

Exhibit B to *Hale v. Lee* Complaint



IN THE CHANCERY COURT OF TENNESSEE
FOR THE TWENTIETH JUDICIAL DISTRICT

AKILAH MOORE, TELISE TURNER, and GARY
WYGANT,

Plaintiffs,

v.

CASE NO. 22-0287-IV

WILLIAM LEE, as Governor of Tennessee, in his
official capacity; TRE HARGETT, as Tennessee
Secretary of State, in his official capacity; and
MARK GOINS, as Tennessee Coordinator of
Elections, in his official capacity,

Chancellor Perkins
Chancellor Maroney
Judge Sharp

Defendants.

AFFIDAVIT OF LINDA PHILLIPS

State of Tennessee
County of Shelby

I, Linda Phillips, do hereby state as follows under penalty of perjury:

1. I am the Administrator of Elections for Shelby County, Tennessee. I have held this position since May 2016. I am over the age of eighteen years, and I am competent to testify in the matters set forth herein.

2. I am appointed by the Shelby County Election Commission and am the chief administrative officer of the Commission responsible for the daily operations of the Office and the execution of all elections in Shelby County. Many of my statutory duties are set forth in Tenn. Code Ann. § 2-12-201. The Shelby County Election Commission has 17 full-time and 42 part-time employees.

3. Shelby County is the largest county in Tennessee with a population of approximately 929,744 persons of which approximately 581,282 are registered voters.

4. The cities of Arlington, Bartlett, Collierville, Germantown, Lakeland, Memphis, and

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Millington are located within Shelby County. The City of Memphis is the second largest city in the State with a population of approximately 651,073 persons including approximately 369,574 registered voters.

5. There are three major elections held every two years in each of the 95 counties in Tennessee, not including municipal or special elections. During non-presidential election years, the County Primary Election is held on the first Tuesday in May, which this year is May 3, 2022. Next is the County General and State and Federal Primary Elections held on the first Thursday in August, currently scheduled for August 4, 2022. Finally, there is the State and Federal General Election held on the first Tuesday after the first Monday in November and is scheduled for November 8, 2022.

6. The ballot for the August elections is generally the largest and most complicated ballot because it includes offices for the County General as well as the State and Federal Primary elections. This year, the offices for all trial court judges, appellate court judges, and the District Attorney General are also included on the August ballot. Also, the City of Arlington holds its regular municipal elections during the August election. Finally, the cities of Collierville, Germantown, and Millington are all holding city judicial elections, and the City of Memphis is holding a special city judicial election all of which are included on the August 2022 ballot.

7. Federal laws, including the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA") as amended by the Military and Overseas Voter Empowerment Act ("MOVEA") require my office to mail overseas and military ballots out no later than forty-five (45) days before a federal election, including federal primary elections. The deadline to mail out the overseas ballots for the August 2022 Primary and General elections is June 20, 2022.

8. Overseas and military ballot requests are received by the Shelby County Election Commission long before the ballots have been finalized and printed and we begin processing them

as we receive them.

9. It takes our Office approximately one week to prepare all the UOCAVA ballots for mailing/emailing, but only *after the ballots have been printed*. After the ballots are printed, we prepare the UOCAVA ballots for mailing or emailing to the voters, making sure we update our computer systems to indicate that a ballot has been sent and double checking that the correct ballot style is pulled for each requestor. We then mail or email the ballots to the requestors along with the affidavit, instructions, and in the case of mail, a return envelope. To have sufficient time to mail the UOCAVA ballots by the forty-five (45) days before the election deadline, it is imperative that we prepare the ballots for printing as soon as possible.

10. Pursuant to Tenn. Code Ann. §§ 2-5-204(b)(1) and -(b)(2)(A), before we can begin preparing the ballot, we are required to wait until after the candidate withdrawal deadline, which is 7 days after the qualifying deadline. During the same time period, the state executive committee of each political party may disqualify candidates as not being bona fide members of the party. Further, the delaine to appeal the disqualification for the state executive committee to finalize the review process is 7 days after the withdrawal deadline. For the August 2022 primary, the qualifying deadline is April 7, 2022. The withdrawal and disqualifying deadline are April 14, 2022, and the appeal deadline is April 21, 2022. After the appeal deadline, the Shelby County Election Commission certifies the candidates on the ballot, and only then can we begin preparing our ballots.

11. My understanding is that the Plaintiffs are asking to delay the qualifying deadline to May 20, 2022; however, as addressed below, such a delay would mean that our Office will be unable to mail the UOCAVA ballots by the deadline of June 20, 2022, 45 days before the August 4, 2022, County General and State and Federal Primary elections.

12. If the qualifying deadline is delayed to May 20, 2022, then as addressed above, our Office could not be able to even begin building our ballots until June 3, 2022—two weeks after the delayed

withdrawal deadline of noon on May 27, 2022 and the executive committee deadlines of noon on June 3, 2022. In addition, the Election Commission's candidate certification deadline would also be delayed to after noon on June 3, 2022, at the earliest, leaving our Office with about 16 days to build and test the ballots for Shelby County, have them approved by the Coordinator of Elections, seek print bids, request approval for printing from the County Commission, and mail the ballots to the UOCAVA voters. Such a delay would make it impossible to meet the June 20, 2022, UOCAVA mailing deadline.

13. Based on my experience, I expect Shelby County will have over one thousand (1,000) different ballot styles for the August 2022 General and Primary elections and I estimate it will take at least a week to build the ballots and run them through our accuracy checks before sending them to the Tennessee Secretary of State's Coordinator of Elections for review and approval. Approval takes between 2 days and a week depending on whether the Coordinator's Office finds any deficiencies or issues with the ballots that need to be corrected.

14. After State approval, the ballots are then sent to the printer, which raises a separate set of issues and delays. To get the ballots printed in Shelby County, my Office is required to submit a purchase request to the Shelby County Finance Department along with 3 bids from bonded printers. If the cost is over \$50,000, we must get Shelby County Commission approval. I estimate that the August ballot will be about 3 pages long and will cost approximately \$75,000 to print, requiring County Commission approval; however, based on their schedule, we could not even get on the agenda until after the UOCAVA mailing deadline has passed.

15. The Shelby County Commission is scheduled to meet on June 6, 2022, and to get on that agenda we would have to submit the purchase request by May 20, 2022, which we cannot do because we would not have a final certified candidate list at that time. We would also need to have the 3 bid quotes from the bonded printers to submit the purchase request which, again, cannot be

obtained until the ballot is completed. Which means we could not seek printing approval at the June 6, 2022, County Commission Meeting.

16. After June 6, 2022, the County Commission is not scheduled to meet again until June 27, 2022, which is beyond the UOCAVA mailing deadline. So, a delay in the qualifying deadline to May 20, 2022, would result in our Office failing to meet the UOCAVA mailing, potentially disenfranchising overseas and military voters.

17. Delaying the qualifying deadline will also negatively impact the programming of our early voting and election day voting machines for the August elections. Because we can only begin programming the voting machines after the withdrawal and party certification deadlines, the Election Commission candidate certification vote, and the ballots are built and approved, programming the voting machines would be delayed to June 15-17 or later.

18. In Shelby County, we currently do not know whether we will have new voting machines for the August election, or if we will have to utilize our old voting system. With our old system, we need about 1200-1300 voting machines for the August elections, 220 for early voting and programmed with all ballot styles, and the other 1000-1100 for election day and programmed with the ballot styles for each individual precinct in which they will be used. It takes sixteen voting machine technicians approximately 2 weeks to program the machines for early voting and an additional 6 weeks to program the rest. Then they must test them in front of the public.

19. Early voting begins July 15, 2022 and runs through July 30, 2022. In addition to programming and publicly testing the machines, they need to be delivered beforehand to their precincts. Early voting machines will be picked up and delivered on July 8, 2022, and the election day machines on July 26, 2022. If the qualifying deadline is delayed, the ensuing delays in all other deadlines would not give our technicians enough time to program and publicly test the machines before they are scheduled to be delivered to their precincts without hiring an additional 12

technicians for four weeks, which I estimate would cost \$50,000 in wages and overtime.

20. In addition to running county, state, and federal elections, my Office is also responsible for conducting municipal elections and provide various services for those elections too. For example, when we issue a petition to a candidate, we make sure we give them the right petition for the office in question and certify it as an original petition. Also, candidates are provided a packet containing several documents with explanations of election and campaign financial disclosure laws. Each candidate is briefed by a staff member on all packet contents ensuring they have no unanswered questions.

21. My staff and I also have many other tasks that must be completed during the qualifying/filing and UOCAVA mailing deadlines to prepare for the August elections. For example, beginning March 6, 2022, during the ninety (90) days before the elections, voters who qualify to vote absentee can begin requesting absentee ballots and our Office is required to process the requests using the same procedures for processing UOCAVA absentee ballot requests. Due to lingering COVID-19 concerns, I expect a significant number of voters will vote absentee in the 2022 elections.

22. Other duties that my staff and I are required to complete during this same time period include:

- Recruiting, verifying, hiring, and training approximately 900-1200 poll workers.
- Preparing the list of all qualified candidates and sending it to the Coordinator of Elections.
- Preparing the list of all qualified candidates and transmitting it to the Bureau of Ethics and Campaign Finance within 3 days of the qualifying deadline.
- Notifying candidates of all campaign finance required disclosure reports and their filing deadlines.

- Preparing a report to the Bureau of Ethics and Campaign Finance certifying those candidates that have timely filed reports and providing a list of those candidates who have not filed their report – this is required each time a financial report filing is due.
- Contacting the schools (prior to the end of the school year) that will be used as polling places and make all necessary arrangements.
- Sending the nursing homes flyers and letters asking for lists of those residents that want to vote.
- Preparing locks, seals and certificates for absentee and precinct ballot boxes.
- Checking early voting locations and all polling places to ensure that they are ADA compliant and that all lights are working properly.
- Sending voter registration forms and inmate applications for absentee ballots by mail to the county jail, county correctional facility, and federal penitentiary.
- Notifying mandatory Motor Voter agencies of the voter registration deadline.
- Preparing materials for polling places (supplies, forms, posters, etc.).
- Sending letters to all precincts regarding notice of election, arrival/departure times, heat/air requirements, table/chair requirements, dates for delivery of equipment and supplies, etc.
- Preparing and submitting for publication all legal notices required by law.
- Notifying candidates, parties, and press when and where voting machines will be examined and certified prior to early voting and election day.
- Notifying candidates, parties, and press when and where the public examination of returns after the election will occur.

23. Beginning around June 10, 2022, we are also required to provide the State Coordinator of

Elections a report with the following information broken down by precinct every six months: beginning and ending numbers for the reporting period for active and inactive voters, new valid voter registrations, and purged voters. The report must also include all duplicate voter registration applications, the number of confirmation notices mailed out, and the number of responses received. Finally, the report must include the number of registrations received during the reporting period broken down into the following categories: registered in person, by-mail, with the Department of Safety, Public Assistance agencies, state funded agencies, armed forces recruitment offices, and passive voter registration agencies.

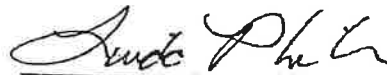
24. At the same time, our Office is handling many routine ongoing tasks such as conducting and processing voter registrations and changes of address and going to each private and public high school in the county to register new voters who will be eligible to vote by Election Day.

25. I understand that the Plaintiffs seek to change the Tennessee Senate, and the Tennessee House district maps, which would result in additional delays and significant costs to Shelby County. To implement new district lines, we would have to wait for our voter registration vendor to update their system so that we could then send out new notices to all registered voters about any polling place changes.

26. Based on the maps adopted by the General Assembly in February and our county census data, our Office has already mailed out notices regarding changes in districts, precincts, and polling places to all registered voters in the county for the upcoming May County Primary Election, the August County General and Federal Primary elections, and November Federal General Election, at a cost of approximately \$375,000. There is always some degree of confusion among voters during redistricting years when their polling places change and changing the district maps at this time is likely to cause additional confusion requiring our Office to send additional notices (and incurring additional costs) to affected voters of a change to their polling place.

27. Based on my experience and that of my staff, if the qualifying deadline for the August Primary and General election were delayed to May 20, 2022, our Office would not be able to meet the federally mandated deadline to mail UOCAVA ballots to overseas and military voters by June 20, 2022, potentially disenfranchising those voters. It would also shorten the time for programming and public testing of the early and election day voting machines and increase the costs for additional technicians. Finally, in addition to incurring additional mailing costs, changing the State House and Senate district maps would also jeopardize our Office's ability to complete its obligations timely and accurately, and would likely result in significant voter confusion.

FURTHER AFFIANT SAITH NOT.



LINDA PHILLIPS
Shelby County Administrator of Elections

Sworn to and subscribed before me this 21st day of March 2022.



NOTARY PUBLIC

My Commission Expires: 5/9/2023

