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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

FLORIDA STATE :
CONFERENCE OF :
BRANCHES AND YOUTH : Case Nos.
UNITS OF THE NAACP, : 4:23-cv-215-MW/MAF
et al., : 4:23-cv-216-MW/MAF
Plaintiffs, : 4:23-cv-218-MW/MAF
v. :
CORD BYRD, in his :
official capacity as :
Florida Secretary of :
State, et al., :
Defendants. :

- - - - -x
Deposition of the OFFICE OF THE FLORIDA SECRETARY
OF STATE

By and Through Its Designated Representative
ANDREW DARLINGTON, ESQUIRE

Conducted Virtually

Thursday, January 4, 2024

9:01 a.m. EST

Job No.: 518939

Pages: 1 - 314 Reported by: Cynthia A. Whyte

Transcript of Andrew Darlington, Designated Representative
Conducted on January 4, 2024

1 (Caption Continued from Previous Page)

2 - - - - -x

3 LEAGUE OF WOMEN :

4 VOTERS OF FLORIDA, :

5 INC., et al., :

6 Plaintiffs, :

7 v. :

8 ASHLEY MOODY, in her :

9 official capacity as :

10 Attorney General of :

11 Florida, et al., :

12 Defendants. :

13 - - - - - :

14 HISPANIC FEDERATION :

15 et al., :

16 Plaintiffs :

17 v. :

18 CORD BYRD, in his :

19 official capacity as :

20 SECRETARY OF STATE OF :

21 FLORIDA, et al., :

22 Defendants :

23

24 - - - - -x

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Transcript of Andrew Darlington, Designated Representative
Conducted on January 4, 2024

1 the Secretary of State's Office. But if at any
2 point you need clarification of whether I'm asking
3 about you individually or the office, please feel
4 free to just ask.

5 A Understood.

6 Q Your attorney may lodge objections to
7 some of my questions, but generally unless your
8 attorney instructs you not to answer, I would ask
9 that you still answer the question.

10 A Understood.

11 Q You may not communicate with your
12 attorney while we are on the record during the
13 deposition. I know it would probably be quite
14 obvious given that you're both on camera together,
15 but I would just ask if there is any
16 communication, you make me aware of that.
17 Understood?

18 A Yes, ma'am.

19 Q Is there anyone else in the room with you
20 today?

21 A No, ma'am.

22 Q Okay. And can you think of any reason
23 why you could not give truthful and full testimony
24 today.

25 A No, there are no reasons.

Transcript of Andrew Darlington, Designated Representative
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1 Q Do you have a computer open at all with
2 any windows?

3 A I do not. And I can put away my Idea.

4 Q Oh, great. And no papers in the room
5 with you right now?

6 A There are no papers. I'll put away my
7 pen as well. I do have this, but I think you can
8 see that.

9 Q Coffee is allowed, probably helpful.
10 And you don't have your phone with you
11 right now?

12 A I do not.

13 Q Okay. Can you go ahead and tell me what
14 your current job title is?

15 A My current job title is director of the
16 Office of Election Crimes and Security.

17 Q And how long have you been in that
18 position?

19 A I was appointed on or about March 30 of
20 this -- excuse me -- last year. March 30, 2023.

21 Q And who appointed you to the position?

22 A The Florida Secretary of State.

23 Q What are your general job
24 responsibilities as the director of the Office of
25 Election Crimes and Security?

Transcript of Andrew Darlington, Designated Representative
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1 A First I would point you to Florida
2 Statute 97.022, which outlines our jurisdictional
3 grant. As the director I oversee the office in
4 accomplishing those jurisdictional grants, which
5 include investigating allegations of crime, fraud,
6 or irregularity regarding the election system all
7 the way through to submitting an annual report to
8 the Florida legislature.

9 Q Okay. If I refer to the Office of
10 Election Crimes and Security as OECS at points of
11 this deposition, will you understand what I mean?

12 A Can you say that one more time, please?

13 Q Absolutely. I said if I refer to the
14 Office of Election Crimes and Security as OECS at
15 points of this deposition, will you understand
16 what I mean?

17 A Yes. Thank you.

18 Q How long is your term in your position?
19 Is it temporally limited?

20 A It is not temporally limited.

21 Q And is it accurate to say that OECS is
22 part of the Florida Department of State?

23 A Yes.

24 Q Do you report to Secretary Byrd in your
25 role?

Transcript of Andrew Darlington, Designated Representative
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1 A He is certainly in my chain of command --
2 and I use that term just from my time in the
3 Marine Corps -- but he is not my direct
4 supervisor.

5 Q Okay. Can you describe for me who your
6 direct supervisor is?

7 A Administratively I report to the Deputy
8 Secretary of State.

9 Q Okay. Anyone else?

10 A No.

11 Q Do you consider OECS to operate
12 independently?

13 A Can you define "independently"? We are
14 tucked into the Department of State so I don't --
15 I'm not sure I understand the question.

16 Q I think that was my main question, of
17 whether the office does operate within the
18 Department or if you're considered to be an
19 independent entity from the Department of State.

20 A Generally speaking, I would point you to
21 97.022 Florida statutes, which outlines our
22 jurisdictional grant and responsibilities as an
23 office. And those ultimately keep us within the
24 Department of State.

25 Q Do you have regular meetings or check-ins

Transcript of Andrew Darlington, Designated Representative
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1 label myself the primary point.

2 Q Okay.

3 MS. JOHNSON: I think this might be a
4 good time for just a quick break, maybe five
5 minutes, and then we can continue on. Does that
6 work?

7 THE WITNESS: Yes, that works.

8 MS. JOHNSON: Off the record.

9 (A recess was taken.)

10 BY MS. JOHNSON:

11 Q Now I would like to turn and talk about
12 the specific topics that we noticed for your
13 deposition today. So to start with Topic 1, and I
14 will read it for the record: "Each State
15 interest, if any, that the Secretary believes or
16 contends each of the Challenged Provisions serves,
17 promotes, or advances, and all facts and evidence
18 supporting a connection between the Challenged
19 Provisions and the State interest(s)."

20 What did you do to prepare to testify
21 about this topic today?

22 A To prepare for this topic? I reviewed
23 the previously listed -- the previously stated
24 documents that we discussed and then as well just
25 identified certainly not a comprehensive list, but

Transcript of Andrew Darlington, Designated Representative
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1 certainly identified a number of State interests
2 and examples that pertain to those State
3 interests.

4 Q Okay. So to start, what are all of the
5 interests that the Secretary of State's Office
6 believes are furthered by banning noncitizens from
7 handling or collecting voter registration
8 applications on behalf of third-party voter
9 registration organizations?

10 A Can you say that again?

11 Q What are all of the State interests that
12 the Secretary of State's Office believes are
13 furthered by banning noncitizens from handling or
14 collecting voter registration applications on
15 behalf of third-party voter registration
16 organizations?

17 A Well, I don't have a comprehensive list
18 of all potential State interests, but certainly
19 State interests include safeguarding election
20 integrity, preventing voter fraud, ensuring a
21 timely submission of voter registration
22 applications, and then otherwise promoting
23 uniformity, efficiency, and confidence in the
24 election system.

25 Q Okay. We'll go through each of those.

Transcript of Andrew Darlington, Designated Representative
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1 But to start, I know you said you didn't have a
2 comprehensive list today. Did you review that
3 State interests were a topic for today's
4 deposition?

5 A I did, yes. I reviewed every topic that
6 was listed in the notice.

7 Q And you testified that you prepared to
8 testify about this topic?

9 A Correct, yes.

10 Q Why is it that you don't have a
11 comprehensive list of State interests to offer in
12 testimony today?

13 A Well, because I think I've identified
14 what are certainly compelling interests.

15 Q Are there interests other than the three
16 you just named that are State interests you
17 believe are served by the citizenship requirement
18 in SB 7050?

19 A Are there interests what?

20 Q Are there any other interests other than
21 those you just named that you believe are served
22 by the citizenship requirement in SB 7050?

23 A Well, I would say for now I listed what I
24 believe to be compelling interests.

25 Q And it's interests that you're testifying

Transcript of Andrew Darlington, Designated Representative
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1 the Secretary's Office believes are compelling
2 interests; correct?

3 A Yes.

4 Q So to start, the first one you named was
5 voter fraud. How does banning noncitizens from
6 collecting or handling voter registration
7 applications serve a State interest to prevent
8 voter fraud?

9 A Well, it -- there are a number of
10 different ways that you can prevent voter fraud
11 from occurring. And keep in mind voter fraud is
12 quite a broad topic of a variety of violations.
13 But to start, when we talk about noncitizens,
14 we're talking about anyone from permanent
15 residents through individuals who are here
16 illegally. And so without -- to better assist you
17 I guess within kind of a wide array of a group of
18 people and a wide array of voter fraud violations
19 that can occur, do you have a -- is there a more
20 specific area or direction we can head in?

21 Q You had offered voter fraud as a
22 rationale, so my question is what you mean by
23 saying that voter fraud is a State interest served
24 by banning noncitizens from collecting or handling
25 voter registration applications.

Transcript of Andrew Darlington, Designated Representative
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1 A Certainly. An individual with
2 citizenship elsewhere typically after the conduct
3 of a crime. And, additionally, there is an
4 indication that if you're already continually
5 breaking one law, you could be prone to breaking
6 another law.

7 Q You just testified that the term
8 "noncitizen" does include individuals who are in
9 the United States legally?

10 A I testified that permanent residents
11 could be included in that; yes.

12 Q Do you have any examples of a noncitizen
13 leaving the country after committing a
14 voting-related crime?

15 A So my office can only verify citizenship
16 in very, very narrow terms. That information is
17 strictly guarded with the federal government, with
18 the federal agency, the United States Customs and
19 Immigration Service. So without the ability to
20 verify someone's citizenship, I just can't answer
21 that question.

22 Q And when you say your office, do you mean
23 OECS?

24 A Yes.

25 Q Are you aware of whether the Secretary of

Transcript of Andrew Darlington, Designated Representative
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1 State's Office has access to the citizenship
2 status of individuals in Florida?

3 A They also -- again, if granted access by
4 this federal database, they could if they have all
5 the requisite information about the individual.
6 But it is not something that is freely given even
7 if you have access to this federal database,
8 meaning you can't just put a name into this
9 federal database and then get someone's
10 citizenship status in return, if that makes sense.

11 Q I understand you're testifying to
12 limitations in verifying citizenship, but just to
13 go back to my question, do you have any examples
14 you can name of individuals who are noncitizens
15 leaving the United States after committing a
16 voting-related offense?

17 A I personally have never received a
18 complaint regarding a crime where a crime occurred
19 and then the complaint stated that it was a
20 noncitizen who left, because that information,
21 again, is closely guarded. There are a number of
22 arrest affidavits that are still essentially in a
23 capias standing because the people can't be
24 located.

25 So since I don't have the ability to

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1 verify whether they left the country or they just
2 left the State, I can't answer that question
3 specifically. What I will tell you is it's
4 certainly in our interest to take preventative
5 measures to ensure in the end that these voter
6 registration applications are submitted timely and
7 that we're otherwise safeguarding election
8 integrity by just being sure that voters who are
9 either submitting an application or updating their
10 registration know that that form will be properly
11 collected and handled from there.

12 Q And so you began your answer to my
13 question by saying you're personally not aware.
14 Are you aware of whether the Secretary of State
15 has any records of something like a noncitizen
16 fleeing the United States after committing an
17 election-related offense has occurred?

18 A Again, because -- the way you're phrasing
19 your question, it is incredibly difficult -- not
20 impossible, but it is difficult -- to verify
21 someone's citizenship. And, frankly, we don't
22 have access to records that would monitor --
23 because we have no subpoena power and no
24 prosecutorial authority, we could not access those
25 records as well.

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1 So based on the complaints we've
2 received, we have received complaints regarding
3 noncitizens. But, again, because of how closely
4 guarded that information is, we -- you know,
5 without someone disclosing to the voter who has
6 submitted the application that they're a
7 noncitizen and they're about to flee, that
8 information would probably not be included in the
9 initial complaint.

10 Q You just testified that you have received
11 complaints about noncitizens. What are those
12 complaints?

13 A Those complaints -- and this isn't a
14 comprehensive list, but the Office of Election
15 Crimes and Security has received complaints
16 regarding noncitizens who vote, noncitizens who
17 have falsely affirmed that they are citizens and
18 have the legal right to register. And the
19 Department of State receives a variety of pieces
20 of information that indicate that noncitizens are
21 on the voter rolls. When I say voter rolls, I
22 mean the list of eligible voters in the State of
23 Florida.

24 Q And when your office has received these
25 complaints, how do you go about verifying whether

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1 the individual is in fact a citizen?

2 A Well, when you say my office, do you mean
3 the Secretary of State or the Office of Election
4 Crimes and Security?

5 Q I mean the Secretary of State's Office.

6 A Well, the Secretary of State is the chief
7 election officer. He himself is not conducting
8 these investigations.

9 Q I mean the Office of the Secretary of
10 State. How does the Office of the Secretary of
11 State verify complaints it receives about
12 noncitizens voting or registering to vote?

13 A So within the Department of State the
14 Office of Election Crimes has the jurisdiction
15 under 97.022 to conduct preliminary
16 investigations, which would include what you're
17 talking about. And so within the Office of
18 Election Crimes and Security if we have the
19 requisite pieces of information, we can then
20 access someone's citizenship status from that
21 federal database.

22 Q If the citizenship requirement goes into
23 effect, how does your office plan to enforce the
24 citizenship provision which would seem to require
25 verifying candidates' citizenship status?

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1 A So prosecutorial authority is very
2 tightly controlled by the Florida State
3 Constitution, so I wouldn't -- the Office of
4 Election Crimes and Security, including myself as
5 a practicing attorney, would not have the ability
6 to prosecute those crimes. However, enforcement
7 could include anything from a notification from
8 the Office of Election Crimes and Security to the
9 Florida Division of Elections that an individual
10 who is a part of a third-party voter registration
11 organization violated Florida law and notifying
12 the division to conduct list maintenance
13 activities to ensure that person is not on the
14 list of eligible voters within the State of
15 Florida.

16 It could also include -- if the provision
17 goes into effect, it could include a fine or it
18 could include, if we received the requisite pieces
19 of information -- and, again, this is in lieu of
20 subpoena authority, but -- if the Office of
21 Election Crimes and Security receives the
22 requisite pieces of information, then if a
23 crime -- if we believe a crime occurred based on
24 all relevant documents and records, we would refer
25 it to the appropriate law enforcement.

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1 Q SB 7050 includes a fiscal penalty for
2 noncitizens collecting or handling voter
3 registration applications; correct?

4 A If the provision goes into effect.

5 Q My question is, how would your office
6 plan to enforce the civil penalty associated with
7 noncitizens collecting or handling voter
8 registration applications should the provision go
9 into effect?

10 A If we received confirmation that a
11 noncitizen violated the provision, should it go
12 into effect, and that person committed the
13 violation after the effective date of the
14 provision, then we would issue a fine letter.

15 Q What do you mean by a confirmation?

16 A Well, as I said earlier, the Florida
17 Office of Election Crimes and Security has a very
18 narrow ability to access someone's citizenship
19 status. So when I say confirmation, what I mean
20 is either confirmation from that federal database
21 in the narrow instances or if I receive records
22 from law enforcement or prosecutor's office that
23 confirms it. But, again, without, you know, the
24 specific instance coming across my desk, I can't
25 go into -- I can't speculate as to how

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1 specifically, but with confirmation from
2 prosecutor's office or law enforcement and the
3 requisite documents or showing needed, we would
4 then issue that fine.

5 Q Have you received reports of any specific
6 instances of noncitizens leaving the country after
7 committing an election-related offense?

8 A Well, we don't have access to records to
9 really monitor people's travels. So can I point
10 to a specific example? No. But it certainly --
11 it's certainly in the interest of safeguarding
12 election integrity to take a proactive measure to
13 ensure that only those with a stake in the
14 election actually have the ability to fulfill
15 their fiduciary duty as owed to the voter, whether
16 a new registrant or a voter updating their
17 registration.

18 Q Are canvassers or let's call them voter
19 registration agents, which I believe is the term
20 you used earlier, required to be registered voters
21 in Florida?

22 A Not as of now.

23 Q Are they required to be Florida
24 residents?

25 A Not as of now. We do have individuals

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1 who will register availing themselves of Florida
2 jurisdiction, meaning they'll avail themselves of
3 the Florida courts, but no.

4 Q Are they required to be 18 years old?

5 A I believe so, yes.

6 Q You're not sure or you are sure?

7 A I believe so.

8 Q Okay. Let's talk about the second
9 interest that you named, which was the timely
10 submission of voter registration applications.
11 Are you aware of any instances of a noncitizen
12 failing to submit a voter registration application
13 on time pursuant to the deadlines outlined in
14 Section 97.0575?

15 A Again, because our ability to check
16 citizenship is so limited, I can't point you to
17 one specific instance that I personally -- that I
18 personally have referred because I can't -- I only
19 have a limited ability to verify someone's
20 citizenship and I don't have the ability to
21 monitor people's travels.

22 Q And in your preparation for the
23 deposition today as well as your past role in the
24 Secretary of State's Office, you're not aware of
25 the Secretary of State having a record of a

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1 noncitizen failing to submit a voter registration
2 application consistent with the timeline outlined
3 in Section 97.0575?

4 A Well, if it exists, I would point you to
5 somewhere around 90,000 pages we've produced to
6 you in six months.

7 Q You're not aware of any record sitting
8 here today?

9 A Since I have been with the Department of
10 State, I personally have not issued a referral to
11 law enforcement for a noncitizen committing a
12 criminal violation and then leaving the country.

13 Q And separate from the criminal violation,
14 my question now is in response to your stated
15 interest of timely submission in voter
16 registration applications. So focusing on the
17 civil violation of failing to submit an
18 application on time, are you aware of any record
19 in the Secretary of State's Office of a noncitizen
20 ever failing to submit a voter registration
21 application on time?

22 A I don't have personal knowledge of every
23 single record contained within the Department of
24 State since we also serve as the State's archives
25 in a number of ways. I can tell you as it relates

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1 to this that during my time I have not personally
2 observed or issued a referral of any kind for this
3 scenario.

4 Q And the last thing you named was
5 uniformity. How does the ban on allowing
6 noncitizens to collect or handle voter
7 registration applications serve any State interest
8 in uniformity?

9 A Well, again, because supervisors of
10 elections, all 67 offices, as well as the Florida
11 Division of Elections, receive a number of
12 voter -- a wide -- a large number of voter
13 registration applications, uniformity assists
14 those 68 offices total in operating in an
15 efficient manner so that there is not a lot of
16 speculation as to what's contained within those
17 four corners of the document.

18 There are, I believe, somewhere around
19 14, 14-1/2 million registered voters just within
20 the State of Florida, so you can imagine the paper
21 flow that occurs just with voter registration
22 activities. So the goal in maintaining uniformity
23 is simply allowing that employee, whether it's in
24 a county supervisor of elections office that only
25 has four employees, to larger operations like

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1 Hillsborough or Dade County and every office in
2 between, it enables them to operate efficiently.
3 As pertains to your question regarding
4 noncitizens now, the concern is individuals who
5 either are actively committing a crime every day
6 to individuals who really don't have much stake in
7 the election at all regardless were concerned
8 about their fulfillment of the fiduciary
9 obligation to the voter, including ensuring that
10 uniformly completed applications are submitted and
11 processed in time so that that applicant or that
12 voter who is updating their registration can vote
13 come election day when they want to.

14 Q Do you have any knowledge of noncitizens
15 failing to submit a completed or compliant, I
16 think is what you call it, voter registration
17 application in Florida?

18 A Well, as I continue to state, it's
19 certainly within the State's interest to take a
20 proactive stance or measure to ensure fiduciary
21 obligations are completed.

22 Now, keep in mind when I receive an
23 election -- when I receive a complaint form
24 regarding voter registration application
25 violations, I can't speak for access to these

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1 federal databases that -- or, excuse me, the
2 federal database that supervisors of elections
3 office employees may have, but they're not sending
4 in these complaints regarding whether or not the
5 voter registration agent is a noncitizen because
6 up until SB 7050 we had no idea -- once these
7 applications are turned in to the supervisors of
8 elections office, the Florida Department of State
9 has no idea who submitted them because there is no
10 record on the application.

11 So it would take extensive investigation
12 that, frankly, we just don't -- I don't think any
13 government agency would have the manpower and
14 resources to just investigate every single
15 third-party voter registration agent.

16 Q In order to enforce the citizenship
17 requirement, should it go into effect, would the
18 Secretary of State's Office need to investigate
19 the citizenship status of voter registration
20 agents?

21 A I would point you to, first, the United
22 States Customs and Immigration Service because of
23 the fact that there have been instances where data
24 was incomplete, there was a receipt from the
25 database, and then again, as I told you earlier,

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1 only in very narrow instances can we actually
2 verify from that database whether or not -- what
3 that individual's citizenship status is. So
4 that's the primary point where I would point you.

5 Would we need to access it? I think the
6 answer would be, whether it's our office or a
7 prosecutor's office or a law enforcement office,
8 to be able to show that someone was a noncitizen,
9 yes, they would need access to information
10 regarding their citizenship status.

11 Q Do you believe that's going to create
12 additional burdens on your office?

13 A No, because the Office of Election Crime
14 and Security can still enforce that provision as
15 long as, again, one of the wide variety of
16 agencies or offices that I listed previously can
17 access the citizenship status; right? So whether
18 it's our office having the ability to pull that
19 information or another agency or office
20 providing -- excuse me -- our office with the
21 records required to enforce it, the fine, it's not
22 going to be incredibly burdensome, it'll just be
23 another addition to the specific jurisdictional
24 grants to ensure we safeguard the election
25 integrity and we promote confidence in the

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1 purposes of this deposition, and it's going to be
2 a copy of a declaration you mentioned earlier.

3 (Darlington Deposition Exhibit 2 marked
4 for identification and is attached to the
5 transcript.)

6 MR. JAZIL: Do you mind if we take a
7 five-minute break before we move on?

8 MS. JOHNSON: No problem.

9 (A recess was taken.)

10 BY MS. JOHNSON:

11 Q I'm going to show you what I'll label as
12 Exhibit 2. Do you recognize this document?

13 A Yes.

14 Q What is it?

15 A This is my declaration in support of the
16 response in opposition to motion for preliminary
17 injunction.

18 Q Do you believe that this document is
19 still accurate today?

20 A Yes.

21 Q Do you recall that in this declaration
22 you identified State interests in the challenged
23 provisions of SB 7050?

24 A Yes.

25 Q Okay. I know we've just talked about

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1 them, but I want to look at a few of the things
2 you mentioned in your declaration. So we will go
3 to Paragraph 17 to start.

4 And, again, I know this is kind of a
5 limitation of the format. If you need to see
6 paragraphs above or below at any point, just let
7 me know, but my questions are fairly targeted.

8 So I will start by reading Paragraph 17.
9 You wrote: "With non-citizens, there is an issue
10 of whether collected and handled applications will
11 be submitted to election officials on time.
12 Non-citizens include illegal aliens, who are
13 actively breaking the law and are subject to
14 deportation at any time. Even those here on a
15 temporary basis, such as those on student visas,
16 pose similar risks; the temporary visitors might
17 leave the country (or the State) without first
18 delivering the completed voter registration
19 applications in their custody... For resident
20 aliens, the Florida Legislature has made the
21 determination that only U.S. citizens -- those who
22 can vote -- can conduct the most critical aspect
23 of the voter-registration process: Ensuring that
24 a completed application gets properly submitted on
25 time. In other words, citizens have the most

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1 direct stake in the results of elections, and the
2 Florida Legislature determined that they should be
3 entrusted with that position."

4 So my question is in regards to the first
5 sentence: What evidence do you have that
6 noncitizens submitted applications late or are
7 more likely to submit applications late?

8 A Well, again, consistent with my testimony
9 earlier to you, this is in part a proactive
10 measure because if individuals are leaving the
11 country prior to the submission of those handled
12 or collected applications, then it could result in
13 the disenfranchisement of a voter.

14 Q Do you have any example of noncitizens
15 being deported from the country with voter
16 registration applications still in their
17 possession?

18 A I have not personally observed that.

19 Q Do you have any knowledge about whether
20 voter registration agents typically turn in all
21 applications they collect to a supervisor or to a
22 field office every day?

23 A I can't speculate as to every single
24 voter registration and whether or not they submit
25 every single one.

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1 Q So you have no knowledge about whether or
2 not that is true?

3 A That every single voter registration
4 agent in the State of Florida submits every single
5 application they receive?

6 Q We can make it any. Do you have
7 knowledge of whether any voter registration agents
8 follow the practice of turning in applications
9 they collect each day to a supervisor or field
10 office every day?

11 A I don't know whether they do it --
12 whether every voter registration agent does it
13 every day.

14 Q Do you know if any voter registration
15 agents follow that practice?

16 A So voter registration agents certainly at
17 some point deliver at least some voter
18 registration applications in their possession. I
19 can't speculate against the amount in their
20 possession.

21 Q And so my question is specifically
22 whether you're aware of whether voter registration
23 agents follow a practice of handing off
24 applications that they've collected to a
25 supervisor or to a field office every day?

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1 A Yes.

2 Q And in that provision it states: The
3 supervisor shall accept a request for a
4 vote-by-mail ballot only from a voter or, if
5 directly instructed by the voter, a member of the
6 voter's immediate family or the voter's legal
7 guardian.

8 So my question is whether you're aware
9 that some voters might not have an immediate
10 family member or legal guardian to assist them as
11 it's defined in Section 101.62.

12 A I'm not personally aware of anyone. I'm
13 not personally aware of anyone.

14 Q Do you believe it's possible that a voter
15 doesn't have an immediate family member that could
16 assist them in requesting a vote-by-mail ballot?

17 A Is it possible that there is an eligible
18 voter without a grandparent through grandson or
19 the equivalent from a spouse or a legal guardian?
20 I can't testify that that is a 100 percent
21 impossibility.

22 Q And if a voter in that situation wanted
23 to request a vote-by-mail ballot, do you believe
24 they would still have a right to do so?

25 A If they were not in compliance with the

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1 law -- with effective laws at the date of request,
2 then that would make a request outside the scope
3 of the law.

4 Q And do you believe that causes a conflict
5 with the two statutes related to access for
6 disability that I just read?

7 A No.

8 Q Why not?

9 A Because individuals when we talk about --
10 was that just my speaker?

11 Q I think so.

12 A Okay. When we talk about a request for a
13 vote-by-mail ballot, we're talking about one
14 specific way of voting. So while the challenged
15 provision clarifies who is an immediate family
16 member and who is a legal guardian, I can't tell
17 you how many people in the State of Florida might
18 not meet that specific scenario. But the State of
19 Florida also provides for the ability for that
20 person to be escorted by an individual, assuming
21 they meet the requirements and fill out the right
22 ADA form, to assist that person at least in
23 getting inside the polling place to the point
24 where they can fill out a ballot.

25 Q So is your testimony that a voter who

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1 does not have an immediate family member to assist
2 them in requesting a vote-by-mail ballot would
3 therefore need to vote in person?

4 A No, because even if you don't have an
5 immediate family member as per the challenge
6 definition, you could still utilize a legal
7 guardian.

8 Q So is your testimony that an individual
9 who does not have an immediate family member or a
10 legal guardian to assist them in requesting a
11 vote-by-mail ballot would therefore need to vote
12 in person?

13 MR. JAZIL: Counsel, I'm sorry, I'm a
14 little confused by the question. Are you talking
15 about a disabled voter who does not have an
16 immediate family member or a legal guardian?

17 Q My question right now is a voter, but I
18 can ask a clarifying question if necessary.

19 A If we're talking about any voter, then,
20 yeah, I think any voter who doesn't meet that
21 specific scenario and doesn't otherwise request a
22 vote-by-mail ballot themselves, if they don't
23 request it by themselves, then they would go in
24 person.

25 Q And is your answer the same for a

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1 disabled voter?

2 A Well, with a disabled voter they could be
3 escorted in. So they can be escorted into the
4 in-person polling place. So no, because they can
5 receive assistance getting into the voting booth.

6 Q My question is if a disabled voter does
7 not have an immediate family member or a legal
8 guardian that can assist them in requesting a
9 vote-by-mail ballot, is your testimony that the
10 disabled voter would therefore need to go vote in
11 person?

12 A No, because they could also request it
13 themselves.

14 Q If a disabled voter is unable to request
15 a vote-by-mail ballot themselves and they do not
16 have access to an immediate family member or a
17 legal guardian to assist them, is your testimony
18 that the disabled voter would need to vote in
19 person?

20 A Not alone, but likely, yes.

21 Q Moving on to Topic 11, it states: "The
22 Secretary's definition of 'collecting' and
23 'handling' and 'voter registration application' as
24 used in the Citizenship Requirement and the bases
25 for that definition."

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1 Did you prepare to testify on that Topic
2 11?

3 A Yes.

4 Q And did you do anything different than
5 what you have already testified to to prepare to
6 testify about Topic 11?

7 A No.

8 Q Let's take a look at Section
9 97.0575(1)(b) -- I'm sorry; (1)(f). And I know
10 you had it in front of you or we can share it on
11 the screen if that's helpful.

12 A Whichever you prefer. If you want to
13 share it, I'll read it off the screen.

14 Q Okay. We'll do that.

15 A Thank you. This appears to be a draft.
16 Do you mind if I just reference the statute in
17 front of me?

18 Q Sure, you're welcome to. This is, I will
19 represent to you, the final version of SB 7050
20 which shows the line changes that were made to the
21 relevant statutes, but happy to have you reference
22 your version of the statute as well. It should be
23 the exact same thing.

24 A Okay. Thank you. I'm going to reference
25 this.

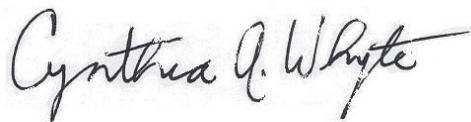
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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Cynthia A. Whyte, the officer before whom
3 the foregoing deposition was taken, do hereby
4 certify that the foregoing transcript is a true
5 and correct record of the testimony given; that
6 said testimony was taken by me stenographically
7 and thereafter reduced to typewriting under my
8 supervision; that reading and signing was
9 requested; and that I am neither counsel for,
10 related to, nor employed by any of the parties to
11 this case and have no interest, financial or
12 otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto set
14 my hand and affixed my notarial seal this 12th day
15 of February, 2024.

16
17 My commission expires:
18 October 30, 2026

19
20
21 
22 _____

23 CYNTHIA A. WHYTE
24 NOTARY PUBLIC IN AND FOR THE
25 STATE OF MARYLAND