

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF ALABAMA  
3 SOUTHERN DIVISION

4 ALABAMA STATE CONFERENCE \*  
5 OF THE NAACP, et al., \*  
6 Plaintiffs, \* 2:21-cv-1531-AMM  
7 vs. \* November 15, 2024  
8 WES ALLEN, in his official \*  
9 capacity as Alabama Secretary \*  
10 of State, et al., \*  
11 Defendant. \*  
12 \*\*\*\*\*  
13

14 TRANSCRIPT OF BENCH TRIAL  
15 VOLUME IV  
16 BEFORE THE HONORABLE ANNA M. MANASCO  
17 UNITED STATES DISTRICT JUDGE  
18  
19  
20

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1 stand, please.

2 COLONEL JONATHAN ARCHER

3 having been first duly sworn by the Courtroom Deputy Clerk, was  
4 examined and testified as follows:

5 THE COURTROOM DEPUTY CLERK: If you will be seated.  
6 You can adjust the microphone as needed.

7 State your name and spell it for the Court record, please.

8 THE WITNESS: Sure. Jonathan, J-O-N-A-T-H-A-N, middle  
9 initial W., last name Archer, A-R-C-H-E-R.

10 DIRECT EXAMINATION

11 BY MS. MESSICK:

12 Q Thank you, Colonel Archer. Do you have any degrees after  
13 high school?

14 A Yes, ma'am. I have a master's in public administration  
15 and a bachelor's of arts in criminal justice.

16 Q And where are those degrees from?

17 A University of South Alabama.

18 Q What year did you get your master's?

19 A 2002.

20 Q What do you do for a living?

21 A I am the director of the Department of Public Safety at  
22 the Alabama Law Enforcement Agency.

23 Q And is it all right if I call the Alabama Law Enforcement  
24 Agency ALEA?

25 A Yes.

1 Q How long have you been the director of Public Safety at  
2 ALEA?

3 A Since March of 2023.

4 Q And what is ALEA?

5 A ALEA is the state law enforcement agency for Alabama.  
6 It's made up of two parts -- the Department of Public Safety  
7 and the State Bureau of Investigations.

8 Q And you're the director of the public safety component?

9 A Yes, ma'am.

10 Q How long have you been at ALEA?

11 A Since its creation on January 1, 2015.

12 Q What were you doing just before ALEA's creation?

13 A I was a lieutenant with the Alabama marine police at the  
14 Department of Conservation and Natural Resources.

15 Q And in the months leading up to the creation of ALEA, what  
16 were you doing?

17 A I was transferred to ALEA's secretary's office to assist  
18 as the special response unit commander to assist with special  
19 projects as the agency was beginning.

20 Q And when about was that?

21 A November of '14.

22 Q You've told us your first job at ALEA after it came into  
23 being in 2015.

24 Can you tell me just briefly the positions you have held  
25 since then?



1 A Since then, in March of 2016, I was assigned the marine  
2 parole division as the central district commander. I remained  
3 there until August 2017, where I was assigned to the driver's  
4 license division as a captain. And then I served there until  
5 March of '23, when I was appointed director.

6 Q Did you remain a captain the entire time you were in the  
7 driver's license division?

8 A No, ma'am. During the course of that time, I was promoted  
9 to chief of the driver's license division.

10 Q As the director of public safety, do you have any  
11 continuing involvement with the driver's license division?

12 A I oversee that division as a part of my duties. It has a  
13 driver's license director that handles the day-to-day  
14 operations, so that director reports to my office.

15 Q And that director, is that the job that you had when you  
16 were chief?

17 A Correct. It was formerly chief but was reclassified to a  
18 director's position.

19 Q Thank you.

20 What does ALEA's driver's license division do?

21 A The driver's license division is tasked with credentialing  
22 and examining applicants for Alabama driving privileges.

23 Q Is that everybody on the roads?

24 A That is everybody on the roads, if they are driving a  
25 commercial vehicle, noncommercial vehicle, they're operating a

1 motorcycle, they're operating a vessel on Alabama waterways.  
2 The driver's license division responsible for offering  
3 examination and issuing the credentials to those Alabamians.

4 Q Plaintiffs have offered Joseph Bagley as an expert in this  
5 case. And in his expert report and in his testimony yesterday,  
6 he's made some statements about suspending driver's license  
7 offices in 2015.

8 Did you have any role in that change of driver's license  
9 hours?

10 A Yes, ma'am.

11 Q And what role did you have?

12 A During my time in the ALEA secretary's office, I was  
13 advising on a number of special projects, and one of those was  
14 related to the suspension of operations in driver's licenses  
15 offices.

16 Q Let's talk about the driver's license services that ALEA  
17 offered --

18 A Uh-huh.

19 Q -- in early 2015.

20 Well, first of all, about how many credentials were issued  
21 by the driver's license division in 2015?

22 A On average, it's about 1.2 million per year.

23 Q And is that both driver's licenses and nondriver's IDs?

24 A Yes, ma'am.

25 Q Okay. What kinds of driver license offices did ALEA have?

1 A We have district offices. We have 12 of those, plus a  
2 headquarters. And we had 63 field officers.

3 Q And that's in 2015?

4 A That is in 2015.

5 Q Were there ways that a citizen could conduct a driver's  
6 license transaction without going to an ALEA office?

7 A Yes. There were, in 2015, 122 county partner offices.  
8 Those would be operated by probate judges or license  
9 commissioners, revenue commissioners or revenue directors,  
10 depending on the county in Alabama and who handles the  
11 licensing services in that county.

12 Q Were there other ways in 2015 that a citizen could get a  
13 driver's license or do a driver's license transaction?

14 A Yes. We had also launched an online services that would  
15 have allowed customers to renew their Alabama driver's license  
16 or nondriver ID card or order a duplicate in the event they had  
17 lost their credential.

18 Q And were there any other ways that a citizen could conduct  
19 a driver's license transaction in 2015?

20 A No, ma'am.

21 Q What about the kiosks?

22 A The self-service kiosks were still in play in a few  
23 locations throughout the state in our offices where a customer  
24 could go up to the kiosk and complete a renewal, yes.

25 Q Okay. I want to talk a little bit more about the

1 services.

2 So you said the online services you could do renewals or  
3 duplicates of driver's licenses and nondriver IDs, correct?

4 A Yes, ma'am.

5 Q Was the online function available 24 hours a day, 7 days a  
6 week?

7 A Yes.

8 Q The county partners, you said there were 122 locations in  
9 2015?

10 A Yes, ma'am.

11 Q What services could they offer?

12 A They could offer renewal and replacement of both nondriver  
13 and driver's licenses. They could change addresses, and they  
14 would take a new credential photo.

15 Q Could they change names?

16 A They could in 2015.

17 Q What services could the ALEA field offices provide in  
18 2015?

19 A They could also renew and do -- issue duplicates. They  
20 also could transfer in out-of-state licenses. They could  
21 complete first-time issuances of new drivers in Alabama. They  
22 conducted all knowledge tests, skills tests for Class D  
23 drivers, but we could not do CDL skills tests at the field  
24 offices.

25 Q What is a STAR ID?

1 A A STAR ID is Alabama's version of the real ID. And it is  
2 a -- it is a credential process that came out of the federal  
3 real ID act of 2005, where a customer is required to bring  
4 proof of authorized presence, proof of social, and proof of  
5 principle residence to an ALEA exam office, where we review and  
6 add those to their record and we add the star to their license.

7 Q And in 2015, could a citizen get a STAR ID at an ALEA  
8 field office?

9 A Yes, ma'am.

10 Q When were the field offices open? Were they like Monday  
11 through Friday 8:00 to 5:00?

12 A No. Field offices had usually one to two days service  
13 days. They were not open usually 8:00 to 5:00 because we had  
14 to account for examiner travel so that they could drive to the  
15 field office from the district office, set up the equipment,  
16 power everything on, and then begin servicing customers.

17 And then at the end of the day, they would have to close  
18 early than 5 o'clock to allow shut down and then travel back to  
19 the district office.

20 Q And you said they were generally open one or two days a  
21 week?

22 A Yes, ma'am.

23 Q And then for fewer than eight hours depending on how much  
24 time was needed for the travel and the setup and the breakdown  
25 and the further travel?

1 A Yes, ma'am.

2 Q Were the field offices like buildings owned by ALEA?

3 A No, ma'am. They were spaces provided to ALEA by our  
4 county partners free of lease. We simply came into a provided  
5 room, and we set up the equipment and issued credentials on  
6 that day.

7 Q I want to talk about the ALEA district offices in 2015.  
8 What services could they provide?

9 A They, as well, could handle all of the transactions that  
10 the field offices could. Your first-time issuances, your  
11 out-of-state transfers, as well as all the knowledge testing,  
12 be it Class D, M, V. You could also complete all your CDL  
13 knowledge testing, as well as your skills testing there.

14 And we also processed foreign national customers at our  
15 district offices. We also had reinstatement offices  
16 co-inhabitated in those district offices where customers in  
17 need of reinstatement service could also obtain service.

18 Q What is Class D?

19 A Class D is your basic driver's license in Alabama. That  
20 is referred to as a non-commercial license.

21 Q And Class M?

22 A That is required to operate a motorcycle or motor-driven  
23 cycle in the state of Alabama.

24 Q And Class V?

25 A "V" is for "vessel." That is to operate a motorized

1 vessel on Alabama waterways.

2 Q Were the district offices' buildings owned by ALEA?

3 A Yes.

4 Q And were they open generally Monday through Friday?

5 A Generally open Monday through Friday 8:00 to 5:00.

6 Q And then you said there were 12 district offices and that  
7 included headquarters; is that right?

8 A Yes, ma'am.

9 Q And were the services at headquarters the same as at the  
10 other district offices?

11 A In 2015, no, ma'am. They were -- we did not do issuances  
12 at headquarters. Headquarters was strictly back office and  
13 records management.

14 Q What about reinstatements?

15 A We did do reinstatements there and processed mailing  
16 reinstatements as well there.

17 Q What is your understanding of the fiscal shape that the  
18 driver's license division was in when ALEA was formed?

19 A It was in dire straits that there was a deficit run -- it  
20 was costing the agency a tremendous amount of money to continue  
21 to operate driver's license at a -- we were operating at a  
22 loss.

23 Q Don't you charge people for driver's licenses?

24 A Yes, ma'am. But the price of the license is set forth in  
25 statute, and all of the money from the driver's license fees

1 does not return to driver's license for production of the  
2 license. So it was costing us more to produce the license than  
3 we were able to charge in fees.

4 Q What was the staffing like at the driver's license  
5 division when ALEA was formed in January 2015?

6 A We had double digit vacancies in our examining staff, in  
7 the field offices, and the district offices. We were  
8 significantly short-handed.

9 Q Did that have any impact on the experience of your  
10 customers?

11 A Yes, ma'am. We were unable to service customers in a  
12 timely manner and were faced daily with long wait times and  
13 customers being turned away who couldn't receive service.

14 Q The offices that had changes in 2015, broad category, what  
15 offices were those?

16 A Field offices.

17 Q And how would suspending office hours in field offices  
18 address the situation that you have described?

19 A Field offices were staffed out of the district offices.  
20 We sent examiners out to those locations. And when we were  
21 experiencing such short staff, it was decided that there was --  
22 it would be better to suspend operations in those offices so  
23 those examiners could remain at the district offices to service  
24 more customers.

25 Q So you were not firing anybody. You didn't have savings



1 from reducing staff when the field offices had their hours  
2 changed?

3 A No, ma'am. We did not fire anyone.

4 Q And instead, you were bringing the staff from the field to  
5 the district offices where the lines were?

6 A Yes, ma'am.

7 Q Were all of the field offices closed?

8 A No, ma'am.

9 Q Do you know if there was any kind of line drawn as to  
10 which offices would be closed?

11 A The line was based on the number of transactions in an  
12 office over a period of a year, and that was the line.

13 Q And do you know what the line was?

14 A Any office with less than 2,000 customer transactions in a  
15 year.

16 Q Are you aware of whether there were any exceptions to that  
17 2,000 transaction?

18 A No, ma'am.

19 Q Guide?

20 A No, ma'am.

21 Q How many field offices had their office hours suspended?

22 A 31.

23 Q Did you ever hear any ALEA employee from the secretary of  
24 ALEA on down say that the decision as to which offices would  
25 have changes was being made on the basis of race, color, or

1 national origin?

2 A No, ma'am.

3 Q I'd like to show you Exhibit 128.

4 Colonel Archer, I can't see it. Can you see it?

5 A Yes, ma'am.

6 Q Do you recognize this document?

7 A Yes, ma'am.

8 Q Can you tell me what it is?

9 A Yes. This is a document explaining during the year of  
10 2014 all of our driver's license transactions.

11 Q Did you have a role in the creation of this document?

12 A Yes. I would have had a role.

13 MS. MESSICK: I move to introduce Defendant's  
14 Exhibit 128.

15 THE COURT: Any objection?

16 MS. ALLEN: No objection.

17 THE COURT: All right. Admitted.

18 (Defense Exhibit 128 admitted in evidence.)

19 BY MS. MESSICK:

20 Q Colonel Archer -- I'm sorry. I have got some sort of  
21 warning on mine.

22 Looking up at the top in the section with the green  
23 highlight where it says, "Transactions," what is that top piece  
24 telling us?

25 A This is showing the total statewide transactions, which

1 would have included every driver's listen or identification  
2 card-related interaction with a person performed by any  
3 government office in Alabama.

4 Q And when it's talking about where it says "Total local  
5 office transactions," is that the community partners?

6 A That would be the county partner.

7 Q I'm sorry. County partners.

8 So the county partners are actually doing more  
9 transactions than ALEA is by a little bit?

10 A Yes, ma'am.

11 Q And then where it says "total ALEA suspended offices"?

12 A Yes, ma'am.

13 Q What is that telling me?

14 A That would have -- that shows you the number of -- if, in  
15 2014, using the transaction numbers from 2014, the number of  
16 transactions that would have been impacted if those offices  
17 were suspended operations.

18 Q So in 2014, there were just over 33,000 transactions at  
19 the offices that had their hours suspended?

20 A Yes, ma'am.

21 Q Okay. How much is that in the context of the overall  
22 transactions being done in the state?

23 A 2.1 percent.

24 Q And how much -- what -- what does the 4.43 percent mean?

25 A That would have been the percentage against ALEA-only

1 transactions, so when comparing just our transactions.

2 Q So the field offices that were suspended in 2015  
3 represented 4.43 percent of ALEA's transactions and 2.1 percent  
4 of the total transactions in 2014?

5 A Yes, ma'am.

6 Q I want you to look further down on that page.

7 The potential online transactions with the red. Do you  
8 see that?

9 A I do.

10 Q What is that section telling us?

11 A So this data is based on -- is from 2014. We began online  
12 transactions in 2015. So looking back at '14, we are looking  
13 at transactions that now would be able to be completed online.

14 Q Okay. So in 2014, there were 5,423 transactions at an  
15 office that would be suspended in 2015 that, in 2015, could  
16 have been done online?

17 A Yes. You are correct.

18 Q Okay. Thank you.

19 I'd now like to move to Exhibit 131.

20 Do you recognize this document?

21 A Yes.

22 Q What is it?

23 A It is a list of field offices and their locations and days  
24 of week and hour of operations of the 31 that were suspended  
25 operations.

1 Q Did you have a role in this document's creation?

2 A Yes.

3 MS. MESSICK: I move to introduce State's Defendant's  
4 Exhibit 131.

5 THE COURT: 131, any objection?

6 MS. ALLEN: No objection, Your Honor.

7 THE COURT: Admitted.

8 (Defense Exhibit 131 admitted in evidence.)

9 BY MS. MESSICK:

10 Q What does Exhibit 131 tell us about how often the offices  
11 to be suspended were opened?

12 A In the column Days of the Week, it shows the number of  
13 days that each of these offices were open per week. And then  
14 next to that column would be the -- I can't make out the header  
15 on this, but I know that's the hours that they were open  
16 allowing time for them to -- that would be the time that they  
17 could serve as customers.

18 Q Okay. And so how many days a week were most of these  
19 offices open?

20 A One day a week.

21 Q And can you summarize for us what kind of office hours  
22 they had?

23 A Mostly around seven hours, so it would have been -- it  
24 varied based on how far the examiner had to travel from. So,  
25 but most of them were around six to six and a half hours.

1 Q Okay. When -- and this is the list of the offices that  
2 were actually suspended?

3 A Yes, ma'am.

4 Q When these offices were suspended, what options remained  
5 available to Alabama citizens to conduct driver's license  
6 transactions?

7 A The -- they would still be able to go to ALEA district  
8 offices, other field offices. They could have gone to a county  
9 partner office, or they could have gone online.

10 Q And how long did the office suspensions last?

11 A Approximately 30 days.

12 Q I'd like to show you know State Defendant's Exhibit 256.

13 Sir, do you recognize this document?

14 A Yes.

15 Q And what is it?

16 A The memorandum of agreement between the U.S. Department of  
17 Transportation and the Alabama Law Enforcement Agency.

18 MS. MESSICK: Your Honor, I move to introduce State  
19 Defendant's Exhibit 256.

20 THE COURT: 256. Any objection?

21 MS. ALLEN: No objection, Your Honor.

22 THE COURT: Admitted.

23 (Defense Exhibit 256 admitted in evidence.)

24 BY MS. MESSICK:

25 Q When did you first become aware of this memorandum?

1 A In 2017, when I was transferred to the driver's license  
2 division.

3 Q Do you remember seeing the memorandum at that time?

4 A I -- I was working for a chief who told me about the  
5 memorandum of agreement and the expectations that we were to  
6 required to carry out as a part of the terms of the agreement.

7 Q Were you responsible for helping to ensure ALEA's  
8 compliance with this agreement?

9 A Yes, ma'am.

10 Q And were you shown this memorandum of agreement at a  
11 deposition this summer?

12 A Yes, ma'am.

13 Q Have you read it again this week?

14 A Yes, ma'am.

15 Q Dr. Bagley's report, which is Amended Plaintiffs'  
16 Exhibit 19, at page 29, in the second full -- or the second  
17 full paragraph, third sentence, says: The USDOT found that the  
18 Alabama Department of Transportation and the Alabama Law  
19 Enforcement Agency were violating Title VI of the Civil Rights  
20 Act, and he continues.

21 Do you see that?

22 A Yes, ma'am.

23 Q What does this memorandum of agreement say about the  
24 Alabama Department of Transportation?

25 A Nothing.

1 MS. ALLEN: Objection, Your Honor. The document  
2 speaks for itself.

3 THE COURT: He answered.

4 MS. MESSICK: Thank you.

5 BY MS. MESSICK:

6 Q Looking at page 1 of the memorandum of agreement, did ALEA  
7 agree with any findings made by the Department of  
8 Transportation?

9 A No, ma'am.

10 Q Looking at page 8 of the memorandum of agreement, did ALEA  
11 admit liability?

12 A No, ma'am.

13 Q In broad strokes, what did the memorandum of agreement  
14 require?

15 A It required that we maintained existing office hours and  
16 days of operations in our field offices. It also added -- we  
17 also added additional service hours in some field offices. It  
18 required ALEA to appoint a Title VI coordinator. And it also  
19 required that we enact a community engagement plan any time  
20 that there was plan changes in the operations of the driver's  
21 license division to allow community stakeholders to provide  
22 input.

23 Q Is this memorandum of agreement still in effect today?

24 A No, ma'am.

25 Q Thinking about ALEA's district offices and field offices



1 today, is ALEA providing services in terms of locations and  
2 hours that are at least at the level that was required by the  
3 memorandum of agreement?

4 A Yes, ma'am.

5 Q Dr. Bagley's report at page 15, in the third paragraph  
6 begins: In 2015, the U.S. Department of Transportation found  
7 that the State's selective closure of driver's license offices  
8 disproportionately affected black people's ability to register  
9 to vote and, thus, violated the Civil Rights Act.

10 What does the memorandum of agreement say about voting?

11 A Nothing.

12 Q Thank you.

13 THE COURT: All right.

14 MS. ALLEN: May I proceed, Your Honor?

15 THE COURT: You may.

16 MS. ALLEN: Amanda Allen for the plaintiffs.

17 CROSS-EXAMINATION

18 BY MS. ALLEN:

19 Q Good afternoon, Colonel Archer. You may remember that we  
20 met before, not too long ago, but I will be asking you a few  
21 yes or no questions on behalf of the plaintiffs today.

22 A Okay.

23 Q The special projects that you worked on for ALEA around  
24 2014, 2015, included addressing the driver's license office  
25 closures, correct?

1 A Yes.

2 Q You became aware around early 2015 of a plan being  
3 assembled to close driver's license offices, right?

4 A Yes.

5 Q You were included in communications about the decision to  
6 close some of the driver's licenses offices, right?

7 A Yes.

8 Q You don't recall whether you were asked for your input on  
9 what metrics should be used to determine what offices should be  
10 closed, correct?

11 A Yes.

12 Q You don't recall at what point the decision was made to  
13 use low customer volume as a metric for determining what  
14 offices to close?

15 A No, ma'am.

16 Q Your role was just to assemble documentation to educate  
17 State officials at the Legislature as to the reason why ALEA  
18 was closing offices, right?

19 A Yes.

20 Q ALEA staff member, John Thomas Jenkins, directed you to  
21 assemble the documentation, correct?

22 A Yes.

23 Q You aren't familiar with the standard practice of budget  
24 discussions with the executive branch, right?

25 A At that time, no.

1 Q You reviewed the list of driver's license offices that  
2 were going to be closed at that time?

3 A Yes.

4 Q You didn't create the list of driver's license offices to  
5 close, right?

6 A No, ma'am.

7 Q You weren't a part of any decisions to remove any driver's  
8 license offices from the list, correct?

9 A Correct.

10 Q You never met with Governor Bentley about the driver's  
11 license office closures, right?

12 A Correct.

13 Q You never met with any member of Governor Bentley's staff  
14 about the office closures, correct?

15 A Correct.

16 Q You don't recall how Governor Bentley spoke about the  
17 decision to close driver's license offices, correct?

18 A Correct.

19 Q You don't recall whether the driver's license office that  
20 was in State Senator Gerald Dial's district was on the list,  
21 correct?

22 A I do not. Correct.

23 Q You met with Secretary Spencer Collier less than three  
24 times during the time that discussions of closing driver's  
25 license offices occurred, right?

1 A Correct.

2 Q So you weren't aware that Secretary Collier testified that  
3 a plan to --

4 MS. MESSICK: Objection. She's -- her question is  
5 going to introduce hearsay. She's -- Secretary Collier is not  
6 here. She's -- there's a deposition that he gave in another  
7 case, many years ago, that -- based on the deposition of  
8 Colonel Archer that was taken in the Congressional cases.

9 I am assuming she is about to start telling us what he  
10 testified to in that separate deposition and that's hearsay.

11 MS. ALLEN: Your Honor, may I respond?

12 THE COURT: You may.

13 MS. ALLEN: This information is not being offered for  
14 the truth of the matter asserted.

15 On direct examination, Colonel Archer testified to his  
16 involvement in the decision-making process behind how to and  
17 what metrics were going to be used to close the offices and  
18 this line of questioning is just being used to explore the  
19 extent of his knowledge and involvement.

20 MS. MESSICK: But she's -- what he testified about is  
21 which offices were closed and the minimal impact that that had  
22 the state and I don't think that it is relevant. But even if  
23 it were, she's trying introduce testimony that is made by  
24 somebody who's not here today.

25 If they want to know what Spencer Collier thought, they

1 can bring him.

2 THE COURT: Well, I think she's not offering it for  
3 what Spencer Collier thought. I think it's being offered to  
4 probe the extent of this witness's knowledge, so not for the  
5 truth of its content about what --

6 MS. MESSICK: Well, but it assumes that Spencer  
7 Collier is right and this witness is wrong is what --

8 THE COURT: Well, I don't have to make that  
9 assumption --

10 MS. MESSICK: Okay.

11 THE COURT: -- if it's not being offered for its  
12 truth.

13 MS. MESSICK: Well, with that understanding, I've got  
14 no problem with it.

15 THE COURT: All right.

16 BY MS. ALLEN:

17 Q You, Colonel Archer, had just testified that you met with  
18 Secretary Spencer Collier less than three times during this  
19 time period that driver's license offices were in discussion to  
20 be closed, right?

21 A Correct.

22 Q So you weren't aware that Secretary Collier testified that  
23 the plan to close driver's license offices came from  
24 Governor Bentley's advisor, Rebekah Mason, correct?

25 A I am not familiar with it, no.

1 Q And you are not aware that Secretary Collier's testimony  
2 that Ms. Mason requested that ALEA close driver's license  
3 offices in districts of members who opposed the Governor's  
4 budget, correct?

5 MS. MESSICK: Objection.

6 May I have a standing objection and understanding that  
7 this is not being offered for the truth of the matter asserted?

8 THE COURT: You may.

9 MS. MESSICK: Thank you.

10 THE WITNESS: Could I ask you to repeat the question,  
11 please.

12 BY MS. ALLEN:

13 Q Yes. Colonel Archer. Yes.

14 You were not aware of Secretary Collier's testimony that  
15 Ms. Mason requested that ALEA close driver's license offices in  
16 districts of members who opposed the Governor's budget,  
17 correct?

18 A No, I was not familiar.

19 Q And you aren't aware that Secretary Collier told ALEA to  
20 find -- and you aren't aware that Secretary Collier told ALEA  
21 to find some post hoc, facially neutral and arbitrary basis to  
22 close these offices, right?

23 A I am not aware of it, no.

24 Q You also aren't aware that Secretary Collier testified  
25 that when he presented this purportedly neutral plan to the

1 Governor's staff, the Governor ordered ALEA to retract the  
2 closure of the driver's license office in the Governor's ally,  
3 Senator Jim Dial's district, correct?

4 A I'm not familiar with that.

5 Q You agree that no one at ALEA ever looked at whether the  
6 closures would affect some Alabamians more than others,  
7 correct?

8 A I know that I didn't look at that particularly. I can't  
9 say no one at all at ALEA.

10 Q Is it your testimony today that you don't know whether --  
11 or is it your testimony today that you don't know whether no  
12 one at ALEA ever looked at whether closures would affect some  
13 Alabamians more than others?

14 A Correct.

15 Q Colonel Archer, do you recall participating in a  
16 deposition in this case?

17 A Yes, ma'am.

18 MS. MESSICK: Objection. The deposition was not in  
19 this case.

20 BY MS. ALLEN:

21 Q I'm sorry. Let me rephrase.

22 Do you recall participating in a deposition in the case  
23 *Milligan v. Allen*, correct?

24 A Yes.

25 Q And do you recall that deposition being about August 5th,

1 2024?

2 A I believe, yes.

3 Q And you swore to tell the truth in that deposition?

4 A Yes, ma'am.

5 MS. ALLEN: Can we pull up Colonel Archer's deposition  
6 in *Milligan v. Allen* from August 5th, 2024?

7 Can we turn to page 29?

8 BY MS. ALLEN:

9 Q Colonel Archer, do you see on page 29, lines 17 through  
10 21?

11 A Yes.

12 Q Do you see where I asked you: Did anyone ever discuss  
13 whether closures would affect some Alabamians more than others?

14 And then you answered: No, ma'am.

15 A Yes.

16 Q No one at ALEA ever looked at whether the closures would  
17 have a disparate effect on black Alabamians, right?

18 A Correct.

19 Q Governor Bentley resigned, correct?

20 A I believe so.

21 Q He resigned during the House investigation into his affair  
22 with Ms. Mason, correct?

23 A I don't recall the exact circumstances of his resignation.

24 Q There was a State House investigation, correct, into  
25 Governor Bentley?



1 A I don't -- I don't recall the exact course of his  
2 resignation and what was the catalyst of that.

3 Q So you are not aware that Secretary Collier reported  
4 Ms. Mason to the Alabama Attorney General because he was  
5 concerned that the closures violated the Voting Rights Act?

6 A No, I am not familiar.

7 MS. MESSICK: Object to the form.

8 I mean, I'm sorry. Objection. She's got no foundation  
9 for that. I don't know where that's coming from.

10 MS. ALLEN: Your Honor, I'm simply asking, if I may  
11 respond, about his knowledge or lack thereof surrounding the  
12 circumstances of the closure of these driver's license offices.

13 MS. MESSICK: Again, she is assuming that what she is  
14 saying is right and asking if he knows about they matters that  
15 she's asserting as factual. And I am not aware of any evidence  
16 in this case that supports that statement. And she certainly  
17 hasn't established it here today.

18 THE COURT: I will give it the weight that it  
19 deserves, but it's a question about his awareness, so if he is  
20 not aware of it, then he can say that.

21 MS. MESSICK: Okay. But he's also not asserting -- he  
22 is not agreeing that it's true either, right? It's the same as  
23 before. You're not assuming the truth of the statement.

24 THE COURT: Well, the -- her question isn't evidence.  
25 So she's not offering her question as evidence. It's just his

1 answers that are evidence. So if he says he's not aware of it,  
2 then there's no basis for me to assume the truth of it.

3 MS. MESSICK: Thank you, Your Honor.

4 BY MS. ALLEN:

5 Q Colonel Archer, the savings for ALEA surrounding the  
6 circumstances of the closure of these driver's license offices  
7 was just \$200,000, right?

8 A Correct.

9 Q I want to turn your attention to the discussion that you  
10 had on direct examination about the U.S. Department of  
11 Transportation investigation and agreement.

12 If I say DOT, would you understand me to mean the U.S.  
13 Department of Transportation?

14 A I -- yes.

15 Q In 2016, the U.S. Department of Transportation found that  
16 the State of Alabama violated Title VI of the Civil Rights Act  
17 for the closures of the driver's license offices in the Black  
18 Belt, correct?

19 A I know there was an investigation into that, but I  
20 don't -- I don't have my -- there was a -- the findings I -- I  
21 think the agency and the U.S. Department of Transportation  
22 agreed to enter the MOA to settle all these matters.

23 Q Is that a yes to my question?

24 A Yes.

25 Q You're aware that the DOT asked that the driver's license

1 offices be reopened because they believed that the closures  
2 discriminated against black people in the Black Belt, right?

3 A The offices were already reopened.

4 Q So is that a yes to my question?

5 A The offices were already reopened.

6 Q Let me ask this: You know that the DOT asked that these  
7 offices remain open because they believed that the closures  
8 discriminated against black people in the Black Belt?

9 A Yes. They asked that they remain open, yes.

10 Q And that's because they believe that the closures were  
11 discriminating against the black people in the Black Belt,  
12 right?

13 A Yes.

14 Q You are not aware of any information that contradicts the  
15 DOT's finding that the driver's license office hours reductions  
16 had a disparate impact on black people, correct?

17 A Correct.

18 Q The DOT memorandum of agreement with ALEA represents  
19 ALEA's official position on the issue, correct?

20 A Correct.

21 Q And the memo states that the Department of Transportation  
22 has concluded that African-Americans residing in the Black Belt  
23 region of Alabama are disproportionately underserved by ALEA's  
24 driver's licensing services causing a disparate and adverse  
25 impact on the basis of race, correct?

1 A Yes.

2 MS. ALLEN: Your Honor, if I can have a moment to  
3 confer with co-counsel.

4 THE COURT: You may.

5 BY MS. ALLEN:

6 Q Colonel Archer, just a few more questions.

7 ALEA offices offer voters an opportunity to register to  
8 vote, correct?

9 A Correct.

10 Q Are you aware of a 2016 agreement between ALEA and the  
11 U.S. Department of Justice that requires ALEA to comply with  
12 the federal motor voter law of 1993?

13 A I do.

14 Q If we could pull up the 2016 agreement. Turning your  
15 attention to paragraphs 1 through 4 of the agreement.

16 Do you see that on your screen?

17 A Yes, ma'am.

18 Q And will you read paragraphs 1 through 4 for us, please?

19 A By letter dated September 8, 2015, the United States  
20 notified the State of Alabama that the principal Deputy  
21 Assistant Attorney General for the Civil Rights Division of the  
22 U.S. Department of Justice had authorized litigation against  
23 the State and appropriate State officials to enforce the Motor  
24 Voter provision of the National Voter Registration Act of 1993,  
25 NVRA 52 U.S.C. 20504.

1 Two, the principal Deputy Assistant Attorney General  
2 authorized litigation following an investigation in which the  
3 United States gathered evidence that established noncompliance  
4 with the Motor Voter provision of the NVRA.

5 Number 3, the United States and the State of Alabama share  
6 the goals of ensuring that the requirements of the Motor Voter  
7 provision of the NVRA are met and ensuring that Alabama's  
8 citizens enjoy the benefits envisioned by that provision.

9 4, the United States and the State of Alabama have  
10 negotiated in good faith and hereby agree to this M.O.U. as an  
11 appropriate means to further their shared goals.

12 MS. MESSICK: Your Honor, before she continues, may I  
13 bring the witness some water?

14 THE COURT: Certainly.

15 BY MS. ALLEN:

16 Q Colonel Archer, this is the 2016 agreement that we were  
17 just discussing, correct?

18 The 2016 agreement between ALEA and the U.S. Department of  
19 Justice?

20 A Yes.

21 Q And is this your understanding of how that agreement  
22 operated?

23 A Yes, ma'am.

24 MS. ALLEN: No further questions, Your Honor.

25 THE COURT: All right. Thank you.

1 MS. MESSICK: Is that M.O.U. in evidence?

2 MS. ALLEN: It is not, Your Honor. And we didn't move  
3 to enter it into evidence.

4 THE COURT: Okay.

5 MS. MESSICK: May we have just one minute?

6 THE COURT: You may.

7 REDIRECT EXAMINATION

8 BY MS. MESSICK:

9 Q Colonel Archer, that language that you just read, did the  
10 State of Alabama admit that it was in violation of any federal  
11 law?

12 A No, ma'am.

13 Q Are you aware of any litigation related to that memorandum  
14 of understanding?

15 A No, ma'am.

16 Q Are you aware of any litigation related to the memorandum  
17 of agreement that we have been discussing with the Department  
18 of Transportation and the change in driver's license offices?

19 A No, ma'am.

20 Q Is the M.O.U. with the Department of Justice concerning  
21 the Motor Voter provision of the National Voter Registration  
22 Act still in effect? Is that M.O.U. still active?

23 A I believe so, yes, ma'am.

24 MS. MESSICK: Would you guys mind bringing up the  
25 termination date of that document? Page 14.

1 BY MS. MESSICK:

2 Q Colonel Archer, when does this document say it will  
3 terminate?

4 A This M.O.U. shall terminate three years from its effective  
5 date, unless extended by consent of parties.

6 Q And looking above that, when was its effective date?

7 A Shall be effective immediately upon the execution of the  
8 last signatory.

9 MS. MESSICK: And, John, would you do me the favor of  
10 please showing him when the signatures are?

11 BY MS. MESSICK:

12 Q When is the signature for the United States?

13 A November 12th, 2015.

14 Q And I think there are -- that's page 16 and we have got  
15 several more pages.

16 The Northern District U.S. attorney signed when?

17 A November 12th, 2015.

18 Q The Middle District U.S. attorney signed when?

19 A November 12th, 2015.

20 Q And the Southern District U.S. attorney signed when?

21 A November 12th, 2015.

22 Q And when did the State sign?

23 A November 13th, 2015.

24 Q And another signature for the State?

25 A November 12th, 2015.

1 Q And Secretary Collier?

2 A November 12th, 2015.

3 Q Is this M.O.U. still in effect?

4 A No, ma'am.

5 Q Thank you.

6 THE COURT: All right. Is there any reason I may not  
7 excuse Colonel Archer?

8 MS. ALLEN: None from us, Your Honor.

9 MS. MESSICK: None, Your Honor.

10 THE COURT: All right. Colonel Archer, thank you for  
11 being with us today. You are excused.

12 Mr. Davis, I think you may have told me earlier that  
13 that's the State's last witness for the day, but I confess that  
14 I can't recall.

15 MR. DAVIS: You are correct, Judge. I don't think  
16 anybody should listen to me on guesses of how long things are  
17 going to last. Things went quicker than I expected. We have  
18 no more witnesses today.

19 THE COURT: Well, you will never meet opposition from  
20 me for things going quicker than any lawyer in the room ever  
21 expected.

22 We will recess early today then unless there are matters  
23 we need to take up.

24 MR. DAVIS: I don't think so. I am prepared to tell  
25 the Court how I see the next week unfolding. Again, I don't



CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K Decker

11-15-2024

Christina K. Decker, RMR, CRR

Date

Federal Official Court Reporter

ACCR#: 255