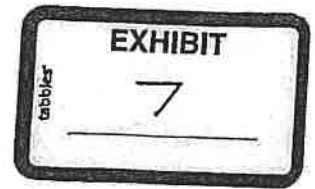


## Exhibit D to *Hale v. Lee* Complaint



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 TAMMY SMITH

State of Tennessee  
County of Wilson

I, Tammy Smith, do hereby state as follows under penalty of perjury:

1. I am the Administrator of Elections for Wilson County, Tennessee. I have held this position since January 8, 2022. Prior to that, I was the Assistant Administrator of Elections since 2011. 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 Wilson 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 Wilson County. Many of my statutory duties are set forth in Tenn. Code Ann. § 2-12-201. The Wilson County Election Commission has 4 full-time and 1 part-time employees.
3. Wilson County is a county in Tennessee with a population of approximately 147,737 persons of which approximately 99,032 are registered voters.
4. There are three major elections held every two years in each of the 95 counties in Tennessee,

Appendix000333

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.

5. 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.

6. 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.

7. Overseas and military ballot requests are received by the Wilson County Election Commission long before the ballots have been finalized and printed and we begin processing them as we receive them. It takes our Office approximately 3 days 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.

8. 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 (7 days after the qualifying deadline), and until after the executive committee determination deadline (7 days after that). For the August 2022 primary, the qualifying deadline is April 7, 2022, which means the earliest we can begin to prepare our ballots is April 21, 2022. After these deadlines pass, the Wilson County Election Commission certifies the candidates for the ballot. We then have our ballot approved by the Coordinator of Elections. Only then can we have the ballots printed.

9. 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.

10. 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 May 30, 2022—3 days after the delayed withdrawal deadline of noon on May 27, 2022. In addition, the Election Commission's candidate certification deadline would also be delayed to sometime after noon on June 3, 2022, at the earliest. This leaves us with about 16 days to build and test the ballots for Wilson County, have them approved by the Coordinator of Elections, have the ballots printed and mail ballots to military and overseas voters. Delaying the qualifying deadline to May 20th would make it impossible to meet the June 20, 2022, UOCAVA mailing deadline.

11. Based on my experience, I expect Wilson County will have 414 different ballot styles for the August 2022 County General and State and Federal Primary elections, and I estimate it will take 2 weeks 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.

12. After State approval, each ballot style is checked for accuracy. We listen to each audio ballot and bring each ballot up on a ballot marking device to ensure that each voter will receive the correct ballot style they are assigned to in the voter registration system based on their residential address. This is a long process and will take a week to complete.

13. 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 machines after the withdrawal and party certification deadlines, the Election Commission candidate certification vote, and after the ballots are built and approved. Thus, programming the voting machines would be delayed until June 15-17 or later.

14. In Wilson County, for the August election we need about 200 voting machines for the election. Each is programmed with all ballot styles because we use a vote center model for voting—just like early voting but on Election Day. It takes about 1 week to program all of the machines. After the machines are programmed, a complete logic & accuracy test is completed and a public meeting is conducted to certify that all machines have zero votes. Seals are then placed on each one and recorded on a certification form where all who are present sign attesting that the information is correct.

15. 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 locations. Early voting machines will be picked up and delivered on July 12, 2022 and the election day machines on August 3, 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 vote centers without hiring any

additional technicians, which I estimate would cost \$5000 in wages and overtime.

16. 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. All candidates are also provided a packet containing several documents with explanations of election and campaign financial disclosure laws, and each candidate is briefed by a staff member on all packet contents ensuring they have no unanswered questions.

17. 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 May 6, 2022, during the 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.

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

- Recruiting, verifying, hiring, and training approximately 300-350 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 certifications for absentee ballot boxes.
- Preparing locks, seals and certifications for provisional ballot bags.
- 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.
- 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.



19. 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.

20. At the same time, our office is handling many routine ongoing tasks such as 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.

21. 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 Wilson County. To implement new district lines, we would have to manually update our voter registration system so that we could then send out new notices to all registered voters about any precinct changes. This process takes, at least, 2 weeks to complete. There would be additional cost of mailing notifications out to each voter—that cost is not included in our budget.


22. 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 \$60,000. 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.

23. 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.

  
TAMMY SMITH  
Wilson County Administrator of Elections

Sworn to and subscribed before me this 22<sup>nd</sup> day of March 2022.

  
NOTARY PUBLIC



My Commission Expires: 8-29-23