1 IN THE ARKANSAS SUPREME COURT

2 BONNIE MILLER, Individually and on)
behalf of ARKANSAS VOTERS FIRST and)
3 OPEN PRIMARIES ARKANSAS, BALLOT)
QUESTION COMMITTEES,)
4 PETITIONERS,)
) CASE NO.
5 VS.) CV-20-454
)
6 JOHN THURSTON, IN HIS CAPACITY AS)
ARKANSAS SECRETARY OF STATE,)
7 RESPONDENT,)
)
8 ARKANSANS FOR TRANSPARENCY, A BALLOT)
QUESTION COMMITTEE, and JONELLE)
9 FULMER, individually and on behalf)
of ARKANSANS FOR TRANSPARENCY,)
10 INTERVENORS.

11 ----------

12 REPORTER'S RECORD

13 SPECIAL MASTER HEARING

14 VOLUME 4

15 JULY 31, 2020

16 625 MARSHALL STREET, SUITE 101, LITTLE ROCK, ARKANSAS

17 BEFORE THE HONORABLE JOHN FOGLEMAN

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22 Before Dana Hayden, CCR in and for the State of

23 Arkansas, RMR, CRR, CRC, and Tammie L. Foreman,

24 CCR in and for the State of Arkansas, RPR, CRR,

25 Reported in realtime by machine shorthand

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1 I N D E X

2 (VOLUME 4)

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5 Appearances 589

6 Petitioners Rest 617

7 Respondent Rests 618

8 Court Reporter Certification 654

9 WITNESSES IN CHRONOLOGICAL ORDER:

10 PAGE:

(No Witnesses)

11 EXHIBITS FOR THE PETITIONERS:

12

NO.	DESCRIPTION	OFFERED	ADMITTED
22	A Summary of Culled Petition Parts		608
25	A Summary of the number of signatures alleged by Petitioners to be Invalid, with an attachment Intervenors' Objections to Petitioners' Proposed Stipulation	615	621
26	Intervenor Objections to Petitioners' Proposed Stipulation	615	616
26 (later changed to 25)	A Summary of the number of signatures alleged by Petitioners to be Invalid, with an attachment Intervenors' Objections to Petitioners' Proposed Stipulation	614	622

EXHIBITS FOR RESPONDENT:

NO.	DESCRIPTION	OFFERED	ADMITTED
Joint 2	Canvasser Statement Scans and Signature Cards for Ranked-Choice and Redistricting-Redacted	600	602

INTERVENOR EXHIBITS:

NO.	DESCRIPTION	OFFERED	ADMITTED
22	Portion of FBI website regarding background checks		646
26	Certified Documents from the Court of Common Pleas, Pennsylvania, regarding Demetruise Martin	622	624
27	Certified Documents from the Court of Common Pleas, Pennsylvania, regarding Demetruise Martin	622	624
28	Summaries Concerning Josef Bautista and His Petition Parts Regarding Redistricting	628	629
29	Summaries Concerning Josef Bautista and His Petition Parts Regarding Open Primary	630	631
30	Rule 1006 Summary of Anthony Newkirk Petition Part Regarding Redistricting	631	631
31	Rule 1006 summary of Anthony Newkirk Petition Part Regarding Open Primary	632	632

32	Rule 1006 Summary of Demetruise Martin Petition Parts Regarding Redistricting	633	633
33	Rule 1006 Summary of Demetruise Martin Petition Parts Regarding Open Primary	633	634
34	Rule 1006 Summary of Shaqwetta Lee Petition Parts Regarding Redistricting	634	635
35	Rule 1006 Summary of Shaqwetta Lee Petition Parts Regarding Open Primary	635	636
36	Summary of Tyler Merkle Petition Parts for Open Primary	636	636

***** PROCEEDINGS *****

THE COURT: All right. Where do we stand on those exhibits y'all needed to introduce to close out your case?

MR. OWSLEY: So we have -- the parties have circulated, last night and this morning, to each other our summaries of those counts. And the Petitioners -- I believe, also the Redistricting -- want to stipulate to the numbers that we received from you-all on the folks that you-all have challenged. So we have no issue with your count on those.

Obviously we have issue with the introduction of that and the relevance of that, but we don't dispute the signatures that are counted as you relate those in the summary.

Yesterday afternoon, Open Primary circulated to the group and then Secretary of State was able to take a look at some of those; and they have -- based on the things we've identified, they've taken another look at some of their records and they've gone ahead and thrown back into the mix, into the

initial count several of the -- not all but several of the things that we've identified. So Gary, maybe we can talk about what those numbers are as we sit here today.

MR. SULLIVAN: Sure.

MR. OWSLEY: And then maybe about 30 minutes ago, I got a response from the Intervenors on five of our numbers. So we're only five apart at this point. And I think that their counts make sense and I think that we can agree on what those numbers are.

MR. BUTLER: One thing I would say, Your Honor, is that I expect those numbers are correct in terms of the -- you know, the number of signatures for Josef Bautista, but we don't know if some of those might have been challenged for some other reasons.

We're not really here on -- or shouldn't be here on signature challenge. I mean, that's not been pled. They have not -- there's nothing been pled with regard to Redistricting.

THE COURT: That's an issue for another time.

MR. BUTLER: Okay. I guess what I'm saying is, I believe that with regard to Mr. Bautista, those numbers are correct. But I don't know if there might have been some other reasons that they were challenged other than the things that were brought up yesterday, and I just wanted to note that.

THE COURT: Okay.

So Ms. Murray?

MS. MURRAY: Your Honor, I'm looking at the parking lot because our paralegal is on her way with the copies of exhibits for everyone.

THE COURT: Okay.

MS. MURRAY: And I think that Mr. Owsley is correct. We had given them on five petitions, and the major issue was they had calculated based on one reason for culling; and on those five, there was an additional reason also listed. So we couldn't stipulate to their number but told them how it would adjust, and one of them dealt with one of the people in connection with the challenge concerning criminal records. There she is. And I think it was Demetriuse

Martin, wasn't it?

MR. OWSLEY: It was.

MS. MURRAY: And as luck would have it, one of our certified copies have finally come in after a couple of weeks and it is Mr. Martin.

I do need to, on the record, try to straighten out. I'm not sure we have two certified copies. I think we have one, and we, as of this morning, are also probably going to need that over in the casino challenge. So I don't know. Maybe we can get the Court to allow us to borrow it.

MR. OWSLEY: If they have a certified copy of a disqualifying conviction with regard to Martin, we'll --

MS. MURRAY: Okay.

MR. OWSLEY: -- stipulate to that. You don't need to use up your copy.

MS. MURRAY: I don't really know that it's a whole lot of numbers on that.

MR. OWSLEY: I agree.

MS. MURRAY: So we will have those for you and we'll offer those pursuant to 1006, and I presume yours are being submitted to

1006 subject to, I understand, relevancy --

THE COURT: Right.

MS. MURRAY: -- objections.

THE COURT: Whatever y'all are getting ready to introduce into evidence or to give me, does it have the petition numbers?

MS. MURRAY: Yes.

THE COURT: Like, for instance, the ones that are thrown back in, will that have that? Because I've been doing some preliminary work and I don't want to have something wrong.

MS. MURRAY: For our summaries, they are done with the reason and why we are submitting it, and it will have the petition numbers listed.

THE COURT: Okay. Good.

MR. OWSLEY: Your Honor, we have -- our summary has, on the far left column, the petition parts, Bates numbers, the number of signatures we claim to be at issue. And just to update the throwbacks, we haven't updated our list with respect to the throwbacks, but we may be able to do that just by category, naming those people on the

1 record. And maybe we could submit to the
2 Court and, of course, the parties an updated
3 version of this that shows these have
4 already been thrown back by the SOS.
5 THE COURT: As long as I get that
6 Petition Number.
7 MR. OWSLEY: Yeah. It's on there.
8 THE COURT: All right.
9 MS. MURRAY: And ours are here and
10 finished when you're ready and maybe that
11 will show you the format, at least how we
12 have done ours. I know they have seen those
13 before.
14 THE COURT: I think Mr. Sullivan was
15 wanting to say something.
16 MS. MURRAY: I know that on one of the
17 people, he had found a signature card, but I
18 don't know that I read through on other
19 ones.
20 MR. SULLIVAN: Your Honor, there was
21 discussion in court about a canvasser named
22 Whitney Tullgren. Her signature card was
23 not lost. It was always there, but we
24 finally saw it, both the petitioner and
25 the -- she had a total of eight petition

parts with 33 signatures we're throwing back in to be verified. And all of them are on Mr. Ryan's spreadsheet with the petition part numbers.

THE COURT: Okay.

MR. SULLIVAN: There was testimony about canvasser named Carolyn Brinnon, B-R-I-N-N-O-N. She was a volunteer, an unpaid canvasser; therefore, her two signatures should be thrown back in, and they are.

There was confusion about Ronae, R-O-N-A-E, last name Walton or Watson. We have figured out the confusion on that. She has 48 signatures on eight petition parts that will be thrown back in. Those are all identified on Mr. Ryan's spreadsheet.

Jorge Argeta, he has one signature we're throwing back in.

And that is all that we have.

MS. MURRAY: Do you know what petition part on Argeta, which one that is? Because I know the others I think were out because of the --

MR. OWSLEY: I do. I can tell you.

45546.

THE COURT: How many total signatures was that?

MR. SULLIVAN: You want me to do public math again.

MR. KELLY: 84.

THE COURT: 84?

MR. KELLY: You can check me.

MR. OWSLEY: That's what I have, 84.

MR. SULLIVAN: I got 84.

THE COURT: All right. Okay. So is there -- are there exhibits we'll start with Redistricting. Are there exhibits Redistricting is going to admit before you rest?

(Respondent's Exhibit Joint 2 offered into evidence.)

MR. BUTLER: The only other exhibit that we have out there that we need to admit is a joint exhibit -- a Joint Exhibit Number 2 that is being provided by Mr. Sullivan's office. They're redacting it right now. It includes the Redistricting sworn affidavit signature cards, and we intend to introduce that.

MR. SULLIVAN: I believe that was admitted yesterday. We just hadn't redacted it. Was it admitted?

MR. BUTLER: It was admitted and then given back to redact.

MS. MURRAY: Well, and for the record, it's not joint, I don't believe, among all the parties. I think it is a joint offering of the petitioners.

THE COURT: It was a petitioner's exhibit.

THE COURT REPORTER: Joint. We had it as a joint.

THE COURT: Okay.

MR. SULLIVAN: Well, Your Honor, I think the reason we decided to call it joint is because it never had been identified during the trial with a number. So we didn't know what to number it. So it was so much easier to call it Joint 2.

THE COURT: It's only for the record. I mean, it won't be held against anybody by calling it that.

MS. MURRAY: Right.

THE COURT: Won't take it as an

1 admission against the intervenors that it's
2 called that. Okay. So that did -- but
3 that's already in evidence; it just needs to
4 be redacted?
5 MR. SULLIVAN: Yes, sir.
6 (Respondent's Exhibit Joint 2 received
7 into evidence.)
8 THE COURT: Okay. So from the
9 Redistricting standpoint, is that no more
10 testimony, no more exhibits?
11 MR. BUTLER: Correct.
12 THE COURT: All right. From the Open
13 Primaries?
14 MR. OWSLEY: No more testimony; no more
15 exhibits. And I just want to make sure that
16 we all have the same understanding with
17 respect to the signatures that we've all
18 exchanged.
19 If they're going to be a 1006 technical
20 summary where we need to introduce all the
21 petition parts and put the summary on top,
22 or are we just stipulating to the numbers?
23 MS. MURRAY: I believe under 1006, the
24 actual documents do not have to be admitted
25 into evidence. That's because they're

voluminous. And the summary goes in, and it indicates what the documents were that were reviewed and summarized; and if we're not objecting, there's nothing to prove up with the actual documents. That's my understanding in past experience with it -- but if you --

MR. OWSLEY: That's fine.

MS. MURRAY: So if you put your summaries in, we'll put ours in and mark them.

And, Your Honor, just before on that Joint Exhibit 2, those were all the signed statements and all the signature cards, and we had objected based on relevancy.

THE COURT: Right.

MS. MURRAY: But if the Redistricting people and the Open Primary people want to put them all in at this point, I mean, that's our only objection.

THE COURT: Right. I understand.

MR. CRASS: Your Honor, I had a question about Petitioners' exhibit. There was a point where Mr. Gray was using the laptop, and you recall we said we need to identify

that. I think we called it Petitioners' Exhibit 22, but I don't know that we ever got a copy of 22. You know, he went through several canvasser files or --

MS. MURRAY: I think it was Sebastian Rogers where he went one by one, and that is not a part of your summary, I don't think.

MR. OWSLEY: That's correct.

MR. CRASS: That's one reason we raised it because it wasn't in your summary.

MR. OWSLEY: Yeah, we couldn't find his signature card.

MS. MURRAY: Oh. Never mind.

MR. CRASS: I was not clear on how he was going to -- hopefully his notes allow him to decide what's in Petitioner's Exhibit 22 because it wasn't real clear to me.

MR. KELLY: Is it introduced and admitted, or is it just proposed?

MR. CRASS: He was using it -- he was using his laptop to get testimony. He said we're going to identify, for purposes of the record, all those documents as Petitioners' Exhibit 22. And he was going to provide a

copy, as I recall. Maybe he did and I just hadn't seen it.

MR. OWSLEY: I saw he came with several.

MR. CRASS: I think it included more than Mr. Rogers. My notes show it started in the testimony of Mr. Bridges. Some of it he deferred to Mr. Murphy. We'll get you a copy.

THE COURT: I'm making sure it was -- I'm showing it proffered. Yeah, I don't show it. Let me look at yesterday. Day before yesterday, it was not -- it was never admitted. It was admitted for identification purposes.

Okay. Then here -- well, that's Intervenors I'm looking at now.

MR. OWSLEY: I see from the transcript from day two, Exhibit 19 were the Sebastian Rogers.

MR. CRASS: Okay. That's what I have.

MR. OWSLEY: So we don't have that in our summary here.

MR. CRASS: But he started going over -- I've got petition numbers that included --

MR. OWSLEY: 23 are we looking at?

MR. CRASS: Petition numbers where he was showing them the signature cards. It looks like it started with 32429. We just have -- I think we just need to get with Mr. Gray and see if he can identify what he was referencing because it was all via his laptop.

MR. OWSLEY: Right.

MS. MURRAY: Yeah. It was a laptop spreadsheet of the preliminary count, I believe.

THE COURT: Okay. Yes. Mr. Crass asked did we have hardcopies. Mr. Gray said he was going to get a hardcopy, and what was --

MR. OWSLEY: These documents here. I'm trying to --

THE COURT: Okay. And then later on, I went back and I said I want to go back to Mr. Crass's question and said are these hardcopies going to be labeled for identification purposes as some exhibit, and Mr. Gray said yes, as a collective exhibit.

And then he said we'll identify those for the record as Exhibit 22. It was marked for identification purposes.

And do y'all show it introduced into evidence, actually admitted into evidence?

COURT REPORTER HAYDEN: I'm sorry. I was --

THE COURT: That's all right.

COURT REPORTER FOREMAN: Do we show 22 admitted into evidence?

THE COURT: Petitioners.

COURT REPORTER FOREMAN: Petitioners 22.

THE COURT: I show it marked for identification.

COURT REPORTER HAYDEN: It was offered but not admitted. It was offered on 7/29 on Page 318.

COURT REPORTER FOREMAN: That was my belief, too.

THE COURT: I'm not sure it was actually offered. It was identified.

MR. CRASS: Because we didn't actually have it here.

THE COURT: Right.

MR. CRASS: And I don't think we have any problem, Judge, with, you know, getting with Mr. Gray and identifying what is included in 22 and then allowing you to

admit it.

THE COURT: Okay.

MR. OWSLEY: I believe it's back here. It's not -- so, for example, on Page 318 of day two, Lines 4 and 5. So here we're on PDF 1091, and it is Petition Page Number 3971, which is our friend Thung Li that has an interesting signature, and this is that set of documents.

THE COURT: I tell you what. If there's no objection from the parties, y'all go over it at some point and make sure it is what we've talked about because we need to -- we spent a lot of time talking about it and there's a lot of evidence, and it probably ought to be in the record as an exhibit.

(Petitioners' Exhibit 22 received into evidence pending production.)

MR. CRASS: We'll work that out.

THE COURT: Okay. All right. What else?

MR. OWSLEY: We just have our summaries that we've been referring to. And if it's okay with the intervenors, I could just attach your objections that you sent this

morning to my summary, so it's one document.

MS. MURRAY: Read into the record what those five corrections were so that -- the petitions say affect.

MR. OWSLEY: So these, what I'm reading now are Intervenors' objections to the petitioners' proposed stipulations and the category of wrong date. And that's a category referenced in our summary.

They have five counts to which they take a little bit of issue. We're not far off on the numbers here. But Petition Number 36406, petitioners propose the number of other signatures culled per page was nine, and the intervenors said that they could stipulate to eight signatures.

Do you want me to give the reason here or just give the numbers?

MS. MURRAY: Yeah, just in case, so the record is clear. And what we're doing, this is only conditioned if for some reason they were ever to be put pack in the petition for the initial count, we would stipulate to this number. That's not to say they are throwbacks that have been found valid.

MR. OWSLEY: So on this first one here, Petition Number 36406, they've agreed to eight signatures, and the reason for the less signature there, SOS flagged Line 3 for date 7/3/2000. Line 4 has the same date.

The next one is Petition Number 45408. Petitioner proposed the number of other signatures culled per page is eight. The intervenors said they could agree to seven. Lines 3 and 10 had been marked out. The petition started with eight signatures, less the one for the wrong date, brings the total to seven signatures.

MR. KELLY: Slow down.

MS. MURRAY: We're going to give you a copy of that, Judge.

THE COURT: All right. Go ahead.

MR. OWSLEY: Number 346098. That's Petition Number. Petitioners propose the number of other signatures culled per page were six. The intervenors -- I'll just read what their statement is here.

The canvasser on this petition part was Demetriuse Martin. We reserve our objection to its inclusion based on the criminal

history. If the Court rejects that argument, we agree there are six signatures on the petition part once you account for the wrong dates.

MR. OWSLEY: The fourth is Petition Number 42943. Number of other signatures culled per page proposed by the petitioner is eight. The intervenors said they could agree to two signatures. Lines 7 and 8. They could agree to those. However, Lines 1 through 6 were before canvasser registration on June 19, 2020. They say this petition was flagged for both the wrong date and the canvasser not registered before collecting the signatures.

And the final Petition Number here is 38135. Petitioners proposed the number of other signatures culled at nine, and the intervenors said they could agree to eight. SOS marked Line 5 as May 26, 2020. The canvasser was registered on June 10, 2020. And Line 8 was also May 16, 2020.

Other than those five, it's my understanding that the intervenors stipulate to the signatures -- the signature count

that we have proposed here in our document.

To be clear, what my understanding is -- and I'm am sure I'll be corrected if I'm not stating this accurately -- we're agreeing to the number of signatures on the page, not to whether they ought to be thrown back in and so on.

THE COURT: The number of signatures -- let me give an example, to make sure as I understand. What you're stipulating to is say a page has one with a date after the verification date. The number y'all are talking about are the number that had the right date, say, or an appropriate date?

MR. OWSLEY: That's true with respect to the wrong date category.

MS. MURRAY: Right.

MR. OWSLEY: There are other categories that pertain to a canvasser, all the documents by that canvasser.

THE COURT: Right. Right, right.

MR. OWSLEY: So that goes to all the signatures on that petition.

MS. MURRAY: And I think on his summary, if that sheet is attached, that will give

you those explanations. I appreciate you attaching that.

MR. OWSLEY: I just want to say for the record, of course, we maintain our objection to the introduction of this other evidence and so by attaching it, this is just trying to be helpful to the intervenors and the Court. We've not waiving our objection to that.

MS. MURRAY: Are you accepting our corrections?

MR. OWSLEY: Well, some of these are reasons the Secretary didn't count, and that's part of our procedural kind of posture argument.

So, for example, the first one here, Petition Number 36406 proposed eight. You stipulated -- I'm sorry. We proposed nine; you stipulate to eight, and the explanation is SOS flagged Line 3 for date 7/3/2000.

And then you add -- Line 4 is the same date, but the Secretary didn't toss that signature and so we would maintain -- I agree that's what it says on the petition page. But then the Secretary hadn't made a

1 decision with respect to that. We want to
2 maintain our procedural argument regarding
3 these proceedings. And if we're wrong on
4 that, then your number is going to be good
5 enough.
6 MS. MURRAY: Okay.
7 THE COURT: All right. So should these
8 summaries be marked as an exhibit, just the
9 next exhibit number?
10 MS. MURRAY: I believe they will mark
11 theirs as, I guess, Petitioners or just
12 whichever petitioner exhibit. I think these
13 all dealt with Open Primary.
14 MR. OWSLEY: Correct.
15 (Petitioners' Exhibit 26 (later changed
16 to 25) offered into evidence.)
17 MS. MURRAY: And so they would mark
18 those as whatever the next petitioner number
19 is and move for its admission.
20 THE COURT: All right. What number are
21 we to on Petitioners?
22 COURT REPORTER FOREMAN: 26, I believe.
23 THE COURT: All right. Mark it 26.
24 And, Mr. Sullivan, do I understand you
25 have no objection?

MR. SULLIVAN: I have no objection. I just want to make sure the record is very clear that nobody is agreeing that those get thrown back in. That's just the number that would get thrown back if the petitioners are successful in their constitutional challenge.

THE COURT: Right.

MS. MURRAY: If you would like, I'll introduce that as one of our exhibits so that someone looking at the record who hasn't lived through the past three days will understand those are our corrections is what it was really.

MR. CRASS: So when you mark it, make it clear that's what you had him read into the record.

MS. MURRAY: Right. Right.

(Petitioners' Exhibit 26 offered into evidence.)

MR. OWSLEY: So I've got here, I've got Intervenors' Objections to Petitioners' proposed stipulation attached to what we've marked here --

MS. MURRAY: All right.

MR. OWSLEY: -- first for identification as Exhibit Number 26, Petitioners' Exhibit 26.

MS. MURRAY: Well, I think that will take care of it, if it is stapled to it as Page 3 or whatever.

THE COURT: All right.

MR. SULLIVAN: Your Honor, to make it even more clear for the record. Should the Petitioners be successful on their constitutional challenge and these are the agreed numbers that are thrown back, they still have to be verified. They are not going to be counted until they are verified as registered voters, if we find they were registered at the time they signed.

THE COURT: I'm not going to get into the interpretation of the constitution. That's not what I'm here about. That will be up to a higher power to decide that issue.

So I am going to admit Petitioners' Exhibit 26 based on the statements that have been made by all parties here.

(Petitioners' Exhibit 26 received into

evidence.)

THE COURT: And for the record, it consists of one, two, three, four -- four pages plus a fifth page, which is the Intervenors' Objections to Proposed Stipulations.

MS. MURRAY: I'm sorry. Did you include what we had given you on the culled sheet --

MR. OWSLEY: On your --

MS. MURRAY: -- on our objection?

MR. OWSLEY: I only had one PDF that I received. I received that top sheet.

MS. MURRAY: Okay.

MR. OWSLEY: I don't disagree with the --

MS. MURRAY: We'll leave it.

THE COURT: Before we get to you, Mr. Butler, did you have anything else before we close the Petitioners' case?

MR. BUTLER: No.

THE COURT: So the Petitioners rest?

MR. OWSLEY: Yes, Your Honor.

(Petitioners rest.)

THE COURT: Mr. Sullivan, do you have anything from the Respondent? Do you want

to call any witnesses, or are you ready to rest?

MR. SULLIVAN: Respondent rests.

(Respondent rests.)

THE COURT: All right.

Ms. Murray?

MS. MURRAY: Your Honor, we do have some exhibits and we'll begin with, first of all, following up on what we talked about yesterday.

In connection with Mr. Demetriuse A. Martin, we received after some time, we have the Court of Common Pleas of York County on two of his criminal matters that were discussed and examined yesterday. One of them had a docket number of CP-67-CR-006050-2004, and the next was CP-67-CR-0005945-2005.

We have certified copies of the criminal docket in those matters that I'll let Mr. Owsley and everyone, let you-all look at, and let me give you copies.

And on one of them, the certification is on Page 3. That's why I have the page turned back. The other one, the

1 certification was on the front page; I don't
2 know why.
3 THE COURT: And while these are being
4 passed out, I wanted to compliment all
5 parties for fulfilling my wish to get things
6 moving along this morning.
7 MR. BUTLER: It just appears to me that
8 this is a docket sheet from a -- I don't
9 know anything about the Court of Common
10 Pleas in York County, but there's some
11 indication that it appears to me or looks to
12 me like what we would call a district court.
13 There is on some of the fees that are
14 associated with this, on the financial
15 information listed on the back page, it
16 looks like some sort of misdemeanor court.
17 So I don't know what is being offered to
18 indicate whether it's a certified conviction
19 of a felony conviction.
20 I don't -- I mean, to me there appears
21 to be some question in that regard. I don't
22 know if it's because it's an entry of a
23 misdemeanor, but to me it appears it might
24 be a misdemeanor.
25 MS. MURRAY: I think Mr. Martin has

several misdemeanor things, but this was involving these two counts and that he entered a plea of guilty to these both, and they were felonies, these two docket numbers.

MR. OWSLEY: Ms. Murray, that's what I see on Page 3 of 9.

MS. MURRAY: Which one are you on? On '04 or '05?

MR. OWSLEY: '05. Maybe I need to go to '04 then. On '05 it appears to be a misdemeanor theft by deception - false impression.

MS. MURRAY: On '05?

MR. OWSLEY: Yes.

MS. MURRAY: And I think the false impression are the misdemeanor ones that Arkansas forbids, and I think the other one is a felony. Two different ones.

MR. OWSLEY: You're saying '04 is a felony?

MR. BUTLER: What docket number are you saying?

MS. MURRAY: I'm being corrected in one part. Hold on one moment.

THE COURT: The document that was just introduced from the Petitioners as -- we said 26. It needs to be 25, so I've changed it to 25.

(Petitioners' Exhibit 25 received into evidence.)

MS. MURRAY: Your Honor, if I could explain. Both of these are in a category of the misdemeanors that would disqualify, which under our statute are election laws, fraud, forgery, or identification theft in any state of the United States.

He has testified deception - false impression, guilty of theft. He intentionally withheld property of another by deception, and that's under Pennsylvania law. That is Title 18, Section 3922 Pa. Crimes Code.

And then on his -- and I think they both meet that. They both meet that criminal code or part of that criminal code, and that's to show you that it's much the same as the type of categories of misdemeanors that the Arkansas legislature has designated as disqualifying.

(Intervenors' Exhibit 26 offered into evidence.)

(Intervenors' Exhibit 27 offered into evidence.)

THE COURT: All right. Any objection to 26 and 27?

MR. OWSLEY: Your Honor, I don't have any objection to the admission of the documents. It does appear to be a certified copy of the criminal docket. So in that regard, I wouldn't have any objection with regard to authentic and hearsay.

And while I agree that theft by deception - false impression sounds very fraud-like, I don't know what the criminal code there contains.

They've been generous with regard to the clearing up Petitioners' Proffered Number 22. I'm happy to return the favor by -- if they want to give to the Court the criminal statute that shows the elements on that.

MS. MURRAY: And that is what I was just reading. Let me make a suggestion just for more all-encompassing than this.

What we would propose to do -- and it's

been done in other masters, not just in the ballot challenges -- is to submit to you maybe Wednesday morning proposed findings of fact and conclusions of law; and in that conclusion of law, we would cite to the statute in there. And if -- we'll be happy to give you a copy of it.

THE COURT: I know that other masters have made conclusions of law. My charge is to resolve disputed facts. The Supreme Court might have even wanted me to make some conclusion of law, but that's not what they told me to do.

MS. MURRAY: That's -- and, Your Honor, I know that's up to your interpretation. I think that to make sense of your findings, though, it sometimes helps to have it in connection with the issues surrounding this statute or this.

THE COURT: Right.

MS. MURRAY: Here's what --

THE COURT: My thought was -- and I would appreciate your briefs, but my thought, for instance, on these, let me just tell you a few things that I see.

Just at a cursory examination of it is, of course, they're admitted. I'm admitting them as 26 and 27. And what I'm seeing is it appears to be a misdemeanor.

(Intervenors' Exhibit 26 received into evidence.)

(Intervenors' Exhibit 27 received into evidence.)

THE COURT: For instance, the docket that ends in 2004, it's got -- by grade, it's got a M1. I don't know exactly what that means, but on some of the documents showed yesterday from -- I think from Pennsylvania, on some things had an F by some numbers, which would, to me, suggest felony. It has M1. It also shows the minimum and maximum sentence as no more than a year, which typically would be a misdemeanor.

One thing I note on this one is I don't see any jail time or fine. Under Arkansas law, if somebody is put on probation and there's no fine and no jail time, then it's not considered a conviction.

Now, it might be under election laws,

but that would be a decision for the Supreme Court, whether or not it would be considered disqualifying for that one.

The other one does show confine meant. The 2005 does show confinement. But again, in my view, based on the charge given me, I would not be saying this is disqualifying.

I would be saying this is what the facts are; Supreme Court, if you find it to be disqualifying, here's the result. That's the way I -- in my mind I would be perceiving it.

MS. MURRAY: Your Honor, I notice that on page 9 of 9 --

THE COURT: Which one?

MS. MURRAY: On 2004. I think this is 26; is that correct?

THE COURT: Yes.

MS. MURRAY: On Intervenors' Exhibit 26, on the page 9 of 9, there was over $3,000 worth of restitution total. Actually, it looks like it was over 5,000 at the end in this certified document.

THE COURT: Right.

MR. KELLY: It does look like he had

1 confinement on Page 3 of 9 of that same one,
2 on 11/28/2007 for 289 days.
3 MS. MURRAY: Correct.
4 THE COURT: It looks like perhaps his
5 probation was revoked.
6 MS. MURRAY: Correct.
7 THE COURT: These are -- these dockets
8 are horrible for outsiders to look at. But
9 I'll be making findings of fact related to
10 that.
11 And I would appreciate in your proposed
12 findings including the numbers where I can
13 say to the Supreme Court, if you find it
14 disqualifying, here's the result.
15 MS. MURRAY: Here's the result. We will
16 do that, Your Honor.
17 THE COURT: Okay. All right.
18 MS. MURRAY: With that, we would move
19 for the admission of Intervenors' Exhibits
20 26 and 27.
21 THE COURT: And I have received them.
22 MS. MURRAY: And, Your Honor, we would
23 like permission. We have given colored
24 copies of this document to everyone, but we
25 would like for the record to show that,

based on having examined the original, that we be permitted to keep the original of the certified copy for use in another ballot challenge that was filed and has been --

THE COURT: I will allow you to substitute copies for these. And don't forget, the court reporter needs a digital copy of all.

MS. MURRAY: We intend to. We failed, and I apologize. Our exhibits yesterday, we did not get our digital copies to everyone, but we will. I'm hoping what we'll be able to do is send you with an exhibit list, with our exhibits, and then a new digital copy of just all of them in order, if that would be helpful.

THE COURT: That would be helpful, I'm sure. I can't speak for the court reporter; I would think so.

MS. MURRAY: I don't know if that helps for your records or not, or confuses it more. I'm sorry if it does.

THE COURT: We go back to the copy machine thing? Because I thought these were the originals.

(Discussion off the record.)

MS. MURRAY: Your Honor, we are going to do these three summaries affect both Redistricting and a separate summary then on how it affects Open Primary. So we are going to start with that -- the information, the summaries concerning Josef Bautista and his petition parts, and we have marked that as Intervenors' Exhibit 28. I didn't get the "Intervenors" written but it's Intervenors.

(Intervenors' Exhibit 28 offered into evidence.)

MS. MURRAY: And, Your Honor, we would introduce this and all our following exhibits pursuant to the Uniform Rules of Evidence or Arkansas Rules of Evidence, the uniform rules, Rule 1006. This is a summary of his petition -- Mr. Bautista's parts where he was noted as the canvasser.

As you know, we've challenged because he used a post office address, where his post office box is located, as his domicile address; and this will be a summary of the preliminary count, the initial count, his

signatures that were included in the initial count for Redistricting, and we would move for the admission of this into evidence.

THE COURT: All right. Any objection for the Redistricting, Mr. Butler?

MR. BUTLER: I mean, I would just renew all my previous objections about it. I mean, I don't think that we're here on a signature count or signature issue with regard to --

THE COURT: You need to speak up.

MR. BUTLER: I don't think we're here with regard to signature issues on Redistricting, and I would renew all my objections about that. I don't think they -- I don't think they've pled anything on any of that, so I would renew my objection.

THE COURT: All right. I am going to receive it as exhibit 28.

Mr. Sullivan, I assume you have no objection.

MR. SULLIVAN: That's correct.

(Intervenors' Exhibit 28 received into evidence.)

MS. MURRAY: Your Honor, since he mentioned signatures, I think this goes to his registration, the validity of his registration. We would then go to what we'll mark as Intervenors' Exhibit 29.

THE COURT: And this one is Open Primary.

(Intervenors' Exhibit 29 offered into evidence.)

MS. MURRAY: And this, Your Honor, is a Rule 1006 summary of Mr. Bautista's petition parts and the count of his signatures in the initial count for the Open Primary proposal. And we would move for the admission of this into evidence of a summary of those petition parts and the preliminary count, the initial count inclusion of the signature.

THE COURT: Mr. Owsley, any objection? I know you object to considering this as an issue, but any objection to the count?

MR. OWSLEY: No, Your Honor.

THE COURT: The summary?

All right. I am going to receive it for what it is as a summary as Intervenors' Exhibit 29.

(Intervenors' Exhibit 29 received into evidence.)

(Intervenors' Exhibit 30 offered into evidence.)

MS. MURRAY: Your Honor, next we have Exhibit 30, which is a Rule 1006 summary of Anthony Newkirk petition part, when we have challenged his inclusion because of the criminal history and on the Redistricting. Exhibit 30 is the summary of the petition parts and the signatures -- the unvalidated signatures included in the initial count. We'd move for its admission.

THE COURT: All right. Mr. Butler?

MR. BUTLER: I just renew my objection. I am not objecting to whatever the number is; I'm just renewing all my other objections.

THE COURT: All right.

Mr. Sullivan, no objection?

MR. SULLIVAN: No objection.

THE COURT: It will be received as Exhibit 30, Intervenors' Exhibit 30.

(Intervenors' Exhibit 30 received into evidence.)

(Intervenors' Exhibit 31 offered into evidence.)

MS. MURRAY: Your Honor, we would offer at this time what is marked as Exhibit 31 which is a summary of Mr. Anthony Newkirk's petition parts in the Open Primary, including the petition part and the number of signatures the Secretary of State included in the initial count. We would offer Exhibit 31 as Intervenors' Exhibit 31 into evidence.

THE COURT: Mr. Owsley?

MR. OWSLEY: No objection to the accuracy of the numbers. I maintain the objection on relevancy.

THE COURT: All right. And Mr. Sullivan, no objection?

MR. SULLIVAN: No objection.

THE COURT: All right. Exhibit 31 will be received. As a summary and related to numbers and not necessarily whether or not the challenges to Mr. Newkirk is valid or not or appropriate.

(Intervenors' Exhibit 31 received into evidence.)

(Intervenors' Exhibit 32 offered into evidence.)

MS. MURRAY: Your Honor, next on behalf of Intervenors, we would offer Intervenors' Exhibit 32, which is a Rule 1006 summary of Demetruise Martin petition parts and the number of signatures included in the initial count by the Secretary of State in Redistricting as Exhibit 32.

THE COURT: Mr. Butler, any objection other than that previously stated?

MR. BUTLER: No, Your Honor.

THE COURT: Mr. Sullivan, any objection?

MR. SULLIVAN: No objection.

THE COURT: All right. It will be received as Intervenors' Exhibit 32.

(Intervenors' Exhibit 32 received into evidence.)

(Intervenors' Exhibit 33 offered into evidence.)

MS. MURRAY: Your Honor, we would offer Intervenors' Exhibit 33, which is a Rule 1006 summary of Demetriuse Martin petition parts for the Open Primary proposal, including the petition page number

and the number of signatures the Secretary of State included in the initial count.

THE COURT: All right. Mr. Owsley, other any that previously stated?

MR. OWSLEY: No, Your Honor.

THE COURT: Mr. Sullivan?

MR. SULLIVAN: No, Your Honor.

THE COURT: All right. Exhibit 33 will be received as a summary of Mr. Martin's petition parts in the Open Primary issue.

(Intervenors' Exhibit 33 received into evidence.)

(Intervenors' Exhibit 34 offered into evidence.)

MS. MURRAY: Your Honor, at this time, Intervenors would offer Intervenors' Exhibit 34, which is a Rule 1006 summary of Shaqwetta Lee's petition parts for Redistricting, which indicates the petition part numbers and the preliminary count of signatures included in the initial count by the Secretary of State. And it's marked as Intervenors 34. We would move for its admission.

THE COURT: Mr. Butler?

MR. BUTLER: No other objections other than the ones that were previously stated, Your Honor.

THE COURT: All right. Mr. Sullivan?

MR. SULLIVAN: No objection.

THE COURT: All right. Exhibit 34 will be received as a summary related to that particular canvasser in Redistricting.

(Intervenors' Exhibit 34 received into evidence.)

(Intervenors' Exhibit 35 offered into evidence.)

MS. MURRAY: Your Honor, Exhibit 35 on behalf of the Intervenors is a Rule 1006 summary of Shaqwetta Lee petition parts for the Open Primary proposal indicating the petition part numbers and the number of signatures the Secretary of State included on those petition parts in the initial count. We would move for its admission.

THE COURT: Mr. Owsley, any objection other than previously stated?

MR. OWSLEY: No, Your Honor.

THE COURT: Mr. Sullivan?

MR. SULLIVAN: No objection.

THE COURT: All right. Intervenors' Exhibit 35 will be received.

(Intervenors' Exhibit 35 received into evidence.)

(Intervenors' Exhibit 36 offered into evidence.)

MS. MURRAY: Your Honor, we also have an Exhibit Number 36, Intervenors' Exhibit 36, which is a summary of Tyler Merkle petition parts for Open Primary. I don't believe we found him in the Redistricting. So Exhibit 36 -- Intervenors' Exhibit 36 is a summary of the Tyler Merkle petition parts and the count on those petition parts. We would move for this admission of the summary.

THE COURT: Mr. Owsley, any objection other than that previously stated?

MR. OWSLEY: No, Your Honor.

THE COURT: Mr. Sullivan?

MR. SULLIVAN: No, Your Honor.

THE COURT: All right. Exhibit 36 received.

(Intervenors' Exhibit 36 received into evidence.)

MS. MURRAY: And I am going to give all

these back to the back table.

Your Honor, I believe that concludes all of the intervenors' evidence that we would submit, and we would rest. Wait. Did you have something?

MR. KELLY: No. Other than you're going to substitute in some certified copies of criminal convictions that we haven't gotten yet.

MS. MURRAY: Well, that's the only thing. I don't know that we will get those other certified copies of what we gave you. If they arrive this afternoon or tomorrow, we would like to leave the record open at least a couple more days to see if we get those in.

I understand the record probably will have to stay open on the validation that's going on by the Secretary of State of the -- the provisional validation. In just casual conversation this morning, I'll let Mr. Sullivan speak to it, but they have not concluded the provisional count.

THE COURT: Now, is the provisional count the one where you're verifying

signatures and that sort of thing?

MR. SULLIVAN: We use that term for more than one thing. I think Ms. Murray is talking about the verification that we're doing right now.

MS. MURRAY: The Supreme Court ordered them to see if those are registered voters. That would eventually only count toward the cure if they are qualified later for a cure. But it was in the order of everything in front of you. And I remember in our first conversation, you had mentioned something about whether they're entitled to a cure, if that's --

THE COURT: Of course, after looking further at those cases, it looks like there may be several layers to this. There's a first layer where, as I understand it -- and y'all feel free to correct me. The Secretary of State's office makes an initial count simply from the facial validity. And if they don't have enough signatures facially, then you don't go any further.

If you've got enough facially, then you go and verify signatures and that sort of

thing, and the 75 percent number and the number of counties to determine whether or not there's a cure. Am I correct on --

MR. SULLIVAN: Yes, Your Honor. That's correct.

THE COURT: Okay. And as I understand it, what I'm dealing with is basically step one. Step one.

MR. BUTLER: Right.

MR. OWSLEY: That's our understanding.

MR. BUTLER: Agreed.

MR. SULLIVAN: That's my understanding, too, Your Honor.

MS. MURRAY: On the initial, whether -- well, lest we forget the certification that appeared on the various --

THE COURT: Well, in my view, that's part of step one.

MS. MURRAY: Okay.

THE COURT: Because it's clear that if the certification is inadequate, the statute is clear you don't count them for any purpose, which would include the facially validity.

MS. MURRAY: Correct.

THE COURT: All right.

MS. MURRAY: I think I did have a question on the initial count. I know that it was not satisfied by the Secretary of State review for the Open Primary statewide.

THE COURT: Right.

MS. MURRAY: Was there any count done on the counties or broken down by the counties?

MR. SULLIVAN: I don't know.

MS. MURRAY: That was my other question, because you have to hit both. And I know they did not hit the statewide.

MR. SULLIVAN: It was not reported to me that that was an additional reason; I know that.

MS. MURRAY: All right.

THE COURT: Of course, we're not -- it's my understanding that's not part of what I'm here about. Is there -- Mr. Butler, is there an objection to leaving the record open a day or two about these purported certified copies?

MR. BUTLER: I don't have an objection to that more than just a day or two. We're still trying to get the Joint Exhibit 2 --

what we're calling Joint Exhibit 2. It's been entered. We're still trying to get it redacted and turned in. So it wouldn't be fair of me to cause too much trouble to that. So I don't have an issue with one or two days.

THE COURT: Mr. Owsley?

MR. OWSLEY: I have no objection, Your Honor.

THE COURT: All right. Mr. Sullivan?

MR. SULLIVAN: No objection.

THE COURT: All right. I'll leave the record open through the end of Monday.

MS. MURRAY: Right. And Your Honor, we brought those over this morning, and I don't believe we have gone through and removed -- if we need to remove some birth dates or anything like that on the ones we send to you later today or in the evening, we will have those redacted on the Court of Common Pleas of York County, the two Exhibits 26 and 27.

THE COURT: All right.

MS. MURRAY: And the only other, we have a supplemental brief in support of the

1 response to petitioners' scope of review,
2 burden of proof. And I'd like to give you
3 that and the parties, at this time hard
4 copies. I think we also e-mailed it, but
5 that was -- I don't know if that's been done
6 yet.
7 THE COURT: I got -- I read -- I don't
8 remember it being this -- oh, this has law
9 attached to it.
10 MS. MURRAY: Yes, Your Honor: Actual
11 law.
12 THE COURT: I actually believe I read
13 the brief part this morning.
14 MS. MURRAY: It might have been updated
15 one more time.
16 THE COURT: It feels a little longer.
17 MS. MURRAY: I wonder if we can -- Your
18 Honor, we have pulled up that Pennsylvania
19 statute that everyone was worrying about.
20 I'm wondering if we could ask Ms. Steen if
21 we could e-mail it to her and get copies of
22 that and offer that to you before we close
23 for the day here.
24 THE COURT: I will take judicial notice
25 of whatever the law is of the state of

Pennsylvania. You may want to, after she -- e-mail it to the lawyers first and let them look at it and satisfy themselves that it is, in fact -- I mean, I can look myself to see what it is. But I am going to take judicial of the laws of whatever states are involved.

MR. BUTLER: Are you talking about on Demetriuse Martin.

MS. MURRAY: Yes. Yes.

THE COURT: All right. Anything else?

MS. MURRAY: Evidently not, Your Honor.

MR. CRASS: I actually -- this will bug me the rest of my life, Judge, if I don't raise it.

THE COURT: Okay.

MR. CRASS: Exhibit 22 yesterday we proffered, and I understood the witness couldn't identify it.

But one of the objections that Mr. Owsley made was that the internet address was different than the internet address on Exhibit 17. You recall the form ASP-122 gave the applicant notice of how to obtain an FBI criminal investigation. And I

was offering Exhibit 22, Intervenors' Exhibit 22, because I thought the link from 17 went to 22, and I flippantly said the addresses were close enough.

THE COURT: Right.

MR. CRASS: Well, if you actually go in -- and I'll represent to the Court I've done it twice. If you type in the address for the FBI website on Exhibit 17, Exhibit 22 comes up.

MS. MURRAY: That's how you got it.

MR. CRASS: Although it has a slightly different address at the bottom of Exhibit 22, it is the link. So I just wanted the record to be clear. I didn't make that point yesterday. I was inappropriately flippant. So if the Court would indulge me and let me reoffer 22 with that connection to an admitted Exhibit 17.

MR. OWSLEY: Your Honor, if I may, just in fairness to Mr. Crass, if he represents that that's where it goes, then I withdraw my part of that objection. But I maintain the other two, authenticity and hearsay.

MR. CRASS: I'll sleep better.

THE COURT: Okay. Let me go back and reread this real quick. All right. From my look at the testimony in Mr. Crass's examination, the witness said never seen it before, that she does see at the bottom where it says www.fbi.gov and she doesn't have any reason to believe it's not something that was printed off from the website, and then she said she really hadn't heard of this identity history summary check.

Then Mr. Crass reads off the form. And there's a question, "Do you contend the identity history summary is not the same thing as a federal background check, and then there's an objection. A little back and forth and Mr. Crass makes his comment, and I told him he was playing baseball. And I sustained the objection, and then we moved on.

MR. CRASS: It seems to me, Your Honor, since the link is in an exhibit that is admitted, I don't know if the Court can take judicial of a government website or not to authenticate it, but it seems to me it's

1 relevant because they're contending that
2 it's not possible through the state police
3 to obtain an FBI background check.
4 And through links, it's clearly
5 possible. Whether that's the way the
6 statute contemplates, Mr. Owsley can argue
7 about that. But it seems to me that given
8 that they're linked together via the World
9 Wide Web that it should come in.
10 THE COURT: I am going to admit it, but
11 not for the truth of the matter. It was a
12 document used to cross-examine a witness,
13 and I am going to admit it for that purpose.
14 You know, from what I've been reading in the
15 paper these days, people don't believe the
16 FBI tells the truth all the time, so I can't
17 take it as the truth of the matter asserted
18 without more proof. So -- but I am going to
19 admit it for -- that it came off the web and
20 it purported to be from the website.
21 (Intervenors' Exhibit 22 received into
22 evidence.)
23 MR. CRASS: Thank you for letting me
24 take it up. Sorry for the delay.
25 THE COURT: That's all right.

MR. OWSLEY: Your Honor, one more thing. Mr. Crass bringing that up reminded me of the need to kind of tie the loop on what we've proffered as Number 22.

THE COURT: Are you talking about his 22 or your 22?

MR. OWSLEY: Sorry. Of Petitioners' 22 that Mr. Gray was going through on his laptop. He went through it with, I believe, Mr. Bridges and with Mr. Murphy. We are going to get them copies of it.

I want to clarify two things. One, the stipulation that we have reached with respect to the wrong date category and what was initially marked as Petitioners' 26 and then now 25, that is in addition to the testimony of wrong dates from Mr. Bridges and from Mr. Murphy. They went through and proffered Exhibit Number 22.

And if we're going to hold the record open for the -- to see whether additional certified records come in, I wonder if we could do the same with respect to a summary may be best for everybody, give a summary of the petition parts and the signatures of

that testimony, or we just go off of the --

THE COURT: You're referring to 22?

MR. OWSLEY: Yes.

MS. MURRAY: If you'd like to put it together like you do the other, we can do that. I think it will probably be easier for the parties and, more importantly, for the Master and for Supreme Court rather than having to -- because otherwise, we'll need to link back every time in our brief.

THE COURT: Right.

MS. MURRAY: To that testimony.

THE COURT: 22 needs to be in before the end of Monday. The summary, as far as I'm concerned, can be -- -can come a day later if it's just a summary.

MS. MURRAY: I think if he wants it into evidence, if he can pull it together even over the weekend, we'll get it.

MR. SULLIVAN: I have a question. That exhibit addressed other counts besides Sebastian Rogers?

MR. OWSLEY: I believe it does. I think it also includes Thung Li. There was a signature on -- those kind of things.

MR. SULLIVAN: I believe you-all have agreed Sebastian Rogers didn't have a signature card.

MR. OWSLEY: Yeah, we can't find his signature card so that's why we didn't put him on the other piece because we didn't expect you-all would stipulate to that.

MS. MURRAY: To Sebastian?

MR. OWSLEY: Yeah.

MS. MURRAY: So for the record, Sebastian Rogers stays out of the initial count.

MR. OWSLEY: Well, I don't want to concede that, but --

MR. SULLIVAN: For lack of a signature card, if there isn't one.

MR. OWSLEY: The reason we didn't put him in the chart is because we didn't think it was reasonable to ask y'all to stipulate to that. But we want to maintain that. That was part of the testimony, and we'll argue that up.

MS. MURRAY: Okay.

THE COURT: All right.

MR. CRASS: Judge, thanks for your

patience.

MS. MURRAY: Appreciate you.

THE COURT: I appreciate y'all's patience with me as I learned a little bit. Okay. Anything else from the Open Primary petitioner?

MR. OWSLEY: No, Your Honor.

THE COURT: Redistricting?

MR. BUTLER: No, Your Honor.

THE COURT: Secretary of State's office?

MR. SULLIVAN: Yes, Your Honor. I just realized I have not provided the court reporter with a redacted copy of Respondent's Exhibit 2, which I will do today, in addition to the Joint Exhibit 2 that we talked about earlier.

THE COURT: All right. And from the Intervenors?

MS. MURRAY: Nothing further.

MR. CRASS: I think we do owe them some electronic exhibits from your examination.

MS. MURRAY: I told them we would give them an exhibit list and all of that from yesterday.

THE COURT: So I don't have to deal with

1 those stacks over there?
2 MR. SULLIVAN: That's what is going to
3 be on the drive for Joint Exhibit 2.
4 THE COURT: Okay. All right.
5 MR. SULLIVAN: You don't have to deal
6 with these. These don't go anywhere.
7 THE COURT: All right. I would really
8 love to have your findings of fact earlier
9 than Wednesday. But with these two days of
10 suppression hearings that I've got on
11 Thursday and Friday, I probably wouldn't be
12 able to do a whole lot between whenever you
13 got me proposed findings even if it were on
14 Tuesday until the weekend anyway.
15 So Wednesday 5:00 is fine to have
16 proposed findings of fact and whatever
17 additional briefing y'all want to give. I
18 will say that I'm not going to wait for your
19 proposed findings to go ahead and -- in
20 fact, I've been working all along on some --
21 at least some preliminary thoughts about
22 findings, and I'll be going back over those.
23 But I'll continue to develop and to work on
24 my own findings.
25 But I do really want y'all to look at

1 those findings and keep in mind, there are
2 big questions of law and fact. And the
3 Supreme Court has said that if it is
4 undisputed as to what the fact are, it's a
5 question of law.
6 If there is reasonable dispute or you
7 can draw more than one inference from
8 undisputed facts, then it is a question of
9 fact. So keep that in mind on your proposed
10 findings and what y'all want me to do.
11 MR. OWSLEY: Your Honor, would you
12 prefer us e-mail that to you in Word or PDF
13 or both?
14 THE COURT: Word. I'd prefer it in
15 Word.
16 MS. MURRAY: All right.
17 THE COURT: And if what I just stated is
18 my understanding of the law about what are
19 questions of fact, I'd welcome those. What
20 I just said is based on *Little Rock School*
21 *District of Pulaski County versus Celotex*
22 *Corporation*, 574 S.W. 2d 669, 264 Ark. 757.
23 MR. BUTLER: What were the last three
24 numbers?
25 THE COURT REPORTER: 757.

THE COURT: Thank you. I had already forgotten.

All right. Anything else?

MR. OWSLEY: Nothing further from the Petitioners, Your Honor.

THE COURT: All right.

MS. MURRAY: Thank you.

THE COURT: We're adjourned.

(Proceedings concluded at 11:52 a.m.)

COURT REPORTER CERTIFICATION

We, Dana Hayden and Tammie L. Foreman, Certified Court Reporters in and for the State of Arkansas, Certified Realtime Reporters, do hereby certify that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter.

Dated this 31st of July, 2020

TAMMIE L. FOREMAN ARKANSAS SUPREME COURT No. 305 CERTIFIED COURT REPORTER

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