton.

24 Q. What did you get your degree in?

25 A. In politics, which is what they call

1 political science.

2 Q. During your undergraduate education, did you
3 receive any education regarding voting rights?

4 A. Yes. I took classes on political
5 participation and behavior and American politics
6 generally.

7 Q. Did any of those classes involve felon
8 restoration?

9 A. No.

10 Q. Did any of those classes discuss voting
11 rights in Tennessee?

12 A. Not that I can recall.

13 Q. What do you mean by not exactly?

14 A. Not that I can recall. It was 20 years ago,
15 so it may have happened but I don't know.

16 Q. Okay. Is there any other education that you
17 have that isn't reflected in the CV?

18 A. I may have done some summer coursework at
19 Duke when I was an undergraduate for credit but not
20 for a degree.

21 Q. Do you recall if some of those reports had
22 anything to do with voting rights?

23 A. We did discuss voting rights in two -- in a
24 couple of those courses, yes.

25 Q. Did any of those courses discuss felon

1 restoration?

2 A. No.

3 Q. Did any of those courses discuss Tennessee at
4 all?

5 A. No.

6 Q. If I could move up to your employment on the
7 CV. I'll start from the earliest. What was your
8 first job after receiving this Ph.D.?

9 A. So I was hired jointly as a research
10 professor at the American Bar Foundation, as well as
11 at an assistant professor in political science at
12 Northwestern.

13 Q. Did you teach any classes while you were an
14 assistant professor at Northwestern?

15 A. Yes.

16 Q. What were those classes?

17 A. I taught intro to American politics for
18 undergraduates. I taught a course on the welfare
19 state and redistribution for both undergraduates and
20 graduate and separately for graduate students. I
21 taught undergraduate course Law in the Political
22 Arena. Another course, let's see, I taught Race and
23 Public Policy for undergraduates. I taught Criminal
24 Justice Politics and Policy as well.

25 Q. Did any of those courses involve felon

1 restoration?

2 A. Yes. I did occasionally cover topics related
3 to voting after a felony conviction and sometimes
4 restoration too.

5 Q. Do you recall the substance of what you would
6 teach on those subjects?

7 A. For undergraduate, typically we would talk
8 about the existence of laws, as well as some of
9 the -- we just discussed some of the patterns of
10 percentages of people who were disenfranchised, as
11 well as some discussion about barriers to reentry
12 and re-enfranchisement generally. For graduate
13 students, it was more involved. Sometimes we would
14 discuss both -- graduate seminars tend to be
15 studying both topics but also methods of how to
16 study something.

17 So we would talk about -- I would either use
18 the methodology from some of my own work as an
19 example or we'd talk about -- for instance, if we
20 were talking about something like a barrier to
21 voting, we might talk about how to -- how certain --
22 how people in past studies might have covered or
23 tried to get at measurement issues, for instance.

24 Q. Do you recall any of the barriers that you
25 would teach about in those courses?

1 A. Yes. So in a course that I taught later as
2 an associate professor in political behavior, we
3 would talk about all kinds of barriers. So I
4 remember doing a week where we talked about moving
5 polling places, for instance, or voter ID. So there
6 would be -- we would cover a lot of different kinds
7 of barriers, not just the barriers posed by a felony
8 conviction.

9 Q. Did any of the courses involve a discussion
10 of Tennessee?

11 A. I can't recall. I'm trying -- I can't
12 recall. I may have assigned one of the pieces that
13 I cite in my report, the Meredith and Morse piece,
14 that covers both Alabama and Tennessee as some
15 examples but I -- it was several years ago so I
16 can't recall specifically which article I assigned.

17 Q. In your -- I believe earlier you mentioned
18 you were a research professor for the American Bar
19 Foundation?

20 A. Yes.

21 Q. Can you describe that for me?

22 A. So they buy out half of my appointments, my
23 teaching and service and the like at Northwestern,
24 and it basically gives me enough -- the time to do
25 the research I would do similar to what I would do

1 at Northwestern, but also under the auspices of ABF.

2 Q. Thank you. Did any part of your work at the
3 American Bar Foundation deal with Tennessee or felon
4 restoration in Tennessee?

5 A. No.

6 Q. Thank you. If I could, I'd like to now turn
7 to the publications portion of your CV, please. And
8 rather than go through them one at a time and line
9 by line, would you mind telling me which of these
10 publications involve in any way felon restoration?

11 A. Yes. That would be -- I'm scrolling down to
12 page -- I think this is page two, the 2014 article,
13 the effects of imprisonment and community
14 supervision on political participation. My 2013
15 book Trading Democracy for Justice. I skipped
16 something. I'm sorry.

17 My 2012 publication, Did Disenfranchisement
18 Laws Help Elect President Bush? 2011, Turnout and
19 Party Registration Among Criminal Offenders in the
20 2008 general election. And I think that's it. The
21 other ones deal with voting is but not necessarily
22 related to people with felony convictions.

23 Q. If I could go back to your -- now, if I could
24 go back to the first one you mentioned, which was
25 2014, The Effects of Imprisonment and Community

1 Supervision on Political Participation, can you
2 describe that for me?

3 A. Yes. That article is focused on North
4 Carolina and looks at both -- it looks at the
5 spatial distribution of people who have been
6 imprisoned in North Carolina, as well as those who
7 are serving sentences under community supervision.
8 So all of those people who are disenfranchised, and
9 both look at -- and looks at the effects of
10 convictions and punishment on voter turnout in those
11 neighborhoods, those communities where the people
12 are under just supervision or have been removed and
13 are in prison.

14 Q. Does that article by chance happen to have
15 anything to do with your testimony in Community
16 Success Initiatives, et al. versus Timothy J. Moore
17 out of Wake County, North Carolina?

18 A. I reference the article in my testimony but
19 I'm not sure what you mean by have anything to do
20 with.

21 Q. So the article was written before your
22 testimony?

23 A. Yes.

24 Q. Thank you. If I could go to the next one on
25 the list, which is 2013, Trading Democracy for

1 Justice, Criminal Convictions and the Decline of
2 Neighborhood Political Participation. Could you
3 describe that for me, please?

4 A. Yes. So that book is similar to the 2014
5 article but on a larger scale. So it measures,
6 again, the spatial, the community impact of
7 incarceration in Georgia, North Carolina, I have a
8 couple footnotes in Florida, in order to see how the
9 concentration of people with felony convictions into
10 certain communities affect voter turnout in those
11 communities.

12 Q. Did either the article titled The Effects of
13 Imprisonment and Community Supervision on Political
14 Participation or Trading Democracy for Justice,
15 Criminal Convictions and the Decline of Neighborhood
16 Political Participation reference or discuss
17 Tennessee at all?

18 A. No.

19 Q. Did the states at issue in those two articles
20 have a felon restoration process where you fail and
21 had to affirmatively request for re-enfranchisement?

22 A. No.

23 Q. What were the processes like in states at
24 issue in those two articles?

25 A. Could you repeat that?

1 Q. What were the felon restoration processes in
2 the states at issue in those two articles?

3 A. So they are -- the processes are sort of
4 labeled as automatic, although there still may be
5 some question, for instance, as to whether a person
6 has paid all their fines and fees.

7 Q. When you say automatic, can you describe that
8 for me?

9 A. So they just say there's automatic
10 restoration. But I think that it's not necessarily
11 clear that that means that a person has to do
12 nothing in order to get their voting right back.

13 Q. When you say automatic, what's the triggering
14 event that makes the process automatic?

15 A. So it's supposed to be at the end -- the
16 completion of the sentence.

17 Q. Do those states at issue have requirements
18 that court costs or fees or child support or
19 anything like that be current or paid in order to be
20 re-enfranchised?

21 A. Yes. So with -- so with respect to Georgia,
22 yes with respect to court costs and fees. And in
23 North Carolina, it has -- for some people who are on
24 probation, in order to exit probation you have to
25 have paid all of your court costs and fees.

1 Q. How do those states that are the subject of
2 those two articles confirm in compliance with the
3 requirements that court costs, child support, or
4 what have you be current or paid?

5 A. It varies. So I don't -- I haven't seen any
6 routinized process by which that happens.

7 Q. Could you elaborate a little more on that?

8 A. I was just saying I think it -- it -- as far
9 as I know, that there's no -- it could vary by
10 county. And, again, like I said, even for North
11 Carolina there are some probationers for whom it's
12 not clear how that process works out. I think the
13 individual probation officer may have to sign off on
14 whether the person is finished.

15 And I should also note that right now in
16 North Carolina, that's sort of part of what got
17 litigated in Community Success Initiative in terms
18 of the need for paying fines and fees with respect
19 to people who are still on probation in order to be
20 removed from probation. I'm not quite sure where
21 that decision is right now, the status of what the
22 courts have ruled on that. But that may no longer
23 be a requirement as of 2020 or 2021 when they made
24 that ruling, but then I don't know if they've
25 reversed it or not. So that part for North Carolina

1 is up in the air.

2 Q. Do you know whether or not the states at
3 issue in those two articles had decentralized
4 processes for felon restoration?

5 A. Could you repeat that?

6 Q. I'm sorry. Do you know whether or not the
7 states at issue in those two articles had
8 decentralized processes for felon restoration?

9 A. It depends on what you mean by decentralized.
10 I know that probation officers played a role but
11 they all work for the state so I'm not -- so it's
12 kind of hard to characterize it as centralized or
13 decentralized.

14 Q. Earlier you referenced that some
15 determination of court costs or other payables was
16 done at a county level. Can you describe that a
17 little bit more?

18 A. I think that that was by probation officers.

19 Q. Okay. I just wanted to clarify that we are
20 talking about the same thing. Thank you.

21 A. Uh-huh.

22 Q. Did either of the states at issue in those
23 two articles have either an appeal or a judicial
24 process that allowed a felon who is denied
25 restoration to go to courts to, essentially, appeal

1 an adverse decision?

2 A. I didn't examine that.

3 Q. If I could move on to the next article you
4 referenced, which is the 2012, Did dis- -- dis- --

5 A. Disfranchisement, yes. That's old. The
6 technically correct word for it.

7 Q. Just to clarify, do you understand
8 disfranchisement to be the same concept as
9 disenfranchisement?

10 A. Yes.

11 Q. Thank you. Just want to make sure we're all
12 talking about the same thing. So for that article,
13 can you describe it for me?

14 A. So that article takes my estimate of the
15 likelihood of casting ballots in multiple elections
16 of people with felony convictions by race and gender
17 and uses those estimates to predict what would have
18 happened in Florida had people with felony
19 convictions had the right to vote in the 2000
20 general election.

21 Q. Do you recall what Florida's restoration
22 process looked like back then?

23 A. It was changing. So from my understanding,
24 it was based on pardons. And then I think in 2006
25 Governor Crist opened up re-enfranchisement and it

1 may have been an application process. And then I
2 think that changed again when a new governor was
3 elected. So it -- it changed quite -- it was
4 shifting over -- back and forth over the period of
5 time that I was studying.

6 Q. Did that article discuss Tennessee at all?

7 A. No.

8 Q. Did that article discuss whether or not there
9 were errors in Florida's felon restoration process
10 at that time?

11 A. No.

12 Q. Moving on to the next article, which is the
13 2011 Turnout and Party Registration Among Criminal
14 Offenders in the 2008 General Election, would you
15 describe that for me?

16 A. That is an article that estimates voter
17 turnout in 2008 but I think also in 2000 and 2004
18 for people with felony convictions in several states
19 by race and age and gender, crime type, I think, and
20 other demographics characteristics.

21 Q. Did that article discuss Tennessee at all?

22 A. Could you repeat the last little bit of that?

23 Q. Sorry. Did that article discuss Tennessee at
24 all?

25 A. No.

1 Q. Did it discuss any state-specific felon
2 restoration process?

3 A. It probably describes them just as -- just
4 for the -- briefly for the reader.

5 Q. Do you recall whether or not -- do you recall
6 whether or not that article discussed the difference
7 between a centralized and a decentralized felon
8 restoration process?

9 A. It did not.

10 Q. And I may have asked this already. Did that
11 article discuss or identify any potential errors in
12 any felon restoration process?

13 A. It did not.

14 Q. Thank you. To your knowledge, did any of
15 the -- anything in your publications section of your
16 CV discuss or identify errors in a -- simple errors
17 in the -- in a felon restoration process?

18 A. So the paper here, the 2011 paper, Fixing the
19 Broken System of Financial Sanction actually talks
20 about errors and difficulties with LFO records
21 nationally. And I have referenced -- and that work,
22 for instance, I discuss a little bit in my report on
23 Florida's restoration process in the case Jones
24 versus DeSantis.

25 Q. Can you describe what Florida's restoration

1 process was at that time?

2 A. So for the case that I'm talking about here,
3 that was the case that took place after Florida
4 passed legislation that required people to
5 complete -- pay all of their assessed fines and
6 court costs at the time -- before they could be
7 restored to vote.

8 Q. Do you recall what your conclusions of that
9 article were?

10 A. In which article?

11 Q. The 2011 article?

12 A. Oh, yes. Fixing the Broken System of
13 Financial Sanction. That there needed to be an
14 investment in technology to centralize and upgrade
15 databases of keeping legal financial obligations,
16 along with some other changes.

17 Q. Did any of the articles in your publications
18 section discuss how states that have -- sorry,
19 strike that.

20 Can you explain to me what you mean by the
21 term LFO?

22 A. Legal financial obligation.

23 Q. And what do those include?

24 A. They can include everything from traffic
25 tickets to child support to court costs and jail

1 costs. There's actually a wide variety of them.

2 Q. If I use the term LFO, can we agree that it
3 is what you just described?

4 A. Yes.

5 Q. In states that have LFO requirements -- I'm
6 sorry, strike that.

7 In any of your publications, do you discuss
8 at all how states with LFO requirements for felon
9 restoration handle LFOs that may exist from
10 out-of-state convictions?

11 A. I don't think so.

12 Q. If -- if -- do any of your publications
13 besides the ones we already discussed deal with
14 LFOs?

15 A. No.

16 Q. Do any of your publications discuss -- do any
17 of your articles discuss whether or not -- strike
18 that.

19 Do any of the articles discuss your personal
20 opinion about LFOs?

21 A. What do you mean by personal opinion?

22 Q. Let me rephrase. Do you have a position on
23 whether LFOs should be a requirement for felon
24 re-enfranchisement?

25 A. I don't.

1 Q. Do you have an opinion on it?

2 A. I just think that it -- my -- my opinion,
3 basically, is that most states don't have good
4 enough records to be able to implement such a --
5 those kinds of LFO requirements. So that's what I
6 think the point of the financial sanctions piece is.

7 Q. Which states?

8 A. In general, both the literature, as well as
9 the states that I have studied for cases, for
10 instance, don't keep records that are complete
11 enough to be able to always be sure that they can
12 use LFO or even calculate how much people owe or
13 make it clear how much people owe for LFOs.

14 Q. Can you recall any state specifically?

15 A. Yes. So I believe that there's a multi-state
16 study by Beckett and Harris and some others that
17 talk about this in relation to Washington State and
18 several others, as well as my work in Florida. I
19 also saw some examples of this in my work on this
20 case.

21 Q. Any others that you can recall?

22 A. No.

23 Q. Do you believe that any process -- sorry.

24 Do you believe than any recordkeeping process
25 would be sufficient to permit LFOs as a requirement

1 for felon re-enfranchisement?

2 A. Can you say that again?

3 MR. CHARLES GRANT: Counselor, can you
4 repeat your question, please?

5 BY MR. RIEGER:

6 Q. Certainly. Do you believe that any
7 recordkeeping process -- strike that.

8 Do you believe that any recordkeeping process
9 would be sufficient to completely eliminate any sort
10 of errors regarding LFOs as a requirement for felon
11 re-enfranchisement?

12 A. I think it's possible.

13 Q. What would that look like?

14 A. The record would be complete, which seems
15 like a low bar but it's actually not, a bar that I
16 think is really difficult to meet. It would be
17 complete. And it would contain information both
18 about -- and clarity about what's out and also some
19 indication of what's been paid and how much is still
20 owed.

21 Q. Is any state process what you consider a
22 model of acceptable recordkeeping to justify LFOs as
23 a condition for felon re-enfranchisement?

24 A. I haven't studied all of them.

25 Q. Do you have a belief as to whether or not it

1 would even be possible to implement a system given
2 that certain records and convictions have already
3 occurred?

4 A. Well, again, that depends on the states and
5 the quality of their records. So if the state is
6 trying to implement a system that requires documents
7 that they don't have, I think that is difficult in
8 practice. But, like I said, it's theoretically
9 possible that if there are good records that you
10 could implement such a system.

11 Q. What is your -- what is your standard for an
12 effective enough recordkeeping system in terms of an
13 error? Does it need to be 100 percent accurate to
14 be acceptable or is that your belief that is what
15 needs to be a requirement?

16 MR. CHARLES GRANT: Objection to the
17 form of the question.

18 THE WITNESS: So I think my standard
19 would be that there should be accuracy and -- but --
20 and if there is a known problem with accuracy, then
21 there should at least be an appeal process or some
22 other kind of process by which you could ascertain
23 the information of eligibility that you need, rather
24 than relying on the standard -- the underlying
25 documents that are problematic.

1 Q. Can you describe what you mean by problems in
2 recordkeeping?

3 A. Records that don't exist because they were
4 either destroyed or archived. Records that are
5 incomplete such that if someone has made a payment
6 but there's no record of that payment.
7 Typographical or other errors.

8 Q. Anything other than those?

9 A. There could be other kinds of errors that I'm
10 not recalling right now, but those are just some
11 examples of what I mean.

12 Q. I may have asked ask it before but I'll ask
13 it in a different way.

14 Do you believe that any state has a
15 sufficient enough recordkeeping process to justify
16 LFOs as a condition for felon restoration?

17 A. Again, I don't -- I haven't studied all of
18 the states, so I don't know the answer to that.

19 Q. Do you recall if the -- I understand you
20 haven't studied all of the states.

21 But do you recall a single one that in your
22 view would be sufficient -- as sufficient
23 recordkeeping to justify LFOs as a condition for
24 felon re-enfranchisement?

25 A. Again, I don't know the answer to that. It's

1 entirely possible that there are.

2 Q. But you're not aware of any?

3 A. No. I haven't studied all of them so I don't
4 know.

5 Q. How many have you studied?

6 A. I have personally studied three and recall
7 reading about, maybe off of the top of my head,
8 maybe four more, so a minority.

9 Q. So up to seven. Do you recall which states
10 they were?

11 A. So I have done -- like I said, I have done
12 work in North Carolina, Florida, and here in
13 Tennessee. I have read about Washington State,
14 Alabama, and I think California and sorry I'm
15 blanking on one of the other -- on any of the
16 others.

17 Q. And of those six states that you recall,
18 North Carolina, Florida, Tennessee, Washington,
19 Alabama, and California, is it your view that none
20 of them have sufficient recordkeeping systems to
21 justify using LFOs as a condition for a felon
22 restoration?

23 A. I am only comfortable speaking right now
24 about the three that I have studied personally. And
25 I would say that no, the records -- there are

1 definitely problems with the records.

2 MR. RIEGER: I'm about to move on to
3 another section of the CV. I notice we've been on
4 the record for about an hour. I can press on if
5 you'd like or if anyone would like a break, that's
6 fine me by me.

7 THE WITNESS: I'm fine with pressing on,
8 but I'm willing to defer to others.

9 MR. CHARLES GRANT: If we have a comfort
10 break.

11 MR. RIEGER: We can have a coffee break.

12 MR. CHARLES GRANT: I'm a little older
13 than Dr. Burch.

14 MR. RIEGER: Say ten minutes?

15 MR. CHARLES GRANT: That's fine.

16 (Recess observed.)

17 BY MR. RIEGER:

18 Q. Dr. Burch, you understand that you're still
19 under oath?

20 A. Yes.

21 Q. Thank you. If I could, I would like to
22 scroll down to the next topic on your CV, grants.
23 And can you describe the entry that begins
24 co-principal investigator?

25 A. Yes. I have an NSF grant that is used at the

1 ABF to fund fellowship for doctoral and
2 post-doctoral fellows who study law and inequality.

3 Q. Does that grant have anything to do with
4 felon restoration?

5 A. No.

6 Q. Does it have anything to do with Tennessee?

7 A. No. Those are -- there may be students who
8 studied those things on the grant but they are
9 private and not my own.

10 Q. If I could move down to honors and
11 fellowships. I won't go through these line by line
12 but do any of those honors and fellowships besides
13 the first three which indicate they're for Trading
14 Democracy for Justice which we've previously
15 discussed, do any of the other of these awards and
16 honors and fellowships deal with felon restorations?

17 A. Yes. So I think the -- I might have received
18 the Stanford Center for Poverty and Inequality Grant
19 for work that I completed either for the book or for
20 the article that I talk about. The Trade and
21 Democracy for Justice of the article afterwards.

22 And -- one, two, three -- the next four dissertation
23 prizes, my dissertation was about the restoration
24 and voting of people with felony convictions, as was
25 the IQSS Research Fellowship. Oh, also the

1 sentencing project fellowship.

2 Q. Could you describe the sentencing project
3 fellowship for me?

4 A. Yes. I was working on a -- paper is part of
5 my dissertation and I think the report that the
6 small excerpt of that is on this sentencing project
7 website as a report that I wrote back in 2005, 2006,
8 that time frame. But it was not residential.

9 Q. Can you explain for the record what you mean
10 by residential?

11 A. I didn't go and work at the sentencing
12 project.

13 Q. And if I could get you to scroll down to
14 professional service, please. Did any of these
15 items on your CV under professional service relate
16 to felon restoration?

17 A. As part of some of these committee
18 assignments I may have read or reviewed articles or
19 research projects related to that topic.

20 Q. Which ones?

21 A. So the Best Paper Award Committee for Law and
22 Court. The Kammerer Prize Committee. Associate
23 Editor of Political Behavior. Kalven Prize
24 Committee. Dissertation Prize Committee for Urban
25 Politics. Associate editor, Law and Social Inquiry.

1 Urban Politics Section Book Prize Committee. And as
2 a journal article reviewer.

3 Q. All right. If I could get you to discuss
4 those one at time in a little more detail. You can
5 start where you would like.

6 A. Okay. So, for instance, the top, the APSA
7 Law and Court Section, Best Paper Award Committee,
8 people submit papers on topics related to law and
9 court, and some of those may have dealt with the
10 restoration of voting rights or voting by people
11 with felony convictions.

12 Similarly, my work on the Kammerer Prize
13 Committee, I may have -- I may have had to review
14 either an individual work or bodies of work that
15 were related to restoration of voting right.

16 As associate editor of political behavior, I
17 typically review several articles a year and some of
18 those articles were related to felony voting right
19 or voting right people with felony convictions.

20 Similarly, with the Kalven Prize Committee, I
21 may have reviewed a submission that was related to
22 felony voting rights. The Urban Politics Section
23 Dissertation Prize Committee, one of the
24 dissertations we reviewed may have dealt with felony
25 voting rights.

1 As associate editor of Law and Social
2 Inquiry, I made decisions on articles and also read
3 and reviewed the articles related to felony voting
4 right along with other topics.

5 Urban Politics Section Book Prize Committee
6 may have had books submitted that were about voting
7 among people with felony convictions. And I'm
8 often -- for the last, I'm often asked to review for
9 journals -- and this is not an exhaustive list --
10 most of the research that comes through about felony
11 voting rights or voting among people with felony
12 convictions.

13 Q. Do you recall if any of the articles reviewed
14 as part of your professional service dealt with
15 Tennessee?

16 A. I can't recall.

17 Q. Do you know if any of the articles dealt with
18 LFO recordkeeping?

19 A. It's likely but I can't recall specifically.

20 Q. Do you know if any of the articles that you
21 reviewed as part of your professional service items
22 discussed errors in the felon restoration process
23 anywhere?

24 A. It's likely but I can't recall. These are --
25 this is probably like hundreds of -- yeah. This is

1 dozens, if not more than a hundred, different
2 publications by this point.

3 Q. I apologize. I just stepped on you. I'm so
4 sorry. Please continue.

5 A. That's okay. I was going to say for instance
6 even for one like book prize committee there may
7 have been 20 books submitted.

8 Q. Did you rely on -- did you rely on any
9 article or book that you reviewed or edited or
10 anything like that in the professional service? Did
11 you rely on any of those in forming your expert
12 opinion that you didn't cite in your expert opinion?

13 A. That I didn't cite in my expert opinion? I
14 don't believe so.

15 Q. Okay. Thank you. If I could move down to
16 presentations and body of talks on receiving.

17 A. Okay.

18 Q. Did any of these presentations and invited
19 talks concern or address felon restoration?

20 A. Yes.

21 Q. Which ones, please?

22 A. Let's see. I may have discussed it in
23 Barriers to Voting on page six at Northwestern,
24 January 2018. My testimony before the US Commission
25 on Civil Rights. The Lateral Consequences of Mass

1 Incarceration. Political Effects of Mass
2 Incarceration before the National Bar Association.
3 Inequalities and Equalities in Cities at Harvard.
4 Saint Olaf, The Collateral Consequence of Mass
5 Incarceration. Texas A&M University, Trading
6 Democracy for Justice.
7 University of Kentucky, Reversing
8 Trajectories conference. Kennedy School of
9 Government, Harvard, Trading Democracy for Justice.
10 University of Michigan, Trading Democracy for
11 Justice.
12 Yale, Trading Democracy for Justice.
13 National Bar Association in Miami in 2013. Loyola
14 University, Mass Imprisonment and Neighborhood Voter
15 Turnouts. Marquette, Collateral Consequence of Mass
16 Imprisonment.
17 The Yale's Obtaining Democracy conference.
18 The Brown University American Politics workshop.
19 The American Bar Association national meeting on
20 mass imprisonment consequences. University of
21 Madison, Wisconsin, Spatial Concentration of
22 Imprisonment.
23 American Political Science Association Annual
24 Meeting, theme panel. University of Pennsylvania,
25 Democracy Citizenship and Constitutionalism

1 Conference. University of Chicago School of Law,
2 Effective Neighborhood Incarceration Rates.

3 Pomona College with a panel on Incarceration Nation.

4 University of Washington, Using Government
5 Data to Study Current and Former Felons. American
6 Bar Foundation, Effective Neighborhood Incarceration
7 Rates. Northwestern, Trading Democracy for Justice.

8 Law and Society annual meeting. Neighborhood
9 Criminal Justice Involvement and Voter Turnout.

10 Southern Political Science Association -- no, I'm
11 sorry. Not that one. University of Illinois at
12 Chicago, Turnout and Party Registration Among
13 Convicted Offenders.

14 Annual Meeting of the American Political
15 Science Association in Toronto. I Wanted to Vote
16 for History. Harris School of Public Policy.
17 Trading Democracy for Justice at the University of
18 Chicago.

19 Northwestern University School of Law. Did
20 Disfranchisement Laws Help Elect President Bush?
21 University of California at Berkeley. Trading
22 Democracy for Justice. Law and Society Association
23 annual meeting in Montreal. Did Disfranchisement
24 Laws Help Elect President Bush? Law and Society
25 annual meeting.

1 Trading Democracy for Justice. Midwest
2 Political Science Association. Concentrated
3 Incarceration and How Neighborhood Incarceration
4 Decreases Voter Registration.

5 Q. Would I be correct in assuming that where a
6 topic references one of the articles listed in your
7 publications, that whatever presentation you gave
8 would be substantially similar to the publication?

9 A. Usually.

10 Q. Do you recall whether or not any of the
11 presentations and vital talks discussed errors in
12 the felon restoration process anywhere?

13 A. I don't recall.

14 Q. Do you recall whether or not any of these
15 presentations or invited talks discussed Tennessee
16 or Tennessee's process for felon voter restoration?

17 A. They -- I don't recall discussing Tennessee
18 in those talks.

19 Q. Did any of these talks discuss LFO
20 recordkeeping?

21 A. Let me just take a quick look. I may have
22 discussed it in Barriers to Voting in 2018 at
23 Northwestern and some of the other more general
24 talks, but I don't recall specifically.

25 Q. Can you describe the Barriers to Voting

1 presentation for Northwestern University in January
2 of 2018?

3 A. I can't recall anything about it other than
4 the topic, so that's why I'm saying that it may have
5 discussed those things.

6 Q. Did any of these presentations and invited
7 talks that aren't already cited in your expert
8 opinion form the basis of any of your expert
9 opinion?

10 A. I don't think so.

11 Q. Moving on to working papers under review,
12 does that working paper under review, the only item
13 listed, does that concern felon restoration?

14 A. Sorry. I'm scrolling, still scrolling to --
15 no.

16 Q. Does that involve voter rights at all?

17 A. No.

18 Q. If I could, I'd like now to move to the
19 additional activities portion. And as we discussed,
20 you're an expert witness in Kelvin Jones versus Ron
21 DeSantis. Do you recall what that case was about?

22 A. Yes. That case was about Florida's
23 requirements of completing all aspects of the
24 sentence before a person was eligible to have their
25 voting rights restored.

1 Q. Can you define what you mean by all aspects
2 of the sentence?

3 A. So the state defines that as prison,
4 probation, parole, as well as fines and fees
5 assessed at sentencing.

6 Q. Was that case about the process or just about
7 the requirements?

8 A. I don't know the technical answer to that.

9 Q. Can you give me a brief description of your
10 expert opinion in that case?

11 A. Yes. So my expert opinion was about, really
12 to look at the question of how difficult it was to
13 determine whether a person -- how much a person owed
14 in LFOs, as well as what the process was for
15 payment.

16 Q. Did your expert opinion address errors in the
17 felon voting restoration process in Florida?

18 A. Yes.

19 Q. What were your conclusions on that?

20 A. So looking at different places in which one
21 might find information about LFOs, most of the time
22 those sources didn't agree. So the clerks' online
23 databases versus what happens if you call the clerk
24 versus information provided by the Florida -- the
25 Florida -- basically, like the -- it's not the

1 Florida Bureau of Investigation, but I can't
2 remember the exact name of it right now.

3 Those data sources typically had different
4 amounts due and were missing important information,
5 such as payment information or even just had
6 incorrect totals. So the entries that were listed
7 in the files didn't add up to what the file said the
8 person owed.

9 Records were just missing or unavailable for
10 some period of time. So yeah. So there were -- and
11 part of the information was just unavailable because
12 it was collected by private entities like collection
13 agencies.

14 Q. What was your methodology in reaching your
15 expert opinion in that case?

16 A. So I conducted a random sample of people who
17 had finished serving the supervision portion of
18 their sentences and then began to explore their --
19 so the trying to collect the records and comparing
20 what different sources said that they owed across
21 all of their cases.

22 Q. How large was your sample size?

23 A. I think it wound up being over 700 cases for
24 about 150 people.

25 Q. I want to jump back for a second.

1 Do you have -- do you have a background in
2 statistics?

3 A. Yes.

4 Q. Can you describe that for me?

5 A. I took several courses on research
6 methodology while I was in graduate school, as well
7 as have used various statistical methodologies in my
8 published work, as well as in some of the cases that
9 I have testified in.

10 And currently I review articles and books. I
11 advise graduate students who are doing complex
12 statistical work. I'm on the board of a national
13 survey and continue to use all kinds of statistical
14 techniques in my work currently.

15 Q. If I discuss the concept of P value for
16 confidence intervals, I may refer to it as CI, are
17 you familiar with those concepts?

18 A. Yes.

19 Q. Can you describe what they are for the
20 record?

21 A. So P value is a way that some people might
22 think -- it really is referring to the likelihood
23 that a measure or a point could occur by chance and
24 a confidence interval is usually two and a half
25 percent higher or lower than a fine estimate. So

1 it's usually the 95 confidence interval that you
2 meet. I'm trying to think of a best technical way
3 to put this. But, basically, the most likely range
4 in which the true population estimate would be.

5 Q. Did you perform -- in Jones versus DeSantis,
6 did you perform a statistical analysis through
7 random sampling?

8 A. I don't recall exactly what analysis I
9 conducted for that case.

10 Q. Do you know whether or not it was
11 quantitative or qualitative?

12 A. The -- do you mean -- part of it was
13 quantitative. Part of it was qualitative. So part
14 of the work involved the random sample and part of
15 the work also involved things like calling county
16 clerk's offices to see and, you know, documenting
17 what they said, the answers to some of our questions
18 about what their hours were and the like. So it was
19 both.

20 Q. Was Florida's process at the time you gave --
21 felon restoration process at the time you made your
22 expert opinion, would you characterize it as
23 automatic?

24 A. I think it was difficult -- I wouldn't
25 characterize it as automatic because I think there

1 still had to be quite a few people, a process by
2 which they had to determine eligibility. And I
3 think that was the point, was that it was difficult
4 to determine eligibility.

5 Q. What was Florida's process at that time?

6 A. So in my understanding, people were supposed
7 to register and then check a box and then -- but I
8 think it wasn't -- but from my understanding, I'm
9 not quite sure if then checking the box meant that
10 people in the county were then supposed to determine
11 eligibility and by what basis they would determine
12 that eligibility. I think that part was unclear in
13 the case.

14 Q. How did Florida at that time handle
15 out-of-state LFOs as part of their felon voter
16 restoration process?

17 A. I only studied the in-state ones.

18 Q. In your expert opinion in that case, did you
19 make any recommendations as to what Florida's
20 process should look like?

21 A. I don't know if I -- I don't recall doing so
22 in my report, but I do recall having conversations
23 when asked by the opposing attorneys about things
24 like the process should include asking -- some way
25 of incorporating the data from private collection

1 agencies in order to figure out how much people had
2 actually paid.

3 They were -- they were talking about going to
4 first dollar mechanism, which I think referred to
5 everything anyone had paid regardless of how it was
6 allocated should count toward the determination of
7 whether a person had paid all their LFOs.

8 And so I was making recommendations, you
9 know, and questioning about things like well, you
10 also need to then get the records from the private
11 companies which would have the actual information
12 about how much people paid.

13 Q. Do you recall whether or not at that time
14 Alabama had an appeal option or other legal
15 mechanism for someone to challenge the denial of
16 their felon restoration?

17 A. Alabama?

18 Q. Sorry, Florida.

19 A. Florida? I -- so what I recall at that --
20 what I recall is that there was a year-long backlog
21 so I'm not sure -- I think part of the issue in the
22 case was the difficulty in getting a determination
23 in a reasonable amount of time.

24 Q. What in your opinion is a reasonable amount
25 of time?

1 A. I think that the calculation in the case was
2 something like it would take years to clear the
3 backlog, so that people would definitely miss
4 several elections.

5 Q. So years is unreasonable. What in your
6 opinion is reasonable?

7 A. I don't have an opinion.

8 Q. Moving on to the next additional activity on
9 your CV, Community Success Initiative versus Moore.
10 We briefly touched upon it earlier, but can you
11 describe that case for me?

12 A. So that case was about whether the North
13 Carolina Constitution permitted people serving
14 active sentences in the community to vote or not.

15 Q. So would it be a fair characterization to say
16 that that case challenged North Carolina's
17 requirement that someone complete their probation
18 before they were eligible for felon voting
19 restoration?

20 A. Yes.

21 Q. Did that touch upon any part of -- I'm sorry.
22 Strike that.

23 Did the plaintiff in that case challenge the
24 process at all for felon voting restoration or just
25 the requirement that all aspects of the sentence be

1 completed?

2 A. I think that there was some discussion about
3 the issue about people being on probation
4 indefinitely until they paid all of their LFOs and I
5 think -- so that part of the case was discussed and
6 I think that the court ruled first on the issue of
7 that -- that particular group of people and that was
8 considered differently from overall people who were
9 still serving active probation sentences.

10 Q. What was your expert opinion in that case?

11 A. So my expert opinion was to -- involved
12 calculating the size of the population, as well as
13 the likely voter turnout, and to do a literature
14 review relevant to some of the state interests in
15 the case. So my conclusions -- I don't recall the
16 exact number of people that I said, the size of the
17 population or the percentage that I said would vote.

18 And then I also found that the literature on
19 restoration didn't support the claims made on behalf
20 of the state, that the state was making on behalf of
21 the law.

22 Q. What was your methodology in that case?

23 A. So to determine the eligibility, the size of
24 the eligible population, that involved working with
25 the North Carolina Department of Corrections [sic]

1 file and then merging those files with the North
2 Carolina voter files.

3 Q. Do you recall either your P value your CI as
4 to your numbers?

5 A. No.

6 Q. Was North Carolina's -- can you describe for
7 me how North Carolina would determine whether or not
8 someone has paid all of their LFOs?

9 A. My understanding is that the Department of
10 Correction would keep those data. Specifically
11 the -- and I think the probation officer or parole
12 officer was involved in that determination.

13 Q. Was that for both in-state and out-of-state
14 LFOs?

15 A. I don't know. So I didn't study the specific
16 process in detail, just to kind of, just mostly to
17 know where it was located in terms of the discussion
18 of probation officers having some discretion in
19 terms of how they would -- how they treated those
20 LFOs which would lead to inequality.

21 Q. Can you expand on some of the ways that LFOs
22 could be treated differently that would lead to
23 inequality?

24 A. So say someone is -- someone could get, for
25 instance, early release if they paid off all of

1 their LFOs early and sometimes that was at the
2 discretion of the officer.

3 Q. What if someone had paid their LFOs and was
4 off probation, was their restoration of voting
5 rights automatic?

6 A. Yes. They were supposed to receive a
7 certificate, a packet of information from the
8 Department of Corrections.

9 Q. In that case, did you identify any errors in
10 the LFO recordkeeping?

11 A. No. I did not get involved in that aspect of
12 the case.

13 Q. Did you make any recommendations in your
14 expert opinion as to what the process should be?

15 A. I don't think so.

16 Q. And if I could go -- I'm done with Community
17 Success Initiative, but I do want to ask additional
18 questions about Jones versus DeSantis.

19 A. Okay.

20 Q. In that case, did you identify any errors in
21 their felon voter restoration process?

22 A. To the extent that I found, like I said,
23 cases with discrepancies, yes.

24 Q. What types of discrepancies?

25 A. So, as I said before, cases where when you

1 look at the records held by the counties, they would
2 have several entries, credits and debits that didn't
3 add up to the number that they said they did.

4 Or if you look at the record that they would
5 have online, it would say something different from
6 the record that you would get if you called the
7 office. I believe in a couple of instances, for
8 instance, the clerk literally said that's not right,
9 we're going to have to fix that, and then would edit
10 records as we asked about them.

11 Or records that where the person may have
12 paid \$100 but only \$60 would show up on the record
13 because the collection agency took 40 percent off
14 the top and only reported \$60 to the county. So
15 lots of different kinds of errors. There were also
16 just documents that were missing, so we would have
17 clerks we would call and they couldn't find any
18 record.

19 Q. If I could draw your attention to the third
20 item, additional activities. People First of
21 Alabama versus Merrill. Can you describe that for
22 me?

23 A. That was about voting in -- COVID
24 accommodations for voting.

25 Q. Did that implicate the felon restoration

1 process at all?

2 A. No.

3 Q. Moving on to Florida State Conference of the
4 NAACP versus Lee, in the Northern District of
5 Florida, can you describe that for me?

6 A. That case was about some changes that were
7 made to early voting and drop boxes and other
8 provisions of casting ballots in the state.

9 Q. Did that case or your expertise in that case
10 address felon voting restoration?

11 A. No. No.

12 Q. Moving on to One Wisconsin Institute,
13 Incorporated versus Jacobs out of the Western
14 District of Wisconsin, can you describe that for me?

15 A. That case -- in that case, it was -- overall
16 it was about voter ID. And my part of it was about
17 analyzing the specific process by which Wisconsin
18 was giving people the free voter ID for people who
19 had problems getting the documents.

20 Q. Did that have anything to do with felon
21 voting restoration?

22 A. No.

23 Q. Moving on to Alpha Phi Alpha Fraternity
24 versus Raffensperger, can you describe that for me?

25 A. That case is a state redistricting -- state

1 legislative redistricting case.

2 Q. What was your expert opinion in that case
3 about?

4 A. I think I covered Senate Factors 5 and 8.

5 Q. Which were?

6 A. Senate Factor 5 is about the extent that the
7 minority group experiences discrimination in areas
8 such as health, employment, criminal justice,
9 socioeconomic status that would affect voting. And
10 Factor 8 is about responsiveness of public officials
11 to minority voters.

12 Q. Does that have any reference to felon voting
13 restoration?

14 A. I think I discussed briefly
15 disenfranchisement in the part of Senate Factor 5.

16 Q. Could you expand on that a little bit?

17 A. Just in a general discussion of criminal
18 justice in Georgia, inequality in terms of arrests,
19 conviction, sentencing, and felony
20 disenfranchisement.

21 Q. Did you discuss the -- did you discuss
22 Georgia's specific felon re-enfranchisement process?

23 A. No.

24 Q. Did you discuss LFO obligations in that case?

25 A. No. I don't think so.

1 Q. Did you attempt to identify any errors in
2 either LFO recordkeeping or felon restoration
3 process?

4 A. No.

5 Q. Moving on to the Robertson versus Ardoin.
6 Did I pronounce that correctly?

7 A. I think so.

8 Q. Okay. And I see there are two on your CV.
9 So this is the one that is docketed Number
10 22-cv-00211. Can you describe that for me?

11 A. That is I think the congressional
12 redistricting case in Louisiana.

13 Q. And what was the count in that case?

14 A. That of the enacted district's
15 underrepresent -- caused minorities to be
16 underrepresented.

17 Q. Would you -- so was that a Section 2 Voting
18 Rights Act case?

19 A. Yes.

20 Q. And did your expert opinion in that case
21 discuss felon restoration at all?

22 A. No. Only to the extent that I discussed
23 disenfranchisement as part of the Senate Factor 5
24 discussion.

25 Q. Okay. Did you discuss the direct LFO

1 obligations or recordkeeping?

2 A. No.

3 Q. Did your expert opinion in that case discuss
4 errors in either the LFO process or felon
5 restoration process?

6 A. No.

7 Q. The next one -- Louisiana always has the hard
8 names to pronounce -- Nairne, et al. versus Ardoin?

9 A. I think that's right. That's a state
10 legislative case. I think kind of -- and I did
11 similar work, Senate Factors 5 through 9.

12 Q. Okay. Were those -- would you consider those
13 sister cases?

14 A. I don't know. I don't think they're
15 considered -- they are considered -- they -- I'm
16 testifying in them separately. They haven't been
17 combined. But I don't know the ins and outs of how
18 that works legally.

19 Q. Okay. Did that case involve anything
20 concerning felon restoration?

21 A. Again, similar to the other case -- the other
22 cases, just to the extent that I have discussed it
23 as far as Senate Factor 5.

24 Q. Did it discuss any LFO obligations or LFO
25 recordkeeping?

1 A. No.

2 Q. As part of your expert opinion in that case,
3 did you identify any errors as part of the either
4 LFO recordkeeping or felon restoration process?

5 A. No.

6 Q. And then, lastly, White, et al. versus State
7 Board of Election Commissioners. Can you describe
8 that for me?

9 A. That is a redistricting case for I think the
10 State Supreme Court in Mississippi. And I completed
11 a Senate Factor 5 analysis for that case.

12 Q. I think I know what the answer to this is
13 going to be but I do need to ask.

14 Did that case involve felon voting
15 restoration at all?

16 A. Only to the extent that I discussed it as
17 part of Senate Factor 5, disenfranchisement.

18 Q. Did it discuss LFO obligations or LFO
19 recordkeeping at all?

20 A. No.

21 Q. Did your expert opinion address errors in
22 either the LFO recordkeeping or felon voter
23 restoration process?

24 A. No.

25 MR. RIEGER: All right. Moving away

1 from the CV. If I could get you to go to the
2 beginning of your expert report, please. Is this
3 a -- since we're about to deal directly with the
4 report, how is everyone doing in terms of food?

5 A. I can -- I am -- I can wait but it's up to
6 everyone else in terms of -- I'm not sure how --
7 what your next natural break will be.

8 MR. CHARLES GRANT: Are you going to
9 have lunch, Alex?

10 MR. RIEGER: I think so. At least a --
11 I think 30 to 35.

12 MR. CHARLES GRANT: What do you think
13 would be a good time for lunch given that it's
14 12:21?

15 MR. RIEGER: Well, I think if we break
16 at 12:30 and come back at 1:15 I can create a break
17 point in the next ten minutes, if that works.

18 MR. CHARLES GRANT: If it's all right
19 with you, Dr. Burch, let's proceed.

20 THE WITNESS: All right.

21 MR. RIEGER: All right.

22 BY MR. RIEGER:

23 Q. So, Dr. Burch, when were you contacted to
24 provide expert services in this matter?

25 A. I believe in the spring or summer of 2021.

1 Q. What exactly were you asked to do?

2 A. So I was asked to evaluate the number of
3 people who would be -- who had been, basically,
4 affected by Tennessee's disenfranchisement processes
5 and who would then be eligible to restore their
6 voting rights with the COR. And also to determine
7 whether there were aspects of the process that made
8 it difficult for people to have their right restored
9 that might make it so that eligible people either
10 weren't getting their right restored, either because
11 they couldn't make it through the process or were
12 denied erroneously. And also to look into whether
13 the process treated people unequally, similarly
14 situated people unequally.

15 Q. What do you believe that you are an expert
16 in?

17 A. Could you repeat the last part?

18 Q. Sure. What do you believe you're an expert
19 in?

20 A. I would say in political behavior and
21 barriers to voting, criminal justice, and race and
22 ethnic politics.

23 Q. Have you previously opined in writing or
24 otherwise about Tennessee's certificate of
25 restoration process?

1 A. No.

2 Q. Have you done any work regarding Tennessee's
3 certificate of restoration process that is not
4 reflected or cited to in your expert report?

5 A. No.

6 Q. You've given a number of expert opinions in
7 prior cases.

8 Have you ever given an expert opinion
9 supporting a state's position?

10 A. In terms of what do you mean by supporting?

11 Q. In litigation, have you ever given an expert
12 opinion on the state's behalf?

13 A. Oh, no. I have never been asked to.

14 Q. In your expert opinions throughout the
15 various litigations you have testified in, have you
16 ever found a state's process, either in
17 redistricting or voter restoration, LFO
18 recordkeeping, acceptable?

19 A. I don't think I have ever actually opined
20 about acceptability either way.

21 Q. So would it be fair to characterize each of
22 your expert opinions as being in opposition to a
23 state's position?

24 A. No. I don't think that's fair.

25 Q. Okay. How would you characterize it, then,

1 please?

2 A. Usually I'm just asking a specific --
3 answering a specific question that I was asked but
4 not necessarily contra or for or against any
5 particular side.

6 Q. Well, I may need to go back to your CV for a
7 second. If I can get you to go to the back where it
8 says: Additional activities, which would be PDF 51
9 out of 55 and page nine of Exhibit A to deposition
10 Exhibit 1.

11 A. Okay.

12 Q. We'll start at the bottom. White, et al.
13 versus State Board of Election Commissioners, you
14 testified that you performed a Senate Factor 5
15 analysis; is that right?

16 A. Yes.

17 Q. Okay. What did your analysis find?

18 A. That there were historical disparities in
19 between the racial groups that I was studying with
20 respect to housing or socioeconomic status or health
21 that were a result of discrimination.

22 Q. Do you believe that that opinion supported or
23 did not support the redistricting map of
24 Mississippi?

25 A. I didn't evaluate the redistricting map.

1 Just that particular aspect.

2 Q. Was your expert opinion used by plaintiffs to
3 challenge the redistricting map in Mississippi?

4 A. Well, it's -- I haven't been deposed or
5 anything like that so I don't -- in that particular
6 case so I don't know yet how they plan to use it.

7 Q. So is it your opinion that an expert opinion
8 finding that there is substantial discrimination in
9 the redistricting map is not opposing a
10 redistricting map?

11 A. I think that part is up to a judge to decide.
12 I just answered the one question I was asked to
13 answer.

14 Q. And you found that the redistricting map had
15 discriminatory elements?

16 A. No. That's not what I said.

17 Q. Okay. Can you describe it for me?

18 A. Yes. That the -- again, there were
19 disparities in the situation of the racial groups in
20 the state and in the district that was at issue, the
21 central district, in terms of socioeconomic status
22 and race -- socioeconomic status, education,
23 employment, criminal justice, health, et cetera.
24 And those were the result -- partly the result of
25 discrimination.

1 Q. Do you believe that either those disparities
2 or discrimination were a positive or negative
3 attribute of the redistricting map?

4 A. I don't think I have discussed the
5 redistricting -- part of the redistricting map.

6 Q. Do you believe that's -- do you believe that
7 in that case the disparities and the discriminatory
8 effects that you referenced were a positive or a
9 negative?

10 A. For what?

11 Q. Just in general?

12 A. I just think they were facts. I didn't have
13 a -- I didn't make a value judgment about them.

14 Q. Okay. So you make no value judgment as to
15 whether or not discrimination was made in the
16 context of the White, et al. case?

17 A. No. I just said that it -- that the
18 disparities exist and they were the result of
19 discrimination.

20 Q. Do you have any expectation as to how the
21 plaintiffs are going to use your expert opinion in
22 that case?

23 A. Again, I don't know whether or how they plan
24 to use the expert opinion.

25 Q. If I asked you those same questions about all

1 of the redistricting cases in your additional
2 activities would I expect similar answers?

3 A. No. Those I do -- those cases I have been
4 deposed and everything else, so I actually know that
5 they plan to use my report.

6 Q. And how do they plan to use your report in
7 each of those redistricting cases?

8 A. To go toward the totality of the
9 circumstances for the consideration of the Senate
10 Factors.

11 Q. In support or in opposition to the map?

12 A. I don't know if it's in support or opposition
13 to the map, but I think it is for the discussion of
14 the totality of the circumstances.

15 Q. Explain to me how Senate Factor 5 works in a
16 VRN analysis.

17 MR. CHARLES GRANT: Objection to the
18 form of the question.

19 THE WITNESS: So I don't really know how
20 like judges and lawyers consider it. But my part is
21 just to answer the particular question with respect
22 to Senate Factor 5. Other Senate factors I think
23 are specifically analyzing questions about the math
24 itself, such as whether you can draw additional
25 districts and the like, majority, minority districts

1 and the like.

2 And my opinion in Senate Factor 5 is
3 just about those other questions that are asked
4 about, that judges may consider when formulating an
5 opinion about what to do about the map.

6 BY MR. RIEGER:

7 Q. Describe for me your understanding of the
8 totality of the circumstances.

9 A. So in addition --

10 MR. CHARLES GRANT: I'm sorry,
11 Dr. Burch, let me have my objection. I apologize.
12 Objection to the form of the question.

13 THE WITNESS: So my understanding is
14 that the other part of the Senate factor with
15 respect to the map have to be met and then
16 additional factors that the judge or judges may
17 consider would be those totality of the
18 circumstances.

19 BY MR. RIEGER:

20 Q. Do you believe that your expert opinions in
21 those cases made it more or less likely that the
22 court would find that the redistricting map was
23 unconstitutional under the totality of the
24 circumstances?

25 A. I actually don't know the answer to that

1 because I think they're all still pending.

2 Q. What do you think the impact of your expert
3 opinions in those cases would be? What did you
4 expect it to be?

5 A. I don't know.

6 Q. So you have no opinion on whether or not
7 expert opinions finding disparities and
8 discrimination would make it more or less likely for
9 the court to find the totality of the circumstances
10 that a map is unconstitutional?

11 MR. CHARLES GRANT: Objection to the
12 form of the question.

13 THE WITNESS: I don't have an opinion.
14 I don't know.

15 BY MR. RIEGER:

16 Q. In Jones versus DeSantis, one of the
17 non-redistricting cases, was your expert report used
18 on behalf of plaintiffs or on behalf of defendants?

19 A. On behalf of the plaintiffs.

20 Q. What was your expectation about what your
21 expert opinion would demonstrate?

22 A. My findings were just about discrepancies and
23 disparities in terms of how records were kept.

24 Q. Did you anticipate that your expert report
25 would be used to challenge the process in Florida?

1 A. When I started out, I didn't know what I was
2 going to find. I was just answering the question
3 about whether there were discrepancies and what the
4 process looked like.

5 Q. Well, I'm not asking about what you found. I
6 was asking you what your expectation of your
7 ultimate opinion would be used for? Do you have an
8 expectation as to how it would be used?

9 A. Right. So I'm saying when I started out, I
10 actually didn't have an expectation about what I
11 would find so I didn't know it would be used.

12 Q. Did you have an expectation that your expert
13 report would be used by plaintiffs or used by
14 defendants?

15 A. I had an expectation -- again, I wasn't sure
16 what I would find, so I didn't know whether the
17 plaintiff would use it or not when I started out.

18 Q. Have you ever been retained by defendants in
19 a case to provide an expert opinion?

20 A. Again, I have never been asked by defendants
21 to serve as an expert.

22 Q. Have you ever asked by a court to serve as
23 any sort of special master or expert?

24 A. No.

25 Q. Okay. So your only work in your expert

1 witness roles has been on behalf of plaintiffs?

2 A. Yes.

3 MR. CHARLES GRANT: Object to the form
4 of the question.

5 BY MR. RIEGER:

6 Q. And would you say that in -- is it fair to
7 characterize that in each of your additional
8 activities, that in those cases some form of state
9 or local government has always been, or state
10 official or local official, has always been the
11 defendant?

12 A. Yes.

13 Q. Did you have any expectation in this case
14 after engagement but before starting the work, did
15 you have any expectation as to what your expert
16 report would be used for?

17 A. No.

18 Q. None at all?

19 A. Again, when I started the report I didn't
20 know what I was going to find.

21 Q. Did you have any guess at that time as to
22 what you would find?

23 A. Not really.

24 Q. What do you mean by not really?

25 A. To the extent that I have done this kind of

1 work before, I might have expected that there would
2 be -- based on other states, there could be some
3 issues with respect to calculating LFOs, but I
4 wasn't sure, you know, for instance, what
5 Tennessee's process looked like or whether there
6 would be problems. So I didn't really -- so I
7 designed my study as I always do, such that if, you
8 know, I'm conducting random samples and stuff like
9 that, I'm setting not out specifically to prove any
10 particular outcome.

11 Q. Were you paid for working on this matter?

12 A. Yes.

13 Q. Who paid you?

14 A. Campaign Legal Center.

15 Q. Do you understand that they represent the
16 plaintiffs in this matter?

17 A. Yes.

18 Q. In all of your occasions where you served as
19 an expert witness, were you always paid by
20 plaintiffs or their counsel?

21 A. Yes.

22 Q. What's your rate?

23 A. It varies between three and \$400 an hour.

24 Q. How many hours did you spend working on this
25 matter?

1 A. I'm not -- I haven't sat down and added it
2 up, but probably well over a hundred.

3 Q. More than 150?

4 A. I don't know. Yeah, I don't know the answer
5 to that.

6 Q. Was there any limitation on the hours that
7 you spent on this report?

8 A. No.

9 Q. Who drafted the first draft of this report?

10 A. I did.

11 Q. Was any part of it taken from a prior expert
12 opinion?

13 A. I may have used some similar citation or
14 something like that from other expert opinions.

15 Q. From which expert opinions?

16 A. So let me find a specific example. I think I
17 cite -- one example might be I cite -- sorry. I'm
18 trying to -- so on page 27, for instance, I cite
19 White, Nathan, and Faller quite a bit across several
20 reports because they have a -- they're looking at
21 some administrative barriers to voting generally so
22 that might appear in this report. I think I might
23 have also cited it in the One Wisconsin report.

24 Q. Did anyone edit this report?

25 A. Yes. There may have been definitely some

1 questions or like point out typos and things of that
2 nature by the attorneys.

3 Q. Anyone besides the attorneys?

4 A. No.

5 Q. Was anything substantively added during the
6 editing process?

7 A. No.

8 Q. Were you assisted in this report, not
9 necessarily the drafting, but in your work as an
10 expert witness, were you assisted by other
11 individuals?

12 A. Yes.

13 Q. And can you describe that for me?

14 A. Yes. I hired some graduate and undergraduate
15 students to help with the collection of data.

16 Q. And who are those graduate students?

17 A. Let's see. Justin Zimmerman. Andreen
18 (phonetic) Wright. Dara (phonetic) Gaines. And
19 Arturo Chang-Quinonos (phonetic.)

20 Q. I'm probably going to get the names very
21 wrong on this, but I think I missed the second
22 person. Was it Andrew?

23 A. Andreen.

24 Q. Andreen. And what was his last name, Wright?

25 A. Wright.

1 Q. And I did not have Arturo's last name.

2 A. Chang-Quinones.

3 Q. Chang-Quinones. Okay, thank you. And who
4 is -- let's start at the top. Who is Justin
5 Zimmerman?

6 A. Justin Zimmerman is a newly minted Ph.D. as
7 of two weeks ago in political science.

8 Q. Where did he graduate from?

9 A. Northwestern.

10 Q. And what exactly -- what role did he perform
11 for you?

12 A. So all four of them were part of the
13 shadowing that I described in Footnote 79, as well
14 also helping me review some of the -- collect some
15 of the legal financial obligation data and helping
16 me review some of the files that were provided to us
17 by the State.

18 Q. For Mr. -- for all four of these individuals,
19 did they primarily perform the same duties as
20 Mr. Zimmerman?

21 A. Yes.

22 Q. Are all of them from Northwestern?

23 A. Yes.

24 Q. Are all of them either newly minted Ph.D.s or
25 Ph.D. candidates?

1 A. Yes.

2 MR. RIEGER: I think now might a good
3 break time. If we want to come back at -- is 1:30
4 okay?

5 THE WITNESS: That works for me.

6 MR. CHARLES GRANT: Sure.

7 MR. RIEGER: Thank you.

8 (Lunch recess observed.)

9 BY MR. RIEGER:

10 Q. Hi, Dr. Burch. You understand that you are
11 still under oath?

12 A. Yes.

13 Q. Were you provided anything by anyone when you
14 were in the process of making your expert report?

15 A. Yes.

16 Q. What were those items?

17 A. Several Excel spreadsheets that I reference
18 in my report, as well as pdf files of applications
19 for the documentation and the emails for people who
20 had filed for certificate of restoration, as well as
21 other emails, training manuals, policy documents
22 from Tennessee Department of Corrections, and a
23 couple of depositions that I also reference in my
24 report.

25 Q. And just to start and hopefully make this

1 process go a little easier, I'm going to go ahead
2 and start asking you questions about some of the
3 documents referenced in your expert report and get
4 those on the record all at once so that way -- so
5 that way we can move beyond that and get to
6 something else. So I am going to share an Excel
7 spreadsheet entitled: All COR Data Carlatina Cedric
8 Aloha. And can you open that up for me?

9 MR. CHARLES GRANT: That sounds
10 familiar. Where was it referenced in the report?

11 THE WITNESS: It was attached in the One
12 Drive. It was attached in the One Drive. Let me
13 pull up the footnote. Footnote 53.

14 MR. CHARLES GRANT: Okay.

15 BY MR. RIEGER:

16 Q. Dr. Burch, are you familiar with this
17 document?

18 A. Yes.

19 Q. What is it?

20 A. I believe it's a list of the -- it's the
21 tracking sheet that the clerk's office in Davidson
22 County uses for people who are -- who they are
23 helping with certificates of restoration.

24 MR. RIEGER: At this point I would like
25 to have this introduced as deposition Exhibit 3.

1 MR. CHARLES GRANT: Subject to
2 confirmation, Counselor.

3 MR. RIEGER: I'm sorry, what was that,
4 Charles?

5 MR. CHARLES GRANT: I don't have my copy
6 of this report in front of me. I said subject to
7 confirmation. You can proceed.

8 (WHEREUPON, a document was marked as
9 Exhibit Number 3.)

10 BY MR. RIEGER:

11 Q. Okay. I'm going to now post in chat a
12 document entitled: 2022.07.13, a letter from Craig
13 Garrett, the Blount County Circuit Court Clerk. It
14 is a pdf if you want to open that. And as
15 referenced in Footnote 59, 60, and 53.

16 And are you familiar with this document,
17 Dr. Burch?

18 A. Yes.

19 Q. What is it?

20 A. It appears to be a letter issued in response
21 to the subpoena from the plaintiffs asking questions
22 of the Blount County Circuit Court Clerk.

23 MR. RIEGER: At this time I'd like to
24 move this in as deposition Exhibit Number 4.

25 (WHEREUPON, a document was marked as

1 Exhibit Number 4.)

2 BY MR. RIEGER:

3 Q. I'm now going to upload a document entitled:
4 2022.07.26, a letter from W. Timothy Harvey. If
5 everybody could open that for me, please.

6 And, Dr. Burch, are you familiar with this
7 document?

8 A. Yes. I believe I cite it in my report.

9 Q. Is this the letter that is referenced in
10 Footnote 52 in your expert report?

11 A. Yes. But I believe I have a typo here and I
12 say Marvey instead of Harvey. Strange.

13 Q. Is the letter identified in Footnote 52 the
14 same as the letter identified in Footnote 50? The
15 one that reflects letter from W. Timothy Harvey the
16 same as letter from W. Timothy Marvey?

17 A. Yes.

18 MR. RIEGER: At this time I'd like to
19 introduce that as deposition Exhibit 5, please.

20 (WHEREUPON, a document was marked as
21 Exhibit Number 5.)

22 BY MR. RIEGER:

23 Q. I'm now posting what is marked as
24 20220725123028938_20220725_13222410756. If everyone
25 could open that up for me.

1 And, Dr. Burch, is that the document that you
2 referenced in the last line of Footnote Number 50 in
3 your expert report?

4 A. Yes.

5 Q. And what is it?

6 A. It's the response to a subpoena from the
7 Sullivan County Circuit Court Clerk.

8 MR. RIEGER: At this time I would like
9 to introduce this document as Exhibit 6, please.

10 (WHEREUPON, a document was marked as
11 Exhibit Number 6.)

12 MR. CHARLES GRANT: Hold on a second.
13 Exhibit 6 is what again?

14 MR. RIEGER: 20 -- the Sullivan County
15 subpoena response and it's 202207251. It's very
16 long. We haven't changed the file names from when
17 we were provided them along with the expert report.
18 But it is the Sullivan County subpoena responses
19 from --

20 MR. CHARLES GRANT: And which footnote
21 is referenced?

22 MR. RIEGER: It is referenced in
23 Footnote Number 50 and in Footnote Number 52.

24 MR. CHARLES GRANT: Well, I thought the
25 report, the footnote that's referenced in the report

1 concerns Blount County, Blount County and Montgomery
2 County.

3 MR. RIEGER: In Footnote 50, so it's the
4 letter from Craig Garrett, Blount, from Harvey is
5 Montgomery, and responsive documents reproduced in
6 3:20-cv-01039, in page ten of that. That document,
7 when you pull it up, is the subpoena responses from
8 Sullivan County Circuit Court Clerk. Looks like all
9 three are the same footnote and it's also referenced
10 in 52 and 57.

11 MR. CHARLES GRANT: Okay.

12 BY MR. RIEGER:

13 Q. I think we're done introducing documents but
14 we may have more later, depending on how this goes.
15 Need to get in and get started.

16 So, Dr. Burch, if we could start, what is
17 your understanding of Tennessee's felon restoration
18 process?

19 A. So specifically with respect to the
20 certificate of restoration process, so people who
21 were convicted of felonies on or after May 18th who
22 fit certain criteria are able to request a
23 certificate of restoration in order to be able to
24 have their voting rights restored and register to
25 vote.

1 Q. To your knowledge, is there a legal method, a
2 legal mechanism, to compel a state official to
3 provide a COR for someone who is qualified for one?

4 A. I don't know of one.

5 Q. If there was, would that impact your expert
6 report?

7 A. I don't know what you mean by a legal method
8 to compel so I don't -- I don't know.

9 Q. If there existed a way, for example, say that
10 I am a felon who is free of LFOs, free of child
11 support (inaudible) --

12 THE REPORTER: I'm sorry, I'm unable to
13 hear.

14 BY MR. RIEGER:

15 Q. So I'll start from the beginning. If I were
16 a felon and I had -- and I was free of LFOs, of
17 child support, and had expired my sentence, if I had
18 a legal mechanism to compel a state official to
19 provide me a COR would that change any portion of
20 your expert report?

21 MR. CHARLES GRANT: Objection to the
22 form of the question.

23 THE WITNESS: I don't know.

24 BY MR. RIEGER:

25 Q. If I had the ability to appeal the denial of

1 a COR, would that -- if I were able -- strike that.

2 If I were able to appeal the denial of my
3 felon voter restoration, would that materially
4 impact any portion of your expert report?

5 A. It depends.

6 Q. How would it depend?

7 A. It would depend on that appeals process and
8 what it would look like, so I don't have enough
9 information.

10 Q. In Tennessee is the process for getting a COR
11 to your knowledge automatic?

12 A. No.

13 Q. How is -- explain that for me.

14 A. So in some cases, the person has to initiate
15 the process by contacting officials, either a TDOC
16 official or going to the county clerk's office in
17 order to request the certificate of restoration and
18 that starts the process.

19 Q. Are persons in Tennessee who are eligible for
20 a COR required to seek one out?

21 A. No.

22 Q. Have you done any estimation or analysis on
23 how many people are eligible for a COR but have not
24 pursued one?

25 A. We tried, but that information is impossible

1 to determine.

2 Q. So is it your -- so what you're telling me is
3 that it's impossible to determine how many people
4 are eligible for a COR but just have not chosen to
5 take the steps to get one?

6 A. Right. No one has any records of the people
7 who have chosen to try to start the process, so I
8 don't know who hasn't tried to start the process.

9 Q. If I could get -- if I could get you to look
10 at page seven of deposition Exhibit 1, which is your
11 expert report.

12 A. Okay.

13 Q. And these are all still in chat, so if you
14 need to pull it up that's perfectly fine. But if I
15 could draw your attention to your summary of
16 opinions on page four, please?

17 A. I have it.

18 Q. Please explain your sentence: Far fewer
19 people in Tennessee have their voting rights
20 restored than are eligible, even relative to
21 restoration and registration rates in other states.

22 A. So that point is referring to the discussion
23 in my report that the number of people that I have
24 calculated to have had their rights restored is
25 smaller than the number of people who are eligible

1 by either the strictest measures, which is
2 fulfilling all of the criteria with respect to child
3 support, payment of legal financial obligations and
4 the like, and that I have some discussion in my
5 report about relative to other states, including
6 Iowa which has a process that requires an
7 application, Tennessee's rate is still lower than
8 what you see in that state and in other states too.

9 Q. Compare, if you would for me, Tennessee's COR
10 process to Iowa's.

11 A. Basically, Iowa also requires people to apply
12 for restoration, and so they have to initiate a
13 process and it's not guaranteed that they will
14 receive it. But they must meet certain criteria as
15 well.

16 Q. What LFOs are required in Iowa?

17 A. I don't recall off of the top of my head.

18 Q. Do you know if they're the same as Tennessee?

19 A. I don't recall.

20 Q. Do you know the percentage of persons in Iowa
21 who are felons?

22 A. I don't.

23 Q. Do you know anything regarding the
24 demographics in Iowa compared to the demographics in
25 Tennessee?

1 A. I don't.

2 Q. Did you evaluate any of that when comparing
3 Tennessee to Iowa in your expert report?

4 A. No. I relied on an article that I cite in my
5 report.

6 Q. And that article is from 2015?

7 A. Yes. There may also be -- yes, I believe
8 it's primarily a 2015 article by Meredith and Morse.

9 Q. Did you compare Tennessee to any other states
10 other than Iowa?

11 A. Yes. Here on page 18 of my report, I also
12 compare Tennessee to Rhode Island, and Rhode Island
13 and Iowa here I think are the only two that I
14 compared.

15 Q. Compare Tennessee voter restoration to Rhode
16 Island's, if you wouldn't mind.

17 A. So here I talk about the fact that voting
18 rights are automatically restored upon completion of
19 the sentence in Rhode Island and that restoration
20 rate was 43.3 percent.

21 Q. And that's automatic?

22 A. Yes.

23 Q. Does that involve any LFOs?

24 A. I'm not sure.

25 Q. So you think that Tennessee which has LFOs

1 and is not an automatic process is mathematically
2 comparable to Rhode Island?

3 A. I didn't say that Rhode Island doesn't
4 consider LFOs. I just don't recall.

5 Q. Did you evaluate any differences in felon
6 percentages between Rhode Island and Tennessee in
7 terms of the population?

8 A. Do you mean in terms of the percent of the
9 population who has a felony?

10 Q. Yes.

11 A. No.

12 Q. Did you look at any demographic differences
13 between Tennessee and Rhode Island?

14 A. No.

15 Q. Did either Rhode Island or Iowa have any
16 ability to determine how many -- sorry, strike that.

17 Did Iowa have any indication of how many
18 people were eligible for CORs but simply does not
19 take the affirmative step of trying to get one?

20 A. I don't know if that was part of the study,
21 just the estimate of who had received one.

22 Q. And by the study, are you referring to that
23 Meredith and Morse 2015 study?

24 A. Yes.

25 Q. Would you describe that study for me?

1 A. Yes. So that study looked at the process of
2 restoration in Iowa. Iowa had a change in which
3 there was a short period of time in which there was
4 automatic restoration and then they switched back to
5 requiring an application process. And the study
6 looks at both how many people registered when the
7 application wasn't required and then subsequently
8 what participation and registration was like after
9 the application requirements were reimposed.

10 Q. Did that study do any statistical analyses of
11 estimates?

12 A. Yes.

13 Q. What was their methodology?

14 A. I can't quite recall all of it because it was
15 rather complicated. But I believe there was
16 matching of similarly situated individuals.

17 Q. Did their statistical analysis -- I'm sorry,
18 strike that.

19 Was their statistical analysis and the steps
20 and methodology they underwent similar to the one
21 that you perform here?

22 A. It may have been in some respects.

23 Q. Elaborate on that. How could it have been?

24 A. I believe they, like I did, used Department
25 of Correction's data to estimate sizes of eligible

1 population but then they attempted to match people
2 with voter files to see if they registered. So I
3 didn't take -- conduct that step because I had -- I
4 was looking at the certificate of restoration
5 process, not the process of whether they then went
6 to register afterwards. And I also didn't look at
7 voter turnout, which they do.

8 Q. So is it say fair to say that they were
9 looking to match people with voter files to identify
10 individuals, whereas you were using the TDOC data
11 here to create an estimate?

12 A. Of the eligible -- size of the eligible
13 population, yes, who had -- based on each of the
14 criteria for the COR. And then I matched to the
15 data file that was provided to me for people who had
16 received a COR. Not to the voter file.

17 Q. Okay. If I could point you to page ten,
18 please.

19 A. I have it.

20 Q. Can you walk me through how you came up with
21 your eligibility estimate?

22 A. Yes. So as I note here, I received a
23 document as a text file from the Tennessee
24 Department of Correction that contained records,
25 439,566 cases, which were instances of supervision.

1 And those case records contained identifying
2 information. In particular, each person in the file
3 has a unique identifier and that person may appear
4 in that original file multiple times, depending on
5 how many times they were supervised or convicted.

6 And I then took those records and combined
7 them into records that reflect individual people, as
8 opposed to in the cases, so I collapsed the cases
9 under each person. And so once I did that, there
10 are I believe 326,000 -- I'm sorry, it's easier for
11 me to refer to Figure 2 on page 17.

12 So there were 326,459 unique individuals in
13 the file that I received from TDOC. 324,919 of
14 those individuals had at least one felony conviction
15 after May 18th, 1981 and were thus eligible to
16 participate -- to receive a certificate of
17 restoration.

18 Then TDOC -- the file contained information
19 about the status of each of the cases. And if an
20 individual had a status other than inactive, I
21 excluded them from consideration. So those would be
22 people -- if people had any case with a status of
23 pending, deceased, probation, parole, or
24 incarcerated, I excluded them from the data, which
25 leaves 213,329 individuals that had finished serving

1 their sentences and were no longer under TDOC
2 supervision, at least in that file.

3 Next, I used the list of disqualifying crimes
4 as defined on page 11 to map the TDOC descriptions
5 of each person's crimes to one of those
6 disqualifying crimes. And those that had been
7 convicted of any of those disqualifying crimes based
8 on the date of that conviction I then excluded from
9 the data.

10 That was about, I believe, 7,728 people who
11 had finished serving felony sentence for
12 disqualifying crimes based on the time period of
13 conviction. And that left 205,601 individuals who
14 were no longer being supervised and had only
15 non-disqualifying felony convictions.

16 Q. So that is -- so those steps are all derived
17 from the TDOC text file?

18 A. Yes.

19 Q. Okay. Was there any math or statistics done,
20 any estimating done in getting that far?

21 A. No.

22 Q. Next tell me how you estimated the number of
23 individuals who are not deceased.

24 A. So I weighted each individual based on the
25 likelihood that they were still alive based on their

1 age at the time that I was doing the calculation so
2 last summer, and using weight -- information from
3 the Social Security Actuarial Tables by age and
4 gender.

5 And so for each person age one to a hundred,
6 for men and women, the Social Security
7 Administration publishes data on the percent of that
8 birth cohort that's still alive, and I could weigh
9 each individual in the file based on their numerical
10 age and gender according to that likelihood whether
11 they were still alive.

12 Q. So tell me about a little about that Social
13 Security Actuarial Table, please.

14 A. I'm not sure what you mean.

15 Q. What are they?

16 A. So the Social Security Administration
17 publishes these data periodically, I think annually,
18 but there's always a little bit of a lag because of
19 the math but, basically, because they have -- they
20 use vital statistics records and also reports of
21 death because, again, they collect this information
22 from the CDC but also from their own records they
23 are able to publish these tables that the government
24 uses for various purposes.

25 Q. Do you know whether or not the actuarial

1 tables are nationwide or whether or not they are
2 state by state?

3 A. They should be nationwide.

4 Q. So there's no -- so the actuarial tables
5 don't account for demographic and life expectancy
6 differences in people in Tennessee versus elsewhere?

7 A. No.

8 Q. What about -- does the Social Security
9 Actuarial Table take into account the effects of
10 incarceration upon life expectancy?

11 A. No.

12 Q. What are those effects?

13 A. It depends on the person. In some cases
14 incarceration may have detrimental effects on life
15 expectancy to the extent that maybe it affects
16 socioeconomic status after.

17 But in some cases it may be helpful to the
18 extent that a person either stops dangerous
19 behaviors or ages out of crime during their period
20 of incarceration.

21 Q. Are you familiar with any articles that
22 reference incarceration and its effects upon life
23 expectancy?

24 A. There are several in criminology but I can't
25 off the top of my head tell you the exact titles of

1 them.

2 Q. Would it surprise you to know that -- strike
3 that.

4 Would it surprise you if there were an
5 article out there from Prison Policy Initiative that
6 estimates that each year in prison takes two years
7 off of someone's life expectancy?

8 A. Like I said, something like that wouldn't
9 surprise me.

10 Q. Would it surprise you to -- would it surprise
11 you if there were an article entitled, The
12 Consequences of Incarceration for Mortality in the
13 United States that Discusses the Detrimental Impact
14 on Life Expectancy that incarceration can have?

15 A. The existence of those articles wouldn't
16 surprise me.

17 Q. Would it surprise you if there was -- would
18 it surprise you if there is an article referenced in
19 JAMA that discusses how incarceration creates
20 substantial long-lasting harms upon life expectancy
21 of Black Americans?

22 A. That wouldn't surprise me.

23 Q. Is any of that included in your -- or
24 weighted in your estimate in Figure -- in 6.3 of
25 your report?

1 A. No. Again, as I said before, incarceration
2 can have sometimes negative and sometimes positive
3 effects on life expectancy, so I would have to not
4 just incorporate those articles but think about the
5 body of work.

6 Q. Well, as an expert in criminal justice and
7 ethnic policy, ethnic politics rather, do you -- do
8 you have an opinion as to whether as a whole
9 incarceration has a positive or a negative impact on
10 life expectancy?

11 A. I haven't studied it myself so no. All I can
12 tell you is that it could be for a given individual
13 either positive or negative.

14 Q. Regardless of your expert -- regardless of
15 not having an expert opinion, do you have a personal
16 inkling as to whether or not you would expect a
17 finding that incarceration has an overall negative
18 impact on life expectancy?

19 A. Again, it can have a positive or a negative
20 impact. I can think of scenarios that would support
21 both.

22 Q. Do you think it's more likely that one side
23 of your scenarios happens more often than the other
24 side of your scenarios?

25 A. I don't know. I don't -- I don't -- right

1 now I don't have any basis for judging which one is
2 more likely. Again, I can think of a scenario in
3 which someone's life was prolonged because they were
4 incarcerated rather than being on the street,
5 continuing to do drugs, or engage in violent
6 activities, for instance.

7 Q. Would it surprise you if there were a United
8 States Census Bureau study that determined that the
9 latest recession had a greater negative impact upon
10 persons with criminal histories?

11 A. That wouldn't surprise me.

12 Q. Is the socioeconomic -- is having a positive
13 socioeconomic status linked to a higher life
14 expectancy on average?

15 A. Typically.

16 MR. CHARLES GRANT: Objection to the
17 form of the question.

18 THE WITNESS: Typically.

19 BY MR. RIEGER:

20 Q. Do you have a -- in terms of the number of
21 6.3 by using the actuarial tables, one, do you know
22 what the P value or confidence interval is on the
23 actuarial table data?

24 A. I don't know specifically, but I think it's
25 relatively small because the sample size is large.

1 Q. Do you know what -- after applying the
2 actuarial tables to reach your number of 184,142, do
3 you have any idea of the P value or confidence
4 interval is to that?

5 A. I wasn't doing any hypothesis testing there
6 so there is no P value.

7 Q. Is there any way to know how close that
8 184,142 number is to reality?

9 A. You could contact all of the people to try to
10 figure out if they're still alive or dead.

11 Q. Do you think that 184,142 is the number?

12 A. I think it's a reasonable estimate of the
13 number. It could be off by a few hundred here or
14 there but I don't think it's wildly inaccurate. I
15 think it's within the -- again, because the point
16 estimates are on the Social Security Actuarial Table
17 they're actually pretty small because the sample
18 sizes are so large. I think it's a good estimate.

19 Q. So your estimate is entirely dependent then
20 on the Social Security Actuarial Table being a match
21 or a close tool to represent felons in the State of
22 Tennessee?

23 A. Not entirely. Because remember, if people
24 died under supervision, which is actually a good
25 number of people, they're already removed from the

1 data.

2 Q. Would that skew it high or low? Would that
3 skew the -- if it did not include those persons,
4 would it skew the 184,142 higher or lower?

5 A. I don't know. So I think what -- so I -- so
6 if -- I'm sorry, I don't understand what you're
7 asking.

8 Q. Let me rephrase and ask it a different way.

9 A. Okay.

10 Q. Did you do any analysis to determine whether
11 or not the persons who passed away in custody is
12 consistent with the Social Security Actuarial
13 Tables?

14 A. No.

15 Q. All right. Let's move on and can you explain
16 to me how you got that number at the end of 6.4.

17 A. Yes. So I did a -- took a sample of the
18 people in the TDOC file, a random sample, in order
19 to see how many of them owed legal financial
20 obligations, which I discuss here as depending on
21 how it was listed in the records for the different
22 counties. If it said court costs, then restitution
23 I would see if people owed what was called court
24 costs and restitution. Or in other counties where
25 it wasn't clear of what those legal financial

1 obligations, which ones counted as court cost and
2 which ones didn't, I was advised by Plaintiffs'
3 counsel to look at certain categories.

4 But I can at least say that in my experience,
5 most of the time when people owed some of those that
6 I counted, they also owed other kinds of like jail
7 fees and the like as well. So I -- for the counties
8 where I could get the data online or occasionally
9 through phone calls to clerk's offices, I was able
10 to then calculate by race, age, and gender how many
11 of those people still owed legal financial
12 obligations and I weighted the sample based on those
13 counts.

14 Q. So would I be fair to characterize that you
15 used the circumstances of 612 individuals and
16 applied the percentages associated with them to the
17 number of 184,142 discussed in 6.3?

18 A. To the circumstances of everyone in the file,
19 so all 200 -- I believe it's actually all 205,000
20 people.

21 Q. So that sample size is less than .3 percent;
22 is that right?

23 A. That's right.

24 Q. Okay. Do you have P value or confidence
25 interval for that?

1 A. No.

2 Q. When you were creating your sample, did you
3 find individuals from every county in the state of
4 Tennessee?

5 A. No. There were some counties that I list
6 here that were -- I was unavailable to research.
7 But it -- but for the other counties, if they came
8 up in the sample, we were able to look up people.

9 Q. Was there an attempt of the 612 sample to
10 ensure representation from every county?

11 A. No. Because it was a random sample. So in
12 that sense, we wanted -- it needed to be
13 representative of the state as a whole.

14 Q. Did you have any concerns about the size of
15 your sample, compared to the --

16 A. No.

17 Q. -- compared to the 205,000 group that it was
18 going to be applied to?

19 A. Not at all.

20 Q. Did it concern you when your sample revealed
21 that 100 percent of people in the sample owed court
22 costs and restitution?

23 A. No. Because, again, it's a small number of
24 people but I thought it was -- it might be the
25 difference between something like 90 and a hundred,

1 90 percent and a hundred percent, and so the problem
2 is that there just aren't that many Latino people in
3 the data period, not that my sample didn't reflect
4 them accurately.

5 Q. So how did you calculate the weights then?

6 A. So the weights are basically, the likelihood
7 based on all of the estimates that I have for each
8 criterion that a person of that age and gender and
9 for LFOs also of race owes an LFO is alive is in
10 arrears on child support. And the final weight is
11 the joint probability of all three of those things,
12 of the person fitting all three of those criteria.

13 Q. But what tells you -- where do you get
14 your -- where do you get your information on how to
15 assign weights to different populations?

16 A. So based on the sample of people that I
17 looked at, the likelihood that that group of people
18 is still alive is the weight. So the percentage of
19 those people who are still alive or the percentage
20 of those people who owe LFOs.

21 Q. So apply that same reasoning and analysis to
22 Latino voters. What would that tell you?

23 A. So for Latino voters?

24 Q. Sorry, sorry, Latino people. Apply the --
25 walk me through how you would apply the 100 percent

1 of Latino people in the sample to the 205,000
2 number. How would you weight that? Would we just
3 assume that every Latino person in the 205,000 owes
4 court costs or restitution?

5 A. Yes. But I think -- let me see if I handled
6 this differently just to see. Yes. So I believe
7 for some of the other group, Asian and Native
8 American as well are incredibly small. So for those
9 few people, it might be like a handful, like a
10 hundred or so people. And I also want to point out
11 that for some of -- for some of them I also don't
12 have accurate citizenship information. So for
13 Latino and Asian groups, because they are so small,
14 it was really hard for me to estimate weights for
15 them for the LFOs.

16 So I'm not even -- so they are included in
17 the overall data. But then because they are so
18 small, they tend to drop out of the other analyses
19 because, like I say, a hundred percent of Latino
20 people were found to owe or because, again, the
21 population is so small that it could be that if part
22 of the population was particularly elderly so that
23 combination of things tends to drop them out of the
24 sample.

25 Q. So how many Latino people are in samples?

1 A. Originally, I don't know if I have those data
2 listed here. Yeah. I don't see that I have those
3 data listed here, but I will keep flipping to see if
4 I do. I don't recall off the top of my head. Yeah,
5 I don't have it listed here in the report.

6 Q. I'm sorry, do you know if it was more than
7 ten?

8 A. It was probably more than ten but I don't
9 know -- but for other groups I actually don't know
10 how many more overall there was.

11 Q. Do you think it was more than 50?

12 A. I don't recall.

13 Q. Do you think it was more than 75?

14 A. I don't recall.

15 Q. I'm looking for a ballpark. Do you think it
16 was more than a hundred?

17 MR. CHARLES GRANT: Objection to the
18 form of the question.

19 THE WITNESS: I don't recall.

20 BY MR. RIEGER:

21 Q. At what point are you comfortable that the
22 sample size is large enough to apply it to the
23 205,000?

24 A. At what point of what sample?

25 Q. So when do you have enough individuals in a

1 category, for example, race or gender or age, at
2 what point do you have enough people in that sample
3 for whatever you're looking at, in that subgroup of
4 a sample to determine -- to feel comfortable in
5 applying it to the 205,000?

6 A. So part of the problem is that my sample is
7 representative of the state. But if the sample can
8 be representative of the state but still if there
9 are some populations that are very small, it's
10 difficult for me to draw inferences about them based
11 on their representation in the sample that I drew.

12 So I'm comfortable making claims overall
13 about the eligible population but only when there's
14 enough people in the sample do I feel comfortable
15 going below that and characterizing the group.

16 MR. RIEGER: At this point I'd like to
17 take a -- we've been on the record for about a hour.
18 I would like to take a quick five-minute comfort
19 break if that's all right?

20 MR. CHARLES GRANT: Sure.

21 (Recess observed.)

22 BY MR. RIEGER:

23 Q. Let's go back on the record. Dr. Burch, you
24 understand that are you still under oath?

25 A. Yes.

1 Q. Would it be fair to characterize what has
2 occurred in 6.4 of your expert report as using a
3 sample to make inferences about a larger group?

4 A. Yes.

5 Q. Okay. Could, if you used a different 612
6 individuals, could that change the inferences that
7 you would apply to the large group?

8 A. It depends on how you select those 612
9 people.

10 Q. Assuming it was a random sampling. So it's a
11 random sampling. You get different people. Could
12 it change the inferences that you would apply to the
13 205,000 number?

14 A. It should not.

15 Q. It should not. How do you know that?

16 A. So that's the point of a random sampling. It
17 should be representative and estimates calculated
18 from it should be unbiased. Estimators are the true
19 population parameters.

20 Q. How do you know whether or not you've pulled
21 a large enough sample size?

22 A. You can actually calculate that. So,
23 typically, the need for -- the efficiency of a
24 larger sample decreases, one should get to a certain
25 number of -- so, you know, you're really not

1 increasing efficiency that much if you -- once you
2 get over a certain number of people, you know,
3 typically over 500 people, depending on the
4 population size, even if you're trying to estimate a
5 population of a million. It depends on several
6 factors.

7 Q. What are those factors?

8 A. The size of the effect that you're trying to
9 measure, the variance, like the spread of people in
10 the population, how accurate you're trying to be,
11 and things like that.

12 So typically we take accuracy to be a given
13 like you're trying -- you know, you're trying to
14 get -- either do a certain plus or minus spread
15 that's not too much more than 2 to 5 percent. And
16 then it really just depends on the variance and the
17 size of the effect.

18 But, again, over a certain size, which you're
19 getting over into the hundreds of people in your
20 sample, those things tend to not matter as much.

21 Q. Are you familiar with the concept of
22 population standard deviation?

23 A. Yes.

24 Q. What is it?

25 A. The square root of the variance.

1 Q. And how does it apply in a typical analysis?

2 A. How does it apply in my analysis?

3 Q. Just in general, please. We'll get to yours
4 in a second.

5 A. So, typically, the standard deviation is used
6 in several ways.

7 Q. And those ways are?

8 A. You could use the standard deviation to
9 calculate confidence intervals or it could also be
10 used in tests of statistical significance, or it
11 could be used if you're doing regressions to look at
12 the size of an effect.

13 Q. What does a confidence interval demonstrate?

14 A. Typically, a confidence interval is going to
15 demonstrate whether an estimate is kind of the range
16 in which if you took a random sample, a different
17 random sample of that population, the point
18 estimates of what you calculate should be within --
19 95 percent of the confidence intervals -- sorry --
20 of the parameters you calculate, so if you're
21 looking at a means, 95 percent of the means that you
22 get if you take different random samples should fall
23 within that confidence interval.

24 Q. So if you were to make an inference about a
25 population and using a sample and say there's a

1 range, if you took another random sampling and there
2 was a confidence interval of 95 percent, you could
3 be 95 percent sure they would fall within that range
4 that you derived from your first sample; is that
5 right?

6 A. Uh-huh.

7 Q. Okay. You didn't do a confidence interval
8 analysis here, did you?

9 A. No. I don't report them here.

10 Q. Did you at all?

11 A. I looked at the, you know, the descriptive
12 statistics when I was calculating, you know, the
13 means and the like but...

14 Q. What's your confidence interval?

15 A. I don't know. I don't recall.

16 Q. Would you agree that confidence intervals
17 help you determine how accurate your inference is
18 from this first sample?

19 A. They can be helpful.

20 Q. Did you apply the population standard
21 deviation to this analysis?

22 A. No.

23 Q. Did you evaluate it, your analysis, to
24 attempt to find a P value, a T score, or a Z score?

25 A. No. I'm not sure why I would.

1 Q. What is your authority for the concept that
2 once you reach a thousand people in the sample or
3 500 people or whatever you said the sample, it's no
4 longer effective to increase the sample size along
5 with the population that's being used to represent?

6 A. I think that's just known in -- like, you
7 know, there's multiple textbooks on statistical
8 power analysis that would tell you that.

9 Q. Which ones did you use here?

10 A. I didn't cite any here.

11 Q. Did you use any here?

12 A. It's just part of my general knowledge.

13 Q. Where did you acquire that general knowledge?

14 A. Over years of reading or looking at
15 statistical power analysis. In fact, I think, I
16 discuss it specifically in a test of it in a recent
17 paper, Not All Black Lives Matter. I think I have
18 some footnotes about statistical power analysis and
19 effect sizes and the like there.

20 Q. How much of a confidence interval do you need
21 to avoid a false assurance?

22 A. So it depends on what you're trying to do.

23 Q. At what point does the confidence interval
24 reach a percentage where you can be reasonably
25 assured that it's causal and not random chance?

1 A. I am not sure that question makes sense.

2 Q. Let me ask it this way. Is 80 percent
3 confidence interval the point you need to reach to
4 be assured that you're not receiving a false
5 assurance in your inference?

6 A. I'm not sure I understand what you're asking.

7 Q. So I'll scale it back then. A confidence
8 interval, would I be correct in characterizing a
9 confidence interval is saying that as the confidence
10 interval grows, you can be more assured that there
11 is a causal connection and that the event is not
12 simply random chance, that it's reputable with other
13 random samples?

14 A. What do you mean by as the confidence
15 interval grows?

16 Q. As it moves closer to 100 percent. For
17 example, as the confidence interval moves from 50
18 percent to 55 percent, you can be assured that it is
19 now more likely when you compare a 55 to 50, 55 is
20 more likely to not to be caused by random selection
21 and that there's actually something causal pending
22 what's going on?

23 A. You've -- you've kind of lost me. Yeah,
24 you've lost me here in terms -- yeah. I'm sorry,
25 I'm just not --

1 Q. Okay. Let's go back. What's a power
2 analysis?

3 A. So a statistical power analysis would look
4 at, like I said, several factors in order to figure
5 out how much power you have to be able to -- if
6 there is an effect, to be able to reject the null
7 hypothesis.

8 Q. Why do we use power intervals -- power -- I'm
9 sorry -- I lost my train of thought there.

10 Why do we conduct power analyses?

11 A. So that if we are trying to do things like
12 estimate -- so, for instance, if I'm trying to
13 compare two entities, I want to have a large enough
14 sample size to be able to know if the estimate that
15 I get for those two intervals are statistically
16 different.

17 Q. Did you perform any sort of power analysis
18 here?

19 A. Well, other than making sure that my sample
20 size, again, is large enough to be able to make
21 inferences, I'm not making comparisons across. So
22 I'm not -- for instance, I'm not comparing black
23 males to black females and things like that, so I'm
24 not doing that kind of analysis.

25 Q. Do you have -- did you perform any sort of

1 margin of error analysis in your percentages from
2 the sample?

3 A. I'm not sure what a margin of error analysis
4 is.

5 Q. So we know that, for instance, if we look
6 at -- if we skip ahead to 6.4.1, you found that
7 55.3 percent of white people were rendered
8 ineligible because of LFOs. When we apply that to
9 the 205 number, that can't be exact, right?

10 A. What do you mean it can't be exactly right?

11 Q. Well, it's not likely to be the perfect --
12 the absolute correct number when broken down on an
13 individual-by-individual basis?

14 A. No. I don't estimate that for individuals by
15 individuals.

16 Q. Okay. Okay. So it's an estimate, right?

17 A. Yes.

18 Q. Okay. Did you conduct any sort of margin of
19 error to determine whether or not when you applied
20 the 55.3 percent to the 205, what the range was that
21 you may have been off by?

22 A. I don't recall what it is, but it's actually
23 fair and small. It's not going to be more than plus
24 or minus 2 or 3 percent, I think. I don't know the
25 exact number. But it's going to be fair and small.

1 Q. And how did you come up with that margin of
2 error?

3 A. Again, just because of the sample size.

4 Q. Let's move on to walk me through 6.4.1,
5 please.

6 A. So this statement -- this section is just
7 looking at the sample that -- the random sample and
8 gives the statistics about the random sample and the
9 percent of people in that sample who, by race and
10 age and gender, who still owed legal financial
11 obligations.

12 Q. Can you give me an estimate as to how many --
13 can you give me an estimate of the breakdowns of the
14 sample, starting first with gender.

15 A. Let me see if I have it here. I don't think
16 I discussed that or have that listed here.

17 Q. What about can you give me the breakdown of
18 the sample in terms of age?

19 A. I don't know that I have that listed here.
20 I'm checking my notes to see if I reference it or
21 provided that information here. I don't think that
22 I did.

23 Q. Do you know it?

24 A. Off the top of my head, I don't.

25 Q. What about race?

1 A. I don't know the demographic breakdowns here.

2 Q. Well, let me try to -- out of the 612, do you
3 believe that more than a hundred of those
4 individuals were white?

5 A. Probably.

6 Q. What about 200?

7 A. That I -- I don't know.

8 Q. What about 150?

9 A. I don't know.

10 Q. What about -- were more than a hundred people
11 in the sample black?

12 A. Yes.

13 Q. Two hundred?

14 A. I don't know.

15 Q. So you're comfortable saying for both white
16 and black population above a hundred, but you're not
17 comfortable saying above 200?

18 A. I'm just saying I don't -- I don't recall.

19 Q. Could you -- I won't hold you to it but a
20 ballpark guess?

21 A. I don't want to guess.

22 Q. Moving on, can you explain this one notation
23 here, any rules, 2,904 for me?

24 A. I'm sorry, I'm just reading this paragraph.

25 Q. That's fine.

1 A. That equals 2,904 is the number of black
2 people that I estimate finished serving sentences
3 for non-disqualifying crimes, between the ages of 18
4 and 29.

5 Q. Okay, okay. Move over to 6.4.2 -- oh, I'm
6 sorry, strike that. I think go back to 6.4.1.

7 Did you rely on -- for 6.4 and 6.4.1, did you
8 rely on anything to get those estimates other than
9 that sample group?

10 A. I don't see anything listed here.

11 Q. So is that a no?

12 A. No.

13 Q. Okay. Okay. Now we can move to 6.4.2. I
14 want to start with Footnote 13.

15 A. Okay.

16 Q. And I'm going to put something in the file
17 chat and if you could open that for me, please.
18 It's entitled 12-2022-GLANE1 and I believe -- and if
19 you could open that for me. It's Footnote 13 I'm
20 going off of.

21 A. Okay.

22 Q. Do you know what this is?

23 A. That appears to be the list that was provided
24 to me from Shelby County Clerk's Office through the
25 Plaintiff attorneys.

1 MR. RIEGER: At this point, I'd like to
2 admit it as deposition Exhibit 7. That's
3 12-2022-GLANE1.

4 (WHEREUPON, a document was marked as
5 Exhibit Number 7.)

6 BY MR. RIEGER:

7 Q. If I could direct your attention to
8 Footnote 14, where you reference Gray, Cassaundra,
9 email.pdf. I have posted in the chat a file
10 entitled Gray, Cassaundra, email. If you could open
11 that up for me?

12 A. Okay.

13 Q. Are you familiar with this document?

14 A. Yes. This appears to be the email that I
15 referenced in my report.

16 Q. Is this the same Gray, Cassaundra, email.pdf
17 that you reference in Footnote 14?

18 A. I think so.

19 MR. RIEGER: At this point, I'd like to
20 enter this as depo Exhibit 8, please.

21 (WHEREUPON, a document was marked as
22 Exhibit Number 8.)

23 BY MR. RIEGER:

24 Q. If I could direct you as well to Footnote 14.
25 You reference a document entitled Gray

1 financials.pdf. I'm putting a document entitled
2 Gray financials.pdf into the chat. Could you take a
3 look at this and let me know if you know what this
4 is?

5 A. Yes. This appears to be the Gray financial
6 document that I referenced in my report.

7 MR. RIEGER: At this point, I'd like to
8 introduce Gray financials pdf as deposition **Exhibit**
9 **Number 9**.

10 (WHEREUPON, a document was marked as
11 **Exhibit Number 9**.)

12 BY MR. RIEGER:

13 Q. Do you also see in Footnote 14 where you
14 reference Perry Financials.pdf?

15 A. Yes.

16 Q. I'm putting that in the meeting chat as well.
17 If you could open that up and let me know if you
18 know what that is?

19 A. Yes. I believe this is the statement that I
20 reference in my report.

21 MR. RIEGER: Okay. At this point, I
22 would like to introduce this Perry Financials.pdf as
23 deposition **Exhibit 10**.

24 (WHEREUPON, a document was marked as
25 **Exhibit Number 10**.)

1 BY MR. RIEGER:

2 Q. And at this point, I'd like to direct your
3 attention to Footnote 15 in the section, where it
4 says Davidson County Criminal Court Clerk letter.pdf
5 I'm putting in the chat a document entitled Davidson
6 County Criminal Court Clerk letter.pdf. If you
7 would open that for me, please? Do you know what
8 that document is?

9 A. That looks like the correspondence back and
10 forth about how Davidson County counts -- what they
11 consider to be court costs and restitution.

12 MR. RIEGER: Thank you. I would like to
13 introduce the document entitled Davidson County
14 Criminal Court Clerk letter.pdf as deposition
15 Exhibit 11.

16 (WHEREUPON, a document was marked as
17 Exhibit Number 11.)

18 BY MR. RIEGER:

19 Q. If I could direct you to Footnote 15 again,
20 where it references Davidson County Criminal Court
21 Clerk email thread. I'm posting a document in the
22 meeting chat entitled Davidson County Criminal Court
23 Clerk email thread. If you could open that up for
24 me and tell me if you recognize it and what it is?

25 A. Yes. This is the email thread that I

1 reference in my report.

2 MR. RIEGER: At this time, I would like
3 to introduce the document entitled Davidson County
4 Criminal Court Clerk Email thread as Deposition
5 Exhibit 12.

6 (WHEREUPON, a document was marked as
7 Exhibit Number 12.)

8 BY MR. RIEGER:

9 Q. I think we are finally done with the exhibits
10 for this section. If I could get you to walk me
11 through 6.4.2, please.

12 A. 6.4.2 is really an analysis of the Shelby
13 County data that they provided, just with looking at
14 overall how many people owe legal financial
15 obligations according to the court clerk's office
16 and what the amounts are by race and age. And also
17 what -- it says mainly the discussion that I have
18 there.

19 Q. What's the significance of the selection of
20 the Shelby County Criminal Court in this section?

21 A. It's the biggest I think. If I remember
22 correctly, Shelby County has the most people in the
23 file. I think Davidson might be second.

24 Q. Are you applying the Shelby County Court
25 costs to the State of Tennessee as a whole?

1 A. No.

2 Q. Okay. So Shelby County is just speaking here
3 to Shelby County?

4 A. Yes. And it's also because the Shelby County
5 data that they provided are also for the same people
6 that are the random sample -- that came up in the
7 random sample in my report, so I was also able to
8 use it to compare how I was counting Shelby County
9 versus how they count Shelby County, in terms of
10 like whether they count all the fees that are listed
11 or if they only count certain ones.

12 Q. In the penalty paragraph, page 14, you
13 identify that the -- am I reading this correctly,
14 the Shelby County sample size white population was
15 11?

16 A. Yes.

17 Q. Okay. Do we know what the black population,
18 sorry -- what the Shelby County black population
19 within the 612 sample was?

20 A. I'm not sure it was the full 85 people but
21 most of the sample was black. And that just
22 reflects who gets convicted in Shelby County.

23 Q. So the Shelby County sample size -- sorry.
24 The portion of the 612 that's attributable to
25 Shelby County is 85?

1 A. Ninety-five, I believe.

2 Q. So Shelby County takes up -- Shelby County
3 takes up roughly a sixth of the 612 sample size?

4 A. That should be right, give or take.

5 Q. Do you know if the demographics in Shelby
6 County are similar to other urban counties in the
7 state of Tennessee?

8 A. They may be different so I wouldn't -- I'm
9 not making any inferences about other urban
10 counties.

11 Q. Do you know what percentage of the population
12 of the state of Tennessee Shelby County is?

13 A. Off of the top of my head, no.

14 Q. Did you do any work regarding the
15 demographics to determine whether or not the
16 percentage of persons from Shelby County in the 612
17 sample is appropriate and representative?

18 A. It is representative of the inactive
19 population, the 205,000.

20 Q. And how did you determine that?

21 A. Just by, again, the rankings of who is in --
22 by county who is in the sample. So, like I said,
23 the biggest in the sample are, you know, Davidson --
24 sorry, Shelby and Davidson. I think Knox has quite
25 a few people. So yes. The number of people in

1 terms of the sample do match up to the
2 representation in the 205,000.

3 Q. Anything particular about Hamilton County?

4 A. Yes. There are some people from Hamilton
5 County who should be in the sample, but let me see
6 for a second. Let me just review something in
7 my --yeah. Hamilton County I believe is not one of
8 the counties that was in and we weren't able to look
9 up legal financial obligations so -- and I do
10 believe there are people from the sample in Hamilton
11 County.

12 Q. So you weren't able to look up LFO data from
13 Hamilton County but Hamilton County persons were
14 part of the 612 or was Hamilton County entirely
15 excluded from the 612?

16 A. I was saying I don't see them in -- I don't
17 see Hamilton County in the list of counties that I
18 have here that we were not able to look up legal
19 financial obligations for. So Hamilton County I
20 think should be in the 612, should be represented in
21 the 612.

22 Q. So if you couldn't get -- if you could not
23 get LFO data, did you include persons from those
24 counties in the 612?

25 A. No. So the original sample, I had to exclude

1 those counties where we couldn't look up the LFO
2 data and I have here in Footnote 8 that represents
3 about 22 percent of -- those counties represent
4 about 22 percent of the overall Tennessee population
5 but most of them tend to be smaller counties in
6 general, except for I think some of the larger ones
7 I think were -- Knox was one of the larger ones.

8 Q. So anybody who you might have pulled in the
9 986?

10 A. Uh-huh.

11 Q. Who lived in a county identified in
12 Footnote 8, they would not be part of the 612?

13 A. They may be because we may have been able to
14 get partial data. So some we were able to get some
15 data online where -- but they may have required
16 in-person visits for, I don't know, cases before
17 1999 or something to that effect.

18 Q. So there may be some folks who would live in
19 counties in Footnote 8 who were a part of the 612
20 but only if you could get their documents?

21 A. Right.

22 Q. Okay. All right. And if you could walk me
23 through 6.5, please.

24 A. Yes. So I was provided with a list of -- I
25 provided a random sample of people through DHS who

1 then sent me a list back of those people from that
2 list who owed arrears on their child support. And
3 then I calculated the percent of each of those
4 groups by race, age, and gender who were in arrears.

5 Q. Was it a different random sample than the
6 612?

7 A. I think it was the same. It might have been
8 a half of that sample because DHS balked at
9 providing the larger number. So I think I actually
10 wanted to send the 986 but then took a random sample
11 of that sample so I think I only sent half. It
12 ended up being 400 and something people to that.

13 Q. So for child support, let me make sure I can
14 follow the math here.

15 A. Uh-huh.

16 Q. You did a random sample of folks that you
17 think it's the same 612?

18 A. I think it's the same as the -- it might be
19 the same as the 986. I would have to look at my
20 notes.

21 Q. Okay. So you think it's the same of the 986?

22 A. Uh-huh.

23 Q. Did you include -- did you excise -- sorry,
24 let me strike all that.

25 Did you exclude anybody out of the random

1 sampling of the 986 for whom you couldn't get LFO
2 data?

3 A. I don't think so.

4 Q. Okay. So it's of the -- a random sampling of
5 the 986 but not necessarily in the 612 group?

6 A. I think that's right.

7 Q. So you're using two different random samples
8 from two different, the 986 source and the 612
9 source, to make an inference about the 205
10 population?

11 A. So I took a sample of 986 people from the
12 205,000 population. And for those people, I tried
13 to get information on both child support arrears and
14 LFOs. For the LFOs, I was only able to get that
15 information fully from certain counties. For child
16 support, DHS was only going to provide me, from my
17 understanding of they didn't want to provide that
18 many. So I cut that 986 in half, so it's still
19 representative. It's just a smaller sample size.
20 It's just the 400-and-some-odd people instead of the
21 full 986.

22 Q. So you're taking child support information on
23 400 people and applying it to 205,000 people?

24 A. Yes.

25 Q. Did you do any sort of confidence interval,

1 anything that we talked about before, in depth, did
2 you do any sort of analysis like to your 400-odd
3 sample size?

4 A. No. Again, once you get past a certain
5 point, it's kind of overkill so it's not really
6 going to get you much in terms of, you know,
7 narrowing the margin of error or anything like that.
8 So it's not really making like a huge difference in
9 the estimates overall in terms of reducing the
10 entire population or your ability to make inferences
11 about the entire population.

12 Q. Right. We're under 500 now, right?

13 A. Uh-huh. Yes.

14 Q. Did the data that DCS provided include
15 out-of-state child support data?

16 A. I only asked about people serving felony
17 convictions under Tennessee authority. I am not
18 sure exactly how -- to the extent that they knew
19 about arrears for people in Tennessee, you know, if
20 they were working with other states or anything like
21 that. I don't know for the individual cases whether
22 that's true or not.

23 Q. Did DHS -- strike that. Is the data from DHS
24 limited to only those persons who are receiving
25 Title 4B services?

1 A. I don't know.

2 Q. Are you aware that in Tennessee someone could
3 be in arrears but not be receiving Title 4B
4 services?

5 A. I don't know. I just asked for the,
6 basically, the same kind of analysis that I would do
7 for whatever they're doing for the COE.

8 Q. So walk me through 6.6, please.

9 A. So 6.6 is taking all of those weights that
10 were calculated for individuals in the sample, the
11 final rate is the joint probability that a person is
12 alive, has paid all their LFOs, and is not in
13 arrears on child support. And once you multiply all
14 of that out, I estimate that 61,158 people meet all
15 of the COR eligibility criteria.

16 Q. I want to make sure that I've got this right.
17 So the estimate starts when you attempt to estimate
18 using Social Security Actuarial Tables how many
19 people are still alive?

20 A. That's right.

21 Q. Then the next estimates start with 986, of
22 which you random sampled 612 for determination of
23 LFOs, and then you take a separate sample out of the
24 986 and estimate child support; is that right?

25 A. No. LFOs are -- I look up LFOs for the 612

1 people for whom I could find data in that random
2 sample. And then I used that to calculate the
3 likelihood that people of a certain age, race, and
4 gender owe LFOs. And then separately I used the
5 data from DHS for that same sample but half of that
6 sample, half of that 986, a random half of that 986,
7 to be able to figure out how many people are in
8 arrears on child support. And once I calculate all
9 of those separately, the joint probability is the
10 final weight.

11 Q. But the 612 is a different sample than half
12 of the 986, right? They're not the same sample; is
13 that right?

14 A. They overlap.

15 Q. Okay. But they're not -- they're not
16 identical?

17 A. Right. Because one has 612. The other has
18 400.

19 Q. And there can be people in the 400 who
20 weren't in the 612, right?

21 A. There may be.

22 Q. So the final estimate is an estimate followed
23 by two not identical but overlapping samples, two
24 estimates deriving one for each of those samples,
25 and then we put it all together and get the final

1 estimate?

2 A. Could you repeat that?

3 Q. Sure. So we start with an estimate of people
4 who are alive. That's estimate number one?

5 A. Yes.

6 Q. We pull the first sample group out of that,
7 which is 986, and we use it to create two smaller
8 sample groups, one of half of 986, which we think is
9 400 for child support purposes, and one with 612
10 that may overlap but aren't identical, and we make
11 an estimate for each one of those and then we use
12 all that for a final estimate?

13 A. Yes.

14 Q. And do you have a confidence interval or
15 anything like that on the final estimate?

16 A. No.

17 MR. RIEGER: If we could take a
18 five-minute break, I think I have about an hour and
19 change left. If we could take a break that might
20 let me avoid taking another break. Is that fine,
21 Charles?

22 MR. CHARLES GRANT: That's fine.

23 MR. RIEGER: Okay. Thank you, sir.
24 Five minutes, everybody.

25 (Recess observed.)

1 BY MR. RIEGER:

2 Q. Dr. Burch, you understand that you are still
3 under oath?

4 A. Yes.

5 Q. Okay, thank you. If you could turn to
6 page 19 of your expert report.

7 A. Yes.

8 Q. And if you could walk me through 7.1, please.

9 A. Yes. So I was provided a file from -- that
10 I'm calling the elections division restoration
11 database, which the file title is Inmate Redacted
12 and it's an Excel file. And I looked at -- in that
13 file, there are 16,790 entries that are not blank
14 and that have unique last, first, and middle name
15 combinations.

16 But not all of those entries represent
17 individuals who have had their voting right restored
18 through the COR process. So I tried to drill down
19 just by the people who had felony convictions under
20 Tennessee authority who had their rights restored
21 through the COR process, or at least during the time
22 frame that would have been the COR process.

23 So I was able to identify 5,549 people that
24 had Tennessee identification numbers that I could
25 match to the TDOC database, the main database that

1 we've been talking about before, where those records
2 match that database and they may have had a felony
3 conviction in Tennessee.

4 And I only matched people who had any felony
5 convictions after May 17th, 1981. And this is my
6 estimate of the number of people who had other
7 rights restored since the inception of the COR
8 system who were eligible for CORs.

9 The remaining people in the file, 864 of
10 them, didn't have any felony convictions after
11 May 17th, 1981. 1,242 were restored before the COR
12 process was in effect on July 1st, 2006.

13 There were 3,396 people who were labeled as
14 out-of-state or federal convictions or they could be
15 matched to the interstate compact database or the
16 federal purge database file.

17 And they were either marked that way or I was
18 able to match them to other files provided to me by
19 TDOC that they -- that I understood either had
20 people who were serving felony convictions from
21 other states than Tennessee and/or information about
22 federal convictions.

23 There were some -- 1,554 people in the file
24 who were noted as not -- either having some other
25 process other than a COR or as having no felony

1 conviction so they were expungement through judicial
2 diversions or they said no charge -- no felony.

3 And then there were 4,085 people in the
4 restoration database that I couldn't match to any of
5 the files that I was given and there were no
6 notations in the file that would allow me to
7 understand who these people were or how they came to
8 be -- came to be in the file. And they could fall
9 into several different categories.

10 Q. What are those categories?

11 A. They -- for instance, they were not matched
12 to TDOC. They were a little less likely to be
13 people with Tennessee state felony convictions. But
14 my understanding of the out-of-state conviction file
15 is that it only contained people who were somehow
16 supervised under Tennessee authority.

17 So there may have been other out-of-state
18 convictions that either the file doesn't make a note
19 that they had an out-of-state conviction or they
20 could have been a person with a federal felony
21 conviction who, again, weren't in that data file
22 because those data files weren't comprehensive.

23 They may also have been people who didn't
24 have felony convictions. Again, there were no -- I
25 didn't have a comprehensive list of people in those

1 particular categories. But, again, those 4,085
2 people I couldn't match to the TDOC file, so it's
3 unlikely that they were in that group but they could
4 have been in one of those other groups.

5 Q. Could they have also been persons who had
6 convictions from before 1973 that specifically noted
7 in the judgment they were rendered infamous?

8 A. So I do have a group of people. Let me see
9 here. So I say here that the notations in the
10 restoration data file didn't provide any information
11 for categorizing them further and I couldn't match
12 them to TDOC. So they could have been. There are
13 864 people that I could match to a TDOC or that had
14 TOMIS numbers but they had felony convictions before
15 1981.

16 So I do have some information on that group.
17 But if there are people who might be in that group
18 who have out-of-state convictions that, for
19 instance, they could be that group of people as
20 well.

21 Q. So I want to clarify something. So the 864
22 you referenced, that's after May 17th, 1981?

23 A. That had no state felony convictions after
24 May 17th, 1981.

25 Q. So those 864 and 4,085 in the last bullet

1 point could include people who had criminal
2 convictions prior to 1973 that was typically
3 rendered infamous but later they were restored?

4 A. That's -- the 864 could. I'm not sure that
5 the 485 -- 4,085 could.

6 Q. So in the 4,085, you say that you cannot
7 reasonably conclude that these individuals have had
8 their rights restored through the COR process?

9 A. That's right.

10 Q. Can you reasonably conclude these individuals
11 have not had their rights restored through the COR
12 process?

13 A. So I have no information on these individuals
14 at all in terms of how they are -- what the notation
15 is.

16 So some so them -- I don't -- for instance, I
17 can't find them in any of the databases or lists of
18 people who have felony convictions so I'm not even
19 sure that this group even has felony convictions
20 because there's no information about whether they
21 have felony convictions in the file and I couldn't
22 match them to any of the files that I was provided.

23 Q. Okay. So am I right to characterize that the
24 4,085, no one knows either way?

25 A. I mean, the election -- the coordinator of

1 elections may know but I don't have -- I wasn't
2 provided with information about them.

3 Q. Okay. In terms of the demographic breakdown
4 of voting rights restoration in 7.2?

5 A. Uh-huh.

6 Q. Is it your conclusion that there is a small
7 variance based on race?

8 A. Yes. It's relative to the size of the
9 population of people who are eligible. I think I
10 have here that 59.2 percent are white and -- but
11 57.7 percent of the people who restored were white.
12 So it's a very small variance.

13 Q. The Tennessee COR process works the same way
14 regardless of race or age or gender in terms of the
15 mechanics, right?

16 A. No.

17 Q. Do you mind elaborating on that for me?

18 A. So depending on certain issues related to --
19 some of the other ways that the process might vary
20 kind of overlay on race. So if, you know -- so, for
21 instance, Shelby County is mostly African-American,
22 and so that means that African-Americans in the
23 process may have a different outcome because they're
24 mostly in Shelby County than someone in a different
25 county that's mostly white.

1 Similarly, people who are older tend to have
2 a different experience with either the amounts of
3 LFOs they're charged or also because the paperwork
4 is much older may have a harder time getting access
5 to that paperwork. Or may have had a different --
6 may have experienced different changes in policies
7 over time.

8 So if -- so just to give you an example off
9 the top of my head, I think I referenced that there
10 is some people who have federal convictions where I
11 think they sometimes turn in an old form because
12 they receive a form, you know, from several years
13 ago. And so those kinds of -- those kinds of
14 changes can overlay with the demographic differences
15 in the file. So they may not have the same
16 experience based on the time in which they were
17 convicted or the county.

18 Q. If I talk to you about the concept, your
19 criminal justice background, if I talk to you about
20 the concepts of the disparate impact versus
21 disparate treatment, you understand what I am
22 meaning with both of those?

23 A. You could -- it would help me if you would
24 explain what you mean.

25 Q. Sure, sure, sure. So if I refer to something

1 as disparate treatment, then I'm referring to
2 something where whatever process is going on,
3 specifically says something like treat people
4 differently based on X, Y, or Z, based on race, age,
5 gender.

6 If I'm talking about disparate impact, I'm
7 talking about a process that is neutral but just the
8 outcomes are skewed. And taking aside -- is that
9 understandable to you?

10 A. I don't -- I understand what you just
11 articulated, yes.

12 Q. Okay. So in terms of the process and taking
13 out how Shelby County uses it and how LFOs may have
14 been different in decades past, is there anything, a
15 part of the process, any directive that you have
16 seen in your research and in creating your expert
17 opinion, is there anything that you have seen that
18 says explicitly treat people in the COR process
19 different by race, age, gender?

20 MR. CHARLES GRANT: Objection to the
21 form of the question.

22 THE WITNESS: No.

23 BY MR. RIEGER:

24 Q. Okay. Okay. And is there anything
25 besides -- because I do want to make sure I get to

1 the bottom of this line. So you've testified about
2 Shelby County and that process there. You've talked
3 about LFOs being more difficult in prior decades,
4 being larger.

5 Are there any other sources that you can
6 identify of disparate treatment that you think would
7 need to be resolved?

8 A. It's just off the top of my head and I don't
9 want to be -- say that this is all. But just as
10 another example of what I just mentioned, it's also
11 the case that it's harder to access older files in
12 most counties. So a lot of the older files for
13 convictions going further back are either archived
14 or missing or not available electronically.

15 So that information is to -- to the extent
16 that those kinds of problems will be for people who
17 are alive and around to be convicted in the '80s and
18 '90s is going to affect older is people more than
19 it's going to affect younger people. But, again, I
20 don't want to -- but sometimes those, you know --
21 even into the 2000s and 20-teens that could be an
22 issue too.

23 Q. I understand what you're saying. I'm just
24 trying to flush it out. In terms of the 7.2 tables,
25 those are all based off of 5,549 number in 7.1,

1 correct?

2 A. Yes.

3 Q. Okay. Is there any estimation or sampling
4 going on in taking that 5,549 into to end up
5 creating the 7.2 tables?

6 A. Only to the extent that -- for instance, in
7 Table 6, the column completed no LFOs or child
8 support relies on the data from the previous
9 section, the eligibility data. That was the
10 denominator.

11 Q. And the previous section you're talking
12 about, are you talking about 6.5?

13 A. Those -- basically, that's the 61,158 number
14 that I calculated as the eligible population.

15 Q. Okay.

16 A. Broken down by race. So that's the only
17 place where -- so that reappears here as the
18 denominator for the restoration.

19 Q. Okay. And is that the same for -- in
20 Table 7, the two columns on the right, does that
21 also include the math from Section 6?

22 A. Yes.

23 Q. Okay. Okay. All right. If I could get you
24 to -- and I think we're almost -- I think we are
25 getting there. I promise I won't keep you too late.

1 If I could get you to skip to page 27.

2 A. Okay.

3 Q. And if you could walk me through 9.1.

4 A. Yes. So in 9.1, I have talked about the ways
5 in which people are to start the process to get
6 their rights restored. And as I say here, it
7 requires the cooperation of multiple actors across
8 different kinds of bureaucracies both inside and
9 outside of Tennessee.

10 I cite literature that talks about that the
11 help that people are provided by agents in the
12 bureaucracies is voluntary and depends on just their
13 willingness to help, especially if there's no
14 mandate that they do so.

15 And so I also go through the files and emails
16 that I was provided to talk about some specific
17 instances in which people had difficulty and
18 evidence that people have difficulty starting the
19 process because, again, they can't fill out this
20 paperwork themselves. They need an authorized agent
21 of the state or county or federal authorities to do
22 so.

23 Q. So let me try to make sure I've got this. So
24 this section is not talking about an error in the
25 process; it's talking about how the process could

1 better facilitate people to get their voting right
2 restored; is that right?

3 A. Well, I do have an example on page 28,
4 Person D, whose right was not restored in Henry
5 County because she didn't have a parole officer to
6 complete section two and the court clerk refused to
7 do so. And so there was paperwork in the file that
8 indicated that based on the judgment that he fit the
9 criteria but he just couldn't find anyone to check
10 those boxes.

11 Q. If he had a -- if Person D had a legal option
12 to go to the court and compel either the -- to
13 compel in this situation the county court clerk to
14 complete section two of the COR, do you think that
15 would be a good thing?

16 A. It depends. It would just depend on how that
17 process worked, if it was expensive, if he needed a
18 lawyer. So I don't -- I just don't have enough
19 information to know.

20 Q. Okay. What if the process were so simple he
21 could just go and file a handwritten piece of paper
22 with the court that says, I need this, I'm entitled
23 to this, and they're not doing this, please order
24 them to do so, would that help Person D?

25 A. Again, it could. I just don't know if a

1 process like that, would they charge for the
2 paperwork, other kinds of things. I'd need to see
3 the process in action.

4 Q. Okay. That is fair. When -- in the last
5 paragraph of page 27, you say: There is evidence
6 that some court clerks and probation officers
7 hesitate or refuse to help with filling out
8 certificates of restoration. You reference Juanita
9 Shaw's deposition in Footnote 70, and then that
10 seems to be the same circumstances as Person D who
11 you discuss in the next page.

12 Are you aware of anyone else besides Person D
13 who has had a refusal by someone to fill out a COR?
14 Are you aware of anyone besides Person D?

15 A. I do have -- I have the -- also have the
16 notes here from the coordinator of elections, where
17 they basically say that they have trouble finding
18 people to complete the paperwork. And also later in
19 the report, for instance, on page -- give me a
20 second -- so on page 39, Person EE, for instance,
21 who is where I have the block code above about how
22 she is talking about how she was frustrated. She
23 had to work really had to find someone in Cook
24 County, Illinois to complete her COR. But, again,
25 that took her a lot of time and effort.

1 Q. For Person EE, that was out of state, right?

2 A. That's right.

3 Q. Okay. I want to talk -- I want to focus on
4 in state.

5 A. Okay.

6 Q. So are you aware of any other -- where all
7 the information is in state, any other person
8 besides Person D where there was just a refusal to
9 fill out the COR paperwork?

10 A. Let me look at one more instance in my report
11 to see if in state or out of state.

12 Q. Sure.

13 A. I'm sorry I'm looking for a specific person
14 and I can't --

15 Q. You're fine. Take as much time as you need.

16 A. I'm sorry, I can't find an example I was
17 looking for.

18 Q. Okay. So in your expert report, the only
19 in-state refusal is identified as Person D?

20 A. The only one that I have evidence for that I
21 included in my report. But I'm not going to say
22 that's the only instance.

23 Q. Okay. Do you know of anyone else who is in
24 the same circumstance as Person D?

25 A. Based on a particular person in a file, I

1 can't recall.

2 Q. For 9.1.2, am I correct in characterizing
3 those as, essentially, the expense and -- I'm sorry.
4 If you could just talk to me about 9.1.2, that would
5 be great.

6 A. So those -- so in 9.1.2, this is talking
7 specifically about some of the legwork that people
8 have had to do in order to get the submission to
9 the -- before they are even able to submit to the
10 AOE, to then get to the COE.

11 And so these require multiple visits to the
12 clerk's office or multiple times to go to the
13 clerk's office or, like I said, even we encountered
14 that some records you couldn't access unless you
15 went in person to the county office to access the
16 records.

17 So it's just a description of the fact that
18 it's not just issues that we can see in the files
19 based on emails but also there's other kinds of
20 barriers even before those files get to the COE's
21 office.

22 Q. Would I be correct in characterizing these as
23 socioeconomic pressures that fall hardest upon the
24 lower economic socioeconomic classes?

25 A. Yes. Typically, it's much harder for, you

1 know, like hourly workers to take time off from work
2 because they most likely lose wages if they have to
3 go to an office multiple times, for instance.

4 Q. So in 9.1.2, we're not identifying -- you
5 weren't identifying errors? You were demonstrating
6 how barriers can stop people from continuing on with
7 the process or even starting the process?

8 A. I would say -- I would characterize what I
9 was doing there as saying people who were otherwise
10 eligible are prevented from completing the process
11 because of the way that the process is set up. So
12 their lack of restoration is not due to
13 ineligibility but to barriers, such as having to go
14 back and forth to different offices and try to get
15 people to fill out forms or finding someone to help.

16 Q. So is it your opinion that every time
17 somebody is eligible but doesn't go either start or
18 finish the COR process, that that is an error?

19 A. I'm not -- the opinion that I'm expressing
20 that is that the ability of people to start and
21 complete the process is sometimes a function of
22 eligibility in terms of reaching that determination,
23 but it's also a function of the process itself.

24 So some processes can make it more difficult
25 for eligible people to receive the benefit that they

1 are eligible for just by virtue of how the process
2 is designed.

3 Q. So what I'm looking at is, if I point you to
4 the first sentence under 9.1.2, you used the phrase,
5 erroneous denials often at earlier stages even
6 before COR form submissions reach the state?

7 A. Yes.

8 Q. And then you talk about the reasons for not
9 completing the process that aren't related to
10 eligibility. And I'm wondering if somebody -- if
11 someone picked up a COR from Davidson County Clerk's
12 Office and then doesn't follow through on it due to
13 socioeconomic reasons involving time and money, do
14 you consider that an erroneous denial?

15 A. I don't know. I would have to go on a
16 case-by-case basis. But the example I provide here
17 is the person in Shelby County who had to make
18 repeated trips to the office because they couldn't
19 resolve his problem on the first try. To the extent
20 that he's eligible but can't get them to fill out
21 his form without him expending a large number -- a
22 large amount of personal like resources such as time
23 and money or in the form of lost wages, that is a
24 denial because it's his contact in trying to
25 complete this process that is stopping him.

1 Q. So in that instance you would consider that
2 not only a denial but an erroneous denial?

3 A. To the extent that that person is -- fits the
4 eligibility criteria.

5 Q. Okay. What's the point of which it stops --
6 what's the point at which we -- let me strike that
7 and try to couch it a little differently.

8 At what point does it become a denial? So at
9 what point does the hassle, the time and money
10 involved, escalate from ideal to a denial?

11 A. I don't know. The processes in different
12 counties are so different that's hard to say.

13 Q. So is it also fair to say that Davidson
14 County is more or less a part from the complex of
15 that depending on the person's individual
16 circumstances, if they can determine whether or not
17 in your opinion something is a hassle (inaudible) --

18 THE REPORTER: I'm sorry, I was unable
19 to hear fully.

20 BY MR. RIEGER:

21 Q. I'm sorry. I'll re-ask it. Taking the
22 counties out of it, am I correct that it would be a
23 person-by-person determination as to whether or not
24 the time and money that it took to get a COR would
25 escalate from merely an inconvenience to a denial?

1 A. I don't know that I would agree with that.

2 Q. So let me ask you this. So say I had a --
3 say I live five minutes away from my county clerk
4 and I had to go three times in the middle of the day
5 but my job is kind enough to be flexible enough for
6 something like that.

7 Is the fact that I would have to go three or
8 four times and it's a denial and would that change
9 if I was in a situation where I live 30 minutes away
10 from my county clerk and my job would not let me off
11 during ordinary hours?

12 A. So my general way of thinking about this is
13 as a political scientist. Costs are the same. Some
14 people have more resources to bear those costs than
15 others. And that is up to them how, you know --
16 with respect to whether people have resources to
17 bear those costs or not. So -- so the cost of going
18 downtown in terms of time, to spend time looking up
19 files, you know, is markedly similar but some people
20 will experience those costs differently based on
21 their personal circumstances and other factors.

22 Q. So let me make sure I'm right on this. So
23 it's not the cost or the time. It's the effect that
24 that cost or time has on my circumstances and
25 whether or not that's something I can bear?

1 A. No. So it's both the fact that there is a
2 cost that has to be borne that goes into the
3 calculus of whether you're going to do something.
4 So the imposition of the cost is one thing.

5 And then certain people have a different
6 tolerance based on resources whether they can
7 overcome or bear those costs. That's a separate
8 factor, and both are important for thinking about
9 whether a person will be able to pursue the process
10 going forward.

11 So there could be a rich person, for
12 instance, who, for whatever reason, the documents
13 just don't exist that they would need. So that
14 person may also not be able to overcome their costs
15 because the documents don't exist for them to be
16 able to.

17 Similarly, there may be a person who -- so
18 there are different -- so there are different kinds
19 of costs that are imposed that can pose barriers for
20 lots of different people but also the ability of
21 people to overcome certain kinds of costs does
22 depend on factors such as socioeconomic status.

23 Q. And I'm sorry I'm spending a lot of time on
24 this. I want to make sure I've got it right.

25 So what could be a denial for someone might

1 not be a denial for someone else?

2 A. The process may pose costs on people that
3 some people may be able to bear and some people may
4 not be able to bear.

5 Q. Do you have a recommendation as to how that
6 would be navigated? Do you have a -- assuming that
7 there would be a set of neutral criteria, how would
8 we navigate the issues that for some folks it isn't
9 as problematic as for other folks? Do you have a
10 solution for that?

11 A. Perhaps some of the work in reducing the
12 legwork of having to go to multiple -- back and
13 forth to multiple offices is the example or to visit
14 an office multiple times is the example that I have
15 here but by centralizing or reducing the number of
16 bureaucracies that are involved.

17 Q. So I'm going to skip ahead a little bit.
18 Since you referenced centralization, I think now
19 might a time to talk about it.

20 Would you characterize Tennessee's process as
21 centralized?

22 A. I would say it's decentralized to the extent
23 that there are multiple offices that are engaged or
24 involved or their involvement is required for the
25 process but they are not all under one authority.

1 Q. Okay. The criminal courts in the various
2 counties, the criminal courts are the repository for
3 criminal judgments and orders and cost barriers?

4 A. That's my understanding.

5 Q. Okay. How does that -- do you have a
6 recommendation as to how that gets centralized?

7 A. In terms of the logistics of that, I don't.
8 But I would say at least there needs to be -- I
9 couldn't find any rules or documentation or
10 information as to -- or guidance that was
11 communicated that the clerks or the courts, for
12 instance, that they understood was their -- or even
13 which LFOs to count, for instance. So I think that
14 even a basic understanding or attempt to standardize
15 across counties is important.

16 Q. So is it your opinion that providing the --

17 A. Sorry. I think my email must have gone off
18 but I don't have it visible.

19 Q. That is fine. You're fine.

20 So is it your opinion that issuing guidance
21 to county court clerks instructing them of their
22 obligation to complete CORs and as to what LFOs
23 would stop a restoration would help reduce error?

24 A. I would hope. But, again, some of the
25 information that I cite in my report suggests that

1 they don't think they have that obligation, so I
2 don't -- I don't -- I'm not sure that it would.

3 Q. Let me skip ahead to page 36.

4 A. Okay.

5 MR. CHARLES GRANT: Did you say 36?

6 MR. RIEGER: Thirty-six, yes, sir.

7 THE WITNESS: I've got it.

8 BY MR. RIEGER:

9 Q. Can you walk me through 10.12, please?

10 A. Yes. So I was provided a denial data -- what
11 I'm calling the denial database, the spreadsheet,
12 and that was the file called the denial, restore,
13 and redacted, in which and it had a number of
14 entries that seem to be -- each application had an
15 entry in the denial restore database.

16 There were 1,774 entries in that database
17 that had unique last, first, and middle name
18 combinations because some people appear in a
19 database multiple times. And some people also
20 appear in both the restoration and the denial
21 database. And so the 1,774 people are unique
22 entries in the denial database that don't also
23 appear in the restored database.

24 Q. Okay. And if you could walk me through 10.2,
25 please.

1 A. Yes. So I tried -- I compared the 1,774
2 people in the denial database with the 16,790 unique
3 people in the restoration database and calculated an
4 overall denial rate of 9.5 percent.

5 And so if we also look at people who are in
6 both files, meaning that they were denied and then
7 restored, then the initial denial rate is
8 14.8 percent but that may be low to the extent that
9 the way that they keep their records is to try to
10 delete people from the denial folder once they are
11 in the restored folder.

12 It could be those 974 people were just the
13 ones they failed to delete after they were then
14 restored.

15 Q. For 10.1 and 10.2, you're not using any of
16 the eligibility estimates in Section 6 of your
17 report, are you?

18 A. No. This is -- I was able to match 249 of
19 471 records for which I had the COR paperwork to the
20 Tennessee Department of Correction's file in order
21 to get their race, age, and gender, and other
22 information so that I could make that second
23 paragraph in 10.2. So it comes from trying to match
24 people in the denial database to the TDOC file.

25 Q. So moving on to 10.3, am I right that the

1 point of that section is that there needs to be
2 followup after denial because the denial is for
3 reasons that can be cured that need to be followed
4 up on?

5 A. So the point there is that there are people
6 who, even if you look at approvals, the universe of
7 approvals that took place up to I think it was June
8 or July of '22 when I had the data for that year,
9 some of those people who had been approved actually
10 had to submit more than one time in order to be
11 approved. And those submissions, 21 of the 22
12 people were approved not because they did something
13 to change their eligibility but because of paperwork
14 or correcting an error in a database or in the way
15 an entry was submitted.

16 And so we don't know where the 131 other
17 people who were denied, where I haven't seen the --
18 the time of the follow-up hasn't either happened or
19 played out. There could be more people in that
20 group as well. We just don't know. And there's no
21 systematic way in which this curing happens.

22 It's just either sometimes the county AOE
23 will follow up. Sometimes the clerk will follow up.
24 Sometimes the person, the individual who is trying
25 to get their rights restored will follow up. But

1 there's no routine process for communicating the
2 reason for denial to the person who is denied, whose
3 rights restoration is denied, and also how they
4 might go about fixing whatever issues caused the
5 denial.

6 Q. Could you -- in Footnote 130, I'd like to
7 walk through those. So you start with: Eight were
8 denied initially because TDOC missed a Tennessee
9 conviction.

10 Is that a circumstance where the person is
11 eligible and is denied because they didn't have the
12 missing conviction listed or is it one where
13 everything got signed off on, they submitted it, and
14 then it was discovered that they had an extra
15 conviction and were not?

16 A. So all of these people were eligible. So
17 these were all in the approved folder.

18 Q. So of the eight here, in the first part, all
19 of those folks needed to get the missing conviction
20 put on the COR?

21 A. Yes.

22 Q. Okay. The next one I'd like -- it says two
23 were denied initially because of a coordinator of
24 elections error. Can you explain that to me?

25 A. I can't recall exactly what errors they may

1 have made. Yeah, I'm sorry. I can't recall
2 specifically what those errors were.

3 Q. Five were denied initially because of
4 problems with out-of-state or federal convictions.
5 Is that the same as the eight for TDOC out of state
6 instead of TDOC?

7 A. Not necessarily. It may have been something
8 related to costs. So not just missing conviction
9 but it could have been some information -- a mistake
10 about costs or unable to find paperwork about costs.

11 Q. Okay. Four were denied because of data
12 errors as far as job support or felony records.
13 What are those?

14 A. It could be that the person was listed as
15 having arrears and they weren't and then they had to
16 go back and have those records corrected. Or that
17 they had a felony when they didn't have a felony
18 or --

19 Q. Okay. Okay. And it says one was denied
20 because of a clerk error and one for an AOE error?

21 A. I'm not -- I don't exactly recall what those
22 two were.

23 Q. Okay. Every one in that footnote was
24 restored?

25 A. Yes.

1 Q. Okay. Do you know if those -- do you know if
2 that group required the now voter to take additional
3 steps or whether or not it was something that -- was
4 correcting the things in Footnote 130 something that
5 resulted in a person's expenditure of time and
6 money?

7 A. In some cases, yes.

8 Q. In some cases. Do you know which -- do you
9 know about how many of those?

10 A. I don't know exactly how many. But, for
11 instance, I recall I think the child support one
12 took some intervention on behalf of the voter.

13 Q. Is that DD that you're talking about,
14 Person DD?

15 A. I can't remember if it's -- I can look for --

16 Q. It's on page 38.

17 A. Yes. Yes, DD. So let me see something real
18 quick about DD. So I don't think it was only
19 because Person DD is listed in the February 2021
20 document and all of these people were from 2022.

21 Q. Okay. Okay. In terms of your expert report,
22 I know you've listed a number of anonymous people
23 who are identified by person, followed by the
24 initial.

25 Did you rely on the individual circumstances

1 of any person not listed in here as making this
2 expert report, or in every situation where you
3 relied on somebody's individual story did you cite
4 to them?

5 A. I believe I tried to. But there may be other
6 examples of which I'm aware but maybe didn't type.
7 But everyone here I believe I referenced if I talk
8 about a specific case. I do -- I was going to say,
9 I do note in a couple of places in my report that
10 this isn't an exhaustive list of what -- these
11 aren't exhaustive lists of whatever phenomenon
12 I'm -- I'm referencing.

13 Q. So in terms of the exhaustive versus
14 inexhaustive list, how many -- strike that.

15 How many people's individual circumstances do
16 you think you relied on in making this expert report
17 that aren't cited or identified in this expert
18 report that aren't identified by a person or letter?

19 A. I'm not sure that I relied on any of them. I
20 was just providing examples of phenomena when I was
21 listing something. But, again, I don't -- the
22 reason I note that I don't want to say this is
23 exhaustive is both because there may be multiple
24 other people where there's evidence in the record
25 that suggests they may fit into some of the

1 categories that I identify here, but also I wasn't
2 provided with the full set of records for every
3 person who was approved or denied.

4 Sometimes I may only have a COR. Sometimes
5 there may be a longer record with documents and
6 email exchanges and the like. And so, because I
7 don't have those data, I don't want to foreclose the
8 possibility that there are other people in those
9 files who also fit these categories.

10 Q. So is it fair that there may be other
11 illustrative examples out there and in the record
12 but for the purposes of your expert opinion you did
13 not rely on those circumstances even though you
14 believe they exist?

15 A. Yes.

16 Q. Okay, okay, okay. So for the last little
17 bit, I want to go to your summary and it starts on
18 page 39. And what I want to ask you is for status
19 confusion, what is your recommendation?

20 A. I don't believe I make a particular
21 recommendation. But to the extent that a
22 centralized state-run system that helps to clarify
23 certain categories and can officially make those
24 determinations, I have here -- yeah.

25 So I have here that that centralized process

1 would help cut down on some of the confusion in
2 creating one set of expectations and definitions, of
3 one set of people who are determining eligibility.

4 Q. So in terms of steps, I just want to talk to
5 you about the last little part, failure to seek
6 restoration altogether because of fear. What do you
7 mean by that?

8 A. So, in particular --

9 MR. CHARLES GRANT: Excuse me, Doctor.
10 I'm sorry. You faded off on me. I'm glad everyone
11 else may have heard you.

12 BY MR. RIEGER:

13 Q. I'm sorry. I was asking her to explain the
14 last sentence, which ends: The failure to seek
15 restoration altogether because of fear. I'm trying
16 to understand what that means.

17 A. So, in particular, like the best example in
18 the instance of this I can say is on page 30. The
19 coordinator of elections discusses this idea
20 specifically with respect to whether a person has a
21 felony or not.

22 And they say here in the middle: For people
23 who reach out to see whether they have a felony
24 conviction who are not sure if they have a felony, I
25 say: We looked at all of our databases and did not

1 find anything but I cannot tell them what to mark to
2 the felony question under penalty of perjury. That
3 is their truth and they will have to face
4 consequences if it's not true. (Of course, I highly
5 doubt to be able to prosecute a person who tried to
6 find their conviction through us and didn't find
7 anything.)

8 For people who are still nervous, I tell them
9 they can do a TBI/FBI background check and refer
10 them to the website about background checks.

11 For people in category two who know they have
12 a felony but need more information, I tell them,
13 unfortunately, we could not give them more
14 information. I explained that they don't
15 necessarily not have a felony but that our data can
16 be missing stuff. They should go look at their old
17 documents, ask friends or family for help, or do a
18 TBI/FBI background check.

19 And so here I'm talking about the fact that
20 that lack of certainty, even the COE, they're saying
21 people are -- they've encountered people who that
22 makes them nervous, about going through this process
23 because they don't -- because of fear. And
24 specifically here it's talking about fear of
25 prosecution.

1 Q. So do you have any sort of suggestion as to
2 how you would centralize the criminal judgments that
3 are held across Tennessee, 95 counties and has been
4 for the past 200 years?

5 A. Well, I don't think it would be cheap. But,
6 again, I think that it -- even if there is some kind
7 of way that it seems like the COE is trying to do
8 this research but thinking about that fear that
9 they're saying I can't guarantee anything. They're
10 even hesitant to make a blanket statement. So I
11 think it's just -- it's just an indication that it's
12 really hard, even for state agents to determine and
13 reassure potential registrants to their status.

14 Q. Have you ever seen states try to centralize
15 something like that when it started off
16 decentralized?

17 A. A great example of this is that states have
18 centralized voter registration when it used to be
19 decentralized. So it used to be at a county level
20 but now states maintain databases of registered
21 voters.

22 Q. I'm sorry. I'm simply talking about the
23 criminal court clerks and their possession of the
24 criminal judgments and the LFOs are derived from.

25 Have you ever seen a state try to centralize

1 that from a decentralized posture?

2 A. I don't know. But I will say I have some
3 people have reached out to me as a result of the
4 article that I wrote about the decentralization of
5 LFOs and my article. So I think that there's been
6 some discussion of it, but I don't know in terms of
7 following through on it with respect to legal
8 financial obligations, especially in order to be
9 able to streamline payment and the garnishing of
10 wages.

11 Q. How else do you think this transition would
12 be? Do you think that there would be an impact on
13 folks trying to get their voting rights restored if
14 the criminal court system, which is county based,
15 were to centralize its criminal judgments?

16 A. I don't know the answer to that. It depends
17 -- again, it depends on how well it's done and how
18 quickly it's done. I could just say that I think
19 that there are -- there could be benefits beyond
20 just this process for having that information
21 available but I'm not a -- I'm not a -- for
22 instance, I'm not an IT specialist so I can't tell
23 you, again, about the logistics or difficulty in
24 doing that.

25 Q. Would it surprise you if a lot of -- some of

1 these 95 counties say you (inaudible) --

2 THE REPORTER: I'm sorry, I didn't hear.

3 BY MR. RIEGER:

4 Q. I'm sorry. Would it surprise you if 95
5 counties in Tennessee still use paper?

6 A. That wouldn't surprise me, but they are
7 making advances in data scraping and cataloging all
8 the time so -- again, I'm a researcher who is -- who
9 has seen the digitization of things that I never
10 would have expected so I -- it's not outside of the
11 realm of possibility.

12 Q. The documentary disenfranchisement, that's
13 the next one. Do you have suggestions or possible
14 solutions for that for us?

15 A. So I think that part of the issue might be --
16 might involve thinking about work-around or for
17 situations in which documents aren't available or
18 don't exist or are inaccurate. Because, again,
19 there's just no way -- as I said, I cite several
20 examples of people who were just at a dead end
21 because the state says we don't have this
22 information and we can't help you.

23 Q. What would a work-around look like?

24 A. Either -- I don't know of -- either an
25 exemption or -- yeah. There that may be an

1 exemption for if you call the county and they don't
2 know, the benefit of the doubt goes to the person
3 trying to get their rights restored.

4 Q. And centralization wouldn't help us in a
5 situation where the documents just either don't
6 exist or aren't available? Is that fair? We need
7 something else?

8 A. You may be able to, instead of relying on
9 the -- giving the authority to make that
10 determination to that outside office, your office is
11 able to -- the COE or whomever is able to make those
12 determinations when the other people say they're not
13 able to. So then you -- so then the authority is
14 not with them. It's with the centralized office.

15 Q. I'd like to skip down to the clerical errors,
16 the next in line. Do you have any suggestions
17 there?

18 A. I said here on page 40: A centralized
19 process might also lessen the impact of clerical
20 errors as the job of ascertaining eligibility would
21 be left to a smaller number of people who are
22 trained by the State rather than to untrained
23 clerks, probation officers, and agents throughout
24 Tennessee and other states.

25 Q. Would an appeals process help that?

1 A. To the extent that the authority would be to
2 make judgments where if, say, a clerk refuses to
3 check a box, but there is documentation and evidence
4 that says that the person satisfies the criteria.

5 Q. Okay. And would it be better for that
6 process to conclude with a hey, we force you to do
7 what you are supposed to do for the documentation
8 that you should have checked that box, County Clerk?
9 Or would it be better for the person if they're able
10 to submit everything for it to end with a you're
11 restored? Like we're not going to give you your
12 form. You're restored. Is one of those better than
13 the other? Are both a step up? Or what are your
14 thoughts on that?

15 A. I'd need more information. The first one,
16 the way you phrased the first one sounds
17 antagonistic but I don't -- so, but other than that,
18 I don't have any -- I don't really have enough
19 information to evaluate that.

20 Q. I'm sorry if it came off as antagonistic.

21 A. Not to me but the interaction would sound as
22 if it was antagonistic, which is generally a bad
23 thing to build into any process.

24 Q. All right. And then you say these errors may
25 take a lot of time and effort to correct and may

1 require a person -- if they be corrected, it may
2 require a person to do rights restoration to
3 undertake several rounds of submissions in order to
4 succeed?

5 A. Yes.

6 Q. I wanted to ask, are you aware of any
7 situation in Tennessee where that has occurred and
8 it took so long that someone didn't get done in time
9 to vote in the next election?

10 A. Yes. I would have to go through and look
11 specifically to see if I make a reference to that in
12 my report or recall.

13 Q. Yeah. I would -- feel free to take the time
14 to do that right now because that was something I --
15 I'd like to know if that's happened in a way that
16 has taken so long that someone missed an election.

17 A. Okay. It's possible that Person Y might be
18 one of those people just because their -- it looks
19 like their file is dated October 2016. So that's
20 just one example I would look into. But there may
21 be others.

22 Person V it looks like they were denied
23 restoration multiple times. And here I'm on page
24 35, Note 113. It looks like their file was in
25 September 2020. I'm not sure if they were ever

1 restored.

2 There was one person in here, I'm trying to
3 find the file, but that person was in -- hang on. I
4 will give you the example. Person E. Person E. So
5 Person E on page 31 received a letter that he was
6 being purged from the Rutherford County voter rolls
7 in 2014 for a felony conviction and was required to
8 submit a COR form or other paperwork in order to
9 re-register. And so he submitted documents from
10 Florida showing his conviction was a judicial
11 diversion, and he was allowed to re-register in
12 September of 2020.

13 There was a six-year gap between when he was
14 purged for that judicial diversion and then when he
15 re-registered.

16 Q. Do you know if Person E had attempted to
17 submit a -- well, strike that. I'll strike that.
18 Moving on back to page 39.

19 A. Okay.

20 Q. Lack of information about the process. Do
21 you have any suggestions there?

22 A. There are -- I think that the public
23 instruction on county websites, as well as on the
24 Secretary of State's website, doesn't provide full
25 information about the options for people who restore

1 their voting rights or even how to -- who to go to
2 to start the process for the COR. And so even here
3 on page -- let me see if I can find it quickly.

4 So here on page 28, the instructions for --
5 the internal instructions or the COE say that if the
6 applicant insists that the appropriate agents will
7 not complete the COR, the applicant should be
8 advised to seek a court order. And so I think that
9 even the option for the court order is not -- I
10 couldn't find that information in the public
11 instruction for completing a COR.

12 Q. So you believe that the COR should include a
13 notation that if the approving authority won't fill
14 it out for you, they should seek a court order?

15 A. I'm just saying that there are -- that's just
16 an example of several work-arounds in the process or
17 alternatives to the process of just having -- I
18 think it's -- I think the terminology is appropriate
19 state agents fill out the COR. There are actually
20 other ways and even other things that they'll accept
21 that aren't publicly known.

22 Q. Can you walk me through those? If you were
23 in charge of the form, what would it say?

24 A. So even -- there's additional information
25 here that the COE writes. Oh. So as an example, on

1 page 23, although the -- I write: Although the
2 instructions do not explicitly state it, individuals
3 with felony federal convictions must first submit
4 their COR to federal authorities for completion and
5 then internal documents for the COE state that the
6 proper authority is an officer from the U.S.
7 Probation or Parole Office. These agents are
8 supposed to verify completion of the sentence, as
9 well as payments of costs and restitution.

10 So that extra information about even an
11 officer from probation and parole is just a lack of
12 information in terms of where people can go to get
13 these forms completed.

14 Q. Is there anything else that you would add to
15 that, to the form, that's the issues that you
16 identify in the actual report?

17 A. To the extent that I have seen some examples
18 in the some counties where like the clerk's office,
19 they'd put on their website issue COR the AOE. And
20 the county may put on the website you should contact
21 X at the clerk's office or you should contact, you
22 know, just giving people further information is what
23 I meant by that statement.

24 Q. Okay. So you suggest that the counties and
25 the Secretary of State's office could put a

1 step-by-step, just follow-the-lines process and that
2 would remedy those issues?

3 A. Not entirely. So just looking at that
4 section, I also talk about for the actual agents
5 themselves who are tasked with filling out these
6 forms, they also don't have information about what
7 probation officers and clerks should consider court
8 costs or what to do next after something is denied.

9 So I think that there's just not just on
10 behalf of people seeking rights restoration but of
11 many actors in the process who have a lack of
12 information.

13 Q. So not only a website giving individuals a
14 step by step down the line, but also guidance to the
15 officers filling out the form and the court clerks
16 filling out the form as to their obligations and
17 instructions, as well as to the court clerks what
18 would be includable in the applicable LFOs?

19 A. Well, and, alternatively, so I have here
20 centralizing would mean that this is left to a
21 smaller number of people who are trained by the
22 state and under state -- under authority of the COE
23 or whomever would be involved in this centralized
24 process, rather than to untrained clerks and
25 officers and agents throughout Tennessee and other

1 states over which the COE says they have no
2 authority and can't force them to fill out the form
3 in any given way.

4 So I think part of the problem is lack of
5 information but also if you're in a bureaucracy,
6 ensuring compliance as well.

7 Q. Is it your belief that centralization is the
8 exclusive remedy, or is there a way to address all
9 of these without centralizing through better forms,
10 better websites, better guidance, better training,
11 better policies?

12 A. Those might help with everything but the
13 compliance problem.

14 Q. Would an inexpensive and easy to access legal
15 process help with the compliance problem?

16 A. On behalf of?

17 Q. The individual seeking restoration?

18 A. I don't know.

19 MR. RIEGER: If I could take a two- or
20 three-minute break, I may be done, but I want to
21 check with Zach first.

22 (Recess observed.)

23 MR. RIEGER: I pass. Thank you.

24 MR. CHARLES GRANT: Co-counsel, Blair
25 Bowie, will ask a couple of questions.

1
2 EXAMINATION

3 QUESTIONS BY MS. BOWIE:

4 Q. All right. I won't be long.

5 Dr. Burch, can I bring you back to page 29,
6 please.

7 A. Sure. I have it.

8 Q. Okay. So we're looking -- in case your page
9 numbers are different, we're looking at
10 Section 9.12.

11 A. Okay.

12 Q. So on the line that has Footnote 78 there,
13 you are talking about reviewing the data set from
14 Davidson County on requests for CORs; is that right?

15 A. That is correct.

16 Q. Okay. And that's the All COR Data Carlatina
17 Cedric Aloha file, correct?

18 A. That's right.

19 Q. And there you say that of the 611 cases in
20 that file, 342 people were not issued CORs; is that
21 right?

22 A. That's right.

23 Q. Okay. So Davidson County, between the
24 probation office in Davidson County and the county
25 court clerk's office, refused to issue CORs to 342

1 people there; is that correct?

2 A. I don't know that they -- I don't know if
3 it's that they refused. They -- the people were
4 not -- they might have had notations in the file
5 that the people were either still in the process or
6 had to do other things to be -- so they owed money,
7 for instance, so they couldn't check the eligibility
8 box.

9 Q. And if they don't do that, they didn't issue
10 them a COR and as you refer to it here the completed
11 packet was never sent to the coordinator of
12 elections; is that right?

13 A. Right.

14 Q. Okay. So there you actually found that the
15 rate -- can we call that a refusal rate? Is that
16 fair here?

17 A. Yes. So the people who start the process,
18 56 percent of them had no completed packet ever sent
19 to the COE.

20 Q. And that's just in that Davidson County
21 dataset?

22 A. That's right.

23 Q. And you mentioned earlier that you haven't
24 seen other counties keep as thorough records as
25 Davidson County did there; is that correct?

1 A. That's right.

2 Q. Okay. So there you did identify 342 people
3 who were not issued CORs after requesting them?

4 A. Yes, that's right.

5 Q. Okay. Mr. Rieger also introduced into
6 evidence and I'm sorry, I don't remember the exhibit
7 numbers, email threads related to Mr. Gray and
8 Mr. Perry. Do you recall seeing those earlier
9 today?

10 A. Yes.

11 Q. Okay. And in those cases, Cassandra Horton
12 from the Shelby County Criminal Clerk's Office
13 refused to issue certificates of restoration to
14 those two individuals; is that right?

15 A. I would have to review the emails to recall
16 exactly what happened here. Yes. So looking at
17 Mr. Gray, the full balance of \$779.00 must be paid
18 for him to be eligible for a COR and it includes a
19 \$500.00 fine.

20 Q. Okay. So she didn't issue a certificate to
21 Mr. Gray, correct?

22 A. Not at that time.

23 Q. Okay. And do you see the Perry one as well?
24 That one is sort of a longer thread.

25 A. Perry financials. Let me see if I can find

1 the email. I don't see -- I see the Perry
2 financials but I've got to find -- I can't find the
3 email here.

4 Q. Okay. Maybe that one wasn't placed on the
5 record for this one. But you do cite it in
6 Footnote 105 on page 34. If you wouldn't mind
7 looking at that.

8 A. Yes. I see where I cite it.

9 Q. Okay. And do you recall what was said in
10 that email or that document?

11 A. I don't recall specifically what was said in
12 that document.

13 Q. Okay. But for Mr. Gray, it's fair to say
14 that that's also an instance you identified where
15 the official refused to issue a COR?

16 A. Yes.

17 Q. Okay. And to be clear, if a person is not
18 issued a COR, they wouldn't end up in the dataset of
19 folks that you look at in Section 10; is that
20 correct?

21 A. That's right. There is never a COR submitted
22 to the coordinator of elections. I wouldn't see
23 those -- their file in the data.

24 MS. BOWIE: Okay. Thank you. That is
25 all I have.

1 MR. RIEGER: Nothing further from me.

2 THE REPORTER: Mr. Rieger, would you
3 like to order this transcribed?

4 MR. RIEGER: Yes, please, I would.

5 MR. CHARLES GRANT: We'll read and sign,
6 Ms. Honeycutt.

7 THE REPORTER: Mr. Grant, are you also
8 ordering a copy?

9 MR. CHARLES GRANT: Yes.

10 FURTHER DEPONENT SAITH NOT
11 (Proceedings concluded at 5:21 p.m.)

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E R R A T A P A G E

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REPORTER'S CERTIFICATE

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