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UNITED STATE DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

Willie Grayeyes, an individual, and **Terry Whitehat**, an individual, Plaintiffs, vs. **Spencer Cox**, as Lieutenant Governor of the state of Utah, **John David Nielson**, as Clerk/ Auditor of San Juan County, a political subdivision of the state of Utah, **Kendall G. Laws**, as Attorney of San Juan County a political subdivision of the state of Utah, **Colby Turk**, as Deputy Sheriff in the Sheriff's Office of San Juan County, a political sub-division of the state of Utah, and **Wendy Black**, an individual, Defendants.	PLAINTIFF GRAYEYES' MOTION AND BRIEF IN SUPPORT OF PRELIMINARY INJUNCTION AND RELATED RELIEF Civil No. 4:18-cv-00041-DN Judge: David Nuffer

MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65, and DUCivR 7-1, plaintiff Willie Grayeyes ("Grayeyes") asks the Court to enter a preliminary injunction against defendant Spencer Cox, in his official capacity as Lieutenant Governor of the state of Utah, and defendant John David Nielson, in his official capacity as Clerk/Auditor of San Juan County, state of Utah. In March, 2018, the Democratic Party of San Juan County nominated Grayeyes to be their candidate for County Commissioner in a newly created District 2. In order to qualify as a candidate for Commissioner, Grayeyes must be a registered voter in San Juan County. In May, 2018, however, as the election officer with initial responsibility in this regard, the County Clerk, John David Nielson, determined that Grayeyes was not eligible to register to vote because he did not have a so-called "principal place of residence" within the County. Nielson then ruled that Grayeyes would be denied a place on the ballot for the November, 2018, election. In taking these actions, Nielson (in collaboration with the other defendants in this civil proceeding) unconstitutionally discriminated against Grayeyes, violating his rights of Free Speech, Due Process, and Equal Protection under the First and Fourteenth Amendments to the United States Constitution. The Court should enjoin Spencer Cox and John David Nielson to restore the voting franchise and ballot access to Grayeyes so that he can stand for election as a candidate for San Juan County Commissioner in District 2 in November 2018.

MEMORANDUM OF LAW IN SUPPORT OF MOTION

FOR PRELIMINARY INJUNCTION

As demonstrated in the statement of facts below, Grayeyes is an enrolled member of the Navajo Nation and has lived at Navajo Mountain in San Juan County since birth in 1946. His ancestral home is at Paiute Mesa, Utah. He owns cattle at that location. And he holds no fewer

than three positions of trust, Chapter Representative, Secretary/Treasurer, and School Board Member, in connection with the local Navajo community. Moreover, in the last decade, and acting through a Utah based non-profit corporation, Utah Bine Bikeyah, Grayeyes has been the public face and moving force behind the establishment and defense of the Bears Ears National Monument, a public lands issue with sacred significance to the Navajos and other Indians in the southeastern part of this state. He has been a registered voter in San Juan County since 1984, and available records show that he has voted continually in San Juan County elections since the early 1990s. In 2012, he ran for County Commissioner from then District 1, losing to his Republican opponent, but not before the County Clerk at that time, Norm Johnson, had confirmed that Grayeyes was eligible, as a resident, to run for office, overruling an objection on this score.

In 2015 and 2016, this Court ruled that San Juan County Commission and School Board voting districts did not comply with the one-person one-vote mandate (School Board) or had been drawn using racial classifications (County Commission, in violation of the Equal Protection Clause). *See Navajo Nation v. San Juan Cty.*, 150 F. Supp. 3d 1253 (D. Utah 2015); *Navajo Nation v. San Juan Cty.*, 162 F. Supp. 3d 1162 (D. Utah 2016). Districts accordingly were reconfigured, and many have predicted that, with equal protection for all voters, a Navajo Democrat might win the race for Commissioner in a newly created District 2. *See* Courtney Tanner, *'We've been disenfranchised': Republicans in San Juan County say redrawn voter districts unfairly favor Navajos*, The Salt Lake Tribune, April 10, 2018. Grayeyes accordingly threw his hat into the ring and was nominated as the Democratic candidate for District 2.

But defendant Wendy Black ("Black") objected to Grayeyes' eligibility to register to vote on grounds of residency (and hence to be a candidate). The County Attorney, defendant Kendall

Laws ("Kendall Laws") (whose father, Kelly, is the Republican nominee for the District 2 seat in opposition to Grayeyes), enlisted the Sheriff's Department, through a deputy, defendant Colby Turk ("Turk"), and the County Clerk, defendant John David Nielson ("Nielson"), to investigate and prosecute Black's voter registration complaint. This collaboration of public officials resulted in two letter decisions, issued through Nielson, who was acting as election judge in this case, and determining that Grayeyes did not have a principal place of residence within the County and therefore had to be stricken from the voter registration rolls and ousted as a candidate from the November 2018 ballot.

STATEMENT OF FACTS

The essential background to this ballot controversy may be found in the description of facts detailed below.

1. Grayeyes' Principal Place of Residence at Navajo Mountain

Grayeyes was born March 15, 1946, the son of Tulley Grayeyes and Bertha Clarke. At the time of birth, both parents were residents of Navajo Mountain, San Juan County, Utah. Please see Grayeyes' birth certificate which is attached as Exhibit J.

Consistent with Navajo tradition, Tulley and Bertha buried Grayeyes' umbilical cord near their family's residences at Navajo Mountain, Utah. This ceremonial burial is a sacred rite, signifying that Navajo Mountain is the permanent abode of the cord's owner, in this case Grayeyes. Please see the Supplemental Declaration of Willie Grayeyes, dated April 24, 2018, ¶¶ 2 and 3, which is attached as Exhibit L (hereinafter "First Supplemental Grayeyes Declaration"). Please also see *United States v. Tsosie,* 849 F. Supp. 768, 774-75 (D. N. M. 1994).

Grayeyes grew up with his family in Navajo Mountain and attended high school at Navajo Mountain High School. Please see Declaration of Willie Grayeyes dated April 19, 2018, ¶¶ 6 and 7, which is attached as Exhibit K (hereinafter "Grayeyes Declaration").

For the last 20 years, Grayeyes has had a residence, a fixed habitation in a single location, which is at Navajo Mountain in a rural area near Paiute Mesa, Utah. Please see the Grayeyes Declaration, Exhibit K, ¶¶ 5, 8, 9, and 10. He runs cattle at this location, pursuant to a permit granted under authority of the Navajo Nation Grazing District 2-3. Please see the Declaration of Russell Smallcanyon, dated May 2, 2018, which is attached as Exhibit M (hereinafter "Smallcanyon Declaration"). Russell Smallcanyon is the Grazing Officer for Navajo Nation Grazing District 2-3, and, based upon his official and hence personal inspection of Grayeyes' home and cattle in June of 2017, Smallcanyon attests that Grayeyes has a home and cattle business in San Juan County, Utah. Smallcanyon Declaration, Exhibit M, ¶¶ 5, 7, and 8.

Grayeyes is an enrolled member of the Navajo Nation, portions of which are in Utah and Arizona. He resides in the Navajo Mountain Chapter of the Navajo Nation and serves as a Chapter Official for Navajo Mountain, Utah, the Secretary/Treasurer for the Navajo Mountain Chapter, and as Chairman of the School Board for the Naatsis'ann [Navajo Mountain] Community School. Grayeyes Declaration, Exhibit K, ¶¶ 2, 14, 15, and 16, and Exhibit O.

Vital services, such as mail delivery, are obtained with difficulty at Navajo Mountain, given its remote, rural character. Hence, residents of Navajo Mountain typically use a post office box at Tonalea, Arizona, as a mailing address, from which mail is collected and then delivered by truck to Navajo Mountain. Grayeyes uses this service so that he can collect mail near his home in Navajo Mountain. Please see the Declaration of Lena Fowler, dated April 25, 2018, ¶ 11, which is attached as Exhibit N (hereinafter "Fowler Declaration"). See also Grayeyes

Declaration, Exhibit K, ¶¶ 11 and 12. San Juan County officials, including the County Clerk's office, are aware that Navajos like Grayeyes are forced to use a Tonalea, Arizona, post office box address so that they can obtain mail delivery, pursuant to the arrangement described above, in proximity to their homes in or near Navajo Mountain. Please see the Deposition of Norman Johnson, at page 42, found in the record for *Navajo Nation v. San Juan Cty.,* civ. no. 1:12-cv-00039-RS (D. Utah, June 23, 2015).

Grayeyes always has been active politically in San Juan County, serving as chairperson of the Board of Directors for Utah Dine Bikeyah, the Utah based, non-profit entity which has advocated vigorously for establishment of the Bears Ears National Monument. He also has been a registered voter in San Juan County and has voted in San Juan County elections for at least the last 18 years. Grayeyes Declaration, Exhibit K, ¶¶ 13, 17, 18, and 20, and Utah Dine Bikeyah corporate records attached as Exhibit P. He never has never been a legal resident of – or voted in –Arizona. Grayeyes Declaration, Exhibit K, ¶¶ 32 and 20, and Fowler Declaration, Exhibit N, ¶¶ 12 and 13.

Although Grayeyes' work sometimes forced him to travel to Arizona, and although his responsibilities as an official in the Navajo Nation had him frequently commuting back and forth, from Utah to Arizona to Utah, he always regarded his home at Navajo Mountain as the principal place of residence to which he intended forever to return. Grayeyes Declaration, Exhibit K, ¶ 10.

2. Grayeyes' Voter Registration History,

Including the County Clerk's Decision

That He Was Qualified to Be A Candidate for

County Commissioner in 2012

In 1984, Greyeyes registered to vote as a resident in San Juan County, state of Utah. Grayeyes Declaration, Exhibit K, ¶ 17. Please also see the official voting record of San Juan County Clerk's Office, Column J, which is attached as Exhibit Q.

Although voting records are available only back to 1999, those records indicate that Grayeyes has voted consistently since that time to the present as a resident of San Juan County. Grayeyes Declaration, Exhibit K, ¶¶ 18 and 19. Please also see the official voting record of the San Juan County Clerk's Office, Row 1263, Columns AH-DM, which is attached as Exhibit Q.

In 2012, Grayeyes was the nominee of the Democratic Party for a seat on the San Juan County Commission. At that time, for the first time, his residency (and hence his eligibility as a voter and candidate) in San Juan County was challenged. The County Clerk at that time, Norman Johnson, overruled this challenge, and Grayeyes was certified as a *bona fide* resident to run in 2012 for a seat on the San Juan County Commission. Grayeyes Declaration, Exhibit K, ¶ 21. Please also see Grayeyes' 2012 candidacy related records which are attached as Exhibit R.

In 2016, Grayeyes applied to renew his voter registration as a resident in San Juan County, state of Utah. Exhibit Q, Column I.[1] In Utah, applicants who currently do not reside in the voting precinct from which they are attempting to register are not eligible for voter registration. Utah Code, §20A-2-101(1)(d). Likewise in Utah, county clerks "shall" register applicants who meet the requirements (including the residency requirement noted above) for

[1] Grayeyes was forced to re-register because, after taking office in 2014, Nielson systematically "purged" Navajos, including Grayeyes, from the voter registration rolls of San Juan County. This is one of many means by which members of the governing class, like Nielson, over the years, have erected barriers which make it difficult for Navajos to vote in San Juan County. In Utah, County Clerks have a duty to update voter registration, Utah Code, §20A-2-304.5, and, under limited circumstances, may remove voters from the rolls, Utah Code, §§20A-2-305, 20A-2-306, but none of these conditions applied to Grayeyes at any time after 2014, and, so far as we can tell, Nielson did not perform any of the statutorily mandated pre-removal compliance before he conducted the "purge."

registration or reject applications where those requirements (including the residency requirement noted above) are not satisfied. Utah Code, §20A-3-204. Under § 20A-3-204(2)(b), in the event of rejection, the county clerk is to notify the applicant respecting the fact of rejection as well as "the reason for the rejection[.]" Nielson was the county clerk of San Juan County in 2016; he approved and did not reject Grayeyes' application to register to vote at that time.

3. Grayeyes' 2018 Declaration of Candidacy for County Commissioner

In 2018, Grayeyes decided again to run for a seat on the San Juan County Commission, this time in District 2, newly established under Judge Shelby's redistricting order. On March 9, 2018, as required by Utah Code, §20A-9-201(1), Grayeyes submitted his Declaration of Candidacy in this regard to the San Juan County Clerk. Please see the Declaration of Candidacy attached as Exhibit A. Grayeyes' 2018 Declaration of Candidacy gives his residential address as 17 miles north of the Navajo Mountain Chapter House on Paiute Mesa. This is the same residential address given to Norman Johnson, the County Clerk, when Grayeyes declared his candidacy for County Commissioner in 2012. Exhibit R. It is the same address he used on his application to register to vote in 1984 and when he renewed that registration in 2016. Exhibit Q.

Page 2 of the Form of Declaration used by Grayeyes lists the qualifications – including residency requirements -- which candidates for the office of County Commissioner must have, tracking statutory language which is found at Utah Code, §§17-53-202, 17-16-1. The Form notes that, before accepting a Declaration of Candidacy, the County Clerk must read these qualifications to the candidate and have the candidate affirm that he meets them. Whether or not Nielson followed this instruction in Grayeyes' case, it is undisputed that Nielson accepted and filed the Declaration of Candidacy for Grayeyes without further ado.

Utah Code, §20A-9-202(5), provides that Declarations of Candidacy are valid unless written objections thereto are made within 5 days of the last day for filing declarations of candidacy. If an objection is made, notice promptly must be given to the candidate and the objection then must be resolved within 48 hours after the objection is filed. The election official's decision respecting form is final. The election official's decision respecting substance – for example, a determination based upon residency requirements -- is subject to judicial review on condition that prompt application for such review is made to a court. Pursuant to Utah Code, §20A-9-407(3)(a), declarations of candidacy in Grayeyes' case had to be filed on or before March 15, 2018, and, as calculated under Utah Code, §20A-1-401(3)(a), the 5 day bar date for objection to that declaration under Utah Code, §20A-9-202(5) would have expired March 20, 2018. No objection to Grayeyes' candidacy, pursuant to Utah Code, §20A-9-202(5), ever was lodged with the relevant election official (in this instance, Nielson as County Clerk) against the Grayeyes Declaration of Candidacy.

4. The San Juan County Defendants Collaborate in Mounting a Challenge to Grayeyes' Eligibility to Register to Vote, With a View to Derailing His Candidacy

Instead of attacking Grayeyes' qualifications as a candidate under either Utah Code, §20A-9-202(5) or the two additional procedural avenues which specifically are tailored for such challenges in Utah's election code – namely, Utah Code, §§20A-1-801, *et seq.,* or Utah Code, §§20A-4-402, *et seq.* – the San Juan County defendants enlisted Black to question Grayeyes' eligibility to register to vote pursuant to Utah Code, §20A-3-202.3. This voter registration challenge was memorialized in two documents. The first was a typed, one paragraph, unverified

petition and the second was a form apparently made available to Black by Nielsen as the San Juan County Clerk. Please see both documents which are attached as Exhibit B. Both documents are dated March 20, 2018, but, in light of circumstances detailed below, Grayeyes believes that they probably have been backdated.[2]

No later than March 23, 2018, Turk, a deputy in the San Juan County Sheriff's Office, launched an investigation into the matter of Grayeyes' residency. Authorization for this use of Turk's services, however, is questionable. Law enforcement officials, like Sheriff's deputies, do not get involved in the investigation of civil disputes, such as voter registration challenges. Fraudulent voter registration is criminalized in Utah Code, §20A-2-401(1)(a), but that statute requires a showing of willfully applying to register with knowledge that the applicant is not eligible to vote; a *mens rea* impossible of proof in Grayeyes' case in light of his status as a registered voter since the 1980s and especially after county clerk Norman Johnson blessed Grayeyes' status as a registered voter in the 2012 election.

Nevertheless, it is undisputed that (with whatever end in view) Turk conducted an investigation into Grayeyes', residence. To disguise what probably was improper interference in a civil matter, he noted on the facing sheet of the incident report that he was investigating "False Info" or "FIPO," which is not an offense, so far as Grayeyes can discover, under any ordinance in San Juan County. Please see Turk's report which is attached as Exhibit C.

Not only Turk but also Nielson and Kendall Laws were eager to hide their involvement in a questionable inquiry using unlawful means. As detailed below, while Grayeyes' attorneys were asking Nielson for information (including information about a reported investigation)

[2] The first "complaint" also was concealed from Grayeyes and his counsel until they were able to discover a copy through alternate means. The significance of this concealment is discussed below.

respecting the voter information challenge, through counsel, he denied knowledge about any investigation or evidence being gathered in that connection, claiming that any such matters would be handled at the state rather than county level. Kendall Laws attempted to give the appearance that he had recused himself from the investigation – because his father, Kelly Laws, is running against Grayeyes for the District 2 seat. But the involvement of both men was exposed when Turk's report and related materials were obtained through a government records request. Those documents suggest that Nielson and Kendall Laws had instigated and were directing Turk's investigative efforts, conduct which, in addition to the impropriety of dissembling noted above, may have violated Utah Code, §17-16a-4(b), Utah Code, §20A-11-1203(1), and Utah Constitution, Art. XXII, §5. These all prohibit misuse of official position for personal or political advantage.

On March 27, 2018, near the beginning of his investigation, Turk interviewed Black who told Turk that, on March 23, she had driven to Navajo Mountain in search of Grayeyes' residence, but could not find it (although she was told by an unidentified couple that Grayeyes "lives in" the "Deshonto" area). Turk report, Exhibit C, page 3.

The facing page of Turk's report indicates that he disposed of the case and closed the file on March 28, 2018 (although there are entries in the report, perhaps added later, for the dates of March 30 and April 4.) His report form includes signature points on the end pages for review by and approval of line officers in the sheriff's department, but these are unsigned, suggesting that Turk submitted the report, not to his superiors in the department, but to Nielson and Kendall Laws as protagonists in the campaign to defeat Grayeyes. This result also is suggested by the facing and first pages of the report, showing that Black and Nielson jointly coordinated the use of Turk in furtherance of their private dispute with Grayeyes, and by the e-mails between

Nielson and Turk, showing that the clerk was directing the deputy in conducting the investigation. Turk report, Exhibit C, pages 1 and 3 and Exhibit I.

On March 28, 2018, after seeing what must have been the March 27th entry in Turk's report, Nielson sent a letter to Grayeyes, stating that Grayeyes was the subject of a voter registration challenge for want of residency pursuant to Utah Code, §20A-3-202.3(3)(c). Nielson's letter did not include a copy of Black's charging documents. Nielson's March 28th letter is attached as Exhibit D.

On April 19, 2018, Natalie Callahan, the Communications Coordinator for San Juan County, issued a press release, announcing that the candidacy of Grayeyes was under investigation by county authorities and indicating that the investigation might result in the filing of criminal charges. The press release was calculated to derail Grayeyes' candidacy, since it named him as the target of the investigation and insinuated strongly (and irresponsibly) that the investigation might be criminal in character. This cloud would hang over Grayeyes' candidacy, not only because he could not qualify or go on the ballot without meeting the residency requirements, but also because, in Utah, any criminal violation of the elections code, absent compliance with reinstatement procedures, permanently will disenfranchise a citizen from voting and hence for service in office. *See* Utah Code, §20A-2-101(2)(b). A copy of the press release is attached as Exhibit E.

5. The San Juan County Defendants Collaborate,

Through Obstruction and Prevarication,

In an Effort to Prevent Grayeyes from

Effectively Responding to the Voter Registration Challenge

After receiving Nielson's letter, Grayeyes contacted counsel, Steven Boos and Maya Kane, at the law firm of Maynes, Bradford, Shipps, & Sheftel LLP ("MBSS"), asking for their help in responding. On no fewer than four occasions, April 19, April 25, April 27, and May 3, 2018, MBSS wrote Nielson, demanding a copy of the charging documents so that they could be informed respecting the nature of the charge and any evidence supporting it and in order to prepare adequately to defend against it. Even though Nielson, at this point, was in possession of Turk's report which ultimately would form the basis for his decision in this case, Nielson did not return this correspondence. These letters, with accompanying materials, are attached as Exhibit F.

On April 27 through May 1, 2018, MBSS conducted an e-mail exchange with outside counsel for the San Juan County Clerk's Office, Mr. Jesse Trentadue of the Suitter Axland law firm in Salt Lake City, seeking information respecting whatever investigation Nielson was undertaking in connection with the Black complaint. This effort likewise bore no fruit. These e-mail exchanges are attached as Exhibit G. Nielson referred the MBSS inquiries to Trentadue, instead of handling them through the normal channels of county government, in order to mislead Grayeyes and his counsel into believing that Kendall Laws, the county attorney and son of Grayeyes' opponent, Kelly Laws, had recused himself in relation to the voter registration challenge, when, in fact, Kendall Laws actively was involved in the investigation and prosecution of the challenge to Grayeyes.

The depth of Nielson's nondisclosures and the confusion they wrought is illustrated by these e-mail exchanges. MBSS was pressing Trentadue to clarify whether San Juan County indeed was conducting an investigation into Grayeyes' residency and what evidence, such as utility bills, was deemed relevant in connection with such investigation. The April 27 letter

from MBSS to Nielson specifically notes that an Associated Press reporter, Lindsey Whitehurst, had reported to MBSS that Nielson had said that he needed a copy of utility bills or receipts in order to establish residency for Grayeyes in San Juan County. In response to these MBSS concerns, Trentadue, perhaps relying on representations from his client, Nielson, denied that San Juan County was conducting an investigation, insisted that this was a matter for the state of Utah, and represented that, in light of such state control, Nielson knew nothing about the investigatory materials in play. It is clear, however, from an examination of the documents in Exhibits C and I, that an investigation was being conducted by Nielsen, and that he deemed the existence of utility bills to be highly material to the question of residency and had tasked Turk specifically to explore that evidentiary issue. This e-mail exchange also shows that the San Juan County defendants attempted to conceal the role of Kendall Laws in directing Turk – by suggesting that the state was in charge or that Laws was recused in deference to prosecutors from another jurisdiction.[3] As a matter of fundamental fairness, Grayeyes and his counsel had a right to know the charges and evidence against them so that they adequately could prepare a response. But this also was imperative in light of Utah Code, §20A-3-202.3(6)(c) which limits the scope of any judicial review of the county clerk's decision on voter registration eligibility to those matters actually submitted by the parties or used by the clerk in processing the dispute.

On May 3, 2018, after sending the last letter found in Exhibit F, MBSS submitted a records request under Utah's Government Records Access and Management Act ("GRAMA"), seeking to obtain whatever evidentiary materials had been made available to Nielson in

[3] The press release which the San Juan County defendants issued April 19 (Exhibit E) also appears to be part of the effort to conceal the nature and extent of Nielson's investigation from Grayeyes and his counsel – by implying that the Clerk's office is handicapped from doing so in light of logistical problems, especially the "lack of an addressing system in a large part of the county [which] makes it extremely difficult for the clerk's office to verify residency."

connection with the voter registration dispute and which, therefore, might form the basis for any decision which he might make in the matter. Please see the GRAMA request which is attached as Exhibit T.

However, on May 9, 2018, before he responded to the GRAMA request, Nielson issued his decision, declaring that Grayeyes was not a resident of San Juan County and therefore ineligible to register to vote. On May 10, 2018, Nielson made another decision, announcing that, in light of his voter registration decision of May 9, Grayeyes could not be a candidate for the office of County Commissioner and therefore would be denied a place on the November, 2018, ballot. Both of Nielson's decisions are attached as Exhibit H.

On May 24, 2018, over two weeks after making these decisions, Nielson finally sent a partial response to the GRAMA request of Grayeyes and MBSS. The documents included in this response revealed that, contrary to the representations of Nielson through Trentadue, Nielson in fact had been gathering evidence relative to the residency of Grayeyes all along, that Kendall Laws was involved in that effort, and that both were using Turk, a deputy sheriff (under the guise of a criminal investigation) in their campaign, on behalf of Kendall's father, Kelly, to discredit and disqualify Grayeyes as a candidate. A copy of the GRAMA response is attached as Exhibit I.[4]

6. Nielson's Handling of Black's Voter Registration Complaint

[4] Nielson's cover letter which was sent with the documentary response to the GRAMA request (Exhibit I) states that, "No responsive records are being withheld from this response." But this was untrue. The GRAMA response failed to include Black's first complaint described in the text above. Grayeyes and his counsel later obtained a copy of this document from another source. Nielson withheld this document from Grayeyes and MBSS because it more clearly revealed that, but for Nielson's proactive intervention and investigative assistance, Black had no foundation for bringing her complaint and that, without more, as the statute required, it should have been dismissed summarily.

Shows the Discriminatory Bias of the San Juan County Defendants Against Grayeyes

Nielson's decision to disenfranchise Grayeyes as voter was contrived for the purpose of silencing his speech as a candidate, and the extreme irregularities in the decision-making process demonstrate this fact. Those irregularities include the following.

Nielson's choice of procedure was an abuse of process. Utah's election code contains three methods for disqualifying candidates, §§20A-9-202(5), 20A-1-801, *et seq.,* and 20A-4-402, *et seq.* That code contains one method for questioning a person's eligibility to vote, §20A-3-202.3. Each set of procedures is carefully tailored to the circumstances and importance of the challenge in question. Section 20A-9-202(5) provides for summary treatment by election officials of objections to declarations of candidacy, with unlimited review by district courts of those decisions. This section of the code, which requires objections to be made immediately after the deadline for filing declarations of candidacy, is a pre-convention clearance device so that, where a candidate is not qualified to run for office, his resources and those of his chosen political party won't be wasted in an unnecessary convention fight. Sections 20A-1-801, *et seq.,* and 20A-4-402, *et seq.,* may be used in post-convention or even post-election contests, but they have more elaborate procedural frameworks, overseen by disinterested – and ultimately judicial -- officers, which ensure due process to protect candidates who, at these stages of campaigning, have invested substantial resources. These safeguards also protect the body politic which may have expressed its choice by nominating or electing one candidate instead of another. Section 20A-3-202.3 on the other hand is a streamlined procedure for testing a person's eligibility to register to vote with limitations on judicial review. The Utah courts have taken these distinctions – making sure that specific violations of the election code are remediated properly with appropriate procedures – very seriously. *E.g., Maxfield v. Herbert,* 284 P.3d 647, ¶¶ 33-37 (Utah

2012) (complaints respecting campaign finance violations must be brought through procedures set forth in Utah Code, §20A-1-703 [now amended and renumbered as Utah Code, §20A-1-801], rather than Utah Code, §20A-4-402). The San Juan County defendants knew that their goal was to disqualify Grayeyes as a Commission candidate, but they ignored the requirements, procedures, and protections vouchsafed Grayeyes as a candidate under §§20A-9-202(5), 20A-1-801, *et seq.,* and 20A-4-402, *et seq.* They instead used §20A-3-202.3 to challenge Grayeyes' status as a voter and then bootstrapped from there in order to disqualify Grayeyes as a candidate in the Commission race. They did this because it afforded greater opportunity for these defendants, and especially Nielson, to manipulate procedures and control outcomes while at the same time cutting off effective access to the district courts for judicial review of Nielson's decision – all with the unconstitutional purpose to oust Grayeyes from the November ballot.[5]

[5] In a May 30, 2018, *post hoc* rationalization, Nielson attempted to justify what he did to Grayeyes by reference to §20A-9-202(5) (although he mis-cites the statute), arguing that he had a *duty* to ensure that Grayeyes' declaration of candidacy was valid. A copy of Nielson's correspondence containing this *mea culpa* is attached as Exhibit S. But this attempted justification is further demonstration of the *ultra vires* nature of his conduct. First, Black challenged Grayeyes' voter registration eligibility expressly under §20A-3-202.3, not his declaration of candidacy under §20A-9-202(5). These statutes use radically different procedures and serve entirely different purposes. Nielson's May 30th letter therefore is an admission that he decoyed Grayeyes by pretending to proceed under one set of rules while intending all along to invoke another. Second, Neilson had no *duty* independently to review Grayeyes declaration of candidacy when it was filed March 9, 2018. Nielson was required, pursuant to §20A-9-201(3)(a)(i), merely to read the qualifying requirements to Commission candidates and then to hear Commission candidates affirm that, in their case, those requirements were met. This is in contrast to his role with other, separately designated candidacies with licensure qualifications, such as those for county attorney or district attorney or county sheriff, where §§20A-9-201(3)(a)(ii), (iii), and (iv), obligate the clerks to "ensure" that these special qualifications are met before accepting the candidate's filing. Third, §20A-9-202(5) requires objections to candidacy to be filed within 5 days of the last date for submitting a declaration of candidacy and further demands that the clerk then must decide any such objection within 48 hours from the date it is filed. If the clerk makes a substantive ruling, immediate, unlimited review of that ruling may be obtained from a neutral judge. Grayeyes believes and the evidence suggests that Nielson and Black may have backdated their complaint against Grayeyes in order to disguise their failure to meet §20A-9-202(5)'s 5 day bar date. But in any event it is undisputed that Nielson did not act

Nielson overstepped his authority as an election official by the manner in which he administered and decided the voter registration dispute. Section 20A-2-303.2, at subparts (2) and (4), empowered Nielson to resolve Black's complaint on either a summary or a regular basis. Grayeyes discusses Nielson's failure summarily to dispose of Black's complaint below. In the event summary disposition was inappropriate, however, subpart (4) of the statute authorized Nielson merely to determine whether a person is eligible to register to vote on the basis of a statutorily controlled record. Nielson went far beyond these parameters by initiating, organizing, and conducting the prosecution of Grayeyes and then deciding the case on the basis of a type of evidence that expressly is prohibited by the terms of the statute. These statutory excesses had due process implications. An impartial decision-maker is essential to due process, but Nielson forsook this role when he became complainant, prosecutor, judge, and jury in the same docket. Nielson's eagerness to prosecute and his blindness to the inherent conflict of both prosecuting and deciding a case demonstrate that his overarching goal was not to administer the voter registration statute as a neutral elections officer but to stifle Grayeyes' candidacy.

Nielson went beyond the pale in recruiting Deputy Turk to assist in the investigation of a civil dispute, by collaborating with Kendall Laws, the County Attorney and son of Grayeyes' election opponent, in conducting that investigation, in attempting to conceal these improprieties by pretending that the investigation was criminal in nature, and in dissembling about his role in all these respects to MBSS. Utah Code, §20A-3-202.3 does not authorize county clerks to

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within the statute's further 48 hour limitations period. This failure sabotaged the primary purpose of this measure, namely, to ensure that political parties have a pre-convention, threshold certainty respecting the legitimacy of the candidates who will contend for nomination in those arenas. The San Juan Democratic Party, which nominated Grayeyes at a convention held March 24th, was denied this opportunity. As a public official, charged with neutral administration of election laws, Nielson never would have rigged procedures or played so loosely with these statutes without a partisan purpose to block Grayeyes' from the November ballot.

conduct investigations into voter registration disputes, to enlist law enforcement personnel in the resolution of civil matters, to collaborate with conflicted county attorneys, to disguise these usurpations of power by improperly characterizing such a proceeding as criminal rather than civil in nature, or to lie about their role in order to obstruct a proper response from the attorneys for the citizen whose voting status is under challenge. Nielson drew outside all of these lines, covering his abuses with a false mantle of statutory legitimacy, with a partisan desire to keep Grayeyes off the November ballot.

Nielson flagrantly disregarded the voter protection procedures set forth in §20A-3-202.3. A citizen's right to vote is sacrosanct and therefore statutes which authorize a challenge to that right should be carefully administered. Nielson, however, failed properly to administer the statute for testing voter registration eligibility, and this failure was so profoundly egregious that no explanation other than a wrongful use of public office for partisan ends – to keep Grayeyes off the November ballot – is possible. Here is a catalogue of Nielson's maladministration of Utah Code, §20A-3-202.3.

Section 20A-3-202.3(1) sets forth the requirements respecting those who may file a complaint as well as the form and content of any particular challenge. Black's complaint failed to satisfy the most important of these requirements.

(i) Subpart (1)(a) allows any "person" to file a written complaint with the "election officer," in this case, the county clerk. The disjunction between the person filing and the official receiving the complaint shows that clerks, as neutral officials, are not meant independently to launch voter registration challenges. Nielson actively participated in the filing and prosecution of the complaint against Grayeyes.

(ii) Subpart (1)(a)(ii)(C) requires the complainant to identify the basis for the challenge "as provided under Section 20A-3-202[,]" which sets forth bases to challenge an individual's eligibility to vote. Black's initial complaint, however, could be read as a challenge to Grayeyes' candidacy, rather than his voter registration; it merely avers that, "It has been brought to my attention that [Grayeyes] may live outside of the county and state of Utah." Some time after this initial complaint was submitted, however, Nielsen helped Black fill out an official form in which Black avers that Grayeyes' principal residence is not within the appropriate geographical areas and therefore he is ineligible to register to vote in San Juan County. Black and Nielson changed the form of the complaint because a voter registration challenge would give Nielson more control over the proceeding, allowing him to manipulate the desired outcome of blocking Grayeyes from the November ballot. In addition, Black and Nielson feared that their backdating of the complaints might be discovered, leaving them without recourse to pretend that they were challenging Grayeyes' declaration of candidacy under §20A-9-202(5), and therefore determined to circumvent that problem and defeat Grayeyes' candidacy by using a backdoor respecting voter registration under §20A-3-202.3. Copies of the complaints are attached as Exhibit B.

(iii) Subparts (1)(a)(ii)(D), (1)(a)(iii)(B), and (1)(c) require the complainant to "provide[ ] facts and circumstances supporting the basis provided[,]" and these "facts and circumstances," moreover, must be grounded upon personal knowledge and belief, as opposed to unsupported allegations or unidentified witnesses. Neither of Black's complaints meet these standards. Her first complaint says that "[i]t has been brought to my attention" that Grayeyes may not be a resident of the county, a statement which clearly isn't based on personal knowledge, directly alludes instead to the hearsay quality of the testimony, and just as clearly fails to name the anonymous party which brought this information to her attention. Black's second complaint,

even though completed with Nielson's assistance, also fails the statutory tests of personal knowledge, non-hearsay reports, and identification of sources. She writes: "The place Willie Greyeyes [sic] claims to live is his sisters [sic] home [sic]. He occassionally [sic] stays there but he does not have a permanent residence in Utah. He also claims to live in his mothers [sic] home on Piute [sic] Mesa. It is not livable, windows boarded up, roof delapidated [sic]. No tracks going into home for years." The first three sentences are based upon Grayeyes' claims not Black's personal knowledge. The last sentence, about Grayeyes' mother's home, has the feel of an observation which was made in person, but we know that Black did not visit Grayeyes' mother's home on or before March 20 when she swore out this affidavit under oath, because she told Turk that she did not search for Grayeyes' home until March 23 and, moreover, that she failed to locate (and hence could not have viewed) any Grayeyes residence at that time. Exhibit C, page 3.[6] According to the facing page of the Turk report (Exhibit C, page 1), Turk initiated his investigation as a result of a telephone complaint from Black on March 23, and, moreover, all of Black's statements in her March 20 complaint appear to be derived from Turk's report which was not "completed" until March 28. These combined circumstances strongly suggest that, not only was the Black complaint based on hearsay rather than personal knowledge, but also that Black and Nielson backdated the complaint to March 20 after they first enlisted Turk to investigate on March 23 and then reviewed Turk's report on March 28. Finally, Black's argument that "he [Grayeyes] does not have a permanent residence in Utah[,]" is not a fact or circumstance as required under subpart (1)(a)(ii)(D), but a *non sequitur* which Black derives

[6] What's more, Black's foundation for the unproven premise that Grayeyes in fact claimed to reside in his mother's home -- or that the home she observed in fact belonged to Grayeyes' mother -- is not given. Nor does she explain the temporal omniscience which allows her to conclude that there were "no tracks" going into that home -- on a sandy, wind-blown mesa – for a period of "years."

from her unsupported allegation that Grayeyes only "occassionally" [sic] stays at his sister's home, her equally unsupported allegation that his mother's home on "Piute [sic] Mesa" is unlivable by her standards, and her unarticulated assumption that there is no other place within the vastness of San Juan County where Grayeyes could be residing. This is nothing more than a conclusory proposition (constructed, moreover, upon an illogical premise) and hardly the personal intelligence or hard facts which should be required as evidence to disenfranchise a voter.

(iv) Subparts (1)(a)(iii) and (1)(c) require the complainant to swear, under penalty of perjury, that he or she has exercised due diligence personally to verify the facts and circumstances which are set forth in the complaint and that those facts and circumstances are not based upon unsupported assumptions or anonymous tips. Black swore under penalty of perjury that she exercised due diligence before filing her complaint, but this cannot be true, since she swore to the complaint March 20, but did not drive out towards Navajo Mountain in search of evidence until March 23 and, even then, did not find any evidence of moment. As already noted, moreover, the "facts" averred in her complaint apparently were derived, not as a result of her due diligence, but taken instead from Turk's report which wasn't "completed" until March 28. That report is hearsay insofar as Black (and Nielson) are concerned and cannot be a matter of either her due diligence or her personal knowledge. It bears repeating that Turk's report is entirely hearsay and that, moreover, with the exception of Turk's observations respecting certain houses, the information from the report is double and sometimes even triple hearsay, most of which comes from unidentified, and, hence, anonymous sources. The report likewise, contrary to the requirements of the statute, is unsworn and hence unverified.

Subpart (2) provides that, if the complaint is not in proper form or if it is incomplete or if it fails to satisfy the requirements of subpart (1), the clerk "shall" dismiss the complaint. Even laypersons realize that "shall" is obligatory, not merely advisory, but Utah Code, §68-3-12(1)(j), confirms this construction, providing that, when used in any Utah statute, the word "[s]hall means that an action is required or mandatory." Black's complaint was horribly deficient in both form and substance, and yet Nielson did not obey this statutory command to dismiss the proceeding. He instead undertook to cure those deficiencies, by collaborating with Kendall Laws, commandeering Turk, directing an investigation, and issuing press releases.

Subpart (3) provides that, if a challenge to a voter's registration "meets the requirements for filing under this section," the clerk shall attempt to give notice of the challenge to the voter, informing him or her that evidence proving the entitlement to vote may be submitted up to "(A) 21 days before the date of the election[.]" As already noted, Black's complaint should have been dismissed pursuant to subpart (2) and Nielson never should have proceeded with notice to Grayeyes since that complaint surely did not meet the requirements of the statute within the meaning of subpart (3). But Nielson nevertheless sent a letter to Grayeyes on March 28 (Exhibit D), alerting him to the voter registration challenge. Three things are noteworthy about this letter. First, Nielson was required to notify Grayeyes, pursuant to subpart (3)(B)(v)(A), that he could submit evidence up to 21 days prior to the election which, in the pre-convention context of this dispute, would have meant the primary election scheduled for June 26th, or, in other words, a submission deadline of June 5th. Nielson's letter did not alert Grayeyes to this deadline, but, instead, asked for his rebuttal information "as soon as possible." Second, in light of the language of subpart (3)(B)(v)(A), Grayeyes had a statutory right to submit materials in order to rebut the complaint until day's end June 5th, but Nielson eclipsed that right by issuing his decision on the

complaint May 9. Nielson deliberately accelerated his date for decision because MBSS had sent a GRAMA request May 3, returnable May 13 (Exhibit T), demanding access to all materials being used in the investigation of the complaint, a request which would have obligated Nielson to turn over the Turk report, which in turn would have revealed the extent of Nielson's procedural abuses as well as the illicit collusion with Kendall Laws, revelations to which Grayeyes could have responded before the June 5 deadline. Grayeyes and MBSS unfairly were denied this opportunity by the manner in which Nielson disobeyed the statute and manipulated timetables within the proceeding. Third, the March 28 letter is a further indication that Nielson and Black may have backdated their voter registration complaints to March 20. Subpart (3)(a) requires the clerk to send notice "upon receipt" of a complaint. Had Nielson received the Black complaint March 20, he would have sent notice on the 20th or 21st, not the 28th. But, as noted above, Nielson and Black waited until they heard from Turk on the 28th, then prepared the complaints on the 28th, backdating them to the 20th, before issuing the notice to Grayeyes on the 28th.

Subpart (4)(b)(i) provides that the complainant has the burden of proving a registrant's ineligibility to vote "by clear and convincing evidence[.]" And subpart (4)(b)(ii) further provides that the "election officer shall resolve the challenge based on the available facts and information submitted, which may include voter registration records and other documents or information available to the election officer." The thrust of this statute is plain: The complainant must prove her case; the case should not be made by the election official who has a duty to remain impartial in order to render an unbiased decision. But Black, as we have seen, did not prove her case; she failed to submit evidence (clear, convincing, or otherwise) in accordance with the statutory standards – evidence based on personal knowledge (subpart (1)(a)(iii)), that is neither hearsay

nor attributed to an unidentified source (subpart (1)(c)). Nielson's decision, since it went against Grayeyes, therefore, had to rest on Turk's report, but this was unlawful for two reasons. First, this evidence was not submitted, as the statute requires, *by* Black *and* under oath (subpart (1)(a)(iii)). Second, the Turk report itself was hearsay (with those parts of the report material to Nielson's May 9th decision entailing double, triple, and in some instances even quadruple hearsay), rather than personal knowledge, and the preponderance of witnesses were unidentified (subpart (1)(c)). Nielson believed that his reliance on the Turk report was justified in light of the wording of subpart (4)(b)(ii) which he interprets as a license to look at any other documents or information he desires. This reading ignores the text which limits "other documents and information" to those "submitted" by the parties or, at most, already "available" to the clerk, such as voter registration records. It does not authorize Nielson to ignore the burden of persuasion which is placed on the complainant, to doff the cap of impartiality in order to become a prosecutor in the case, or to enlist a deputy sheriff to create "evidence" which otherwise would be decidedly unavailable to him. What's more, since the statute requires the complainant to verify all submissions with an oath, and to make sure that evidence is based on personal knowledge, it would be anomalous for Nielson, as he did here with the Turk report, to rely on unverified hearsay and unidentified sources. In addition, although Nielson stretched the meaning and purpose of the statute beyond all recognition, on the pretext that a sheriff's department investigation or deputy sheriff's report constitute "available" information which he is entitled to use, he completely ignored the most relevant and readily "available" information in his voter registration files, namely, the 2012 decision by his predecessor, Norman Johnson, holding that Grayeyes was a *bona fide* resident and validly registered voter of San Juan County and a fully qualified candidate in that year's election to the office of County Commissioner.

7. Nielson's May 9th Decision to Disenfranchise Grayeyes

Shows the Discriminatory Bias of the San Juan County Defendants Against Him

These extreme departures from proper administration of §20A-3-202.3, as already noted, demonstrate the discriminatory bias of the San Juan County defendants against Grayeyes, and a purpose unlawfully to prevent Grayeyes' access to the November ballot. But Nielson's May 9th decision which disenfranchised Grayeyes, depriving him of the right to vote in San Juan County, is an even clearer revelation of that unconstitutional intent. Grayeyes details below the flaws in that decision-making process and in that decision.

The May 9th decision was not the product of impartial decision-making. To begin, Nielson's decision was not the result of disinterested decision-making by a neutral county clerk; it was the product of a partisan effort to disqualify Grayeyes as a candidate and to block his access to the ballot. To this end, Nielson assisted Black in preparing and possibly backdating a complaint under Utah Code, §20A-3-202.3. Nielson improperly enlisted a law enforcement official, Turk, to conduct discovery outside the scope of the statute in question and for use in the resolution of a civil dispute. Neilson then dissembled, attempting to disguise his improper use of Turk as a proper investigation of criminal misconduct. Neilson dissembled further, through his lawyer, Trentadue, by feigning ignorance about his role in connection with the investigation in order to defeat the efforts of Grayeyes' counsel properly to respond to Black's complaint. He also dissembled in order to conceal the fact that Kendall Laws, who should have played no role in this matter – in light of his relationship as son of Grayeyes' Republican opponent and in light of the statutes which regulate ethical conduct for county officials – actively was engaged in the investigative process, as clearly revealed in the body of Turk's report. Exhibit C, page 6. Indeed, Nielson's referral of the MBSS correspondence to Trentadue for a response was itself a

device which Nielson deployed falsely to imply that Kendall Laws was not working on the case against Grayeyes. Kendall Laws also attempted to throw plaintiffs off this scent by "referring" the "investigation" of Grayeyes to the Davis County Attorney in order to give the false appearance that he indeed was recused. Grayeyes believes that Kendall Laws also improperly may have assisted Nielson in preparing and issuing the April 19th press release and in writing the decisions on May 9th and May 10th which disenfranchised and disqualified Grayeyes.

Nielson's crabbed reading of the residency requirement for voting registration was contrary to the standards of liberality which are set forth in Utah case law and codified in its elections code. Utah's election code and the case law which construes it require election officials like Nielson to interpret and apply the relevant statutes liberally with an eye to enfranchising voters and increasing participation by all citizens in the electoral process. *See* Utah Code, §20A-1-401(1); *Rothfels v. Southworth,* 356 P.2d 612, 617 (Utah 1960) (voter registration challenge; statute should be read liberally to effectuate voting which is "among the most precious of the privileges for which our democratic form of government was established[ ] "). This result also is strongly implied by the procedural and evidentiary restrictions found in Utah Code, §20A-3-202.3, which must be met before disenfranchisement of a voter may occur. Nielson's decision ignores these principles. He violated the statutes, twisted the rules, and manipulated the processes which the San Juan County defendants deployed against Grayeyes, all with a purpose of extinguishing his voice as a candidate and voter.

Nielson's partisan bias caused him grossly to misread and unlawfully to apply the statutory requirements for voter residency in Grayeyes' case. In Utah, citizens have a right to vote but are not eligible to exercise that right absent registration. Registration is conducted by county clerks and in order to register, among other proofs, the applicant must show that he or she

"currently resides within the voting district or precinct in which the person applies to register to vote." Utah Code, §20A-2-101(d).

Residency for voter registration purposes is defined in Utah Code, §20A-2-105(3)(b): "A person resides within a particular voting precinct if, as of the date of registering to vote, the person's principal place of residence is in that voting precinct." "Principal place of residence," is a term of art which is defined in Utah Code, §20A-2-105, to mean "the single location where a person's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning."

When a person registers and names a principal place of residence under oath, there is a rebuttable presumption that he resides in Utah as well as the applicable precinct -- which presumption may be overcome only when, after objection, it is shown as a matter of law or by clear and convincing evidence that the individual's principal place of residence is not in Utah. Utah Code, §20A-2-105(7).

Grayeyes registered to vote with the San Juan County Clerk in 1984 and then renewed that registration in 2016. On both occasions, he affirmed under oath that his principal place of residence was at a stated location in the vicinity of Navajo Mountain. What is more, in 2012, under challenge, the County Clerk, Norman Johnson, found that this indeed was Grayeyes' principal place of residence -- for the purpose of both voter registration and candidate qualification. Hence, as of Black's March, 2018, challenge, Grayeyes' Navajo Mountain address, not only enjoyed a presumption of veracity, rebuttable only by clear and convincing evidence, as his principal place of residence for voter registration purposes, but also had been found expressly to be such in a 2012 decision by Norman Johnson as an election official. Moreover, Black's challenge (and Turk's report) did not question the fact that, on these landmark

dates of 1984, 2012, and 2016, Grayeyes' principal place of residence was at the address indicated in Navajo Mountain, but merely asserted and purported to show that, as of March 2018, Grayeyes no longer resided at that location.

This background is important because, pursuant to Utah Code, §20A-2-105(5)(b), a person may not have more than one principal place of residence at the same time, and §20A-2-105(5)(c) says that a person does not lose one principal place of residence *until* he establishes another principal place of residence. Hence, when these statutes are read in tandem with §20A-2-105(7) and the circumstances described above, it means that, in order to prove – by clear and convincing evidence -- that Grayeyes no longer had a principal place of residence in Utah, Black had to show and Nielson had to find that Grayeyes had established a new principal place of residence in Arizona or somewhere else. Remember, too, that principal place of residence, old or new, is defined to mean a "single location" with a "fixed habitation" to which the voter always intends to return.

The relevant inquiry in March 2018, accordingly, was not whether Grayeyes' Navajo Mountain property theretofore had been his principal place of residence, a fact already established in the 2012 decision, if not by the presumption advanced in §20A-2-105(7)(a). The relevant inquiry was whether Grayeyes had lost residency at Navajo Mountain by behavior, within the meaning of the statute, which signified that he had established a new principal place of residence in Arizona. Black and Nielson therefore had to show by clear and convincing evidence that Grayeyes – again adverting to the statutory definition – had established *in Arizona* a "single location where a person's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning." Utah Code, §20A-2-105(1)(a). Nielson's decision, however, focused exclusively on whether Grayeyes lived at Navajo Mountain, and

nowhere demonstrated, or even analyzed – using the factors set forth in §20A-2-105(4) -- whether or where Grayeyes might have a "single location" with a "fixed habitation" to which he always had the intention of "returning" in Arizona.

The only "evidence" to which Nielson could have resorted (had he chosen to make this inquiry) was Turk's report. That document, however, actually disproves that Grayeyes had a principal place of residence in Arizona, that is, a "single location" with "fixed habitation" to which he always intended to return. Turk's witnesses, most of whom remained unidentified, variously stated that Grayeyes lived in Tuba City, Kayenta, Page, and Cameron (in addition to Navajo Mountain). Within one location, Tuba City, witnesses said Grayeyes lived in a number of different places, behind a car wash, in a red brick cinder house, and in a trailer by a church. At one point in his 9 pages of single-spaced analysis, Turk reports that Black told him that a young couple (who remain nameless) told her that Grayeyes lives in "Deshonto," a place which, according to Google maps, simply does not exist.

Witnesses from Arizona, according to Turk's reportage, either could not identify or had difficulty pinpointing whether or where Grayeyes might have a fixed habitation at a single location in that state. "Ladies" in the main office of the Navajo Chapter House in Tuba City knew Grayeyes by name, but didn't know where he lived. People "behind the car wash" in Tuba City didn't even know who Grayeyes was. Carlene Yellowhair and Candelora Lehi, both of whom knew Grayeyes from shared tribal responsibilities, didn't know where he might live in Arizona and in fact assumed he had residency in Navajo Mountain in light of his role as a chapter official in representing that area. The Navajo Police Department in Tuba City didn't have an address for Grayeyes in Tuba City. So they loaned Albert Nez, one of their investigators, to assist Turk in a search for Grayeyes. They also recommended a call to the Navajo Police

Department in Kayenta district because "they knew Grayeyes lived in their area." But the folks in Kayenta district "had an address for him at the same spot where [Turk] had checked the Grayeyes family property [on Navajo Mountain]." Then Turk called Kendall Laws for an update on the investigation and Kendall Laws reported that Kelly Pehrson, the San Juan County Manager, had reported that he had received an "anonymous tip" that Grayeyes lived with a girlfriend, Victoria Bygone, in Tuba City. Following this lead, Turk contacted Lucida Johnson, the mother of Victoria Bygone, who informed Turk that Grayeyes "live[d] there with Victoria and added that Willie lives in Navajo Mountain," adding again that "he is everywhere on the rez because he is a councilman." This echoed another unnamed witness at Navajo Mountain who informed Turk that Grayeyes was "from" Navajo Mountain but lived "all over." Grayeyes himself told Turk that, although he stopped with his girlfriend when working in Arizona, he didn't have a place of his own in Tuba City, a statement never contradicted in Turk's report.

Although it was completely improper for Nielson to solicit and use Turk's report in deciding this voter registration issue, it would have been impossible for Nielson (had he analyzed the real issue in this case) to translate the comments from Johnson and others that Grayeyes is "everywhere on the rez" and Black's quadruple hearsay that he was in "Deshonto," a place from nowhere, and the suggestions that he was by turns in Page, Kayenta, Cameron, and four different sites in Tuba City into a conclusion that his principal place of residence was a "single location" with a "fixed habitation" in Arizona.

In summary, Utah Code, §20A-2-105(5)(c) says that Grayeyes could not have lost the principal place of residence which, in 2012, 1984, and 2016, by official resolution and statutory presumption already had been established at Navajo Mountain unless and until, pursuant to the March, 2018, complaint and May, 2018, decision, in light of changed circumstances, it was

found that he had established another principal place of residence in Arizona. Hence, Black had the burden of persuading Nielson, by clear and convincing evidence, that Grayeyes had lost his principal place of residence at Navajo Mountain by establishing another principal place of residence outside Utah and inside Arizona. To arrive at this conclusion, Nielson necessarily would have to rely upon Turk's report, but that document does not show that Grayeyes established another principal place of residence, a fixed habitation in a single location to which he always intended to return, anywhere in Arizona – Tuba City behind the car wash, Tuba City in a red brick cinder house, Tuba City in a trailer park, Kayenta, Page, Cameron, or "Deshonto." And Neilson's May 9th decision neither analyzed this issue by using the factors set forth in §20A-2-105(4), nor rendered any findings or conclusions that one of these locations was Grayeyes' new principal place of residence in Arizona as required under §20A-2-105(5)(c). Instead, Nielson peremptorily struck Grayeyes from the ballot.

Even Nielson's improper focus on whether Grayeyes had a principal place of residence on Navajo Mountain was misguided through bias. Instead of following the language and the logic of Utah Code, §20A-2-105, Nielson held that Black's complaint itself was clear and convincing evidence, sufficient to rebut a prior finding and the statutory presumption that Grayeyes had his principal place of residence on Navajo Mountain, and then proceeded to analyze, not whether Grayeyes had lost that residence by establishing a new, fixed habitation at a single location in Arizona, but whether Navajo Mountain, as an original question, could be Grayeyes' principal place of residence. To this end, Nielson analyzed and applied the factors found at §20A-2-105(4) to determine whether Navajo Mountain – rather than an alternate fixed habitation at a single location in the state of Arizona -- in fact was Grayeyes' principal place of residence.

But even here, in this backwards analysis of §20A-2-105, Nielson missed the mark. Section 20A-2-105(4) requires county clerks to evaluate and weigh the impact of nine factors on the question of residency. Nielson believed only four of these were relevant in Grayeyes' case, although he then invoked the statute's catch-all clause, "other relevant factors" to examine two more: Grayeyes' prolonged absences from his home in Navajo Mountain and the public's perception that he did not live there. But Nielson's treatment of these factors – relying upon the hearsay from Turk – was slanted towards his partisan objective – kicking Grayeyes off the ballot.

For example, Nielson treated factor one, "where a person's family resides," as unimportant, because Grayeyes has a sister in Utah and an uncle in Arizona. But the weight of comment in Turk's report shows that Nielson's arithmetical cancellation in this regard is oversimple and indeed a misapplication of this factor. Turk's report says that the sister, Grayeyes' closest living relative, is a blood sister who teaches at the community school in Navajo Mountain with whom Grayeyes spends 60 to 70 percent of his time. Grayeyes also has a nephew who lives in Navajo Mountain, a fact which Nielson passes over in his eagerness to call this relationship factor a one to one wash. Grayeyes' mother and aunt left him property near Navajo Mountain, property which Grayeyes, without contradiction, calls a "birthright," another familial connection which Nielson suppresses.

Nielson similarly gave insufficient weight to "the location of the person's employment, income sources, or business pursuits." It is undisputed that Grayeyes runs cattle at Navajo Mountain. And but for Nielson's racial astigmatism, he would understand that, in Navajo tradition, the location of cattle is an important signifier of one's homestead. It also is undisputed that Grayeyes works as a tribal official in the Navajo Nation, and that this work puts him front and center as a representative for the people of Navajo Mountain – the same citizens, it should be

added, whom Grayeyes would represent were he elected to the District 2 seat on the San Juan County Commission. This work responsibility, in fact, is the context for which he is known by the very few named witnesses in the Turk report. More than this, Grayeyes is the chair of the board of trustees of a non-profit corporation, Utah Dine Bikeya, which is organized under the laws of the state of Utah, headquartered in Salt Lake City, and dedicated to the promotion of the Bears Ears National Monument in San Juan County. Even a cursory search on Google, unaided by Turk's investigative prowess, shows that Grayeyes is the face of this movement which has been a *cause celebre* in southeastern Utah for at least the last 6 years. The Blacks, Nielsons, Laws, and Lymans of San Juan County did not care where Grayeyes lived or voted from 1984 when he first registered until the second decade of the 21st Century. But when Grayeyes became active in San Juan County issues, making the kinds of connections which durational residency requirements are purposed to advance, they pulled on the levers of power in local government in order to suppress his vote and silence his voice.

Nielson likewise gives short shrift to the "location of real property owned by the person[.]" The Turk report notes that Grayeyes owns real property and runs cattle and has employment, as a tribal representative and community activist at Navajo Mountain, the three most important factors in determining voter registration residency according to Utah case law. *See Dodge v. Evans,* 716 P. 2d 270, 274 (Utah 1985) (prison inmate deemed not resident in Salt Lake County for voter registration purposes because of want of ownership of real property or personal property and absence of "any other contacts" in that community). Lorena Atene in Utah showed Turk a map in her possession respecting Grayeyes' real property at Navajo Mountain, and the Navajo Police Department at Kayenta, Arizona, gave Turk, through his dispatcher, the address to this same real property. And the real property, in Grayeyes' case, is much more than

mere land. It is his inheritance, a birthright from his local clan, and the place where, at birth, that family buried his umbilical cord, a sacred ceremonial space which signifies home and fixed habitation. Grayeyes explained and stressed this circumstance in his counsel's correspondence and sworn statements to Nielson. But Nielson, for reasons which are all too apparent on the face of this record, chose to ignore what may have been the most significant indicator of principal place of residence in this case, an indicator so significant that it has figured in Tenth Circuit opinions which bear upon this subject.

In *United States v. Tsosie,* 849 F. Supp. 768 (D.N.M. 1994), Judge Hansen entered an order of abstention so that Navajo courts in the first instance could apply tribal custom, part of the common law of an Indian tribe, to determine a real property ownership issue between two members of the Navajo Nation. Tsosie's claim was based on the fact that her maternal ancestors had buried her umbilical cord on the land in question. In deciding to allow Navajo Tribal Courts to decide this question in the first instance, Judge Hansen adverted to affidavit testimony from Tom Tso, a former Chief Justice of the Navajo Nation Supreme Court, who opined that Navajo cultural traditions are "sacred" because they are "rooted in religious songs, prayers and chants[,]" and for this reason are embodied as part of the Navajo common law. Land inherited from maternal ancestors, according to Mr. Tso, has the status of *res judicata* as a principle. And burial of the umbilical cord has "'profound significance,'" suggesting a fundamental tie to Mother Earth. Tso opined that "'Relocating traditional Navajos from the land where their umbilical cords are buried and where they have always lived is uprooting them from their religion, and from a central part of their own identities. There are no precise analogies in the non-Navajo society of which I am aware to describe the harm that such relocation causes. It would be like yanking an infant away from its mother when the infant is still screaming and the mother is

reaching for it, and the mother is killed of loneliness and the child is killed for lack of tenderness and sustenance. It is tantamount to separating the Navajo from her spirit.'"

In contrast to these familial, cultural, and religious ties to Grayeyes' land and cattle at Navajo Mountain, Nielson points to "other relevant factors" which he felt entitled to consider in deciding that Grayeyes did not have a principal place of residence in Utah. These were, first, Grayeyes' long absences from Navajo Mountain, including what Nielson believed to be the most recent of these absences, a six month hiatus between the present and last fall when Grayeyes tended to his cattle operation. This application of the Turk report to the statutory language is skewed in at least two respects.

First, as a matter of law, reading the statute as a whole, its overall emphasis is on the intent to return, notwithstanding absences of whatever length, to the residence and whether, when leaving, one has established a new principal place of residence, a fixed habitation, in a single location. Under Utah's statute, the "intent to remain" or an "intent to return" are refrains which signify the *sine qua non* of a principal (the statute does not say "permanently or even frequently occupied") place of residence.

Second, as a matter of fact, Turk's report showed that Grayeyes returned often and always to Navajo Mountain, staying with his sister sixty or seventy percent of the time, commuting between Tuba City and Navajo Mountain on tribal business and in order to collect his mail, going everywhere on the reservation in his capacity as a representative of the Navajo Mountain Chapter of the Navajo Nation, and (had Nielson dared to mention the circumstance which may have most unsettled San Juan County Republicans about Grayeyes' candidacy) in order to maintain a regular presence as local agitator for and ardent proponent of the Bears Ears National Monument. Grayeyes even demonstrated his "subjection to local laws," a factor

deemed important in *Dodge v. Evans,* 716 P.2d at 274, by borrowing his girlfriend's vehicle and driving to meet Turk in answer to the Black complaint -- and by registering to vote at the county seat in 1984 and 2016. Moreover, according to records which *were* available to Nielson – within the meaning of §20A-3-202.3(4)(b)(ii) – Grayeyes has voted in San Juan County in nearly every election for the past 20 years and last voted there in 2016. Under Utah law, in addition to the presumption derived from statements made on a voter registration application, Utah Code, §20A-2-105(7)(a), the last jurisdiction in which a person votes is presumed to be the location of his residence. *See Beauregaard v. Gunnison City,* 160 P. 815, 818-19 (Utah 1916). Grayeyes' voting patterns, political campaigning, and local community activism show at least as much "presence" in San Juan County as what can be observed in other Utah politicians like Senator Hatch who had a 50 year sojourn in Washington, D.C., or Mormon mission presidents who leave Utah, traveling abroad for 2 to 3 years, in fulfillment of religious callings.

Finally, there is no factual basis in the Turk report to measure the length of any of Grayeyes' "absences." Putting aside the fundamental point that the entire report is unvarnished hearsay and hence inadmissible under the statutory requirements of §20A-3-202.3, that document, based upon interviews with a handful of people over a 3-day period, could not and does not purport to observe the times on a continuous – or even continual – basis when Grayeyes either was inside or outside the state of Utah. At bottom, therefore, Nielson's "finding" that Grayeyes had overlong, out-of-state absences, not only violated the statutory tests which bear on durational issues, but also is nothing more than an unsupported assumption grounded in anecdotal, inconsistent, hearsay references.

It is clear that Grayeyes has a peripatetic lifestyle, but this follows from the fact that the boundaries of the Navajo Nation straddle the Utah-Arizona border and tribal business -- to which

Grayeyes as an officer of the Nation must attend -- is conducted on both sides of that line. Likewise, as Grayeyes alluded and Fowler testified in the sworn evidence given to Nielson, work opportunities for members of the Navajo Nation are not easy to find in Utah and therefore Grayeyes and others often move back and forth between states in an effort to earn a living. Moving back and forth across state lines, however frequently or for whatever duration, does not signify, particularly under these circumstances, that Grayeyes lacks sufficient contact for residency on Navajo Mountain. Instead the statute mandates that a person with a principal place of residence in Utah does not lose that principal place of residence until he establishes a new principal place of residence in another state. Utah Code, §20A-2-105(5)(c). There was no showing that Grayeyes did this, namely, moved to a "single location" with a "fixed habitation" in the state of Arizona to which he always intended to return.

Nielson's second stab at an extra-statutory factor is the "public perception" at Navajo Mountain that Grayeyes does not "live" in that area. The basis for this conclusion is again Turk's report which shows that, out of 2,290 active voters in Grayeyes' voting precinct, the deputy questioned, directly or indirectly, 13 people on or near Navajo Mountain. The witnesses identifiable by name indicated that Grayeyes had more than a passing connection with Navajo Mountain. Lorena Atene said that, although Grayeyes "lives" in Tuba City, he "is a registered Chapter member and official in Navajo Mountain," that he "commutes back and forth," traveling up from Tuba City to Navajo Mountain to discharge his official duties on the Utah side of the border. She also indicates that, because of limited postal service in the Navajo Nation, mail to Navajo Mountain has to be routed through post office box addresses which chapter members maintain in Tonalea, but that Grayeyes, through this arrangement, collects his mail at Navajo Mountain, a fact confirmed in the Fowler Declaration. Atene also showed Turk a map by which

Grayeyes' family property at Navajo Mountain could be located and again emphasized that he commutes from Navajo Mountain to Tuba City and back to Navajo Mountain. Turk asked Grayeyes' sister, Rose Johnson, where Grayeyes "lives," and, although this aspect of the report may be unreliable in light of Turk's reference to confusion over a language barrier (compare Turk report, page 5, and Grayeyes Declaration, Exhibit K, ¶ 24), Rose indicated that Grayeyes comes to Navajo Mountain and stays with her, a circumstance confirmed by other Turk interviewees.

Two of Turk's sources gave strong indications respecting Grayeyes' presence at and involvement with the Navajo Mountain community. Turk asked the Navajo Tribal Utility Authority (NTUA) for copies of Grayeyes' bills. The NTUA did not deny that these existed, but, rather, implied that they did by insisting that Turk obtain a warrant before they could be released. During a stop at the "Inscription House Arizona Chapter House," Turk was told that Grayeyes was a "member of the Navajo Mountain Chapter House," and that he should seek information about Grayeyes there.

Another unnamed man stated that Grayeyes was "from" Navajo Mountain, but that he didn't currently "live" at Navajo Mountain, adding, perhaps in reference to his chapter duties, that "he is from all over[,]" and adding further, perhaps to underscore Grayeyes' ties to the local community, that his nephew, Darrell Grayeyes, and his sister, Rose Johnson, both worked at the local school. (Grayeyes himself is chair of the local school board. Grayeyes Declaration, Exhibit K, ¶16.) An unnamed "lady," joining this conversation and responding to Turk's questioning, stated that "[Grayeyes] comes around every once and a great while and that she didn't know where he lived."

In sum, even if we overlook the inadmissible nature of the Turk report, six of the thirteen persons whom he interviewed, including his only named "witnesses," gave strong indications, official work, homestead maps, mail collection, visiting, staying, commuting, officiating, that Grayeyes had a substantial, recurring presence in the Navajo Mountain community. In light of this evidence, it is unclear how Nielson could find a "public" or even limited perception that Grayeyes was not connected in significant ways with Navajo Mountain.

But Nielson's "public perception" finding was faulty, not only because he gave a slanted application of public perception in light of the actual information in Turk's report, but also because the basis of that report, Turk's form of question, asking his interlocutors where Grayeyes "lives," did not address the statutory definition of principal place of residence which by its terms contemplates that a person may "live" elsewhere with an intent to return and invokes a number of touchstones, such as ownership of property, personal and real, employment, and blood relatives, which may have nothing whatsoever to do with "living" at a particular street address. Indeed, a man on the street, when asked Turk's question, probably would answer by reference to observations about a person's whereabouts when he comes home from work and goes to sleep at night, a reference point which, in statutory terms, under §20A-2-105(4)(d), is only one of many factors which should be considered in determining residency for voting purposes. If Turk had asked his unnamed sources at Navajo Mountain who represented tribal members and hence had an important presence in that geographical district, the answers probably would have echoed those given by Lorena Atene, Carlene Yellowhair, and Candelora Lehi, namely, Willie Grayeyes as "registered chapter member and official in Navajo Mountain." In short, Nielson's "finding" based on Turk's form of question, not only was a mis-reading of the collected witness

statements, but also was seriously under inclusive in relation to the statutory criteria which must be used in defining residence for purposes of voting registration.

Finally, if public perception, itself one of the grossest forms of hearsay evidence, does have a place in the decision-making process for voter registration disputes, the "perception," properly applied in Grayeyes' case, would show that he had no principal place of residence in Arizona, and, thus, given the mandate in §20A-2-105(5)(c), could not be deemed to have lost his principal place of residence at Navajo Mountain. Grayeyes has summarized this "evidence" from Turk's report above, and need not repeat it here.

Had Nielson followed §20A-2-105, rather than his own partisan prejudices and an unconstitutional desire to oust Grayeyes from the November ballot, he would have found that Grayeyes never lost his principal place of residence in Navajo Mountain by establishing a new and different principal place of residence in Arizona.

8. The San Juan County Defendants' Actions,

As Violations of Grayeyes' Right to Vote and Run for Office

Are Consistent with the County's Historical Pattern of Disenfranchising Navajo Voters

Congress extended citizenship to Indians through its approval of the Indian Citizenship Act of 1924 (ch. 233, 43 Stat. 253 (1924); 8 U.S.C. §1401(b)).

Despite the extension of citizenship to Indians, many states, including Utah, continued systematically to disenfranchise Indians by denying them the right to vote.

Prior to 1957, a Utah statute, Section 20-2-14(11), U.C.A 1953 (repealed), denied Indians the right to vote, which San Juan County implemented by not registering Indians to vote and by denying them access to the ballot box, but when the constitutionality of that statute was challenged in the United States Supreme Court, the Utah legislature repealed it and Utah became

the last state to legally allow Indian voting. (The *Rothfels* case, cited above, interprets the same statute, as amended in the afterclap of the challenge in the United States Supreme Court.)

The repeal of U.C.A. § 20-2-14(11) did not end impediments to Indian enfranchisement in Utah in general or in San Juan County in particular. Despite the fact that, following repeal, many Indians in the County registered to vote, legal action was needed to protect Indian voting rights when, in 1972, the County, through the office of the Clerk/Auditor, impeded Navajos from becoming candidates for the County Commission. In an action in this Court, *Yanito v. Barber,* 348 F. Supp. 587 (D. Utah 1972), an injunction against San Juan County was required to remove those impediments by ordering the Clerk/Auditor to place the two Navajo candidates on the ballot.

In addition, San Juan County diluted Indian voting strength through at-large election of County commissioners, a practice that was challenged in 1983 through a lawsuit filed in this Court by the United States Justice Department and in which the County agreed "that the process leading to the selection of [its] County Commissioners fails to comply fully with . . . Section 2 of the Voting Rights Act." *See United States v. San Juan Cty.*, No. C-83-1286W (D. Utah, April 4, 1984).

As a result of the 1983 litigation, this Court entered a permanent injunction against San Juan County, required the County to adopt separate election districts for the election of commissioners, and a three-judge panel of this court certified the County for federal election examiners.

Race-based election discrimination by San Juan County did not end with the permanent injunction in *United States v. San Juan Cty.* Subsequent to the permanent injunction being entered in that case, the County adopted a three-member Commission election district plan where

race was the predominant and controlling consideration, which had the effect of diluting Indian voting strength by packing Indians into one of the three election districts.

In addition, San Juan County failed to comply with the constitutional requirement to redraw election district boundaries for either the County Commission or the School Board following the decennial censuses in 1990, 2000, and 2010, despite the growth of the Indian population in the County.

By late 2011, both the Commission districting plan and the School Board districting plan violated the one-person, one-vote, requirement of the Equal Protection Clause.

San Juan County corrected the one-person, one vote, violation regarding its County Commission in late 2011, but left one of the three districts packed with an Indian voting age population of 98 percent. The County took no action regarding the School Board, leaving in place a plan with a 38 percent deviation, in clear violation of the Equal Protection Clause.

In January 2012, the Navajo Nation and several individual plaintiffs filed a lawsuit in this Court challenging San Juan County's illegal districting plans. *See Navajo Nation v. San Juan Cty.*, No. 2:12-cv-00039-RJS.

In late 2015, the District Court determined that San Juan County's School Board election districts violated the one-person, one-vote, mandate of the Equal Protection clause. *See Navajo Nation v. San Juan Cty.*, 150 F. Supp. 3d 1253 (D. Utah 2015).

Following the Court's invalidation of the School Board election districts, San Juan County was allowed to draw and implement a remedial plan for the 2016 elections, subject to later challenge by the plaintiffs. Nielson, as Clerk/Auditor, failed to take any action to notify approximately 491 Indian voters that they were assigned to new precincts under the remedial plan, thereby creating an impediment to their right to vote.

In late 2016, this Court determined that San Juan County had engaged in intentional racial discrimination and that the County Commission election districts violated the Equal Protection Clause due to the County's use of racial classifications in drawing those districts. *See Navajo Nation v. San Juan Cty.*, 162 F. Supp. 3d 1162 (D. Utah 2016).

San Juan County was given an opportunity to draw a remedial plan for the County Commission election districts and submitted such a plan to the District Court.

In 2017, the plaintiffs challenged the remedial plans drawn by San Juan County for both the County Commission and the School Board. In July 2017, this Court determined that the County's proposed remedial redistricting plans for its County Commission and School Board violated the Equal Protection Clause of the United States Constitution due to the County's use of racial classifications in drawing those districts. *See Navajo Nation. v. San Juan Cty.*, 266 F. Supp. 3d 1341 (D. Utah 2017). The County had once again committed intentional racial discrimination.

The District Court then engaged the services of a Special Master, Dr. Bernard Grofman, to draw lawful districting plans for the County Commission and the School Board.

The plan proposed for the County Commission districts created Indian voting majorities in two out of three of those districts and an Indian voting age population in Commission District 2 of 65 percent. San Juan County has objected vigorously to this change, characterizing it as discrimination against "white Republicans" in the County.

San Juan County Commissioner Phil Lyman reportedly threatened that the County simply would not comply with the Special Master's plans if it were adopted by this Court, stating, "We're not going to pay any attention to them."

On December 21, 2017, the District Court adopted the Special Master's proposed plans,

which created an Indian majority of 65 percent in Commission District 2. *Navajo Nation v. San Juan Cty.*, No. 2:12-CV-00039, 2017 WL 6547635, at *1 (D. Utah Dec. 21, 2017).

This most recent decision by Judge Shelby has upset local Republicans as the ruling elite in San Juan County, leading to an increase in racial rhetoric and political hyperbole. One commentator stated that "the result [of Judge Shelby's decision] will be the creation of a welfare county of legalized plunder which will force us into involuntary servitude and slavery to the Navajo Nation." The same commentator went on to demand that current San Juan County officials, including the San Juan County defendants in this case, resist the Court's decision.

At this year's Republican Convention, Robert Turk, a relative of deputy Turk in this litigation, complained that "we've been disenfranchised." Others referred to Judge Shelby as "King Shelby," and Kelly Laws, father to Kendall Laws, and Grayeyes' opposing candidate in District 2, stated of Shelby that, "He's stabbed the citizens of San Juan County in the heart the best he could[.]" Others complained that, since members of the Navajo Nation don't pay property taxes, "nontaxpaying commissioners" would be in the driver's seat and, moreover, that Navajo candidates like Grayeyes, if elected, "wouldn't show up for meetings, wouldn't allocate funding to white towns, [and] wouldn't understand how to govern the county." *See* Courtney Tanner, *'We've been disenfranchised': Republicans in San Juan County say redrawn voter districts unfairly favor Navajos*, The Salt Lake Tribune, April 10, 2018. Likewise, at this year's Republican convention, Black was overheard to say about Grayeyes that "he's going to be a drain on the system – he's going to want money and a car."

These comments are echoes of the opposition to Grayeyes when he ran for a seat on the San Juan County Commission in 2012. Even then, his candidacy generated race-based fears and political rhetoric to the effect that, if elected, he would spend County funds for the benefit of the

Navajo community. Grayeyes' opponents ran advertisements which stated that, "Willie Grayeyes is campaigning on promises that if he is elected he will use San Juan County money for projects on the reservation which are clearly the responsibility of the Federal Government or the Navajo Nation to finance." The advertisement promised that the election of Grayeyes' opponent would ensure that County funds were not spent in the Navajo community. These and other details respecting the racial animus and political opposition of the San Juan County defendants in relation to Grayeyes are documented in the Expert Witness Report of Dr. Daniel McCool in the case of *Navajo Nation v. San Juan Cty.,* case no. 2:12-cv-0039-RS, Dkt. No. 181 (D. Utah, August 18, 2015).

STANDARDS OF REVIEW FOR PRELIMINARY INJUNCTIVE RELIEF

Based upon the facts detailed above, the Court should grant a preliminary injunction, blocking defendants from their unconstitutional application of Utah Code, §§20A-3-202.1, 20A-2-105, and 17-53-202 to Grayeyes and requiring Cox and Nielson to restore Grayeyes to the ballot in November 2018. Grayeyes is likely to prevail on the merits of his argument that the manner in which he was disenfranchised and kept off the November ballot violated the First and Fourteenth Amendments to the United States Constitution. *See, e.g., Pacific Frontier v. Pleasant Grove City,* 414 F.3d 1221, 1231 (10th Cir. 2005). Absent redress of these constitutional violations, Grayeyes will suffer irreparable harm. *Id.* The balance of hurt weighs in favor of Grayeyes. *Id.* An injunction will further the public interest. *Id.*

LEGAL ARGUMENT

As the following legal argument will demonstrate, Grayeyes' case for ballot access and voting privileges in fact satisfies each of these standards of review.

1. Grayeyes Will Prevail on the Merits

Grayeyes feels passionately about public issues and current events which affect all citizens in San Juan County. He wants to run for office, have a say, and make a difference. And according to the United States Supreme Court, his participation in the democratic process, by seeking election, spending money on a campaign, or voting for a candidate, is a matter of fundamental right which is protected by the First Amendment. *See, e.g., McCutcheon v. Fed. Election Comm'n,* --- U.S. ---, 134 S. Ct. 1434 (2014).

The reasons why the First Amendment "has its fullest and most urgent application precisely to the conduct of campaigns for political office," *Monitor Patriot Co. v. Roy,* 401 U.S. 265, 272 (1971), are well known. "[I]t is of particular importance," for example, "that candidates have the unfettered opportunity to make their views known so that the electorate may intelligently evaluate the candidates' personal qualities and their positions on vital public issues before choosing among them on election day[.]" *Brown v. Hartlage,* 456 U.S. 45, 53 (1982). What is more, "[the] observation that in our country 'public discussion is a political duty,' . . . applies with special force to candidates for public office." *Id.* (citations omitted); *see also Bond v. Floyd,* 385 U.S. 116 (1966) (state violated First Amendment when it refused to seat a legislator-elect because of his public opposition to Vietnam war). In short, political speech "is the lifeblood of democracy – it is the means by which citizens learn about candidates, hold their leaders accountable, and debate the issues of the day." *Republican Party of N.M. v. King,* 741 F.3d 1089, 1092 (10th Cir. 2013).

Hence, even before decisions like *Citizens United v. Fed. Election Comm'n,* 558 U.S. 310 (2010) and *Arizona Free Enter. Club's Freedom Club PAC v. Bennett,* 564 U.S. 721 (2011) elevated the protection of campaign speech to new levels, government regulation of political discourse has been treated with suspicion and will not be tolerated absent the existence of special

circumstances. The so-called ballot access cases, *e.g., Lubin v. Panish,* 415 U.S. 709, 715 (1974), allow states, in some instances – for example, to economize, avoid confusion, or preserve political stability -- to establish rules respecting candidates. But the reasons for such rules must be substantial if not compelling, and the rule in question must navigate carefully – or in the least restrictive fashion possible – between the state's objective, the regulatory means to that end, and the constitutional liberty which may be placed in jeopardy. *E.g., McCutcheon v. Fed. Election Comm'n,* --- U.S. ---, 134 S. Ct. 1434 (2014) (citing, *inter alia*, *Buckley v. Valeo,* 424 U.S. 1, 21 (1976), *Sable Commc'ns of Cal., Inc. v. FCC,* 492 U.S. 115, 126 (1989), *Fed. Election Comm'n v. Nat'l Conservative Political Action Comm.,* 470 U.S. 480, 496-501 (1985)). In short, whatever the state's objective, the means selected to achieve that end may not unnecessarily impose upon a constitutionally protected liberty. *E.g., Ill. State Bd. Of Elections v. Socialist Workers Party,* 440 U.S. 173, 183 (1979).[7]

This especially is true where a state law, however well-intentioned or facially legitimate, is implemented in a partisan manner by public officials. In this important respect, the First Amendment is "[p]remised on mistrust of government power," *Citizens United v. Fed. Election Comm'n,* 558 U.S. 310, 340 (2010), and that mistrust, in turn, is bred by the fear that government bureaucrats who regulate campaigns will be self-serving or less than disinterested, Allison R. Hayward, "Revisiting the Fable of Reform," 45 Harv. J. on Legis. 421 (2008), a sentiment which draws force from the principle that "those who govern should be the *last* people to help decide

[7] Grayeyes' discussion in this section of his brief relies mainly upon the First Amendment case law which bears upon a candidate's right to campaign, but these principles are no less true in relation to the right to vote, as another form of political expression, which Nielson abridged en route to his ultimate objective which of course was to prevent Grayeyes from getting access to the November ballot. *See, e.g., Dunn v. Blumstein,* 405 U. S. 330, 336 (1972) (the right to vote is "'a fundamental political right . . . preservative of all rights[,]'") (citing *Reynolds v. Sims,* 377 U. S. 533, 562 (1964)).

who *should* govern." *McCutcheon v. Fed. Election Comm'n,* --- U.S. ---, 134 S. Ct. 1434, 1441-42 (2014) (emphasis in original).[8]

Such governmental maladministration, even of legitimate electoral regulations, interferes with the free utterance of public statements in a political campaign. And such interference "runs directly contrary to the fundamental premises underlying the First Amendment as the guardian of our democracy. That Amendment embodies our trust in the free exchange of ideas as the means by which the people are to choose between good ideas and bad, and between candidates for political office. The State's fear that voters might make an ill-advised choice does not provide the State with a compelling justification for limiting speech. It is simply not the function of government to 'select which issues are worth discussing or debating' . . . in the course of a political campaign." *Brown v. Hartlage,* 456 U.S. 45, 59-60 (1982) (citation omitted).

These hornbook expressions of First Amendment law should be well-known to San Juan County officials who (as the history of litigation cited above in our statement of facts demonstrates) have battled over the years to have their own way in arbitrarily excluding members of the Navajo Nation from voting rolls and campaign opportunities. The San Juan County Clerk's office has been at the forefront of this fight, using official power for partisan ends for decades. In *Yanito v. Barber,* 348 F. Supp. 587 (D. Utah 1972), for example, a three judge panel from this Circuit enjoined the San Juan County Clerk to put two Navajos who were

[8] The First Amendment, in this regard, "reaches the very vitals of our system of government," because, as Justice Douglas wrote, "[u]nder our Constitution it is We the People who are sovereign. The people have the final say. The legislators are their spokesmen. The people determine through their votes the destiny of the nation. It is therefore important – vitally important – that all channels of communication be open to them during every election, that no point of view be restrained or barred, and that the people have access to the views of every group in the community." *United States v. Int'l Union United Auto., Aircraft & Agric. Workers of Am.,* 352 U.S. 567, 593 (1957) (dissenting opinion).

running for seats on the County Commission on a regular election ballot because the Clerk had abused his position, misleading the candidates by withholding information about the need for nominating petitions which were vital to their qualification for this office. "[A] statute valid on its face may be administered in an unconstitutional manner[,]" said the Court, and the omission to advise respecting the nominating petitions (even where the clerk disclaimed any duty to give advice respecting legal requirements) was "a crucial misstatement[,]" a misstatement, moreover, which the court "inferred," from facts in the record, to be "knowingly and purposely carried out." *Yanito's* light hasn't dimmed with the passage of time. It remains a truism that ballot regulations, in order to pass constitutional muster, must be non-discriminatory in purpose *and effect*. *E.g., Burdick v. Takushi,* 504 U. S. 428, 434 (1992). And because a state actor may not attempt to achieve his regulatory ends through unconstitutional means, *e.g., Ill. State Bd. of Elections v. Socialist Workers Party,* 440 U. S. 173, 183 (1979), only when a ballot regulation crosses this non-discriminatory threshold will a balancing standard come into play, *e.g., Burdick v. Takashi,* 504 U. S. at 434.

Nielson's maladministration of the voter registration rules which were used to disqualify Grayeyes from the ballot was more egregious by a hundred-fold than the inferences which the *Yanito* judges drew from the circumstances of that case.

The timing of Black's challenge to Grayeyes' residency stands out. Nobody objected to Grayeyes as a voter – for almost 30 years -- until he ran for office in 2012 – and his residency then was determined to be in San Juan County and his candidacy accordingly was approved by Norman Johnson as County Clerk. Nobody objected again until Judge Shelby entered, first, a redistricting order in 2016 and, then, ordered new elections with a newly configured District 2 – where a Navajo candidate for the first time since time immemorial has a decent shot at winning -

- in 2018. And this second objection ignores entirely the fact that the prior clerk, Norman Johnson, in 2012 actually found that Grayeyes had a principal place of residency in San Juan County, a principal place of residency at exactly the same address as that listed on his 2018 Declaration of Candidacy.

Nielson tainted his administration of Black's challenge by collaborating with Kendall Laws who, because his father Kelly was running in opposition to Grayeyes, had a conflict of interest and probably was acting in violation of the ethics statutes applicable to county employees, as well as the Rules of Professional Responsibility. Nielson then doubled down on the conflict wager by personally prosecuting the challenge, commandeering the Sheriff's department to conduct an *ultra vires* investigation, and abandoning any semblance of neutrality as an election judge.

Now, with every particle of impartiality thoroughly exploded, Nielson drew wildly outside the lines in his adoption of procedures to handle the challenge. He wrongfully channeled the contest into a dispute over voter registration rather than candidate qualification, knowing that he would have more license, as the election official in charge, to manipulate outcomes when taking this improper path. He then ignored the legislative mandate found in Utah Code, §20A-3-202.3(2), to dismiss a legally insufficient complaint, and assisted Black in drawing up a second, equally deficient pleading[9] – and, while doing so, aided and abetted her misrepresentations, under oath, that she had personal knowledge of the basis for the challenge and that she had exercised due diligence in gathering first hand intelligence, misrepresentations which are

[9] Nielson's decision to disenfranchise Grayeyes, found in Exhibit H, later found that "Ms Black provided sufficient clear and convincing evidence that she had a valid basis for her challenge." Nielson, as judge, thus validated the very pleading which Nielson, as prosecutor, had assisted Black in preparing.

transparent from even a cursory review of the first page of the very report which he had commissioned from Turk.[10]

But these fictions are like a Sunday School fable when compared to the ongoing campaign which Nielson conducted, from March 28 through May 24, when he stonewalled the repeated requests from Grayeyes' counsel to obtain information about the basis for the challenge and a rumored investigation being conducted by the clerk, attempted to mislead those attorneys by the information transmitted via Trentadue, and further attempted to hide Kendall Laws's role in this affair with a pretense of recusal -- an attempt he furthered by using Trentadue as a cover for Laws and by implying, in addition, that any investigation would be conducted under state auspices or through the Office of the Davis County Attorney. These deceptions were revealed when Turk's report was delivered in response to a GRAMA request on May 24. But by then it was too late, since Nielson had decided the case in letters sent May 9 and May 10.

Nielson thimble-rigged the proceedings against Grayeyes through other means as well. He violated the notice provision of §20A-3-202.3 in two respects. He waited too long to send notice (if we accept that he didn't backdate the Black complaints), and his notice did not supply the statutorily mandated end date (June 5 in this case) after which evidentiary submissions would be barred. Nielson then parleyed this lack of notice into an abuse of process, cutting short the time available for Grayeyes' responses in order prematurely to decide the case on May 9-10 before his deceptions in conducting an investigation with the collaboration of Laws could be discovered in the response to the GRAMA request May 24 – a circumstance which eclipsed any

[10] Not to be outdone by Black's prevarications, Nielson piled on one of his own: He concealed Black's first complaint from Grayeyes and MBSS, omitting it from the packet of documents sent in response to their May 3 GRAMA request, and, in his cover letter on that occasion, positively mispresented that, "No responsive records are being withheld from this response." Exhibit I.

occasion for a full and fair "hearing" through rebuttal of the Turk hearsay as well as other secret evidence and procedural irregularities by almost a full month before expiration of the deadline on June 5.

Perhaps worst of all, Nielson disregarded the statutory mandates that evidence to disenfranchise a voter must be clear and convincing and that this evidence cannot be second hand and from anonymous sources. The evidentiary standard found in Utah Code, §20A-3-202.3, is "clear and convincing," in contrast to the "substantial evidence" which ordinarily suffices in administrative adjudications under Utah law. *E.g.,* Utah Code, §63-46b-16(g). This distinction is not a legislative accident, but, rather, a matter of constitutional principle. Fundamental rights in civil proceedings, like a liberty interest in involuntary commitment hearings or the right to free speech which is implicated in actions for libel, cannot be abridged absent showings which are based upon clear and convincing evidence. *See, e.g., Addington v. Tex.,* 441 U.S. 418, 431-33 (1979) (involuntary commitment proceeding), and *Masson v. New Yorker Magazine, Inc.,* 501 U.S. 496, 510 (1991) (publisher's right to due process, which attaches to its constitutional entitlement to free speech, requires that the element of malice in a libel action must be proved by clear and convening evidence). And Section 20A-3-202.3's no hearsay rule is to the same effect. That measure's absolute prohibition against the use of hearsay may be contrasted with other administrative adjudications under Utah law. In these proceedings, hearsay is admitted, but may not supply the exclusive basis for any given fact finding. *See, e.g., Yacht Club v. Utah Liquor Control Comm'n,* 681 P.2d 1224, 1226 (Utah 1984). And even at the federal level, where hearsay is liberally allowed in administrative actions, it may be a violation of due process to make findings in reliance upon hearsay unless the respondent is permitted to see that evidence in advance of a hearing or where a respondent has not been given an

opportunity, through subpoenas, cross-examination, or otherwise, to test the out-of-court declarant. *See, e.g., Bennett v. Nat'l Transp. Safety Bd.,* 55 F.3d 495, 500-02 (10th Cir. 1995). But in contrast to these rulings in *Yacht Club* and *Bennett,* §20A-3-202.3 -- more protective of the rights to due process and free expression where fundamental voting rights are at stake -- is unequivocal in its proscription of any and all hearsay.

These principles, however, weren't important enough to give Nielson pause, so eager was he to block Grayeyes from the ballot. If hearsay evidence, standing alone, isn't even "substantial evidence" under Utah law, how can it be "clear and convincing" for purposes of the voter registration statutes? Yet hearsay evidence in the form of Turk's report was the *exclusive* means by which Nielson turned the wheel and tightened the screws against Grayeyes. What's more, Turk's hearsay (consisting mainly of misguided questions to and responses from unnamed sources) was withheld (one has to say deceptively withheld) from Grayeyes until after the proceedings were concluded in a decision which unlawfully denied any further opportunity for inspection, rebuttal, or other form of response -- in a violation of due process which could not be more appalling in dimension or magnitude.

In this regard, it is Nielson's hugger-muggery during the entire process which, when finally exposed to the light of day, stands out as the most gob smacking circumstance of all – serving as reminder that there is nothing more inimical to the principles of due process than decisions which are based upon secret evidence. The cases in support of this proposition are legion, but, for a sampling, *see, e.g., Rafeedie v. I.N.S.,* 880 F.2d 506, 516 (D. C. Cir. 1989) (. . . Rafeedie – like Joseph K. in Kafka's 'The Trial' – can prevail . . . only if he can rebut the undisclosed evidence against him, i.e. prove that he is not a terrorist regardless of what might be implied by the government's confidential information. It is difficult to imagine how even

someone innocent of all wrongdoing could meet such a burden[ ]"); *ADC v. Reno,* 70 F.3d 1045, 1069, 1070-71 (9th Cir. 1995) ("Because of the danger of injustice when decisions lack the procedural safeguards that form the core of constitutional due process, the . . . balancing [test adopted by the Supreme Court to determine whether INS conduct violates a non-citizen's due process rights] suggests that use of undisclosed information in adjudications should be presumptively unconstitutional[ ]"); *Kiareldeen v. Reno,* 71 F. Supp. 2d 402, 419 (D. N. J. 1999) ("Here, the court cannot justify the government's attempt to 'allow [persons] to be convicted on unsworn testimony of witnesses – a practice which runs counter to the notions of fairness on which our legal system is founded [ ]'"); *Haddam v. Reno,* 54 F. Supp. 2d 588, 598 (E.D. Va. 1999) ("The use of secret evidence against a party, evidence that is given to, and relied on, by the [immigration judge and the Board of Immigration Appeals] but kept entirely concealed from the party and the party's counsel, is an obnoxious practice, so unfair that in any ordinary litigation context, its unconstitutionality is manifest[ ]").

Nielson's actual decision, that Grayeyes did not have a principal place of residence within Utah and therefore was ineligible to register to vote, is the final insult to the idea of governmental integrity. We have given our analysis of the flaws in that decision in part 7 of the statement of facts and note, once again, that while differences of opinion in the interpretation of statutes and cases are not uncommon in the world of law, some readings and applications are so far beyond the pale that no motive other than partisan bias can be attributed to them, and this obviously occurred in Nielson's treatment of Grayeyes' case.

But three aspects of Nielson's decision deserve special mention, as part of this legal analysis concerning maladministration of what otherwise is a legitimate regulation for the registration of voters. First is Nielson's primary reliance upon Grayeyes' "absences" from his

homestead in Utah, since he had been found stopping with a girlfriend or other friends in Arizona while conducting tribal business. This reliance is misguided, of course, because the Navajo Nation exists as a geographic entity, not only in Utah, but also in Arizona, and anyone who works in that world perforce must cross state lines with considerable frequency. In addition, Grayeyes' Utah home is at the vortex of a multi-state area called Four Corners, part of a larger region known as the Colorado Plateau. It is a primarily, rural, arid, and rugged terrain with sparse population and limited economic opportunities. Four states and their local governments have jurisdictional boundaries in this region, as well as the federal government and federally recognized Indian Tribes including the Navajo Nation of which Grayeyes is an enrolled member. Because of these circumstances, the Four Corners region has become home to a class of travelers, including Grayeyes; indeed, it may be said that these residents have an imperative to travel back and forth, between or among, these states in order to obtain essential services as well as employment opportunities. These realities also reveal a deeper, constitutional flaw in Nielson's maladministration of the residency statute in Grayeyes' case, because his reliance on Grayeyes' "absences" from Utah in order to overrule the presumption of residency which is granted by statute constitutes an abridgement of the right to travel which Grayeyes has under the Due Process Clause of the Fourteenth Amendment, *e.g., Saenz v. Roe,* 526 U.S. 489, 499-502 (1999), a right, moreover, which has been described as a "constitutional liberty, closely related" to his right to free speech and association, *e.g., Aptheker v. Sec'y of State,* 378 U.S. 500, 517 (1964). *See also Dunn v. Blumstein,* 405 U. S. 330, 360 (1972).

Second is Nielson's treatment of the "public perception" that Grayeyes did not live at his address on Navajo Mountain. We have shown above in the factual analysis of Nielson's decision how his use of evidence is off the mark in this respect – and that his reading of the plain

language of the residency statute equally is wrong-headed. In addition, however, the invocation of "public perception" by Nielson exposes another area of constitutional vulnerability in this case. County clerks may use the "other relevant factors" test only where another factor is truly relevant to the inquiry about residency and, even then, only when there is evidence, within the procedural parameters of §20A-3-202.3 which supports a finding in that regard. Allowing clerks too much discretion in expanding the scope of relevance or shoehorning evidence into a "finding of fact" may lead to transgression of First Amendments proscriptions against viewpoint discrimination. Here's why.

It is clear from the circumstances of this case that Nielson was using the voter registration provisions of Utah's elections code to act as a gatekeeper in relation to Grayeyes' candidacy. But gatekeepers are suspect in First Amendment jurisprudence because, when given (or taking) too much license in the construction or application of even legitimate ballot restrictions, they can overreach their function and manipulate that discretion toward partisan ends, engaging in a forbidden discrimination as between viewpoints or candidates. *See, e.g., City of Lakewood v. Plain Dealer Publishing Co.,* 486 U S. 750 (1988); *see also United States v. Playboy Entm't Grp., Inc.,* 529 U. S. 803, 817 (2000), relying upon *R.A.V. v. St. Paul,* 505 U. S. 377, 382 (1992).

Many state actors, of course, are subtle folk and their discriminatory practices accordingly difficult of detection -- hidden behind seemingly legitimate administration of everyday regulatory requirements – becoming all the more dangerous in doing so. Hence, statutes which may be read to give excessive discretion to a government gatekeeper who thereby is empowered to restrict speech usually are prime suspects as the deadbolts by which an elections official may foreclose candidates from ballot access, thereby perpetrating the type of viewpoint discrimination which violates the First Amendment. We believe that, on a fair reading of the

entire record, this is the wrong which Nielson and the other San Juan County defendants perpetrated in this case. They used "public perception" as a "relevant" factor in determining where Grayeyes lived – when, at best, "public perception" is just another name for the anonymous hearsay which §20A-3-202.3 expressly interdicts – and, at worst, it is a license by which Nielson, as gatekeeper to voters and candidates, unconstitutionally prevented Grayeyes from getting on the ballot.

Third, Nielson dispatched Turk to conduct an investigation into where Grayeyes "lives," itself a misapplication of the residency statute's multi-pronged tests. To that end, Turk devotes a page or so in his report to the description of what he thinks is or might be Grayeyes' home near Navajo Mountain. It is unclear whether Turk ever really found (and therefore inspected) the "fixed habitation" which qualifies as home to Grayeyes in satisfaction of the residency requirement under Utah law,[11] but it is clear, judging from the language which Turk uses, that he doesn't deem these buildings to be "habitable" by his standards which, of course, are those held by a white, middle-class, Anglo-American.

[11] This section of Turk's report is confusing to say the least and he appears to have gotten lost in an area difficult to traverse with few roads. The problems encountered by Turk – locating homes on virtually non-existent streets which perforce have no street addresses – appear to be endemic to the area and a primary cause for much of the more comprehensive litigation which has occurred between members of the Navajo Nation and San Juan County over voter registration related issues. Nielson and the other San Juan County defendants are keenly aware of this problem as evidenced by their April 19th press release which is Exhibit E ("The lack of an addressing system in a large part of the county makes it extremely difficult for the clerk's office to verify residency[ ]"). Judicial notice of fact files in related lawsuits may show that Nielson and his colleagues have taken advantage of this circumstance to suppress voting among members of the Navajo Nation. In any event, Grayeyes, in his Declaration, Exhibit K, at ¶¶ 27 and 28, states that he met with Turk on April 4 (after Turk finished his search of the Mountain for Grayeyes' home) and that Turk told Grayeyes on that occasion that Turk could not find the location of Grayeyes' home at Navajo Mountain.

Nielson's May 9 letter which disenfranchised Grayeyes doesn't point openly to the perceived uninhabitability of the properties on Navajo Mountain as a ground for decision, but it is a fair conclusion that this formed a basis for his inferences respecting Grayeyes' "absences" or "public perception" that he did not live there. It bears repeating at this juncture that the language of Utah's statute doesn't require a habitable home, only a fixed habitation in a single location. So Nielson, once again, by giving vent to his partisan prejudices, has overreached the confines of the statute in question. This overreach, in addition, has constitutional implications, because a denial of the right to vote for want of a "habitable" residence has been held to violate the Due Process Clause and Equal Protection requirements of the Fourteenth Amendment. *See, e.g., Pitts v. Black,* 608 F. Supp. 696 (S.D.N.Y. 1984) (New York law which denied street people the right to register to vote held violative of Equal Protection Clause; people need only a specific location which they consider to be a "home base"); *Collier v. Menzel,* 221 Cal. Rptr. 110 (Ct. App. 1985) (refusal of clerk to register voters who lived in a public park was a violation of the Equal Protection Clause). If even the homeless with a fixed habitation on the street or in a park are constitutionally qualified to vote, we trust that Grayeyes, who has a fixed habitation on Paiute Mesa (sporting a brand new railing for handicapped guests), also can be counted among those eligible to enjoy the franchise.

If the Court is willing to take its cue from *Yanito,* or the principles announced in that decision, this is an easy case. As we have shown, Nielson's maladministration of the voter registration (and candidate qualification) statutes, deposing Grayeyes and in favoring his opponent, Kelly Laws, father of Nielson's co-worker and political ally, Kendall, are far worse than the circumstances which prompted the judges in that case to enter an injunction against the San Juan County Clerk requiring him to put Navajo candidates on the November ballot.

2. Grayeyes Will Suffer Irreparable Harm

Grayeyes' constitutional rights are at stake and, if those rights have been violated, he will suffer a harm which, by definition, under controlling case law, is irreparable. *See, e.g., Elrod v. Burns,* 427 U.S. 347, 373-74 (1976) ("[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury[ ]") (citation omitted); *Kikamura v. Hurley,* 242 F.3d 950, 963 (10th Cir. 2001) ("[w]hen an alleged constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary [ ]") (citation omitted); *Community Commc'ns Co. v. City of Boulder,* 660 F.2d 1370, 1375 (10th Cir. 1981), *cert. dismissed,* 456 U.S. 1001 (1982) (same); *Albright v. Bd. of Educ. Of Granite Sch. Dist.,* 756 F. Supp. 682, 687 (D. Utah 1991) ("[a]s to the requirement of *irreparable injury,* such is presumed to exist whenever First Amendment constitutional rights are infringed[ ]") (emphasis in original). Indeed, since "unconstitutional restrictions on speech are generally understood not to be in the public interest and to inflict irreparable harm that exceeds any harm an injunction would cause," Grayeyes' "main obstacle to obtaining a preliminary injunction," is "demonstrating a likelihood of success on the merits." *Smith v. Exec. Dir. of Ind. War Mem'l Comm'n,* 742 F.3d 282, 286 (7th Cir. 2014) (citing *ACLU of Ill. v. Alvarez,* 679 F.3d 583, 589 (7th Cir. 2012)).

3. The Balance of Equities Weighs in Favor of Grayeyes and

Public Policy Favors Injunctive Relief in This Case

Where, as here, a likelihood of success on the merits is established, the balance of harms factor under Rule 65 will weigh in favor of the party seeking injunctive relief. *E.g., Alvarez,* 679 F.3d at 589. Moreover, the public interest, almost by definition, can suffer no harm when a court

enjoins the enforcement of an unconstitutional statute or an unconstitutional application of any law. *Id.* (citing *Joelner v. Vill. of Wash. Park, Ill.,* 378 F.3d 613, 620 (7th Cir. 2004)). Put differently, "injunctions protecting First Amendment freedoms are always in the public interest." *Christian Legal Soc'y v. Walker,* 453 F.3d 853, 859 (7th Cir. 2006). The San Juan County defendants cannot articulate any reason – especially a compelling justification – for the type of maladministration of the voter registration statutes which Nielson has inflicted upon Grayeyes in this case.

The cost of adding Grayeyes' name, as an additional candidate, on the ballot for District 2 on the County Commission will be nothing extraordinary. On the other hand, the gains that will be achieved by allowing the public to choose between Grayeyes and Laws after hearing both candidates for that office exercise their right to speak, unfettered, uninterrupted, and unfiltered by maladministration of Nielson, are of immeasurable worth. "The First Amendment," after all, "embodies our trust in the free exchange of ideas as the means by which the people are to choose between good ideas and bad, and between candidates for political office. The fear of the San Juan County defendants that voters might make an ill-advised choice does not provide them with a compelling justification for limiting speech. It is simply not the function of government to 'select which issues are worth discussing or debating' . . . in the course of a political campaign." *Brown v. Hartlage,* 456 U.S. 45, 59-60 (1982) (citation omitted).

CONCLUSION

The defendants in this case have engaged in a deliberate assault on the constitutional rights of the defendants, which the Court must rectify immediately to prevent the permanent loss of those rights. For the reasons stated above, the Court should grant this motion for preliminary injunction and enjoin Spencer Cox and John David Nielson to restore the voting franchise and

ballot access to Grayeyes so that he can stand for election as a candidate for San Juan County Commissioner in District 2 in November 2018.

Dated this 26th day of June, 2018.

/ s / Alan L. Smith
Alan L. Smith

/s/ David R. Irvine
David R. Irvine

MAYNES, BRADFORD, SHIPPS
& SHEFTEL, LLP

/s/ Steven C. Boos
Steven C. Boos
Maya L. Kane

/s/ Eric P Swenson
Eric P. Swenson

Attorneys for Plaintiff

CERTIFICATE OF DELIVERY

The undersigned hereby certifies that on the 26th day of June, 2018, a true and correct copy of the foregoing PLAINTIFF GRAYEYES' MOTION AND BRIEF IN SUPPORT OF PRELIMINARY INJUNCTION AND RELATED RELIEF was delivered via e-mail to following:

John David Nielson	jdnielson@sanjuancounty.org
Kendall G. Laws	jlaws@sanjuancounty.org
Colby Turk	cturk@sanjuancounty.org

and via U.S. Mail, first class, postage prepaid, addressed as follows:

Spencer Cox
Utah Lieutenant Governor
Utah State Capitol Complex
Suite 220
P.O. Box 142325
Salt Lake City, UT 84114-2325

Wendy Black
486 W. 100 S.
Blanding, UT 84511

/s/ Suzanne P. Singley
Suzanne P. Singley

Case 4:18-cv-00041-DN Document 2-2 Filed 06/20/18 Page 1 of 4

EXHIBIT A

DECLARATION OF CANDIDACY

by

Willie Grayeyes
(Print name of candidate exactly as it is to be printed on the Official Ballots)

for the office of San Juan County Commission Sw Dist #2

STATE OF UTAH
County of San Juan } ss.

March 9, 2018
(Date)

I, Willie Grayeeyes, declare my intention of becoming a candidate for the office of Commissioner for Dist #2 as a candidate for the Democratic party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at 17 miles N. on NC310 from Paynte Mesa, Utah from Nav. Mtn Chapter Hse. Street, in the City or Town of Navajo Mtn Chapter com., Utah, Zip Code 86044, Phone No. 928 614 1281; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is

P.O Box 10035, Tonalea, Arizona 86044

Additional information:

Williegrayeyes@yahoo.com
e-mail Address

Signature of Candidate

Web Site

Subscribed and sworn before me this 3/9/2018
(month / day / year)

Notary Public (or other officer qualified to administer oath)

For Office Use

Date Certified by Party

Date Received

RECEIVED
MAR - 9 2018

Certified by
(Party)

Received by
(Authorized Person)

5-12-Pg
CARR PRINTING CO., Bountiful, Utah
Complete Election Supply Service Since 1902

QUALIFICATION FOR CANDIDATE FILING AFFIDAVIT

(Utah Code reference 20A-9-201)

I, the undersigned declare the constitutional and statutory requirements as listed below for the office of

Commissioner

were read to me by the filing officer and that I meet those qualifications.

Signature of Candidate — *Date* March 9, 2018

Signature of Filing Officer — *Date* 3/9/18

UTAH CANDIDATE FILING QUALIFICATIONS

Before the filing officer accepts any candidacy, he shall read to the candidate the constitutional and statutory requirements for candidacy, and the candidate shall state whether he fulfills the requirements of candidacy. If the candidate indicates that such candidate does not qualify, the filing officer shall decline such person's candidacy. 20A-9-201(3) **All candidates must be United States citizens.**

UTAH SENATE AND REPRESENTATIVE

Utah Constitution Article VI, Section 3, 4, 5 & 6

25 years old at the filing deadline time.
3 year resident of Utah at the filing deadline time.
6 month resident of the senate or representative district from which elected at the filing deadline time.

COUNTY COMMISSION

Utah Code 17-16-1; 17-53-202

Registered voter for at least one year before the date of the election.
Be a registered voter of the county which the member represents.
At least one year resident of the county immediately before the date of the election.

COUNTY CLERK, AUDITOR, RECORDER, TREASURER

Utah Code 17-16-1

A registered voter in the county.
At least one year resident of the county immediately before the date of the election.

COUNTY ASSESSOR

Utah Code 17-16-1; 17-17-2

A registered voter in the county.
At least one year resident of the county immediately before the date of the election.
Those candidates seeking the office of county assessor in a first through third class county must be a state-licensed or state-certified appraiser before filing for office. All other candidates for county assessor shall be a state-licensed or state-certified appraiser before the expiration of 36 months from the day on which the person's term of office begins.

COUNTY SHERIFF

Utah Code 17-16-1; 17-22-1.5

A registered voter in the county.
At least one year resident of the county by the date of the election.
At time of filing:
Has successfully met the requirements of the Peace Officer Training and Certification Act; or
Has passed a certification examination and be qualified to be certified as defined in Section 53-13-103.
Present a POST certification with the declaration of candidacy and be certified as a correctional officer.
17-22-1.5

COUNTY ATTORNEY

Utah Code 17-16-1; 17-18a-302

An attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar.
A registered voter in the county.
A current resident of the county in which the person is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney.

DISTRICT ATTORNEY

Utah Code 17-16-1; 17-18a-302

An attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar.
A registered voter in the prosecution district in which he is seeking office.
A current resident of the prosecution district in which the person is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney.

COUNTY SURVEYOR

Utah Code 17-16-1; 17-23-1

A registered voter in the county.
At least one year resident of the county immediately before the date of the election.
Any person elected exclusively as the county surveyor shall be a registered professional land surveyor in the state of Utah.
In a county where the office of county surveyor is consolidated with another elected office, the officeholder need not be a registered professional land surveyor, but all surveying work must be performed by a registered professional land surveyor.

STATE OF UTAH
PLEDGE OF FAIR CAMPAIGN PRACTICES
(UCA § 20A-9-206)

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of Utah has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their right to a free election, and that the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

I SHALL conduct my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing, without fear or favor, the record and policies of my opponents that I believe merit criticism.

I SHALL NOT use nor shall I permit the use of scurrilous attacks on any candidate or the candidate's immediate family. I shall not participate in or nor shall I permit the use of defamation, libel, or slander against any candidate or the candidate's immediate family. I shall not participate in nor shall I permit the use of any other criticism of any candidate or the candidate's immediate family that I do not believe to be truthful, provable, and relevant to my campaign.

I SHALL NOT use nor shall I permit the use of any practice that tends to corrupt or undermine our American system of free elections, or that hinders or prevents the free expression of the will of the voters, including practices intended to hinder or prevent any eligible person from registering to vote or voting.

I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees or volunteers.

I SHALL immediately and publicly repudiate support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of an opponent, to methods in violation of the letter or spirit of this pledge. I shall accept responsibility to take firm action against any subordinate who violates any provision of this pledge or the laws governing elections.

I SHALL defend and uphold the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of Utah, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Name: Willie Grayeyes **Office:** Commission/Dist #2

Signature: [signature] **Date:** March 9, 2018

***This is a voluntary pledge. Candidates are not required to sign this pledge of fair campaign practices.**

***This document is considered a public record and will be retained for public inspection until 30 days following the election.**

EXHIBIT B

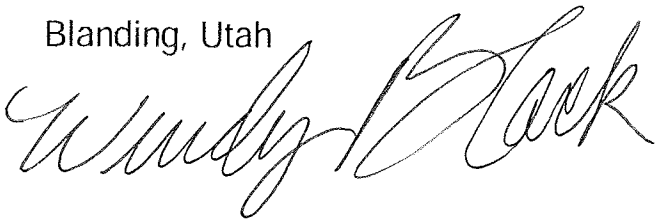
March 20,2018

Dear County Clerk and whomever it concerns,

I would like to formally challenge the validity of Willie Greyeyes being able to run for San Juan County, Utah Commissioner. It has been brought to my attention that he may live outside of the county and state of Utah. My concern is as a challenger for this commission seat.

Wendy Black

Blanding, Utah



CHALLENGE TO THE RIGHT TO VOTE
PRE-ELECTION

State of Utah }
County of San Juan } ss.

I, Wendy Black (*Name of person filing the challenge*) of 486 W 100 S Blanding. UT (*Address of person filing the challenge*)

do herby challenge the right to vote of Willie Greyeyes (*Name of challenged voter*). Whose last known

address is _____ (*Address of challenged voter*) or phone number is _____. (*Phone number of challenged voter*)

I make this challenge as provided under section 20A-3-202 on the basis of: (Please check all that apply)

	the voter is not the person whose name appears in the official register or under which name the right to vote is claimed;
	the voter is not a resident of Utah;
	the voter is not a citizen of the United States;
	the voter has not or will not have resided in Utah for 30 days immediately before the date of the election;
✓	the voter's principal place of residence is not in the voting precinct claimed;
✓	the voter's principal place of residence is not in the geographic boundaries of the election area;
	the voter has already voted in the election;
	the voter is not at least 18 years of age;
	the voter has been convicted of a misdemeanor for an offense under this title and the voter's right to vote in an election has not been restored under Section 20A-2-101.3;
	the voter is a convicted felon and the voter's right to vote in an election has not been restored under Section 20A-2-101.5; or
	in a regular primary election or in the Western States Presidential Primary, the voter does not meet the political party affiliation requirements for the ballot the voter seeks to vote.

Additional facts pertaining to this challenge include: _____

The place Willie Greyeyes claims to live is his sisters home. He occassionally stays there but he does not have a permanent residence in Utah. He also claims to live in his mothers home on Piute Mesa. It is not livable, windows boarded up. Roof delapidated. No tracks going into home for years (continued on back)

List included documents, affidavits or other evidence submitted with this challenge:

Affidavit:

I, the undersigned declare that I have exercised due diligence to personally verify the facts and circumstances establishing the basis of this challenge and according to my personal knowledge and belief the basis for this challenge of the challenged voter listed herein is valid. I make this statement under the understanding that this affidavit is subject to penalties of perjury.

Wendy Black
Signature of Person Filing the Challenge

3/20/2018
Date

Subscribed and sworn before me this 20 day of March, 20 18.

John David Nelson
Notary public or Deputy Clerk or Clerk

For Office Use

Date Received

EXHIBIT C

SAN JUAN COUNTY SHERIFF'S OFFICE

Deputy Report for Incident 1803-0141

Nature: False Info
Address: 17 MILES NE OF NAVAJO MT CH HSE
Navajo Mountain UT 86044

Location: SJC

Offense Codes: FIPO
Received By: COLBY TURK **How Received:** T **Agency:** SJSO
Responding Officers: COLBY TURK
Responsible Officer: COLBY TURK **Disposition:** CLO 03/28/18
When Reported: 13:03:43 03/23/18 **Occurred Between:** 13:03:43 03/23/18 and 13:03:43 03/23/18

Assigned To: **Detail:** **Date Assigned:** **/**/**
Status: **Status Date:** **/**/** **Due Date:** **/**/**

Complainant: 000035536
Last: BLACK **First:** WENDY **Mid:**
DOB: [redacted] **Dr Lic:** **Address:** 486 WEST 100 SOUTH
Race: W **Sex:** F **Phone:** (435)459-1970 **City:** BLANDING, UT 84511

Offense Codes

Reported: FIPO False Information or Report **Observed:** FIPO False Information or Report
Additional Offense: FIPO False Information or Report

Circumstances

Responding Officers: **Unit :**
COLBY TURK 1Z15

Responsible Officer: COLBY TURK **Agency:** SJSO
Received By: COLBY TURK **Last Radio Log:** 14:54:15 03/23/18 24
How Received: T Telephone **Clearance:**
When Reported: 13:03:43 03/23/18 **Disposition:** CLO **Date:** 03/28/18
Judicial Status: **Occurred between:** 13:03:43 03/23/18
Misc Entry: **and:** 13:03:43 03/23/18

Modus Operandi: **Description :** **Method :**

Involvements

Date	Type	Description	Relationship

03/23/18	Name	GRAYEYES, WILLIE	Suspect
03/23/18	Name	BLACK, WENDY	Complainant
03/23/18	Cad Call	13:03:43 03/23/18 False Info	Initiating Call

Narrative

INVESTIGATION NARRATIVE
RE: False Info
CASE #: 1803-0141
TFC Colby Turk

SUSPECT(S): Willie Grayeyes

SYNOPSIS:

Wendy Black filed an official written complaint to the San Juan County Clerks Office stating that Willie Grayeyes who is running for San Juan County Commission does not live in San Juan County, Utah.

1. DESCRIPTION-TIME-LOCATION OF THE INCIDENT:

On 03/27/18, I met with Wendy Black at her house. Wendy told me that she had received information that Willie Grayeyes does not live in San Juan County, Utah and that he possibly lives in Arizona near the Utah border. Wendy told me that she and her husband went to the Navajo Mountain area to investigate it on 03/23/18 and said that they couldn't find where Mr. Grayeyes claimed he lived and she said that they talked to a young couple that lives in the area and that they told her that Willie Grayeyes lives in the Deshonto area.

The San Juan county clerk John David Nielson gave me a copy of Mr. Grayeyes declaration of candidacy form indicating Mr. Grayeyes put down that he lives 17 miles from the Navajo Mountain Chapter House on Paiute Mesa. I also got a copy of directions from the clerk's office and possible GPS coordinates to the area that Mr. Grayeyes claimed he lived. The GPS coordinates are 37 Degrees 04' 16.17" North 110 Degrees 36' 48.01 West.

On 03/27/18, I went out to Navajo Mountain to confirm Mr. Grayeyes address in San Juan County, Utah. On my way out to Navajo Mountain, I stopped in the Navajo Tribal Utility Authority (NTUA) Office in Kayenta to see if I could confirm Mr. Grayeyes address with them from his utility payments. NTUA told me that they couldn't give me any information without a warrant but told me to check in with the chapter houses in the area and that they could help me.

I stopped and checked with the Inscription House Arizona Chapter House on a possible address for Willie Grayeyes. The Inscription House Chapter told me that Willie Grayeyes was a member of the Navajo Mountain Chapter House and that they would have the information there.

I checked with the Navajo Mountain Chapter house and spoke with Lorena Atene who is the Community Services Coordinator for the Navajo Mountain Chapter. I told Lorena that I was looking for Willie Grayeyes residence and she stated that he doesn't live in Navajo Mountain but lives in Tuba City, Arizona. She said Willie is a registered Chapter member and official in Navajo Mountain, but doesn't live in Navajo Mountain and he commutes back and forth. She said that he is the sitting Secretary Treasurer for the Chapter and travels up from Tuba City for the meetings. I asked if he gets mail there and Lorena said that he does but that their mail room is just a sub office of the Tonalea Post Office and it is the closet office to them and that is why they have a Tonalea PO Box address . Lorena gave me the name of Willie Grayeyes sister and told me I should speak to

her. She showed me on a map where his sister Rose Johnson lives in the HUD Housing in Navajo Mountain. Lorena also showed me on a map that the Grayeyes family has some property across the canyon on Paiute Mesa but said as far as she knows Willie Grayeyes lives in Tuba City and commutes to Navajo Mountain.

Before I left the Navajo Mountain Chapter House, I reset the miles counter in my truck to zero to gage how far I had gone from the Chapter House as I made my way out to the area that Willie Grayeyes said that he lives. On my way out to Paiute Mesa, I stopped and started knocking on doors in the area where Rose Johnson, Mr. Grayeyes sister, lives in a neighborhood just off the main road. I talked to a man who lives in house #6 and told him that I was looking for Rose Johnson or Willie Grayeyes. The man told me that Mr. Grayeyes lives in Tuba City. The man said that Rose was his neighbor in house #5, but that she probably wasn't home because her car was gone. I said to him, "but Willie lives in Tuba City?" and the man said yes. I walked over to house #5 and knocked on the door and didn't get an answer. I walked over to house #11 because I had seen someone standing outside. I talked with a man who didn't live at that specific house. I asked him if he knew where Willie Grayeyes lives and he said that Willie doesn't live there but is from there. I asked him if Willie lives in Tuba City and the man said yeah he is from all over, that he has houses in Page and Cameron, Arizona. He said that Willie is originally from Navajo Mountain but that he doesn't live there. He told me I should go ask Willie's Nephew Darrell Grayeyes at the community school or Rosemary Johnson who also works at the school. A lady came out of the house that we were in front of and I asked her if she knew if Willie Grayeyes lives around here and she said he comes around every once and a great while and that she didn't know where he lived.

I left that neighborhood and drove up the road and came to a "T" intersection and took a right onto County Road 434, the Paiute Mesa Road. I drove through Paiute Canyon and up onto Paiute Mesa. I continued driving until I had reached 17 miles from where I started at the Navajo Mountain Chapter House. I turned on the body camera and filmed the area that I was in, that was approximately 17 miles from the Navajo Mountain Chapter House. I narrated what I could see which was nothing and I made verbal notes that I had passed some houses at mile 16 when I came out of the canyon. I drove down the road to about mile 17.7 and found the area of the GPS coordinates. There were no houses in the area just shade huts, a corral and an outhouse. I drove around in the area and didn't find any houses. I drove south down the main road towards a house that was approximately 19 miles from the Chapter House. I took a picture of the building. It looked rundown and the roof looked like it was about ready to fall in. I didn't see any signs of recent human activity in the area. I went up to the front door of the house and knocked on the door and didn't get an answer. I looked though the windows and saw building material stacked up in the house but nothing that looked like anyone had touched in awhile. I drove a little further south down the main road and saw a truck parked just off the main road with people sitting in the truck. I stopped and talked with them and asked them where Willie Grayeyes lives. They said that Willie didn't live anywhere around there. They told me that the Grayeyes family has some property in the area but that it was abandoned and no one lives there. They described the location of it to me and told me that it was on the north side of the road. I remembered passing the gate to the property as I came out of Paiute Canyon. They told me that when Willie comes to Navajo Mountain he stays with his sister Rose, but he doesn't live there. I asked them about the house that I had seen on the south side of the road when you come out of the canyon and they said that property belongs to Harrison Ross but that he wouldn't be around because he is at work. I asked them where they lived and they told me south of where we currently were. I asked them if there were more people further south down the

road from them and they said yes, but that they were elderly people and only spoke Navajo. They told me they were the only young people living there on Paiute Mesa and that there were only probably a total of 12 people who lived up there. I left them and drove north up the road towards where they had told me the Grayeyes family had property but was abandoned.

I checked on the two houses that I had seen earlier that were on the south side of the road coming out of Paiute Canyon where Charmane and Byron told me Harrison Ross lived, but no one was around. I went to the property on the north side of the road and parked at the gate made from old ropes with reflectors on it. I did see a set of tire tracks coming and stopping at the same area that I parked at. I walked down into the property from where I parked and saw that there where two buildings on the property and some corrals. The corrals where empty and looked old and wore down and unusable in their current state. As I was walking down the road towards the house, I did notice an old set of boot tracks in the dirt but just one set. I walked up to the first house which I could tell it had been painted blue somewhat recently and I noticed that at bottom of the door, the jam was covered in sand and didn't appear to have been open in sometime. I knocked on the door and waited and didn't get an answer. In front of the house, lying on the ground knocked over, was a trash can that said property of the City of Prescott. I walked over to the second house and knocked on the door and didn't get an answer there either. I walked around the second house and looked in the windows that weren't blocked. In the first window I saw a Coleman camp light sitting on a table and in the second window I saw a bunch of kitchen items just piled up and thrown around. The house looked like it had been some time since someone had been/lived in it. I went and looked into the only partially unblocked window in the blue house and saw a couch and a bunch of boxes piled up in room. The houses looked more like storage units then living structures. I also noticed that the hook ups for power had been cut and I did not notice any signs in the area that indicated that someone lived there. There was no foot traffic or vehicle tracks. Everything appeared abandoned to me. I took some pictures of the area and left.

I drove down CR 486 which breaks off north east off of Paiute Mesa road and drove approximately 3 or 4 miles and came across a house there. I spoke to a man named Leonard and asked him if Willie Grayeyes lived around there any where. Leonard said no, that it has been a couple of years since Willie Grayeyes had lived in that area, I asked Leonard how long he had lived here and he told me all of his life.

I drove back to Navajo Mountain and went to the Community School and met with Rose Johnson who is Willie Grayeyes sister. I told her that I had been told that she could tell me where her brother Willie Grayeyes lives. She told me that he lived in Tuba City in a trailer. She said she would give me his phone number and as I was marking down his number, I asked her how long it had been since Willie had lived in Navajo Mountain. She told me it had been a long time. I wasn't sure if she understood my question. I had one of the ladies in the office ask her in Navajo how long has Willie lived in Tuba City. When the lady in the office asked, Rose said she didn't know and the office lady said she thought it had been two or three years. Rose said that Willie comes and stays with her for a day or two sometimes but doesn't live there.

I had dispatch contact Navajo PD in Tuba City to see if they had a current address for Willie Grayeyes. They told dispatch that they did not, but told dispatch to contact Kayenta district because they knew Grayeyes lived in their area. Kayenta district told dispatch that they had a record of Willie Grayeyes in their area and that they had an address for him at the same spot

where I had checked the Grayeyes family property. Kayenta said that it has been years since they have sent anyone out to the property for anything. On 03/28/18 Kayenta dispatch contacted my dispatch and said that they had sent an officer out to Navajo Mountain yesterday evening to check the area for Willie Grayeyes and that they had been told also that Willie doesn't live in Navajo Mountain but that he lives behind the car wash in Tuba City.

On 03/30/18, I went to Tuba City to track down Willie Grayeyes, I first went to the Navajo Chapter House in Tuba City. The ladies in the main office that I talked to said they had heard his name before but didn't know where he lived. They told me I should check with the San Juan Southern Paiute Tribe Office in Tuba City. I asked the ladies about the car wash in Tuba City, they said that there was only one and that it was next to the KFC. I went to the area behind the car wash and started knocking on doors and talking to people asking them if they knew who Willie Grayeyes was and everyone that I talked to said they didn't know who he was. After spending about an hour in the neighborhood behind the car wash, I went to the Navajo PD Office and asked them if they could help me. Criminal Investigator Albert Nez said he would come and help me. The first place that CI Nez and I went was the Paiute Tribe Office. There we met with the President Carlene Yellowhair and her Vice President Candelora Lehi. They said that they know Willie Grayeyes, that he attends some of the same meetings as they do, but they didn't know where he lived, they just assumed he lived in Navajo Mountain because he represents that area at the meetings that they attend together. Carlene said that maybe Louise Tallman man who is part of the San Juan Southern Paiute Tribe Northern Council Member might know where Willie Grayeyes lives. Carlene called her and Louise told her she thinks that Willie lives either in Tuba City or Inscription House. Carlene then called another woman, Cecilia Long, who is a Paiute tribal elder and possible relative of Willie Grayeyes. Cecilia told Carlene that Willie lives next to the Church of Holiness in Tuba City in a red cinder block house.

CI Nez and I went to the Church of Holiness area and couldn't locate anyone to talk to while we were in the area we knocked on the doors to the houses that are located in the same compound as the Holiness church. CI Nez told me that the family that lives here with the church is the Bydone family. After leaving the area I dropped CI Nez off at the police station and called San Juan County Attorney Kendall Laws to give him an update of what I had found out. CA Laws told me that San Juan County Manager Kelly Pehrson had received an anonymous tip that Willie Grayeyes lives with his girlfriend Victoria Bydone in Tuba City.

I went back to the Church of Holiness around 1600 hours on 03/30/18 and talked to Lucida Johnson and asked her where I could find Willie Grayeyes. She said that he lived in the trailer on the other side of the road, but said if the blue or white car wasn't there then he wouldn't be home. I went to the trailer house that Lucida said to go to. There was no blue or white car there. I knocked on the door and waited, there was no answer. The home had numerous cats and dogs hanging around and they looked like they were well taken care of. I went back to the Church of Holiness and spoke to Lucida again and confirmed with her that I had gone to the right trailer house and I asked if Willie lived there with Victoria Bydone. She told me that I had gone to the right house and that he does live there with Victoria and added that Willie lives in Navajo Mountain. I stated that everyone in Navajo Mountain told me he lives here in Tuba City. Lucida chuckled and stated that he is everywhere on the rez because he is a councilman. I asked Lucida if she was related to Willie, she said yes that she was Victoria's mom. I stated, "so he is your son in law?" and she said "something like that". I left my card with Lucida and wrote my cell

phone number on it and asked her to give it to Willie and to have him give me a call.

On 04/04/18, Willie Grayeyes contacted the Sheriff's Office and left a message for me to call him or that I could meet him in Bluff at Twin Rocks at 4 PM, I tried calling Mr. Grayeyes but he didn't answer and his voice mail wasn't set up so I sent him a text message saying that I got his message and that I would meet him in Bluff at Twin Rocks.

Willie Grayeyes arrived at Twin Rocks just after 4 PM, and I met with him. I asked Mr. Grayeyes to tell me what his physical address was and he said he stays a lot of times at house #5 in the NHA housing in Navajo Mountain. His sisters house. I asked him if he lives in Tuba City, he said that he has an office there and that he travels from there to Navajo Mountain and all over. Mr. Grayeyes said that he doesn't have a place in Tuba City but that he stays with a lady. I asked him if the lady was Victoria and Mr. Grayeyes said yes. I asked him if he had a residence that is his. Mr. Grayeyes said that he has an aunts house who has passed away on Paiute Mesa that's the first house off to the right once you come out of the canyon. I asked him when was the last time he was there. Mr. Grayeyes said he's been traveling and that its been quite awhile since he has been out to his house. I asked him again when he thought the last time he had been to the house on Paiute Mesa and he said in the fall when he took water out there for the cattle. I asked him since he hasn't been out there for so long where he has been staying. Mr. Grayeyes said that he sometimes stays at his uncle's house in Arizona, just south of the Utah border. His uncle's name is Harry Nimrock. I told Mr. Grayeyes that someone has challenged his residency and says he doesn't live in Utah. I told him that I've been to Navajo Mountain and Paiute Mesa and spoken to people there including his sister and everyone has told me that he lives in Tuba City or that he doesn't live in Navajo Mountain. I told him that I talked to his mother in law in Tuba city and that she told me that he lives there in Tuba with her daughter. I told him I'm trying to figure out where he lives. Mr. Grayeyes said "well house #5 that's where I live." I asked "with Rose?" and he said yes that she is his blood sister. I asked Mr. Grayeyes when he stays there and he said about 60 to 70 percent of his time. I asked him where he stays the rest of the time and he said he is on the road the rest of the time. I told Mr. Grayeyes that on his declaration of candidacy that he put that his place of residence is 17 miles from the Navajo Mountain Chapter house on Paiute Mesa. I told Mr. Grayeyes that I drove 17 miles from the Chapter House and that there is nothing there. I told him that I talked to people on Paiute Mesa and that they told me that he doesn't live there. I stated so you don't live on Paiute Mesa. He said that he is busy doing things that he doesn't have time to get the car back there. I said so you don't live on Paiute Mesa, but you stay with your sister sometimes in Navajo Mountain. Mr. Grayeyes said yep and that is his birthright there on Paiute Mesa. I went over again that he doesn't live on Paiute Mesa and that he stays with his sister sometimes and Victoria in Tuba City sometimes and the rest of the time he is traveling. Mr. Grayeyes agreed with me that I was accurate.

2. EVIDENCE (ITEM, QTY, VALUE, ETC):

Pictures, body cam footage, declaration of candidacy form, copy of Arizona drives license. Mr. Grayeyes does not have a Utah driver's license just an Arizona one. The day I met with Mr. Grayeyes I ran the license plate to the vehicle that he was driving, it had an Arizona listing of 231RSJ and is registered to Victoria Bydone in Tuba City, Arizona.

Responsible LEO:

Approved by:

Date

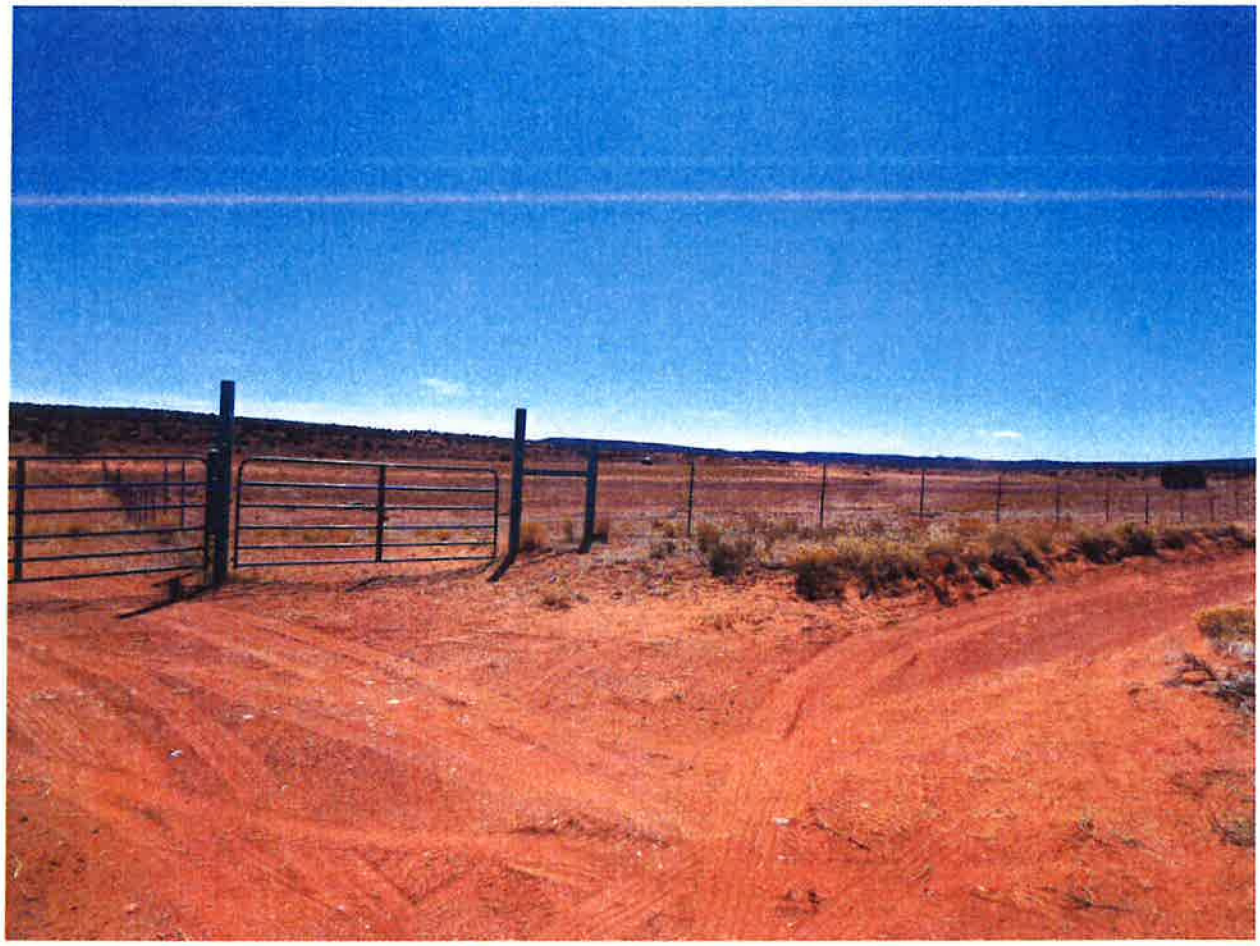
Name Involvements:

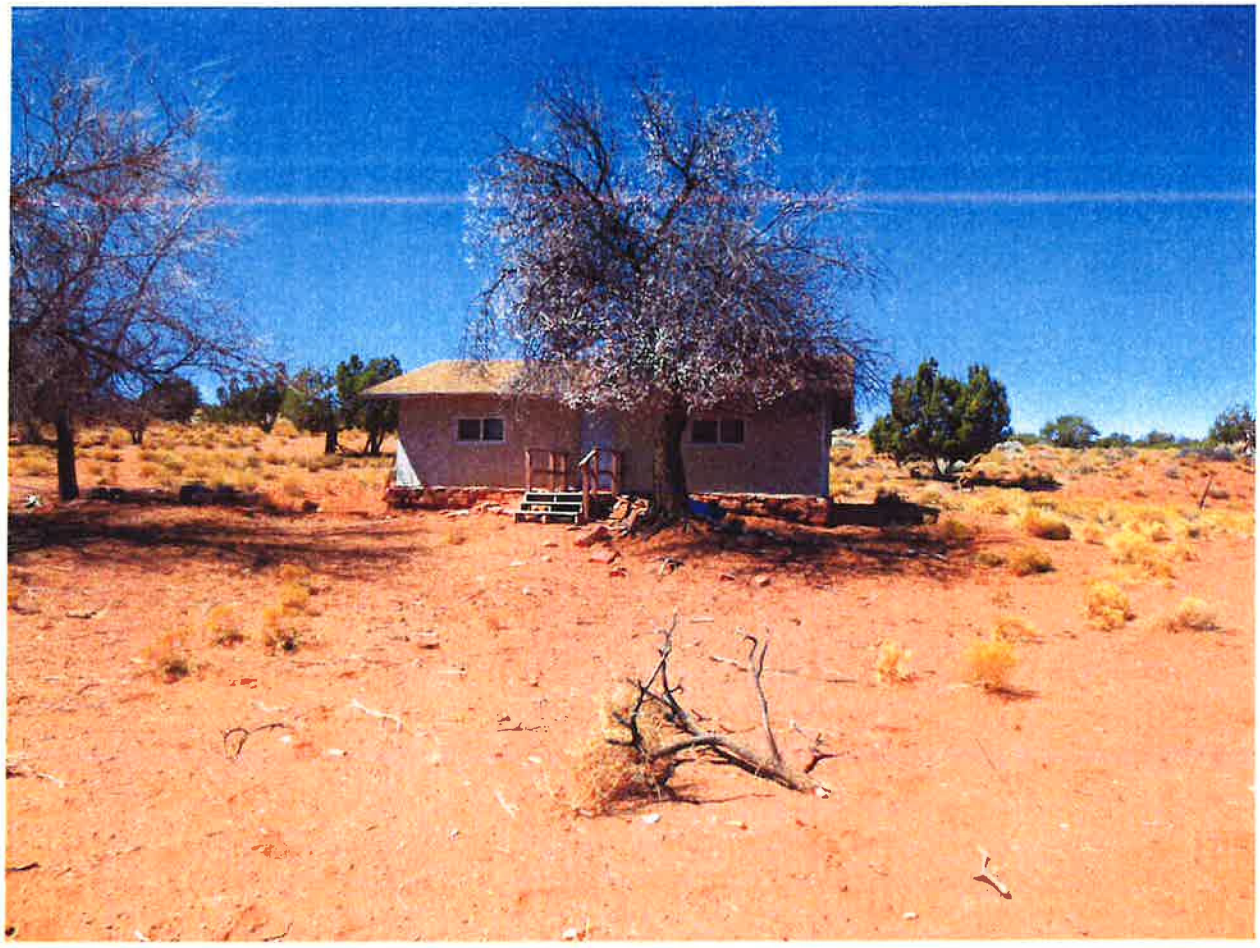
Suspect : 61841

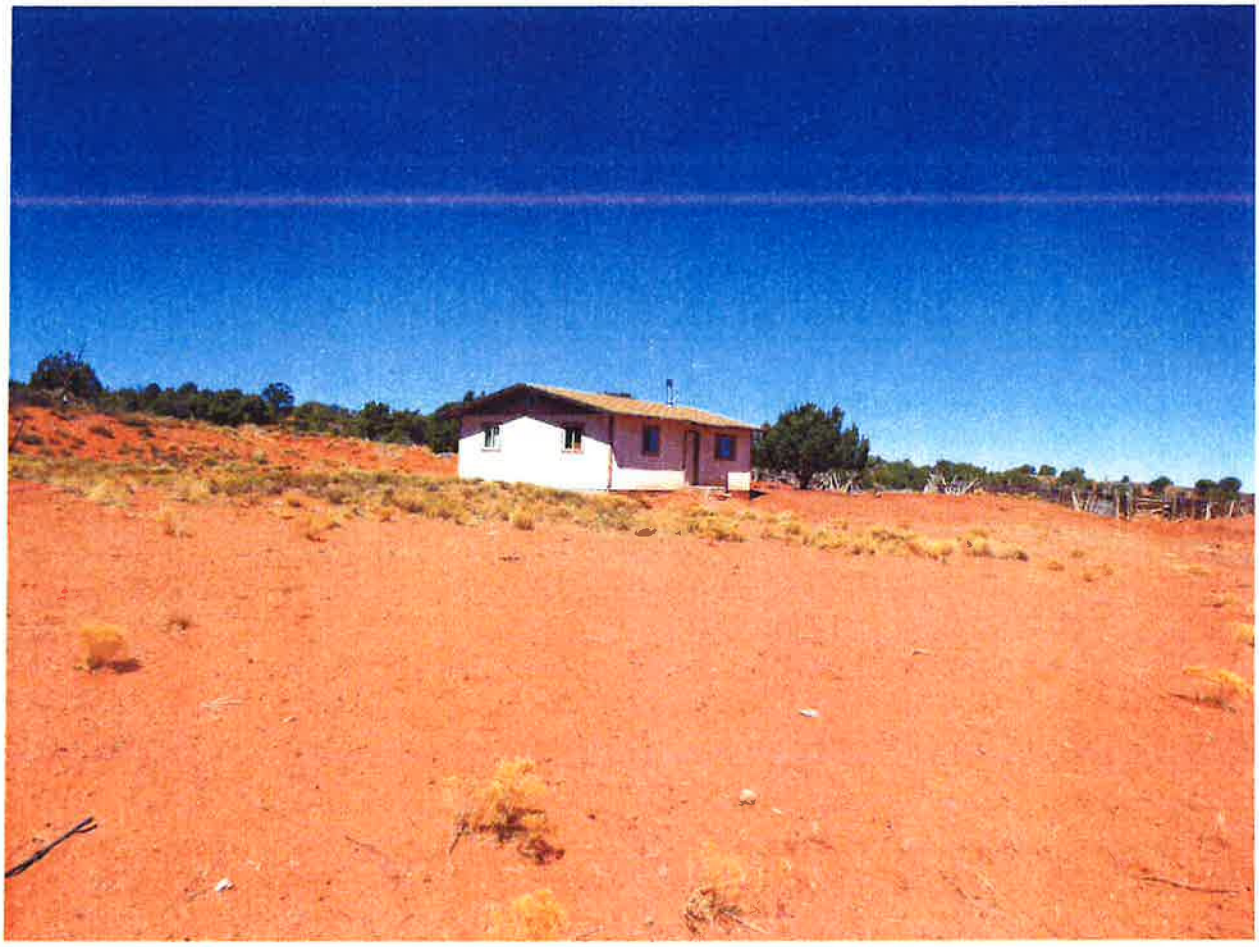
Last:	GRAYEYES	**First:**	WILLIE	**Mid:**	
DOB:	[redacted]	**Dr Lic:**	[redacted]	**Address:**	17 MILES NE OF NAVAJO MT CH HSE
Race:	I	**Sex:**	M	**Phone:**	(928)614-1281	**City:**	Tonalea, AZ 86044

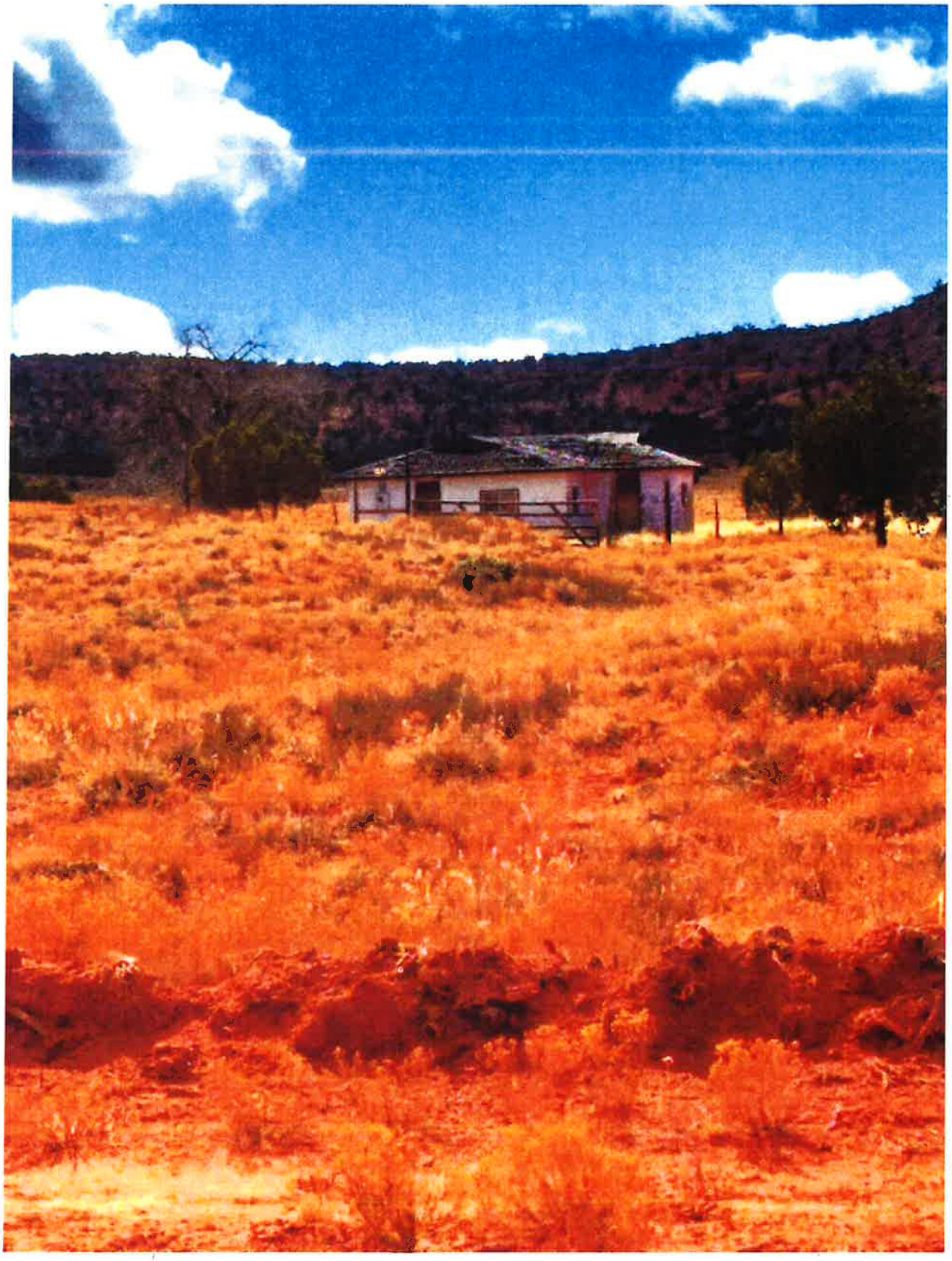
Complainant : 000035536

Last:	BLACK	**First:**	WENDY	**Mid:**	
DOB:	[redacted]	**Dr Lic:**		**Address:**	486 WEST 100 SOUTH
Race:	W	**Sex:**	F	**Phone:**	(435)459-1970	**City:**	BLANDING, UT 84511

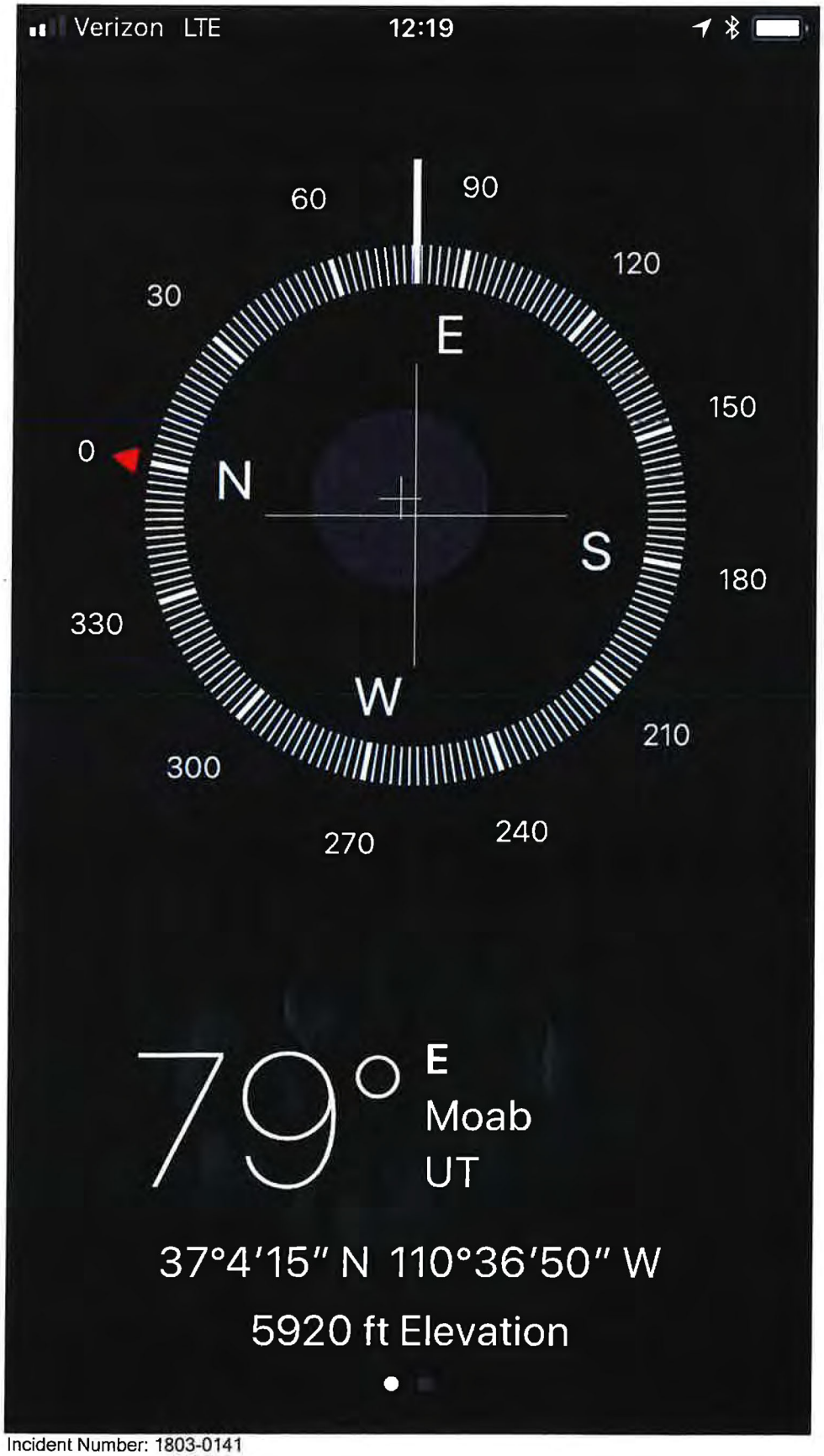








Incident Number: 1803-0141



Incident Number: 1803-0141

EXHIBIT D

970 946 5419

SAN JUAN COUNTY

Clerk/Auditor
John David Nielson
jdnielson@sanjuancounty.org

March 28, 2018

Willie Grayeyes
PO Box 10035
Tonalea, AZ 86044

Mr. Grayeyes,

One of the many duties of the San Juan County Clerk's Office is to oversee elections and the formal processes and procedures of candidates seeking public office.

As the San Juan County Clerk, it is my duty to inform you that your right to vote and/or hold office in San Juan County Utah has been challenged by Wendy Black of Blanding, Utah. The basis of this challenge is that your primary residence is not in San Juan County, Utah, rather the state of Arizona, which would negate your right to vote or hold office in San Juan County.

Under Utah Code, Title 17-16-1, one of the requirements for a person filing a declaration of candidacy for a county shall; have been a resident for at least one year of the county in which he/she seeks office.

Utah Code 20A-3-202.3 (3)(c) states that the challenged party is allowed the opportunity to submit information to refute the challenge and provide evidence, such as a sworn statement, supporting documents, affidavits, etc, to the contrary, that would show your primary residence is in fact located within San Juan County, Utah. This information would need to be presented to the San Juan County Clerk's Office.

Your response and evidence to this challenge would be greatly appreciated as soon as possible.

If you have any questions, you may contact me by phone or by email.

Regards,

John David Nielson
San Juan County Clerk/Auditor
Telephone – (435) 587-3223
Email – jdnielson@sanjuancounty.org

Case 4:18-cv-00041-DN Document 2-3 Filed 06/20/18 Page 3 of 3

928-644-5419

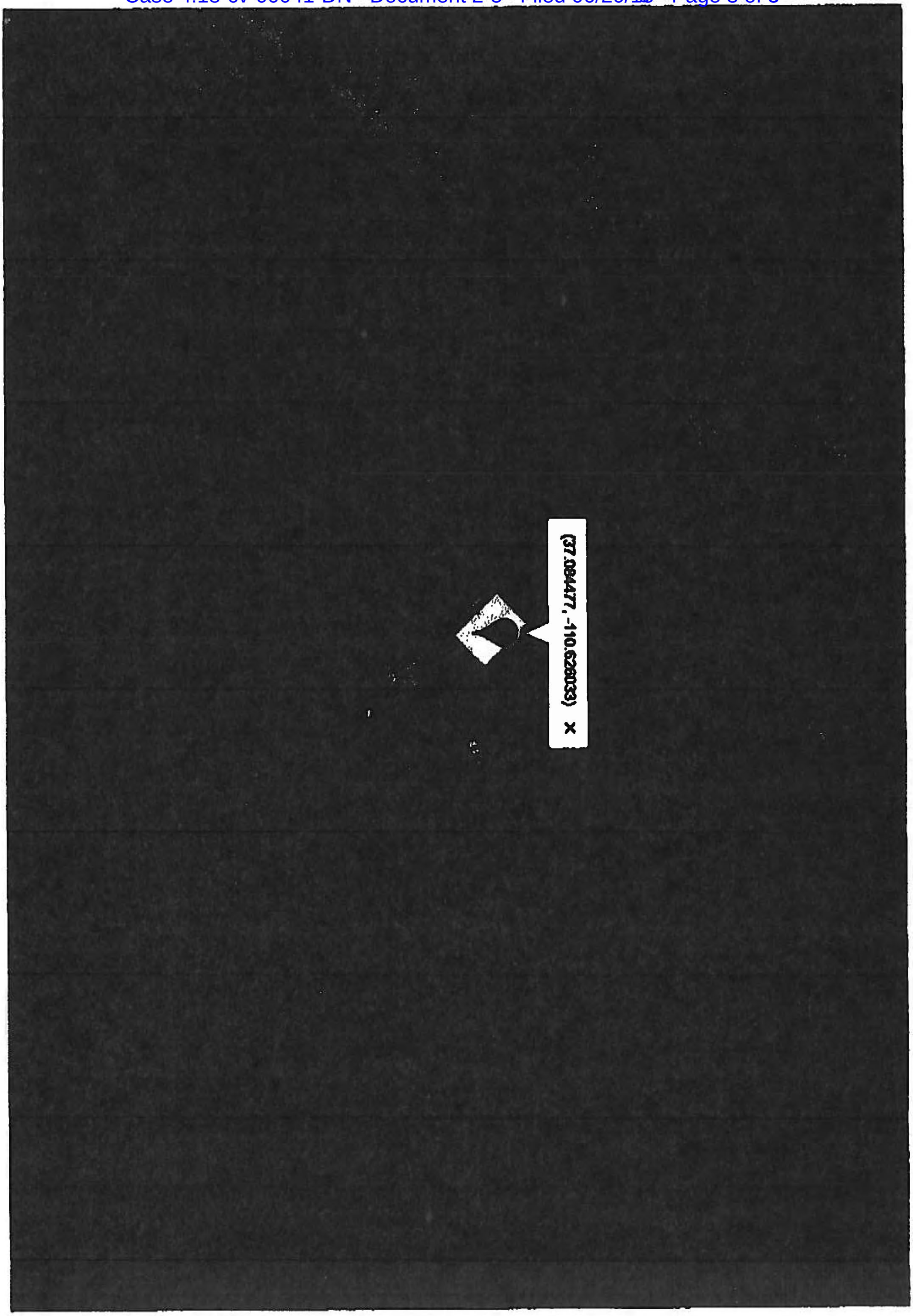


EXHIBIT E

FOR IMMEDIATE RELEASE

April 19, 2018

Natalie Callahan
Communications Coordinator
Ph: 801-746-9716
Email: natalie@thediciogroup.com

PRESS RELEASE: San Juan County Investigating Commission Candidate Eligibility

San Juan County , UT – San Juan County has always been committed to providing honest elections. We expect that same level of integrity and diligence from the candidates that run to represent the residents of San Juan County. When someone declares for candidacy the Clerk's office gives them a packet that has the qualifications needed. There is an expectation from the Clerk's office, and frankly the voters, that candidates are honest and transparent when answering eligibility questions.

San Juan County is currently investigating a complaint against Willie Grayeyes,

rather Arizona. While looking into this issue, we have received information that would support this citizen complaint and have requested Mr. Grayeyes' to prove his eligibility to be a candidate for office. When a candidate or voter is not honest and transparent when answering the eligibility questions, he/she may be charged criminally under Utah Code.

The San Juan County Clerk's office does not actively question eligibility and relies on the information given by the candidate to comply with eligibility standards. The lack of an addressing system in a large part of the county makes it extremely difficult for the clerk's office to verify residency. We have been told that there are other voters and possibly other candidates whose primary residence is not in San Juan County, but unless there is a signed formal complaint filed, the county does not follow up with an investigation. Please do not think that this creates an opportunity to commit voter fraud as charges can be filed after the fact and we are working with other States to ensure voters are not registered in more than one location.

We have reached out to Mr. Grayeyes requesting information to validate his residency and eligibility as a candidate. He responded that he will bring information to challenge the complaint that was brought to the attention of the Clerk's Office, as of today, the clerk's office has not received any information.

The responsibility to choose primary candidates falls to the registered political party of the candidate. If it is found that Mr. Grayeyes is not a resident of San Juan County the San Juan County Democratic Party has until Aug 31, 2018 to select a qualified candidate to run in the general election.

###

EXHIBIT F

MBSS
MAYNES, BRADFORD, SHIPPS & SHEFTEL LLP
ATTORNEYS AT LAW

THOMAS H. SHIPPS
SAM W. MAYNES
STEVEN C. BOOS**
ADAM T. REEVES
ELISABETH TAKEUCHI
CHARLES C. SPENCE+
SHAY L. DENNING++

*Also Admitted in Arizona and Navajo Nation
**Also Admitted in Arizona, New Mexico, Utah and Navajo Nation
+Also Admitted in New Mexico, Idaho, Utah and Wyoming
++Also Admitted in New Mexico
^^ Also Admitted in Arizona

SPECIAL COUNSEL:
SHERRI D. WAY
DAVID C. CRIPE

ASSOCIATES
ANDREW HANSEN
DANIEL F. MCCARL
MAYA L. KANE

OF COUNSEL:
PATRICIA A. HALL*
JOHN BARLOW SPEAR

JANICE C. SHEFTEL - RETIRED
BYRON V. BRADFORD (1907-1985)
FRANK E. (SAM) MAYNES (1933-2004)

sboos@mbssllp.com
mkane@mbssllp.com

April 19, 2018

John David Nielson, Clerk/Auditor
San Juan County
Post Office Box 338
Monticello, UT 84535

(Sent by email to: jdnielson@sanjuancounty.org)

Re: Willie Grayeyes; your letter dated March 28, 2018

Dear Mr. Nielson:

My law firm represents Mr. Willie Grayeyes, who was recently selected by the Democratic Party as its candidate for the San Juan County Commission in District Two. The boundaries of this election district were redrawn by the United States District Court for Utah in *Navajo Nation v. San Juan County,* No. 2:12-cv-00039-RJS, to include the area around Navajo Mountain, where Mr. Grayeyes resides.

On March 28, 2018, you sent a letter to Mr. Grayeyes informing him that Mr. Grayeyes' right to vote and hold office in Utah has been challenged by Wendy Black on the basis of an allegation that Mr. Grayeyes does not reside in Utah. The letter does not reference any evidence on which this allegation is based, nor does it contain a copy of the mandatory affidavit (discussed below) Ms. Black was required to file with her challenge. Your letter invites Mr. Grayeyes to provide evidence showing that he resides in San Juan County. It is my understanding that San Juan County took an active role in developing evidence concerning Ms. Black's challenge and sent a Sheriff's Deputy, Colby Turk, to the Navajo Mountain area to ascertain whether Mr. Grayeyes resides there.

This letter constitutes Mr. Grayeyes response to you. I have also attached a declaration that is a sworn statement of Mr. Grayeyes' status as a resident of Utah and San Juan County. As an initial matter, I would like to bring your attention to the legal standards set forth in the Utah statutes that apply to the challenge submitted by Ms. Black.

To qualify as a candidate for elected office, a person must be an eligible voter. UCA § 17-16-1. To qualify as a voter, among other things, a person must reside within the district in which he or she votes. Under UCA § 20A-3-202, lack of residence can form the basis of a challenge to the eligibility of a voter. *See* § 20A-3-202(1)(e) ("A person's right to vote may be challenged because . . . (e) the voter's principal place of residence is not in the voting precinct claimed; (f) the voter's principal place of residence is not in the geographic boundaries of the election area . . . "). Consequently, if a voter is ineligible based on residence, that person is also ineligible to be a candidate for elected office.

Where someone resides is determined by the subjective intent of the voter. A person resides in Utah (and within a specific voting district in Utah), if the person has the present intention of maintaining his or her principal place of residence in Utah permanently or indefinitely. UCA § 20A-2-105(3)(a). A variety of factors can be used to demonstrate the intent of the voter regarding residency. Some factors, such as being temporarily absent in another state, are not by themselves evidence of a change of residence. UCA § 20A-2-105(3)(f). Some factors, such as registering to vote in Utah, create a rebuttable presumption of an intention to remain in Utah (and the voting district) indefinitely. *Dodge v. Evans*, 716 P.2d 270, 271–72 (Utah 1985). Only a few factors conclusively show an intent to give up residency, such as voting in another state. UCA § 20A-2-105(3)(g). But absent these few exceptions, in general, any determination of residency must assess the subjective intent of the voter with regard to what he or she considers to be his or her permanent or indefinite residence.

Consequently, a person filing a challenge to the eligibility of a voter based on residence faces a significant burden in proving that challenge. Among other things, the filer must provide "facts and circumstances" showing why the voter is not a resident of Utah. UCA § 20A-3-202.3(1)(a)(ii)(D). The filer of the challenge has the burden to prove, by clear and convincing evidence (one of the highest burdens of proof), that the basis for challenging the voter's right to vote is valid." UCA § 20A-3-202.3(4)(b)(i). The challenge must "include[] a signed affidavit, which is subject to penalties of perjury, swearing that: (A) the filer exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge; and (B) according to the filer's personal knowledge and belief, the basis for the challenge under Section 20A-3-202 for each challenged voter is valid." UCA § 20A-3-202.3(1)(iii). The challenger "is subject to criminal penalties for false statements . . . " UCA § 20A-3-202.3(5). An election officer who receives a challenge that does not meet these mandatory requirements should simply dismiss the challenge. See UCA §§ 20A-3-202.3(2) and 20A-3-202.3(3).

It is not clear that Ms. Black's challenge meets any of the requirements of Utah law. Your letter mentions a basis for the challenge (alleged residence outside Utah), but does not state the "facts and circumstances" alleged by Ms. Black and fails to provide a copy of Ms. Black's affidavit verifying those facts and circumstances. Failure to provide this information to Mr. Grayeyes makes it essentially impossible for him to respond to Ms. Black's allegations, in violation of his right to due process. I respectfully request that a copy of the original complaint and the affidavit be provided to me before April 30, 2018. Additionally, I request the address of the residence asserted by Ms. Black to be Mr. Grayeyes' residence in Arizona and the evidence on which this claim is based.

It is unlikely Ms. Black can prove that Mr. Grayeyes is not a resident of Utah by clear and convincing evidence sufficient to overcome the presumption that he is a resident. As demonstrated in Mr. Grayeyes' affidavit, he has lived at Navajo Mountain almost his entire life, his family is from Navajo Mountain, and he attended school at Navajo Mountain. Mr. Grayeyes has provided San Juan County with the coordinates of his home and described the location of the home when he met with Investigator Turk on April 4, 2018. Additionally, Mr. Grayeyes has been a registered voter in San Juan County since 1984, was certified by the Lieutenant Governor as candidate from Navajo Mountain for the San Juan County Commission in 2012, and has voted in almost every San Juan County election since 1998. These facts create a legal presumption of residence in Utah and San Juan County.

If you continue to doubt the validity of Mr. Grayeyes' residence, we request that you personally travel to Navajo Mountain to meet with Mr. Grayeyes at his home as part of your determination of his residence status. Mr. Grayeyes has agreed to meet you at his residence at your convenience. Please let us know when you would like to hold this meeting and we will communicate your response to Mr. Grayeyes.

We are also concerned about the evident lack of impartiality on the part of the County and your office in this matter. The statutes make clear that a person filing a challenge has an obligation to present evidence sufficient to support the challenge. The election official must give the challenged voter an opportunity to respond. Then the election official should make an impartial decision. Here, the County sent a law enforcement officer employed by the County to Mr. Grayeyes' area of residence to develop evidence to bolster Ms. Black's challenge; a clear violation of your duty, as the election official, to act impartially. We request that you immediately provide us with the following: all documents relating to the Sheriff's and the Clerk/Auditor's investigation of Mr. Grayeyes; a copy of all Sheriff's reports and any communications relating to this investigation; a description of the nature of the investigation (whether criminal or civil); the names of any individuals interviewed by the Sheriff's investigator or your office; a description and copy of any written documents containing the directions the investigator was given regarding Mr. Grayeyes; the identity of the County official or officials who authorized the investigation; and the dates and details of these communications. Please also include any information concerning other candidates whose residence status has been challenged in a similar fashion through a County-sanctioned investigation during this election year.

We respectfully request that you immediately and summarily deny Ms. Black's challenge. However, if after considering the evidence Mr. Grayeyes has provided, you decide to proceed with disqualifying him based on residence, we should advise you of the actions that we may take in response.

We are concerned, especially in light of the County's role in attempting to develop evidence in support of Ms. Black's challenge, the County is acting to thwart the implementation of the Judgment in *Navajo Nation v. San Juan County* by trying to find the means, once again, of denying Indian voters in the County the ability to elect candidates of their choice through a spurious challenge to Mr. Grayeyes' residence. Unless the County can immediately provide a copy of the original complaint and a copy of Ms. Black's affidavit showing clear and convincing

evidence that Mr. Grayeyes does not meet standards for residency in Utah and if the County determines that Mr. Grayeyes is not a resident in the absence of such evidence, we will consider filing a motion for order to show cause in front of Judge Shelby requesting that he hold the County, and you, in contempt of the Judgment. In the alternative, we will explore filing an original action against you and the County, pursuant to 42 U.S.C. § 1983, for a violation of Mr. Grayeyes' rights under the Equal Protection Clause.

We respectfully request your reply to this letter by not later than April 30, 2018, as this matter impairs Mr. Grayeyes' ability to campaign effectively, again in violation of his Equal Protection rights.

Sincerely,

MAYNES, BRADFORD, SHIPPS & SHEFTEL, LLP
Durango Office

Steven C. Boos

Maya Kane

:scb

DECLARATION OF WILLIE GRAYEYES

I, WILLIE GRAYEYES, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. My name is Willie Grayeyes.

2. I am an enrolled member of the Navajo Nation.

3. I reside in the Navajo Mountain Chapter.

4. I maintain my full-time residency at Navajo Mountain in San Juan County, Utah.

5. Navajo Mountain is my principal place of residence.

6. I have lived in Navajo Mountain, Utah, almost my whole life. My entire family and clan is from San Juan County, Utah.

7. I attended school at Navajo Mountain.

8. The latitude/longitude coordinates for my home are 37.084477, -110.626033. See Exhibits A and B, Satellite Imagery and Latitude/Longitude Coordinates for the Principal Residence of Willie Grayeyes.

9. My home is in a very rural location near Piute Mesa in Utah. There are only three houses in the immediate vicinity.

10. I have resided at this home for at least 20 years and intend to remain there permanently and indefinitely.

11. I maintain a Post Office Box in Tonalea, Arizona. The Post Box number is 10035, and the zip code is 86044.

12. Most people in the Navajo Mountain community maintain a mail box, subcontract post office, under Tonalea, Arizona, based on convenience (80 miles away) and the fact that Tonalea provides prompt and reliable post office service.

13. I serve as the Chair of the Board of Directors for Utah Diné Bikéyah.

14. I am the Chapter Official for Navajo Mountain, Utah.

15. I am currently the Secretary/Treasurer for Navajo Mountain Chapter.

16. I am Chairman of the School Board for Naatsis'aan Community School.

17. I have been a registered voter in San Juan County, Utah, since I turned 18.

18. I have voted in almost every primary and general election in San Juan County since 2000.

19. If San Juan County reviewed their own voter file that they maintain on me, they would find that I voted in the 2000 Primary and General Elections, the 2002 General Election, the 2006 General Election, the 2008 Primary and General Elections, the 2010 General Election, the 2012 General Election, the 2014 General Election, the 2015 General Election, and the 2016 Primary and General Elections.

20. I have never voted in any other state.

21. In 2012, I was certified as the Democratic candidate in the former San Juan County Commission District 1 by the Lieutenant Governor of the State of Utah based upon my residence in Utah and Navajo Mountain. Exhibit C, 2012 Partial List of Certified Democratic Candidates.

22. According to the Memorandum Decision and Order, Dkt. 441, dated December 21, 2017, I reside in the new, Court-ordered District 2 of the San Juan County Commission for the 2018 Primary and General elections.

23. On March 15, 2018, I filed with the San Juan County Clerk's Office as a Democratic candidate for Court-ordered County Commission District 2. Exhibit E, Court Ordered Election Districts for San Juan County Commission.

24. I was at Navajo Mountain on March 21, 2018, for a meeting at school and left afterward. The next day, on March 22, 2018, Maggie Holgate from the school called me to tell me that Sheriff was looking for me. Apparently, he talk with my sister, Rose Mary Johnson, regarding where I live. My sister indicated that she didn't specify where I lived to him at that time, but Investigator Turk later said that my sister said I lived somewhere else other than Navajo Mountain.

25. I called Mr. Turk after his visit to follow up and we agreed to meet in person.

26. At the San Juan County Democratic Convention on March 24, 2018, I was nominated as the Democratic candidate for the new, Court-ordered District 2 of the San Juan County Commission for the General Election in 2018.

27. On April 4, 2018, I met with Officer Turk from the San Juan County Sheriff's Department in Bluff, Utah. Mr. Turk told me that the purpose of his visit was to determine my permanent residence.

28. During that visit, I described to Mr. Turk where I lived, Mr. Turk told me that he was unable to locate my residence.

29. I received a letter from the San Juan County Clerk/Auditor, John David Nielson, dated March 28, 2018, stating that my right to vote and hold office in San Juan County, Utah, was challenged by Wendy Black, of Blanding, Utah.

30. I have never met, and do not personally know, Wendy Black.

31. The letter stated that the basis of Ms. Black's challenge was that my primary residence is not within San Juan County, Utah, but the State of Arizona.

32. I am not a resident of Arizona.

33. The letter states that I have an opportunity to refute the challenge.

34. The letter did not contain any evidence or provide a description of the facts and circumstances that formed the basis for Ms. Black's challenge.

35. I have not been provided with a copy of the affidavit Ms. Black was required to file as part of her challenge.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on April 19, 2018

BY: _____

Name: Willie Grayeyes


37.084477, -110.626


Register Rock
37.084477, -110.62603

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFIED CANDIDATES
2012 REGULAR PRIMARY ELECTION

I, Greg Bell, Lieutenant Governor of the State of Utah, certify as required by Utah Code § 20A-9-403:

1. the attached list of candidates for federal, statewide, single-county, and multi-county office whose names must appear on the June 26, 2012 primary ballot;

2. registered political parties may certify to the county clerks candidates whose names should appear on the June 26, 2012 primary election ballot for partisan offices with districts wholly contained within a particular county;

3. the Utah Constitution Party, the Utah Democratic Party, and the Utah Republican Party declared their intent to participate in the 2012 regular primary election;

4. the Utah Democratic Party permits all registered voters whether affiliated or unaffiliated with a party to participate in their primary election;

5. the Utah Constitution Party permits all registered voters whether affiliated or unaffiliated with a party to participate in their primary election;

6. the Utah Republican Party permits only registered voters affiliated with the Republican party to participate in their primary election;

7. Utah Code § 20A-2-107 prohibits registered voters from designating or changing their party affiliation after May 29, 2012; and,

8. Utah Code § 20A-2-107.5 permits registered voters who are unaffiliated with a party to affiliate with a party by giving a change of affiliation form to an election judge during the regular primary election.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 25th day of April, 2012.

Greg Bell
Lieutenant Governor

- House District 67: Scott Parkin
- House District 68: Thomas Nedreberg
- House District 69: Christine Watkins

The following Democratic candidates named below for federal office or within a multi-county jurisdiction were deemed to be in need of being placed on the Democrat ballot in the primary election to determine the eventual Democratic nominee for the general election:

United State Congress

- District 1: Ryan Combe
- District 1: Donna McAleer

For your information, in addition to the above named candidates, the following list of candidates for the State Legislature whose districts are within a single county were all nominated in convention and will be the Democratic Party's nominees for the general election without the necessity of having to run in the primary election:

Utah State Senate

- Senate District 1: Luz Robles
- Senate District 6: John Rendell
- Senate District 7: Aaron Davis
- Senate District 29: Terence Moore

Utah State House of Representatives

- House District 3: Roger Donohoe
- House District 4: Doug Thompson
- House District 5: Al Snyder
- House District 6: Gabrielle Hodson
- House District 7: Linda Protzman
- House District 8: Nick Velis
- House District 9: Neil Hansen
- House District 10: Christopher Winn
- House District 13: K. Bradley Asay
- House District 14: Jon Christensen
- House District 15: Gibbs Smith
- House District 16: Douglas Sill
- House District 17: Bonnie Flint
- House District 19: Lynn Anderson
- House District 20: Daniel Donahoe
- House District 21: David Swan
- House District 22: Susan Duckworth
- House District 23: Jennifer Seelig
- House District 24: Rebecca Chavez- Houck
- House District 25: Joel Briscoe
- House District 26: Angela Romero
- House District 30: Janice Fisher
- House District 31: Larry Wiley
- House District 32: Alain Balmanno
- House District 34: Celina Milner
- House District 35: Mark Wheatley
- House District 36: Patrice Arent
- House District 37: Carol Spackman Moss
- House District 38: Elias McGraw
- House District 39: Barbara Eubanks
- House District 40: Lynn Hemingway
- House District 41: Cristopher Balmanno
- House District 43: Jeff Bell
- House District 44: Tim Cosgrove
- House District 45: Gary Forbush
- House District 46: Marie Poulson

For your information, in addition to the above named candidates, the following list of candidates for partisan county elected office were deemed to be in need of being placed on the Democrat ballot in the primary election to determine the Democratic nominee for the general election:

County Commission

- Summit Seat A: Sean Wharton
- Summit Seat A: Roger Armstrong

Sincerely,

Jim Dabakis
Utah State Democratic Party Chair

Chapter 16
County Officers

17-16-16 Commissioners' traveling expenses.

(1) The members of the board of county commissioners may not receive any compensation in addition to that provided in Section 17-16-14 for any special or committee work, but, subject to Subsection (2), each member shall receive travel expenses for attending the regular and special sessions of the board and in the discharge of necessary duties, in accordance with Section 11-55-103.

(2) Before receiving travel expenses described in Subsection (1), the member shall:

(a) submit an itemized statement showing in detail the expenses incurred; and

(b) subscribe and swear to the statement described in Subsection (2)(a).

Amended by Chapter 70, 2017 General Session

Part 1
General Provisions

17-16-1 Eligibility and residency requirements for county, district, precinct, or prosecution district office.

(1) A person filing a declaration of candidacy for a county, district, precinct, or prosecution district office shall:

(a) be a United States citizen;

(b) except as provided in Section 20A-1-509.2 with respect to the office of county attorney or district attorney, as of the date of the election, have been a resident for at least one year of the county, district, precinct, or prosecution district in which the person seeks office; and

(c) be a registered voter in the county, district, precinct, or prosecution district in which the person seeks office.

(2)

(a) A county, district, precinct, or prosecution district officer shall maintain residency within the county, district, precinct, or prosecution district in which the officer was elected during the officer's term of office.

(b) If a county, district, precinct, or prosecution district officer establishes the officer's principal place of residence as provided in Section 20A-2-105 outside the county, district, precinct, or prosecution district in which the officer was elected, the office is automatically vacant.

Amended by Chapter 237, 2013 General Session

17-16-2.5 Creation of Office of District Attorney.

For each prosecution district created in accordance with Chapter 18a, Part 7, Prosecution District, there is created the Office of District Attorney.

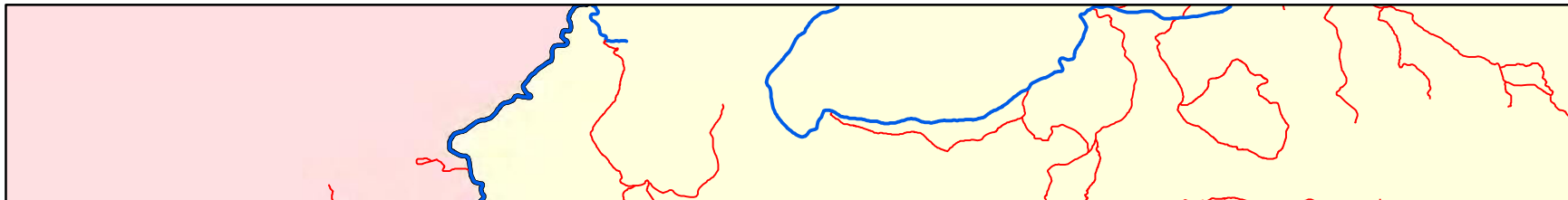
Amended by Chapter 237, 2013 General Session

17-16-3 Consolidation of offices.

(1) A county legislative body may, unless prohibited by Subsection (2), pass an ordinance that:

(a) consolidates county offices and establishes the duties of those consolidated offices;

San Juan Coun
County Comm
Election Dist



THE NAVAJO NATION
Navajo Board of Election Supervisors
Oath of Office
For All Elective Positions of the Navajo Nation

I, Willie Grayeyes,

do solemnly swear to uphold and abide by the laws of the Navajo Nation and Treaty of 1868 between the Navajo Nation and the United States of America and will faithfully execute the office of

Secretary/Treasurer
Representing
NAA'TSIS'AAN Chapter.

and will to the best of my ability preserve, protect and defend the laws and government of the Navajo Nation and advance the interests of the Navajo people, having due regard for the ethical duties and responsibilities of the office;
So help me God.

Signature

CERTIFICATION

I hereby certify that the above oath was sworn to and subscribed in my presence this 27th day of October, 2017.

Dated: October 27, 2017

Chief Justice,
Navajo Nation Supreme Court
(his or her Designee)

WITNESS:

THE NAVAJO NATION

Navajo Board of Election Supervisors

Oath of Office

For All Elective Positions of the Navajo Nation

I, Willie Grayeyes,

do solemnly swear to uphold and abide by the laws of the Navajo Nation and Treaty of 1868 between the Navajo Nation and the United States of America and will faithfully execute the office of

Naa' Tsis' Aan Community School Board Member
Representing
Naa' Tsis' Aan Chapter.

and will to the best of my ability preserve, protect and defend the laws and government of the Navajo Nation and advance the interests of the Navajo people, having due regard for the ethical duties and responsibilities of the office;
So help me God.

Signature

CERTIFICATION

I hereby certify that the above oath was sworn to and subscribed in my presence this 20th day of January, 2017.

Dated: January 20, 2017

Chief Justice Navajo Supreme Court
(his or her Designee)

WITNESS:

Original – Elected Official Yellow – Agency Office Pink – Court Golden Rod – NEA Central Office CA006

MBSS
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JANICE C. SHEFTEL - RETIRED
BYRON V. BRADFORD (1907-1985)
FRANK E. (SAM) MAYNES (1933-2004)

sboos@mbssllp.com

April 25, 2018

John David Nielson, Clerk/Auditor
San Juan County
Post Office Box 338
Monticello, UT 84535

(Sent by email to: jdnielson@sanjuancounty.org)

Re: Willie Grayeyes; supplemental response to your letter dated March 28, 2018

Dear Mr. Nielson:

This letter is a supplemental response to our letter of April 19, 2018, concerning the residence status of Mr. Willie Grayeyes.

We have enclosed a declaration from Coconino County Supervisor Lena Fowler, who represents the Arizona portion of Navajo Mountain. Ms. Fowler states that Mr. Grayeyes resides in the Utah portion of Navajo Mountain, has never been registered to vote in Arizona and is a resident of Utah, not Arizona.

We have also enclosed a second declaration from Mr. Grayeyes. He was born about one mile southeast of the house that is his current residence, which was shown in the materials we sent to you last week. His umbilical cord is buried in that place, which has enormous cultural significance for all Navajo people. (In the Navajo language this place is known as "diné bighan binaagóó yaah hááh danízingóó, awéé' bits'éé' nǫǫh daashchíígóó hodiyingo nahas'á.") This fact is critical to assessing Mr. Grayeyes' subjective intent regarding his residence because, as a matter of both Navajo tradition and law, he is always a permanent resident of that place. See *Halona v. MacDonald*, 1 Nav. R. 189, 195 (1978).

We hope this additional material will help speed your review of Mr. Grayeyes' status as a resident of San Juan County, Utah and lead to a swift rejection of the challenge filed by Wendy Black.

Sincerely,

MAYNES, BRADFORD, SHIPPS & SHEFTEL, LLP
Durango Office

Steven C. Boos

Maya Kane

:scb

SUPPLEMENTAL DECLARATION OF WILLIE GRAYEYES

I, WILLIE GRAYEYES, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. On April 19, 2018, I prepared a Declaration that identified my current residence in the Navajo Mountain, Utah area.

2. I was born about one mile southeast of my current residence, on land within San Juan County, Utah, and my umbilical cord is buried near my place of birth.

3. According to Navajo tradition, which I believe, the area where I was born and where my umbilical cord is buried is my permanent place of residence.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on April 24, 2018

BY:

Name: Willie Grayeyes

DECLARATION OF LENA FOWLER

I, LENA FOWLER, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. My name is Lena Fowler.

2. I am an enrolled member of the Navajo Nation.

3. I serve on the Board of Supervisors for Coconino County, Arizona, which consists of five members, each elected by district to four-year terms.

4. The Board of Supervisors establishes administrative policy and direction for the County, has budgetary oversight, and works within established guidelines to carry out its duties.

5. I have served Coconino County District 5 since 2009 and am currently in my third term.

6. My district encompasses tribal nations therefore I represent the citizens of these tribes in my work, including members of the Navajo Nation.

7. As part of my official duties, I represent the Arizona portion of the Navajo community of Navajo Mountain.

8. I am aware that an individual in San Juan County, Utah has accused Mr. Willie Greyeyes of residing in Arizona.

9. The Navajo Mountain community is divided between the state of Utah and Arizona, it has limited community services, there's a Navajo Head Start Center, Naatsis'aan Community School, Navajo Mountain High School and Navajo Utah Health Clinic. The local government is the Navajo Mountain Chapter. The nearest grocery store, gas station and laundry mat is at Inscription House Trading Post, approximately 40 miles away in Arizona.

10. The schools, head start, senior program, health clinic and the chapter are the employers in the community, as a result the residents travel to bigger towns and distant cities for employment

and higher education. The residents travel over two hours into Arizona to the nearest employment and purchase simply necessities.

11. All the residents of Navajo Mountain from the state of Utah and Arizona are served by the Tonalea U.S. Postal Service, 343 Highway 160, Tonalea, AZ 86044. The Tonalea Post Office mail truck delivers the mail at 10 a.m. every weekday to the Navajo Mountain Chapter where all residents pick up their mail.

12. The Coconino County Recorder's Office has confirmed Mr. Willie Greyeyes is not a registered voter in Coconino County, Arizona.

13. To my knowledge, Mr. Greyeyes has never been registered to vote in Coconino County, Arizona.

14. I have observed Mr. Greyeyes to always be a strong advocate for Utah Navajos.

15. I believe that Mr. Greyeyes resides in Utah. He was born and raised in the area.

16. I have known Mr. Greyeyes to be a very active community member. To this day, he continues to be a community servant.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on April 25, 2018

BY: Lena Fowler

Name: LENA FOWLER

MBSS
MAYNES, BRADFORD, SHIPPS & SHEFTEL LLP
ATTORNEYS AT LAW

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JANICE C. SHEFTEL - RETIRED
BYRON V. BRADFORD (1907-1985)
FRANK E. (SAM) MAYNES (1935-2004)

sboos@mbssllp.com

April 27, 2018

John David Nielson, Clerk/Auditor
San Juan County
Post Office Box 338
Monticello, UT 84535

(Sent by email to: jdnielson@sanjuancounty.org)

Re: Willie Grayeyes; request for utility bills

Dear Mr. Nielson:

We were contacted by an AP reporter (Lindsey Whitehurst) today about the Willie Grayeyes residency matter. She stated that you told her you needed a copy of Mr. Grayeyes' utility receipts for service in Utah to prove his residency.

This is absurd on a number of levels. First, you have not yet provided us with any of the documents on which the residency challenge is based, nor have you asked us to provide any materials, such as utility bills, to assist you with your evaluation of Mr. Grayeyes' residency status. It is truly astounding that we would have to learn of your request through an AP reporter, rather than from you directly.

Second, you must surely understand by now (as is explained in the declaration of Coconino County Supervisor Lena Fowler) that mail to Navajo Mountain, Utah, is sent to the post office in Tonalea, Arizona, and then hauled to the chapterhouse in Navajo Mountain for distribution. A utility bill for a Navajo Mountain, Utah resident would be useless as an indicator of actual residence, because it would have a Tonalea post office box address.

Finally, the request shows an astonishing lack of understanding of living conditions in the remoter parts of San Juan County, such as the Navajo Reservation. There is no water or sewer service: people haul water and have outhouses. And there is ordinarily no electric service. A review of the satellite image of Mr. Grayeyes' house (that we sent you last week) will show you

that there are no electric lines to the house. I have confirmed with my client that there are no utilities at his house and, therefore, there are no utilities bills to send to you.

Nor are utility bills required to prove residence. As we explained in our first letter, residence is based on the intent of the voter. The statute simply does not contain a requirement that a voter must provide a utility bill to prove residence. Rather, the person challenging the voter's residence status must provide proof, through clear and convincing evidence, that the voter does not intend to permanently reside in Utah.

Any determination by you that Mr. Grayeyes is not a resident of Utah because he has not provided a utility bill (that you never even requested) would be a gross abuse of your authority and a clear violation of Mr. Grayeyes' rights.

Sincerely,

MAYNES, BRADFORD, SHIPPS & SHEFTEL, LLP
Durango Office

Steven C. Boos

Maya Kane

:scb

MBSS
MAYNES, BRADFORD, SHIPPS & SHEFTEL LLP
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++Also Admitted in New Mexico
^^ Also Admitted in Arizona

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PATRICIA A. HALL*
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JANICE C. SHEFTEL - RETIRED
BYRON V. BRADFORD (1907-1985)
FRANK E. (SAM) MAYNES (1933-2004)

sboos@mbssllp.com

May 3, 2018

John David Nielson, Clerk/Auditor
San Juan County
Post Office Box 338
Monticello, UT 84535

(Sent by email to: jdnielson@sanjuancounty.org)

Re: Willie Grayeyes; supplemental response to your letter dated March 28, 2018

Dear Mr. Nielson:

This letter is submitted as a second supplemental response to your letter to Mr. Willie Grayeyes dated March 28, 2018 and includes additional information concerning his life-long residency as Navajo Mountain, Utah. Enclosed with this letter are the following:

1. Mr. Grayeyes' birth certificate, showing that he was born at Navajo Mountain, Utah in San Juan County.

2. A declaration from Russell Smallcanyon, a Navajo Nation grazing official, who took a tally of Mr. Grayeyes' livestock at his home located at Paiute Mesa, Utah, within San Juan County, in June 2017.

3. A copy of Mr. Grayeyes' grazing permit for the area around his home at Paiute Mesa, Utah.

4. A copy of the tally record completed by Mr. Smallcanyon in June 2017.

We are submitting this material to you, despite our uncertainty about how this matter is being handled by you. Following our letter of April 19, 2017 and a supplemental letter dated April 25, 2017, which both contained evidence of Mr. Grayeyes' residence status in San Juan County, we received several email communications from Jesse Trentadue, who represents the County in *Navajo Nation v. San Juan County*, advising us that you are ***not*** conducting an inquiry

into Mr. Grayeyes' residence status in San Juan County. We are baffled by this, as both your March 28th letter, Natalie Callahan's press release on behalf of the County, and recent articles published in the San Juan Record clearly state that you ***are*** conducting an inquiry. Despite our multiple requests, you have not communicated with us or answered our prior letters. Mr. Trentadue also stated that the Grayeyes matter had been transferred to the Davis County Attorney; however, when I called that office on May 2, 2018, I was informed that there is nothing in their files concerning Mr. Grayeyes. If there is an on-going inquiry and if it is being conducted by someone else, we respectfully request that all evidence we have submitted on behalf of Mr. Grayeyes be transferred by you to the person or entity conducting the investigation. If there is no pending inquiry, you need to say so.

In addition, I have not copied this supplemental response to the San Juan County Attorney, Kendall Laws. It has come to my attention that Mr. Grayeyes' opponent in the District Two Commission race, Kelly Laws, is the father of the County Attorney. It would be a serious violation of the rules governing professional ethics for attorneys if Kendall Laws had any part in this matter. This creates a further dilemma for us in that we do not know who is providing you with legal representation on the Grayeyes matter. If you can identify that attorney, we will also communicate with him or her. We would certainly like to talk to your attorney about the basic misconception San Juan County appears to have that where someone lives is necessarily the same as someone's permanent legal residence. I think the best example of this distinction might be LDS missionaries, who do not lose their legal residence in Utah simply because they spend extended periods during their missions living outside Utah. Mr. Grayeyes has submitted ample documentation to support the conclusion that his permanent legal residence is Navajo Mountain, Utah.

Finally, in our letter of March 28th, we requested that you provide us with copies of the original challenge submitted to you by Wendy Black and the supporting affidavit required by statute to be filed with the challenge. We have not yet received either document, although both are required to ensure Mr. Grayeyes receives due process. Please send those documents right away. As we are unclear why you have not already sent those documents, we will also be sending you a GRAMA request covering that material and respectfully request your immediate attention to that request

Sincerely,

MAYNES, BRADFORD, SHIPPS & SHEFTEL, LLP
Durango Office

Steven C. Boos

Maya Kane

:scb

DECLARATION OF RUSSELL SMALLCANYON

I, RUSSELL SMALLCANYON, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. My name is Russell Smallcanyon.

2. I am an enrolled member of the Navajo Nation.

3. I am the Grazing Officer for Navajo Nation Grazing District 2-3.

4. Among other duties, I conduct livestock tallies of grazing permittees within District 2-3 to make sure that the permittees are in compliance with their permits in terms of the number and type of livestock they are grazing.

5. Willie Grayeyes has a grazing permit in District 2-3 and he grazes livestock in the area of his house at Paiute Mesa, Utah.

6. A copy of Mr. Grayeyes' grazing permit is attached to this Declaration.

7. I conducted a tally of Mr. Grayeyes' livestock in June 2017 at his home (an older frame house, corral, and hogan) in Paiute Mesa, Utah. A copy of the tally is attached to this Declaration.

8. Based on personal knowledge, Mr. Grayeyes' home and his livestock are located within the State of Utah and, in my opinion, he is a resident of Paiute Mesa, in San Juan County, Utah, and within the Navajo Mountain Chapter of the Navajo Nation.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on May 2, 2018

BY:

DGCM-2-1

Name: RUSSELL SMALLCANYON

NAVAJO TRIBE
GRAZING FORM NO. 8-82-1M

DUPLICATE ISSUED 10/26/2012

076,439 (CENSUS NO.) WILLIE GRAYEYES (NAME)

Assigned Brand D J T District No. 2-3

Date Issued MAY 21, 2001 Permit No. 2-0889

		Sheep Units
Horses Permitted 02 ,	Totaling	10
Sheep and Other Livestock Permitted		05
Total Permitted		15

Season of Use: This District YEARLONG

Elsewhere and Dates

United States
Department of the Interior
Office of Indian Affairs

GRAZING PERMIT

Navajo Reservation
Window Rock, Arizona

PERMIT CONDITIONS

BY AUTHORITY of law and pursuant to the regulations in Part 72-Navajo Grazing Regulations, Title 25 C. F. R. -and amendments thereto, the above-named Indian is hereby granted permission to hold and graze the number and kind of livestock as specified above on the Navajo Reservation for the time and in the district or districts as stated above and thereafter until further notice, subject to compliance with the Range Management Plan for the district or districts and any changes made in accordance with and pursuant to the said Grazing Regulations as amended.

This permit shall not be assigned, sublet, or transferred except as provided in said Grazing Regulations.

The Superintendent shall make decisions relative to the interpretation of the terms of this permit and enforcement of Grazing Regulations.

Done at the Navajo Agency on this 21st. day of MAY, 2001.

/s/ Harold Russell
Sub-Agency Superintendent
[20 F. R. 2895]

10024 BUTLER'S

A 44411

Navajo Nation – District Grazing Committee
Livestock Inventory Receipt & Notice of Violation

DATE: 6-11-17

Name: [illegible] Physical Address: Paiute Mesa
Mailing Address: P.O. Box 10053 City: [illegible] St: AZ NM UT Zip: [illegible]
Census #: [illegible] Chapter: [illegible] District-Unit #: 2-1 Agency: N C W F/D NPL

Permit #: Z-0449 Brand: DJT Type: Yearlong Special Seasonal
State Brand: AZ NM UT Card No: ______ Exp. Date ______ Location of Brand: ______
NNGP: Horses Permitted: 1 x 5 = 5 Location of corral/Premise Identification No/GPS: ______
Sheep & other livestock Permitted 13
TOTAL Permitted: 15

Sheep				Goats				Cattle				Horses			
Ewes		x 1		Does		x 1		Cows	3	x 4	12	Mares		x 5	
Rams		x 1		Bucks		x 1		Bulls		x 4		Stallions	1	x 5	5
Wethers		x 1		Wethers		x 1		Heifers	1	x 4	1	Geldings		x 5	
Lambs				Kids				Steers		x 4		Mules		x 5	
TOTAL			—	**TOTAL**			—	Calves	1		0	Foals			
								TOTAL			13	**TOTAL**			[illegible]

Other Species: ______ x ____ = ______

Sprayed: No ___ Yes ___ By whom: ______ Type, Lots, Exp. Date(s) ______
Dewormed: No ___ Yes ✓ By whom: [illegible] Type, Lots, Exp. Date(s) ______
Vaccination: No ___ Yes ✓ By whom: GO Type, Lots, Exp. Date(s) ______
Comments: 1- horse [illegible] very sick

****** I HEREBY ACKNOWLEDGE THE LIVESTOCK INVENTORY INFORMATION ******

Livestock Operator and/or Grazing Permittee: [signature] DGC / ENLB / DLI Official: [signature]

****

NOTICE OF VIOLATION

This is also an official notice to inform you that you are also in violation of the following Navajo Nation Grazing and Livestock Laws and Regulations. Your violations are checked below:

___ 3 N.N.C. § 710; Trespass (DGC)
___ 3 N.N.C. § 713; Fences (Unauthorized) (DGC)
___ 3 N.N.C. § 946 A (1)-(5); Trespass (ENLB)
___ 3 N.N.C. § 1371; Failure to Comply with Grazing Requirements
___ 3 N.N.C. § 1372 (A); Unlawful introduction of livestock or equine without a valid grazing permit
___ 3 N.N.C. § 1372 (B); Willfully Grazing in Excess of Permitted Number
___ 3 N.N.C. § 1311 (D); Interference of Livestock or Equine Round up Procedures
___ 3 N.N.C. § 1353; Taking livestock without consent of owner
___ 3 N.N.C. § 1354/1355; Obliterating, Changing or Altering Brand, ear mark, identification
___ 3 N.N.C. § 1273 (A); Cruelty of animals
___ 3 N.N.C. § 1362/1363; Allowing livestock to run within fence roadway, residential or withdrawn area, and failing to remove it
___ Other: ______
___ Other: ______

According to the livestock inventory conducted you are exceeding your permitted sheep units by ____ S.U. You will have 30 days from receipt of this violation to comply and show proof (bill of sale) at the compliance meeting scheduled below. Failure to abide by the regulations will result in further corrective action(s) and/or cancellation of grazing privileges as outlined in Title 3 of the Navajo Nation Code. Thank you for your cooperation.

COMPLIANCE MEETING DATE, LOCATION & TIME: ______
COMMENTS: ______
Livestock Operation and/or Grazing Permittee: ______ DGC / ENLB / DLI Official: ______

WHITE • Permit Holder PINK • NNDA CANARY • BIA GREEN • DGC

DELAYED CERTIFICATE OF BIRTH
STATE OF UTAH

ALTH
L STATISTICS
UTAH

257357

1. REGISTRANT'S FULL NAME AT BIRTH: WILLIE GRAYEYES			2. DATE OF BIRTH (MONTH) (DAY) (YEAR): [redacted]
3. COLOR OR RACE: Indian	4. SEX: Male	5. PLACE OF BIRTH: Navajo Mountain	6. COUNTY: San Juan
7. CITY OR TOWN OF BIRTH: Navajo Mountain Community			
8. FULL NAME OF FATHER: Tulley Grayeyes c#76439			9. STATE OR COUNTRY OF FATHER'S BIRTH: Utah
10. FULL MAIDEN NAME OF MOTHER: Bertha Clarke			11. STATE OR COUNTRY OF MOTHER'S BIRTH: Utah
I hereby declare upon oath that the above statements are true to the best of my knowledge and belief.	12. SIGNATURE OF REGISTRANT: 's Father Tulley Grayeyes		13. PRESENT ADDRESS OF REGISTRANT: Tuba City, Arizona
SUBSCRIBED AND SWORN TO BEFORE ME THIS: Feb. 17, 64	14. SIGNATURE OF NOTARY: Dean M. Dixon		15. NOTARY COMMISSION EXPIRES: Aug 13, 66

APPLICANT -- DO NOT WRITE BELOW THIS LINE

TYPE OF DOCUMENT: HOSPITAL RECORD	BY WHOM ISSUED AND SIGNED: PHS INDIAN HOSPITAL, Tuba City, Arizona	DATE ISSUED: [redacted]	DATE ORIG. ENTRY: [redacted]
DATE OF BIRTH: [redacted]	BIRTH PLACE: Utah	FULL NAME OF MOTHER: Bertha Clarke	NAME OF FATHER: Tullie Grayeyes
TYPE OF DOCUMENT: CENSUS RECORD	BY WHOM ISSUED AND SIGNED: Utah State Indian Affairs Agency - Blanding, Utah	DATE ISSUED: [redacted]	DATE ORIG. ENTRY: [redacted]
DATE OF BIRTH: [redacted]	BIRTH PLACE: Navaho Mountain Community, San Juan Co. Utah	FULL NAME OF MOTHER: Bertha Clarke	NAME OF FATHER: Tullie Grayeyes
TYPE OF DOCUMENT: CHURCH RECORD	BY WHOM ISSUED AND SIGNED: Fr.J.H.Valine, Pastor, St.Bridget's Church, Milford, Utah	DATE ISSUED: [redacted]	DATE ORIG. ENTRY: [redacted]
DATE OF BIRTH: [redacted]	BIRTH PLACE: Navajo Mountain Trading Post, Utah	FULL NAME OF MOTHER: not known	NAME OF FATHER: Tulley Greyeyes
Document: AFFIDAVIT	Signed by: (GRANDMOTHER) Adzuma Clark C#73819	Date issued: April 14, 1964	
birthdate: [redacted]	birthplace: Navajo Mountain, Utah	Mother: Bertha Clarke	Father: Tulley Greyeyes

I hereby certify that no prior birth certificate has been found in the Division of Vital Statistics for this registrant and that documentary evidence has been reviewed, which substantiates the facts as set forth in the foregoing abstract.

STATE REGISTRAR	EVIDENCE REVIEWED BY	DATE FILED
JOHN W. WRIGHT	Gwen Tuckberger	May 12, 1964

STATE OF UTAH)
CO. OF SALT LAKE) ss
THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL CERTIFICATE ON FILE IN THE UTAH STATE DEPT. OF HEALTH.

DATE

DIRECTOR, DIVISION OF VITAL STATISTICS

EXHIBIT G

From: Steve Boos
To: Jesse Trentadue
Cc: Shireen Ohadi; jdnielson@sanjuancounty.org; Maya Kane; Carl Huefner; Sarah Allred; Britton Butterfield
Subject: RE: Willie Grayeyes re: Utility Bill
Date: Tuesday, May 01, 2018 4:29:35 PM

Jesse:

Thank you. I think we're almost there. Of course, as you know, I have been sending information to Mr. Nielson concerning Mr. Grayeyes' residence status. I would like to know whether that material has been forwarded to Davis County. Also, who is the attorney in Davis County with responsibility for this matter?

Regards, Steve

From: Jesse Trentadue [mailto:Jesse32@sautah.com]
Sent: Tuesday, May 01, 2018 3:24 PM
To: Steve Boos <sboos@mbssllp.com>
Cc: Shireen Ohadi <sohadi@mbssllp.com>; jdnielson@sanjuancounty.org; Maya Kane <MKane@mbssllp.com>; Carl Huefner <CHuefner@sautah.com>; Sarah Allred <SAllred@sautah.com>; Britton Butterfield <BButterfield@sautah.com>
Subject: RE: Willie Grayeyes re: Utility Bill

Steve:

Mr. Tapaha's testimony was about the previous race for Commission District 1, which I believe was several years ago. As I said, Mr. Nielson is not conducting any investigation of Mr. Grayeyes. That investigation is apparently being conducted by the State. Also, Mr. Laws recused himself from this matter and, as I further understand, has transferred the case to the Davis County Attorney who is apparently handling it on behalf of the State of Utah. Hope this clears up any confusion.

jesse c. trentadue
Suitter Axland, PLLC
8 East Broadway #200
Salt Lake City, UT 84111
Telephone: 801 532 7300
jesse32@sautah.com

From: Steve Boos <sboos@mbssllp.com>
Sent: Tuesday, May 01, 2018 3:08 PM
To: Jesse Trentadue <Jesse32@sautah.com>
Cc: Shireen Ohadi <sohadi@mbssllp.com>; jdnielson@sanjuancounty.org; Maya Kane <MKane@mbssllp.com>; Carl Huefner <CHuefner@sautah.com>; Sarah Allred <SAllred@sautah.com>; Britton Butterfield <BButterfield@sautah.com>
Subject: RE: Willie Grayeyes re: Utility Bill

Jesse:

Thank you for this information, although it's making me feel a bit like Ingrid Bergman's character in "Gaslight."

First, in your email from yesterday, you said that there was evidence in the depositions that "that Mr. Grayeyes does not reside in San Juan County, and has not done so for years." However, while Mr. Tapaha's deposition testimony says that Mr. Grayeyes lives in Page, no time frame is given and none of the indicia of residency are discussed. Perhaps the easiest way to illustrate the problem is by reference to LDS missionaries. They may live outside Utah during their mission, but they remain residents of Utah, because it is their intent that Utah is their permanent residence. If a resident of Navajo Mountain lives outside Utah for work, that does not strip them of their residence in Utah. Mr. Tapaha's off-hand comment is simply not proof of a change of residence status.

Second, as I explained in my original letter to Mr. Nielson (that was copied to you), a candidate for elected office must be an eligible voter and, consequently, residency challenges for candidates proceed as challenges to the residency of the person as a voter.

Third, this matter started with an official letter from Mr. Nielson to Mr. Grayeyes as an inquiry into Mr. Grayeyes' status as a resident of San Juan County. We have responded to Mr. Nielson, but received no reply from him. Your email suggests Mr. Nielson has dropped the inquiry, in which case he has a duty to officially inform Mr. Grayeyes that he has concluded the matter.

Fourth, I have deleted Kendall Laws from the list of email recipients for this correspondence. I learned today that he is the son of Kelly Laws, who is Mr. Grayeyes' opponent for the District 2 County Commission seat. I am concerned that Mr. Laws did not immediately disclose this conflict and that he may have provided Mr. Nielson with legal advice on the Wendy Black complaint against Mr. Grayeyes.

In any event, I hope that Mr. Nielson will now issue a statement affirming Mr. Grayeyes' status as a resident of San Juan County.

Regards, Steve

From: Jesse Trentadue [mailto:Jesse32@sautah.com]

Sent: Tuesday, May 01, 2018 2:34 PM
To: Steve Boos <sboos@mbssllp.com>
Cc: Shireen Ohadi <sohadi@mbssllp.com>; jdnielson@sanjuancounty.org; kendall.laws@gmail.com; klaws@sanjuancounty.org; Maya Kane <MKane@mbssllp.com>; Carl Huefner <CHuefner@sautah.com>; Sarah Allred <SAllred@sautah.com>; Britton Butterfield <BButterfield@sautah.com>
Subject: RE: Willie Grayeyes re: Utility Bill

Steve:

Mr. Grayeyes' residency came up in Ed Tapaha's deposition on page 44. Utah Code 20A-3-202.3(4) concerns challenges to a person's eligibility to vote, it says nothing about challenges to a candidates eligibility to run for an office. Also, I have spoken with Mr. Nielson and he is not conducting an investigation into Mr. Grayeyes' residency.

jesse c. trentadue
Suitter Axland, PLLC
8 East Broadway #200
Salt Lake City, UT 84111
Telephone: 801 532 7300
jesse32@sautah.com

From: Steve Boos <sboos@mbssllp.com>
Sent: Monday, April 30, 2018 6:26 PM
To: Jesse Trentadue <Jesse32@sautah.com>
Cc: Shireen Ohadi <sohadi@mbssllp.com>; jdnielson@sanjuancounty.org; kendall.laws@gmail.com; klaws@sanjuancounty.org; Maya Kane <MKane@mbssllp.com>; Carl Huefner <CHuefner@sautah.com>; Sarah Allred <SAllred@sautah.com>; Britton Butterfield <BButterfield@sautah.com>
Subject: Re: Willie Grayeyes re: Utility Bill

Thanks!

Sent from my iPad

On Apr 30, 2018, at 5:56 PM, Jesse Trentadue <Jesse32@sautah.com> wrote:

Steve:

I will send them.

Sent from my Verizon 4G LTE Smartphone

------ Original message------
From: Steve Boos
Date: Mon, Apr 30, 2018 5:32 PM
To: Jesse Trentadue;Shireen Ohadi;jdnielson@sanjuancounty.org;
Cc: kendall.laws@gmail.com;klaws@sanjuancounty.org;Maya Kane;Carl Huefner;Sarah Allred;Britton Butterfield;
Subject:RE: Willie Grayeyes re: Utility Bill

Good evening:

Thank you for the additional information. I'm a little puzzled by your statement that Mr. Grayeyes' residency came up in depositions for *Navajo Nation v. San Juan County*, as I have no recollection of that and can't think of any reason why it would ever have been discussed. I'd love to see that, if you come across that material.

Regards, Steve

From: Jesse Trentadue [mailto:Jesse32@sautah.com]
Sent: Monday, April 30, 2018 5:18 PM
To: Steve Boos <sboos@mbssllp.com>; Shireen Ohadi <sohadi@mbssllp.com>; jdnielson@sanjuancounty.org
Cc: kendall.laws@gmail.com; klaws@sanjuancounty.org; Maya Kane <MKane@mbssllp.com>; Carl Huefner <CHuefner@sautah.com>; Sarah Allred <SAllred@sautah.com>; Britton Butterfield <BButterfield@sautah.com>
Subject: RE: Willie Grayeyes re: Utility Bill

Dear Steve:

It is still my understanding that this matter is a criminal investigation not involving San Juan County, the San Juan County Attorney, the San Juan County Commissioners or Mr. Nielson. It is apparently being conducted by another agency. Under Utah law, a County does not prosecute State crimes. State crimes are investigated and prosecuted by and in the name of the State of Utah. While it is true that most often the prosecutor is the County Attorney, he or she is acting on behalf of the State and not the County in which they were elected. The County Attorney is an elected official and not subject to the control of the County

Commission. More importantly, the investigation of Mr. Grayeyes is not being conducted by the San Juan County Attorney's Office. As I said, this matter is apparently being handled by another county attorney's office. However, I will follow-up with Mr. Nielson to see whether he has in fact done an investigation, and let you know what I learn. Meanwhile, you may recall from some of the depositions in this case that Mr. Grayeyes does not reside in San Juan County, and has not done so for years.

jesse c. trentadue
Suitter Axland, PLLC
8 East Broadway #200
Salt Lake City, UT 84111
Telephone: 801 532 7300
jesse32@sautah.com

From: Steve Boos <sboos@mbssllp.com>
Sent: Monday, April 30, 2018 2:56 PM
To: Jesse Trentadue <Jesse32@sautah.com>; Shireen Ohadi <sohadi@mbssllp.com>; jdnielson@sanjuancounty.org
Cc: kendall.laws@gmail.com; klaws@sanjuancounty.org; Maya Kane <MKane@mbssllp.com>; Carl Huefner <CHuefner@sautah.com>; Sarah Allred <SAllred@sautah.com>; Britton Butterfield <BButterfield@sautah.com>
Subject: RE: Willie Grayeyes re: Utility Bill

Dear Jesse:

Thank you for providing a partial response to my recent letters to John David Nielson concerning Willie Grayeyes. We had originally copied you with these letters as a courtesy, in case the Grayeyes residency challenge becomes a basis for a show cause motion in *Navajo Nation v. San Juan County.* But we think having an experienced attorney of your caliber assisting the Clerk/Auditor with this matter may be very beneficial to its swift resolution.

Your email raises two issues: first, whether San Juan County and the Clerk/Auditor are in possession of investigation materials concerning the Grayeyes matter; and second, whether the Clerk/Auditor has stated that Mr. Grayeyes' utility bills are needed to show he is a resident of Utah. Both issues

turn, to some degree, on statements made by Natalie Callahan and it might help resolve matters to clarify her status.

Ms. Callahan is frequently identified as a spokesperson for San Juan County. In articles published by Lindsay Whitehurst last week about the Grayeyes matter, Ms. Callahan was quoted as follows: "County investigators looking into Grayeyes' candidacy in Utah want to see proof of residency like a utility bill, said San Juan County spokeswoman Natalie Callahan." Under the circumstances, it was entirely reasonable for us conclude that Ms. Callahan was acting as a conduit for Mr. Nielson.

With regard to whether the County, rather than State of Utah criminal investigators, is conducting an investigation into Mr. Grayeyes' residency, Ms. Callahan has also previously confirmed that the County is the investigator. On April 19, 2018, Ms. Callahan issued a press release for the County in which she stated, "San Juan County is currently investigating a complaint against Willie Grayeyes, a candidate for County Commissioner." It seems clear that the County's spokeswoman believes the investigation is one that has been undertaken by the County, not the State of Utah.

Her belief is consistent with Utah law. The statute concerning challenges to the eligibility of a voter, including challenges based on residence status, require the investigation and determination of the challenge to be done by the "election officer" who receives the challenge. UCA 20A-3-202.3(4). In this case, that election officer is the Clerk/Auditor. If, as you suggest, Mr. Nielson is not performing this investigation, despite having received a challenge from Wendy Black, there is a question of whether he is in default of his duties under the statute. Because Mr. Nielson has previously acknowledged receiving and working on the challenge, we think it is more than reasonable to conclude that he is in possession of the investigation materials we previously requested, including the original written challenge and the mandatory affidavit on which it is based. We hope to receive these materials from Mr. Nielson by today.

Again, thank you for your email and we are glad to see you involved in this issue.

Regards, Steve and Maya

From: Jesse Trentadue [mailto:Jesse32@sautah.com]
Sent: Sunday, April 29, 2018 5:14 PM
To: Shireen Ohadi <sohadi@mbssllp.com>; jdnielson@sanjuancounty.org
Cc: kendall.laws@gmail.com; klaws@sanjuancounty.org; Maya Kane <MKane@mbssllp.com>; Steve Boos <sboos@mbssllp.com>; Carl Huefner <CHuefner@sautah.com>; Sarah Allred <SAllred@sautah.com>; Britton Butterfield <BButterfield@sautah.com>
Subject: RE: Willie Grayeyes re: Utility Bill

Dear Steve:

I am writing in response to your April 18, 2018 and April 27, 2018 letters to Mr. Nielson with respect to a Ms. Black's complaint that Mr. Greyeyes is not a resident of San Juan County which, if true, might preclude him from being eligible to stand for election to the seat for Commission District-2 in the upcoming election. According to your letter, this charge is being investigated by Deputy Sheriff Turk, which indicates to me that this may be a criminal matter over which neither Mr. Nielson nor the County Commissioners have any jurisdiction. I say this because under Utah law, it is the State of Utah and not the County Commissioners nor Mr. Nielson that investigates and prosecutes crimes, including election related crimes. Consequently, Mr. Nielson and the County Commissioners do not have access to the results of any such investigation, and they most certainly have no control over that matter. You should, therefore, bring these matters up with the State of Utah.

Also, I spoke with Mr. Nielson who told me that he never had a conversation with Ms. Whitehurst, the AP reporter referenced in your April 27 letter. Moreover, Mr Nielson has never told anyone that Mr, Grayeyes needs to produce a utility bill in order to be a candidate in the upcoming County Commission election because, as noted above, the State of Utah will determine that question not San Juan County officials.

If you have any more questions, we will try and answer them.

From: Shireen Ohadi <sohadi@mbssllp.com>
Sent: Friday, April 27, 2018 4:45 PM
To: jdnielson@sanjuancounty.org
Cc: kendall.laws@gmail.com; klaws@sanjuancounty.org; Jesse Trentadue <Jesse32@sautah.com>; Maya Kane <MKane@mbssllp.com>; Steve Boos <sboos@mbssllp.com>
Subject: Willie Grayeyes re: Utility Bill

Mr. Nielson,

Please find attached a letter from Steven C. Boos and Maya L. Kane regarding Willie

Grayeyes.

Shireen Ohadi-hamadani
Legal Secretary to Steven C. Boos

Maynes, Bradford, Shipps & Sheftel, LLP
835 East Second Avenue, Suite 123
Durango, Colorado 81301
(970)247-1755

EXHIBIT H

John David Nielson
jdnielson@sanjuancounty.org

May 9, 2018

Sent via email and USPS mail

Willie Grayeyes
P.O. Box 10035
Tonalea, AZ 86044

Re: Challenged Right to Vote

Mr. Grayeyes,

This letter serves as the San Juan County Clerk's decision regarding the challenge to your right to vote by Wendy Black. After a careful review of all the information submitted and also of Utah Code, I have concluded that you are not a resident of District 2, San Juan County, Utah for purposes of voting under Utah Code Ann. § 20A-2-105.

Summary of the Evidence

On March 20, 2018, the County received a Pre-Election Challenge to the Right to Vote from Wendy Black. The bases of the challenge were that your principal place of residence is not in the voting precinct claimed, and that your principal place of residence is not in the geographic boundaries of the election area. Ms. Black stated that you claim to live with your sister, but you only stay there occasionally. She stated that you also claim to live in Piute Mesa, but that the home there is not livable, with boarded up windows, a dilapidated roof, and no tracks going into the home for years. Pursuant to Utah Code Ann. § 20A-3-202.3(1)(a)(iii), Ms. Black signed the Challenge form, attesting under penalty of perjury that she "exercised due diligence to personally verify the facts and circumstances establishing the basis of this challenge" and that, based on her own personal knowledge and belief, the basis for the challenge is valid.

Finding that Ms. Black provided sufficient clear and convincing evidence that she had a valid basis for her challenge, I notified you of the challenge on March 28, 2018. Pursuant to Utah Code Ann. § 20A-3-202(3), you were given the opportunity to submit information supporting your right to vote in the precinct. In response, you submitted your signed declaration, aerial photographs of your claimed residence, a certified list of candidates for the 2012 Regular Primary Election, a map of the San Juan County Commission Election Districts, signed Oaths of Office for the Navajo Board of Election Supervisors, your signed supplemental declaration, a signed declaration from Lena Fowler, your birth certificate, a signed declaration from Russell Smallcanyon, a copy of your grazing permit, and a copy of a tally record of your cattle. You also submitted letters from your attorneys dated April 19, 2018, April 25, 2018, April 27, 2018, and May 3, 2018.

Your sworn declarations state that you maintain full-time residency at Navajo Mountain, have resided in a home near Piute Mesa for 20 years and intend to remain there permanently and indefinitely. They also state that you are a registered Utah voter and have never voted in another state. The evidence you submitted also shows that you were born in Utah, graze livestock in Paiute Mountain, and have held elected office with the Navajo Nation.

In addition to the information received from you and Ms. Black, we also received a report from a San Juan County Sheriff's Deputy investigating the offense of False Information or Report.[1] The Deputy spoke with Ms.

[1] Your attorney argued that it was improper for the County Sheriff to investigate. However, I am aware of nothing in the statutes that prevents me from considering other evidence in addition to what the parties have submitted.

John David Nielson
jdnielson@sanjuancounty.org

Black, who told him that she and her husband went to Navajo Mountain to find your claimed residence. She said they could not find it and that they spoke to other residents who told them that you live in the Deshonto area. The Deputy went to Navajo Mountain to confirm the address on your declaration of candidacy (17 miles from the Navajo Mountain Chapter House). He spoke to eight individuals between Navajo Mountain and Paiute Mesa, seven of whom whom told him that you do not live there and one who said they didn't know. Four individuals told him that you live in Tuba City, Arizona, including your sister, Rose Johnson. The Deputy visited several houses in Paiute Mesa, but did not find any houses that were 17 miles from the Chapter House. All of the houses were vacant, most appeared to have been abandoned for some time.

The deputy also visited Tuba City, Arizona, where two individuals told him that you lived there in a trailer next to the Church of Holiness. The Deputy visited the trailer, but no one was home.

The Deputy also spoke to you on April 4, 2018. You told the Deputy that you sometimes stay with your sister in Navajo Mountain, and that you have a house that your aunt left you in Paiute Mesa but you hadn't been there since last fall to water your cattle. You also said that you sometimes stay at your uncle's house in Arizona, just south of the Utah border. You then told the Deputy that you stay with your sister in Utah sometimes, you stay in Tuba City, Arizona sometimes, and the rest of the time you are traveling, but you don't live in Paiute Mesa.

On April 24, 2018, the Deputy visited the house you identified as your home in your response to Ms. Black's challenge. The GPS coordinates led him to a spot approximately 250 feet away from a house. The house was one of the houses the Deputy visited during his earlier investigation, but witnesses had told him that Harrison Ross lived there. He did not observe any recent tire tracks or foot tracks around the house, although he did observe furniture, a TV, pictures, and other objects inside the home when he looked through a window.

Analysis

A person resides in Utah if (1) the person's principal place of residence is within Utah; and (2) the person has a present intention to maintain the person's principal place of residence in Utah permanently or indefinitely. Utah Code Ann. § 20A-2-105(3)(a). A person who has made an oath or affirmation upon a registration application form that their principal place of residence is in Utah is entitled to a presumption that their principal place of residence is in Utah. Utah Code Ann. § 20A-2-105(7)(a). That presumption is rebutted when, through a challenge, it is shown by law or clear and convincing evidence that the person's principal place of residence is not in Utah. Utah Code Ann. § 20A-2-105(7)(b).

Principal place of residence is defined as "the single location where a person's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning." Utah Code Ann. § 20A-2-105(1)(a). Your attorney argued that residency in Utah is a question of subjective intent of the voter. While I agree that some of the inquiry must involve determining the voter's intent, the statute also includes an objective requirement: that is, that the voter has a "single location where [his] habitation is fixed" in Utah. *Id.*

The Utah Code provides several factors that an election official must consider to the extent they are relevant to the residency in question. Utah Code Ann. § 20A-2-105(4). These factors are: (a) where the person's family resides; (b) whether the person is single, married, separated, or divorced; (c) the age of the person; (d) where the person usually sleeps; (e) where the person's minor children attend school; (f) the location of the person's employment, income sources, or business pursuits; (g) the location of the real property owned by the person; (h) the person's residence for purposes of taxation or tax exemption; and (i) other relevant factors. *Id.* Of these factors, only (a), (b), (f), and (g) appear to be relevant given the information available to me. I also find that additional factors are relevant, including the length of your absences from your claimed residence, and the perception of the community regarding your place of residence.

Indeed, on appeal the district court is permitted to consider such evidence. *See* Utah Code Ann. § 20A-3-202.3(6)(c)(iii) (district court review includes "any additional facts and information used by the election official to determine whether the challenged voter is eligible to vote.").

John David Nielson
jdnielson@sanjuancounty.org

With respect to factor (a), it appears that you have family living in both Utah and Arizona, so this factor is neutral. With respect to factor (b), it is my understanding that you are single but in a long-term relationship with Victoria Bydone, a resident of Tuba City, Arizona. With respect to factor (f), it appears that some of your income or employment comes from Paiute Mesa in the form of cattle you graze there and from your elected representation of the region. Factor (g) is implicated because you claim that your aunt left you a home in Paiute Mesa and there is evidence that the Grayeyes family owns property there, but neither of those homes is the place that you claim to reside.
Considering the factor of the length of your absences from the residence, there is evidence that your absences from your property are quite lengthy. Multiple witnesses told the Deputy that you had not lived in the area for years. From what the Deputy observed of the residence you have identified as your own, it had not been visited in some time, and your own statement to the Deputy was that you had not been to your residence in at least six months. It appears that this factor weighs against residency in Utah.

Finally, the factor of the perception of the community regarding your place of residence also weighs against residency. Of all the evidence available to me, the only evidence showing that you live in the one particular residence in Paiute Mesa came from your written response to the voter challenge. That statement is contradicted by the fact that you told the Deputy that you live with Rose. Lena Fowler's declaration states that she believes you reside in Utah because you were born and raised there, but she does not give any evidence regarding your particular residence. And finally, Lucida Johnson told the Deputy that you live in Navajo Mountain, but also told him that you live in Tuba City. All the other witnesses, particularly the witnesses who live in Navajo Mountain and Paiute Mesa (including your sister Rose), stated that you did not live in the region, had not lived there for years, and that you were living in Tuba City, Arizona. It is apparently common knowledge in that very small community that you do not live in the area and in fact reside in Tuba City.

While you presented evidence through your own statements of your personal intent of residing in Utah, those statements are called into question by the objective evidence regarding your actions as well as the contradicting statements from you regarding which residence, if any, is your principal place of residence.

Conclusion

I find that there is clear and convincing evidence that you do not have a principal place of residence in the State of Utah, and I find that this evidence sufficiently rebuts the presumption of residency arising from your previous voter status. Therefore, I find that you are not eligible to vote in District 2, San Juan County, Utah.

Per Utah Code § 20A-3-202.3(6)(a) ".. you may appeal this decision to the district court having jurisdiction over the location where the challenge was filed."

Regards,

John David Nielson
San Juan County
435-587-3223

John David Nielson
jdnielson@sanjuancounty.org

May 10, 2018

Sent via email and USPS mail

Willie Grayeyes
P.O. Box 10035
Tonalea, AZ 86044

Re: Challenged Right to Vote

Mr. Grayeyes,

In light of the outcome of the voter challenge against you, I am now aware that you do not meet the requirements of a candidate for office under Utah Code Ann. § 17-16-1 because you are not a registered voter and have not resided for at least one year in the district in which you seek office. Therefore, at this time I can no longer accept your declaration of candidacy pursuant to Utah Code Ann. § 20A-2-201(4).

Regards,

John David Nielson
San Juan County
435-587-3223

EXHIBIT I

SAN JUAN COUNTY

John David Nielson
jdnielson@sanjuancounty.org

May 24, 2018

Sent via U.S. Mail

Steven C. Boos
Maynes Bradford Shipps & Sheftel, LLP
West Building
835 East Second Avenue, Suite 123
Durango, Colorado 81301

Re: May 3, 2018 GRAMA Request

Mr. Boos,

I am writing in response to your May 3, 2018 GRAMA Request. Enclosed is a disk and documents containing the records that are responsive to your request. No responsive records are being withheld from this response.

Regards,

John David Nielson
San Juan County
435-587-3223

Enclosures

UTAH GOVERNMENT RECORDS REQUEST FORM

TO: SAN JUAN COUNTY CLERK

Address of government office: 117 SOUTH MAIN P.O. Box 338

MONTICELLO UTAH 84535

Description of records sought (records must be described with reasonable specificity):

All documentation related to the challenge initiated by Wendy Black of Blanding,Utah on March 20, 2018, regarding the residence ofWillie Grayeyes including but not limited to the original challenge document file by Ms. Black any and all documents containing the facts and circumstances forming the basis for the challenge, and the notarized affidavit signed by Ms Black, as required by UCA section 20A-3-202.3(1)(a)(ii)(D). Others as specied in letter.

☒ I would like to inspect (view) the records.

☒ I would like to receive a copy of the records. I understand that I may be responsible for fees associated with copying charges or research charges as permitted by UCA 63-2-203. I authorize costs of up to $ 500.00

☐ UCA 63-2-203 (4) encourages agencies to fulfill a records request without charge. Based on UCA 63-2-203 (4), I am requesting a waiver of copy costs because:

☒ releasing the record primarily benefits the public rather than a person. Please explain:

The Wendy Black challenge to Willie Grayeyes has a direct bearing on the 2018 election for San Juan County Commission District Two and has already received wide spread media attention.

☐ I am the subject of the record.

☒ I am the authorized representative of the subject of the record. (See attachment)

☐ My legal rights are directly affected by the record and I am impoverished. (Please attach information supporting your request for a waiver of the fees.)

If the requested records are not public, please explain why you believe you are entitled to access.

☐ I am the subject of the record.

☐ I am the person who provided the information.

☐ I am authorized to have access by the subject of the record or by the person who submitted the information. Documentation required by UCA 63-2-202, is attached.

☐ Other. Please explain:

☒ I am requesting expedited response as permitted by UCA 63-2-204 (3)(b). (Please attach information that shows your status as a member of the media and a statement that the records are required for a story for broadcast or publication; or other information that demonstrates that you are entitled to expedited response.)

Requester's Name: Steven Boos

Mailing Address: 835 East 2nd Ave., Suite 123, Durango, CO 81301

Daytime telephone number: 970-247-1755 **Date:** May 3, 2018

Signature:

I, Willie Greyeyes, am represented by the law firm of Maynes, Bradford, Shipps and Sheftel, LLP, and specifically by Maya Kane and Steven Boos, in responding to the letter I received from the San Juan County, Utah, Clerk/Auditor. I authorize Steven Boos and/or Maya Kane to request information from San Juan County pursuant to the Utah Government Records Access and Management Act (GRAMA) regarding my candidacy, the challenged to my candidacy, the related investigation, and all other matters that Mr. Boos and Ms. Kane deem relevant.

Willie Grayeyes _____ Date: May 3, 2018

Nielson, John David <jdnielson@sanjuancounty.org>

Investigation

Nielson, John David <jdnielson@sanjuancounty.org> Fri, Apr 27, 2018 at 5:06 PM
To: Colby Turk <cturk@sanjuancounty.org>

Hey,

Did you go out the Navajo Mtn again on Wednesday? How did that go?
Did you ask anyone for a utility bill in Willie Grayeyes' name?

thanks

John David

San Juan County Utah . org

Nielson, John David <jdnielson@sanjuancounty.org>

Investigation

Colby <cturk@sanjuancounty.org> Sat, Apr 28, 2018 at 10:19 AM
To: "Nielson, John David" <jdnielson@sanjuancounty.org>

I did go out but I went on Tuesday. Nothing appeared any different then it was the first time I was at the house. I didn't ask about the utility bill this time the first time I went out there I did and they told me they couldn't give out any info unless I had a warrant.

Sent from my iPad
[Quoted text hidden]

SAN JUAN COUNTY

Clerk/Auditor
John David Nielson
jdnielson@sanjuancounty.org

March 28, 2018

Willie Grayeyes
PO Box 10035
Tonalea, AZ 86044

Mr. Grayeyes,

One of the many duties of the San Juan County Clerk's Office is to oversee elections and the formal processes and procedures of candidates seeking public office.

As the San Juan County Clerk, it is my duty to inform you that your right to vote and/or hold office in San Juan County Utah has been challenged by Wendy Black of Blanding, Utah. The basis of this challenge is that your primary residence is not in San Juan County, Utah, rather the state of Arizona, which would negate your right to vote or hold office in San Juan County.

Under Utah Code, Title 17-16-1, one of the requirements for a person filing a declaration of candidacy for a county shall; have been a resident for at least one year of the county in which he/she seeks office.

Utah Code 20A-3-202.3 (3)(c) states that the challenged party is allowed the opportunity to submit information to refute the challenge and provide evidence, such as a sworn statement, supporting documents, affidavits, etc, to the contrary, that would show your primary residence is in fact located within San Juan County, Utah. This information would need to be presented to the San Juan County Clerk's Office.

Your response and evidence to this challenge would be greatly appreciated as soon as possible.

If you have any questions, you may contact me by phone or by email.

Regards,

John David Nielson
San Juan County Clerk/Auditor
Telephone – (435) 587-3223
Email – jdnielson@sanjuancounty.org

SAN JUAN COUNTY SHERIFF'S OFFICE

Deputy Report for Incident 1803-0141

Nature: False Info

Address: 17 MILES NE OF NAVAJO MT CH HSE
Navajo Mountain UT 86044

Location: SJC

Offense Codes: FIPO
Received By: COLBY TURK **How Received:** T **Agency:** SJSO
Responding Officers: COLBY TURK
Responsible Officer: COLBY TURK **Disposition:** CLO 03/28/18
When Reported: 13:03:43 03/23/18 **Occurred Between:** 13:03:43 03/23/18 and 13:03:43 03/23/18

Assigned To: **Detail:** **Date Assigned:** **/**/**
Status: **Status Date:** **/**/** **Due Date:** **/**/**

Complainant: 000035536
Last: BLACK **First:** WENDY **Mid:**
DOB: [redacted] **Dr Lic:** **Address:** 486 WEST 100 SOUTH
Race: W **Sex:** F **Phone:** (435)459-1970 **City:** BLANDING, UT 84511

Offense Codes

Reported: FIPO False Information or Report **Observed:** FIPO False Information or Report
Additional Offense: FIPO False Information or Report

Circumstances

Responding Officers: **Unit :**
COLBY TURK 1Z15

Responsible Officer: COLBY TURK **Agency:** SJSO
Received By: COLBY TURK **Last Radio Log:** 14:54:15 03/23/18 24
How Received: T Telephone **Clearance:**
When Reported: 13:03:43 03/23/18 **Disposition:** CLO **Date:** 03/28/18
Judicial Status: **Occurred between:** 13:03:43 03/23/18
Misc Entry: **and:** 13:03:43 03/23/18

Modus Operandi: **Description :** **Method :**

Involvements

Date	Type	Description	Relationship

03/23/18	Name	GRAYEYES, WILLIE	Suspect
03/23/18	Name	BLACK, WENDY	Complainant
03/23/18	Cad Call	13:03:43 03/23/18 False Info	Initiating Call

Narrative

INVESTIGATION NARRATIVE
RE: False Info
CASE #: 1803-0141
TFC Colby Turk

SUSPECT(S): Willie Grayeyes

SYNOPSIS:

Wendy Black filed an official written complaint to the San Juan County Clerks Office stating that Willie Grayeyes who is running for San Juan County Commission does not live in San Juan County, Utah.

1. DESCRIPTION-TIME-LOCATION OF THE INCIDENT:

On 03/27/18, I met with Wendy Black at her house. Wendy told me that she had received information that Willie Grayeyes does not live in San Juan County, Utah and that he possibly lives in Arizona near the Utah border. Wendy told me that she and her husband went to the Navajo Mountain area to investigate it on 03/23/18 and said that they couldn't find where Mr. Grayeyes claimed he lived and she said that they talked to a young couple that lives in the area and that they told her that Willie Grayeyes lives in the Deshonto area.

The San Juan county clerk John David Nielson gave me a copy of Mr. Grayeyes declaration of candidacy form indicating Mr. Grayeyes put down that he lives 17 miles from the Navajo Mountain Chapter House on Paiute Mesa. I also got a copy of directions from the clerk's office and possible GPS coordinates to the area that Mr. Grayeyes claimed he lived. The GPS coordinates are 37 Degrees 04' 16.17" North 110 Degrees 36' 48.01 West.

On 03/27/18, I went out to Navajo Mountain to confirm Mr. Grayeyes address in San Juan County, Utah. On my way out to Navajo Mountain, I stopped in the Navajo Tribal Utility Authority (NTUA) Office in Kayenta to see if I could confirm Mr. Grayeyes address with them from his utility payments. NTUA told me that they couldn't give me any information without a warrant but told me to check in with the chapter houses in the area and that they could help me.

I stopped and checked with the Inscription House Arizona Chapter House on a possible address for Willie Grayeyes. The Inscription House Chapter told me that Willie Grayeyes was a member of the Navajo Mountain Chapter House and that they would have the information there.

I checked with the Navajo Mountain Chapter house and spoke with Lorena Atene who is the Community Services Coordinator for the Navajo Mountain Chapter. I told Lorena that I was looking for Willie Grayeyes residence and she stated that he doesn't live in Navajo Mountain but lives in Tuba City, Arizona. She said Willie is a registered Chapter member and official in Navajo Mountain, but doesn't live in Navajo Mountain and he commutes back and forth. She said that he is the sitting Secretary Treasurer for the Chapter and travels up from Tuba City for the meetings. I asked if he gets mail there and Lorena said that he does but that their mail room is just a sub office of the Tonalea Post Office and it is the closet office to them and that is why they have a Tonalea PO Box address . Lorena gave me the name of Willie Grayeyes sister and told me I should speak to

her. She showed me on a map where his sister Rose Johnson lives in the HUD Housing in Navajo Mountain. Lorena also showed me on a map that the Grayeyes family has some property across the canyon on Paiute Mesa but said as far as she knows Willie Grayeyes lives in Tuba City and commutes to Navajo Mountain.

Before I left the Navajo Mountain Chapter House, I reset the miles counter in my truck to zero to gage how far I had gone from the Chapter House as I made my way out to the area that Willie Grayeyes said that he lives. On my way out to Paiute Mesa, I stopped and started knocking on doors in the area where Rose Johnson, Mr. Grayeyes sister, lives in a neighborhood just off the main road. I talked to a man who lives in house #6 and told him that I was looking for Rose Johnson or Willie Grayeyes. The man told me that Mr. Grayeyes lives in Tuba City. The man said that Rose was his neighbor in house #5, but that she probably wasn't home because her car was gone. I said to him, "but Willie lives in Tuba City?" and the man said yes. I walked over to house #5 and knocked on the door and didn't get an answer. I walked over to house #11 because I had seen someone standing outside. I talked with a man who didn't live at that specific house. I asked him if he knew where Willie Grayeyes lives and he said that Willie doesn't live there but is from there. I asked him if Willie lives in Tuba City and the man said yeah he is from all over, that he has houses in Page and Cameron, Arizona. He said that Willie is originally from Navajo Mountain but that he doesn't live there. He told me I should go ask Willie's Nephew Darrell Grayeyes at the community school or Rosemary Johnson who also works at the school. A lady came out of the house that we were in front of and I asked her if she knew if Willie Grayeyes lives around here and she said he comes around every once and a great while and that she didn't know where he lived.

I left that neighborhood and drove up the road and came to a "T" intersection and took a right onto County Road 434, the Paiute Mesa Road. I drove through Paiute Canyon and up onto Paiute Mesa. I continued driving until I had reached 17 miles from where I started at the Navajo Mountain Chapter House. I turned on the body camera and filmed the area that I was in, that was approximately 17 miles from the Navajo Mountain Chapter House. I narrated what I could see which was nothing and I made verbal notes that I had passed some houses at mile 16 when I came out of the canyon. I drove down the road to about mile 17.7 and found the area of the GPS coordinates. There were no houses in the area just shade huts, a corral and an outhouse. I drove around in the area and didn't find any houses. I drove south down the main road towards a house that was approximately 19 miles from the Chapter House. I took a picture of the building. It looked rundown and the roof looked like it was about ready to fall in. I didn't see any signs of recent human activity in the area. I went up to the front door of the house and knocked on the door and didn't get an answer. I looked though the windows and saw building material stacked up in the house but nothing that looked like anyone had touched in awhile. I drove a little further south down the main road and saw a truck parked just off the main road with people sitting in the truck. I stopped and talked with them and asked them where Willie Grayeyes lives. They said that Willie didn't live anywhere around there. They told me that the Grayeyes family has some property in the area but that it was abandoned and no one lives there. They described the location of it to me and told me that it was on the north side of the road. I remembered passing the gate to the property as I came out of Paiute Canyon. They told me that when Willie comes to Navajo Mountain he stays with his sister Rose, but he doesn't live there. I asked them about the house that I had seen on the south side of the road when you come out of the canyon and they said that property belongs to Harrison Ross but that he wouldn't be around because he is at work. I asked them where they lived and they told me south of where we currently were. I asked them if there were more people further south down the

road from them and they said yes, but that they were elderly people and only spoke Navajo. They told me they were the only young people living there on Paiute Mesa and that there were only probably a total of 12 people who lived up there. I left them and drove north up the road towards where they had told me the Grayeyes family had property but was abandoned.

I checked on the two houses that I had seen earlier that were on the south side of the road coming out of Paiute Canyon where Charmane and Byron told me Harrison Ross lived, but no one was around. I went to the property on the north side of the road and parked at the gate made from old ropes with reflectors on it. I did see a set of tire tracks coming and stopping at the same area that I parked at. I walked down into the property from where I parked and saw that there where two buildings on the property and some corrals. The corrals where empty and looked old and wore down and unusable in their current state. As I was walking down the road towards the house, I did notice an old set of boot tracks in the dirt but just one set. I walked up to the first house which I could tell it had been painted blue somewhat recently and I noticed that at bottom of the door, the jam was covered in sand and didn't appear to have been open in sometime. I knocked on the door and waited and didn't get an answer. In front of the house, lying on the ground knocked over, was a trash can that said property of the City of Prescott. I walked over to the second house and knocked on the door and didn't get an answer there either. I walked around the second house and looked in the windows that weren't blocked. In the first window I saw a Coleman camp light sitting on a table and in the second window I saw a bunch of kitchen items just piled up and thrown around. The house looked like it had been some time since someone had been/lived in it. I went and looked into the only partially unblocked window in the blue house and saw a couch and a bunch of boxes piled up in room. The houses looked more like storage units then living structures. I also noticed that the hook ups for power had been cut and I did not notice any signs in the area that indicated that someone lived there. There was no foot traffic or vehicle tracks. Everything appeared abandoned to me. I took some pictures of the area and left.

I drove down CR 486 which breaks off north east off of Paiute Mesa road and drove approximately 3 or 4 miles and came across a house there. I spoke to a man named Leonard and asked him if Willie Grayeyes lived around there any where. Leonard said no, that it has been a couple of years since Willie Grayeyes had lived in that area, I asked Leonard how long he had lived here and he told me all of his life.

I drove back to Navajo Mountain and went to the Community School and met with Rose Johnson who is Willie Grayeyes sister. I told her that I had been told that she could tell me where her brother Willie Grayeyes lives. She told me that he lived in Tuba City in a trailer. She said she would give me his phone number and as I was marking down his number, I asked her how long it had been since Willie had lived in Navajo Mountain. She told me it had been a long time. I wasn't sure if she understood my question. I had one of the ladies in the office ask her in Navajo how long has Willie lived in Tuba City. When the lady in the office asked, Rose said she didn't know and the office lady said she thought it had been two or three years. Rose said that Willie comes and stays with her for a day or two sometimes but doesn't live there.

I had dispatch contact Navajo PD in Tuba City to see if they had a current address for Willie Grayeyes. They told dispatch that they did not, but told dispatch to contact Kayenta district because they knew Grayeyes lived in their area. Kayenta district told dispatch that they had a record of Willie Grayeyes in their area and that they had an address for him at the same spot

where I had checked the Grayeyes family property. Kayenta said that it has been years since they have sent anyone out to the property for anything. On 03/28/18 Kayenta dispatch contacted my dispatch and said that they had sent an officer out to Navajo Mountain yesterday evening to check the area for Willie Grayeyes and that they had been told also that Willie doesn't live in Navajo Mountain but that he lives behind the car wash in Tuba City.

On 03/30/18, I went to Tuba City to track down Willie Grayeyes, I first went to the Navajo Chapter House in Tuba City. The ladies in the main office that I talked to said they had heard his name before but didn't know where he lived. They told me I should check with the San Juan Southern Paiute Tribe Office in Tuba City. I asked the ladies about the car wash in Tuba City, they said that there was only one and that it was next to the KFC. I went to the area behind the car wash and started knocking on doors and talking to people asking them if they knew who Willie Grayeyes was and everyone that I talked to said they didn't know who he was. After spending about an hour in the neighborhood behind the car wash, I went to the Navajo PD Office and asked them if they could help me. Criminal Investigator Albert Nez said he would come and help me. The first place that CI Nez and I went was the Paiute Tribe Office. There we met with the President Carlene Yellowhair and her Vice President Candelora Lehi. They said that they know Willie Grayeyes, that he attends some of the same meetings as they do, but they didn't know where he lived, they just assumed he lived in Navajo Mountain because he represents that area at the meetings that they attend together. Carlene said that maybe Louise Tallman man who is part of the San Juan Southern Paiute Tribe Northern Council Member might know where Willie Grayeyes lives. Carlene called her and Louise told her she thinks that Willie lives either in Tuba City or Inscription House. Carlene then called another woman, Cecilia Long, who is a Paiute tribal elder and possible relative of Willie Grayeyes. Cecilia told Carlene that Willie lives next to the Church of Holiness in Tuba City in a red cinder block house.

CI Nez and I went to the Church of Holiness area and couldn't locate anyone to talk to while we were in the area we knocked on the doors to the houses that are located in the same compound as the Holiness church. CI Nez told me that the family that lives here with the church is the Bydone family. After leaving the area I dropped CI Nez off at the police station and called San Juan County Attorney Kendall Laws to give him an update of what I had found out. CA Laws told me that San Juan County Manager Kelly Pehrson had received an anonymous tip that Willie Grayeyes lives with his girlfriend Victoria Bydone in Tuba City.

I went back to the Church of Holiness around 1600 hours on 03/30/18 and talked to Lucida Johnson and asked her where I could find Willie Grayeyes. She said that he lived in the trailer on the other side of the road, but said if the blue or white car wasn't there then he wouldn't be home. I went to the trailer house that Lucida said to go to. There was no blue or white car there. I knocked on the door and waited, there was no answer. The home had numerous cats and dogs hanging around and they looked like they were well taken care of. I went back to the Church of Holiness and spoke to Lucida again and confirmed with her that I had gone to the right trailer house and I asked if Willie lived there with Victoria Bydone. She told me that I had gone to the right house and that he does live there with Victoria and added that Willie lives in Navajo Mountain. I stated that everyone in Navajo Mountain told me he lives here in Tuba City. Lucida chuckled and stated that he is everywhere on the rez because he is a councilman. I asked Lucida if she was related to Willie, she said yes that she was Victoria's mom. I stated, "so he is your son in law?" and she said "something like that". I left my card with Lucida and wrote my cell

phone number on it and asked her to give it to Willie and to have him give me a call.

On 04/04/18, Willie Grayeyes contacted the Sheriff's Office and left a message for me to call him or that I could meet him in Bluff at Twin Rocks at 4 PM, I tried calling Mr. Grayeyes but he didn't answer and his voice mail wasn't set up so I sent him a text message saying that I got his message and that I would meet him in Bluff at Twin Rocks.

Willie Grayeyes arrived at Twin Rocks just after 4 PM, and I met with him. I asked Mr. Grayeyes to tell me what his physical address was and he said he stays a lot of times at house #5 in the NHA housing in Navajo Mountain. His sisters house. I asked him if he lives in Tuba City, he said that he has an office there and that he travels from there to Navajo Mountain and all over. Mr. Grayeyes said that he doesn't have a place in Tuba City but that he stays with a lady. I asked him if the lady was Victoria and Mr. Grayeyes said yes. I asked him if he had a residence that is his. Mr. Grayeyes said that he has an aunts house who has passed away on Paiute Mesa that's the first house off to the right once you come out of the canyon. I asked him when was the last time he was there. Mr. Grayeyes said he's been traveling and that its been quite awhile since he has been out to his house. I asked him again when he thought the last time he had been to the house on Paiute Mesa and he said in the fall when he took water out there for the cattle. I asked him since he hasn't been out there for so long where he has been staying. Mr. Grayeyes said that he sometimes stays at his uncle's house in Arizona, just south of the Utah border. His uncle's name is Harry Nimrock. I told Mr. Grayeyes that someone has challenged his residency and says he doesn't live in Utah. I told him that I've been to Navajo Mountain and Paiute Mesa and spoken to people there including his sister and everyone has told me that he lives in Tuba City or that he doesn't live in Navajo Mountain. I told him that I talked to his mother in law in Tuba city and that she told me that he lives there in Tuba with her daughter. I told him I'm trying to figure out where he lives. Mr. Grayeyes said "well house #5 that's where I live." I asked "with Rose?" and he said yes that she is his blood sister. I asked Mr. Grayeyes when he stays there and he said about 60 to 70 percent of his time. I asked him where he stays the rest of the time and he said he is on the road the rest of the time. I told Mr. Grayeyes that on his declaration of candidacy that he put that his place of residence is 17 miles from the Navajo Mountain Chapter house on Paiute Mesa. I told Mr. Grayeyes that I drove 17 miles from the Chapter House and that there is nothing there. I told him that I talked to people on Paiute Mesa and that they told me that he doesn't live there. I stated so you don't live on Paiute Mesa. He said that he is busy doing things that he doesn't have time to get the car back there. I said so you don't live on Paiute Mesa, but you stay with your sister sometimes in Navajo Mountain. Mr. Grayeyes said yep and that is his birthright there on Paiute Mesa. I went over again that he doesn't live on Paiute Mesa and that he stays with his sister sometimes and Victoria in Tuba City sometimes and the rest of the time he is traveling. Mr. Grayeyes agreed with me that I was accurate.

2. EVIDENCE (ITEM, QTY, VALUE, ETC):

Pictures, body cam footage, declaration of candidacy form, copy of Arizona drives license. Mr. Grayeyes does not have a Utah driver's license just an Arizona one. The day I met with Mr. Grayeyes I ran the license plate to the vehicle that he was driving, it had an Arizona listing of 231RSJ and is registered to Victoria Bydone in Tuba City, Arizona.

Responsible LEO:

Approved by:

Date

Name Involvements:

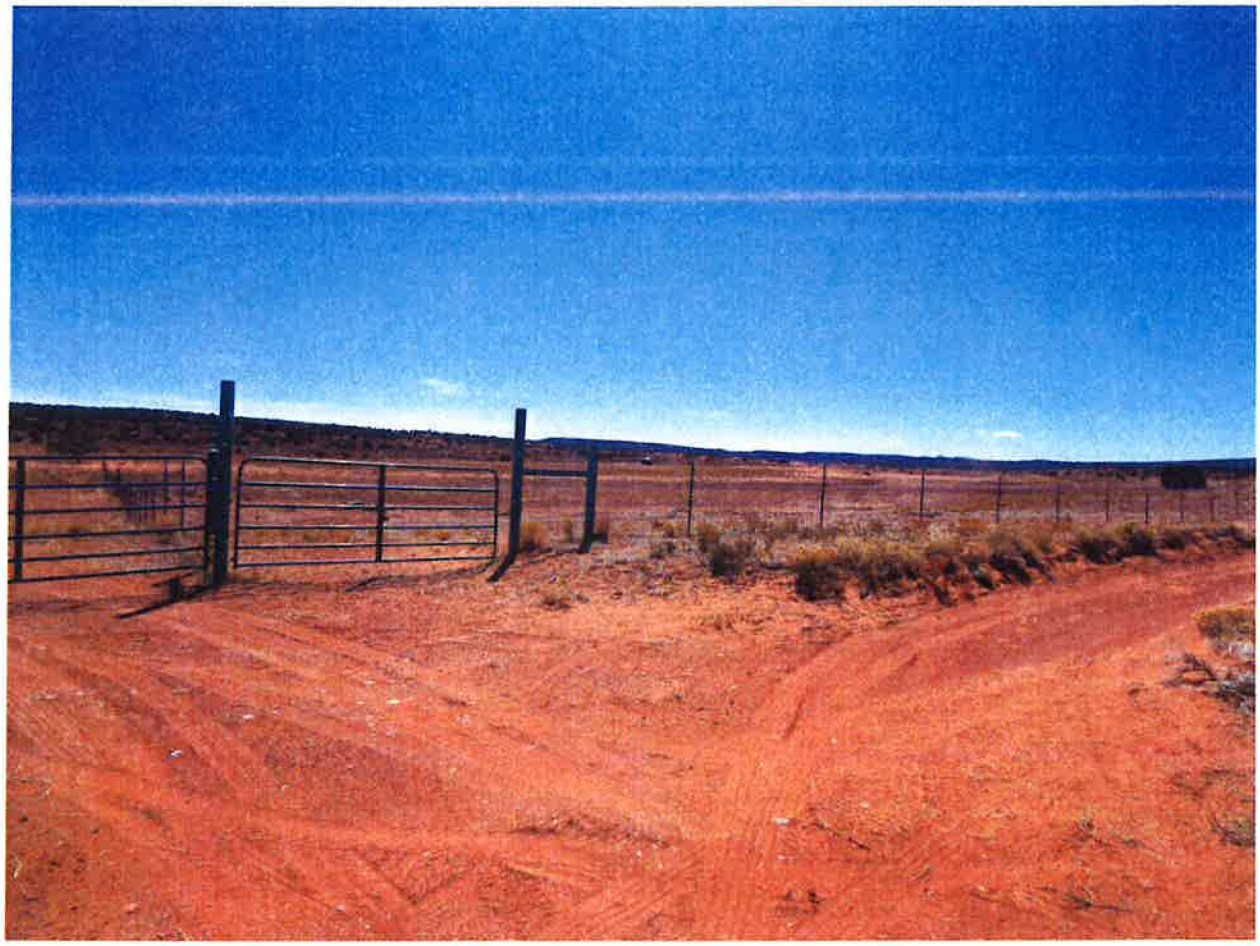
Suspect : 61841

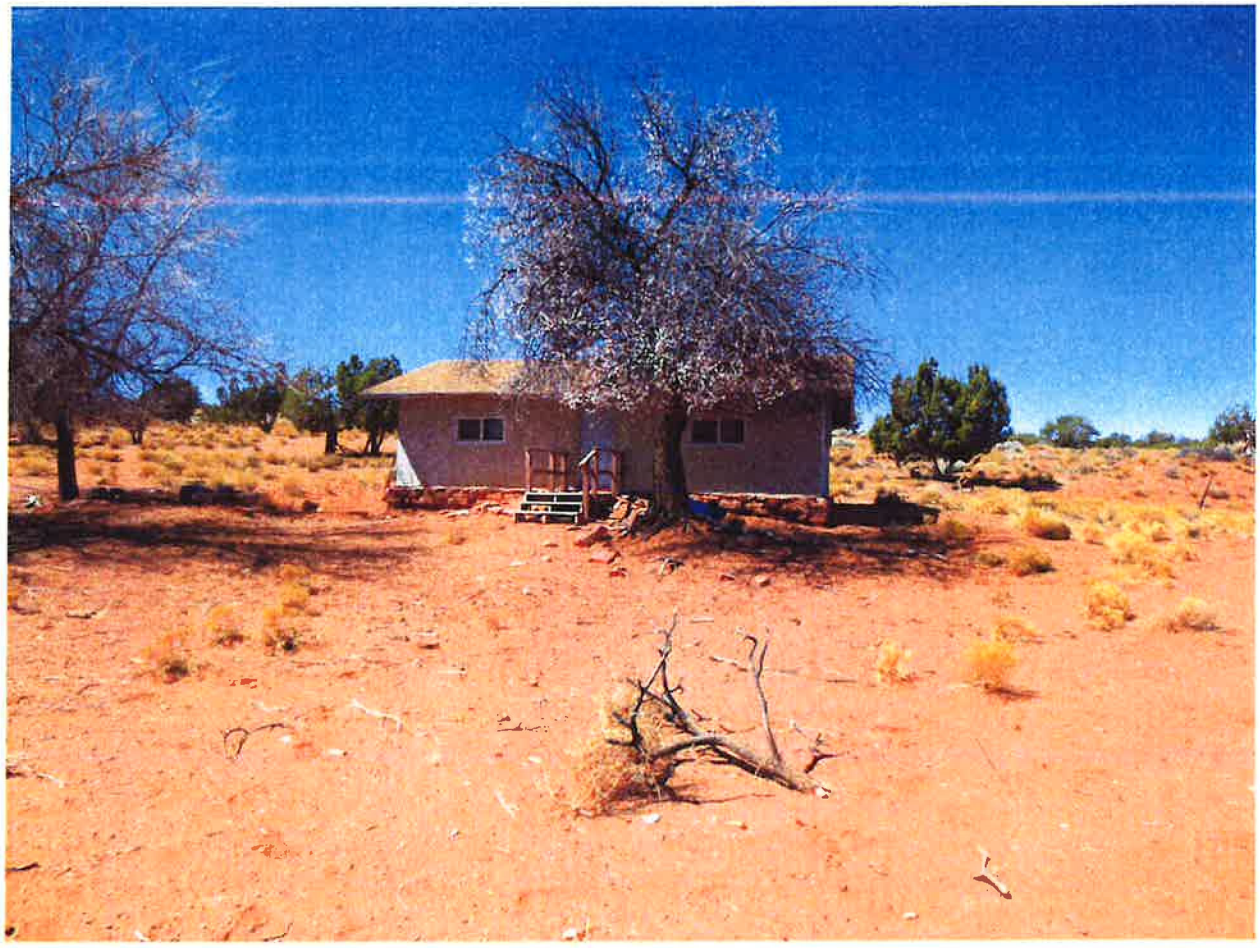
Last:	GRAYEYES	**First:**	WILLIE	**Mid:**	
DOB:	[redacted]	**Dr Lic:**	[redacted]	**Address:**	17 MILES NE OF NAVAJO MT CH HSE
Race:	I	**Sex:**	M	**Phone:**	(928)614-1281	**City:**	Tonalea, AZ 86044

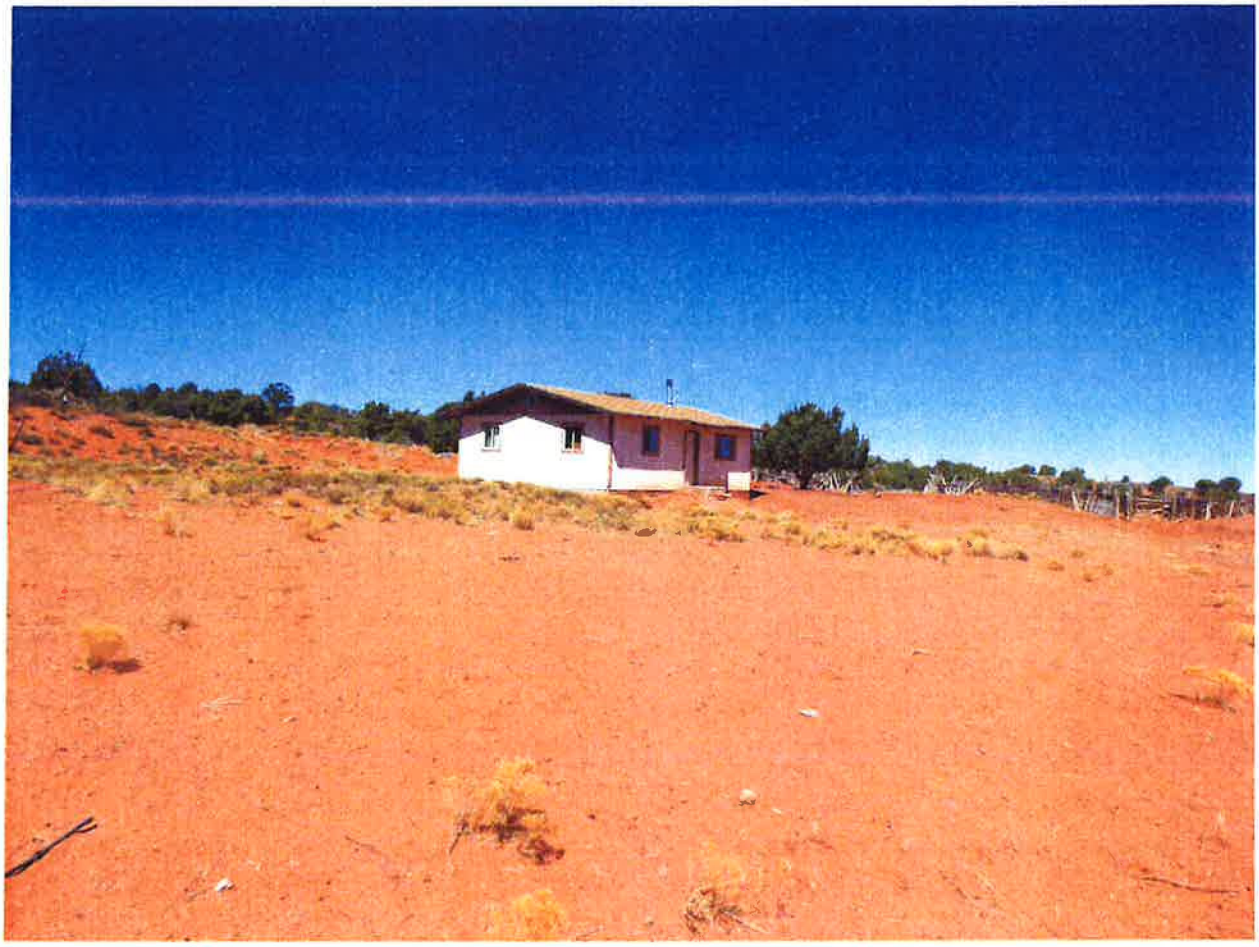
Complainant : 000035536

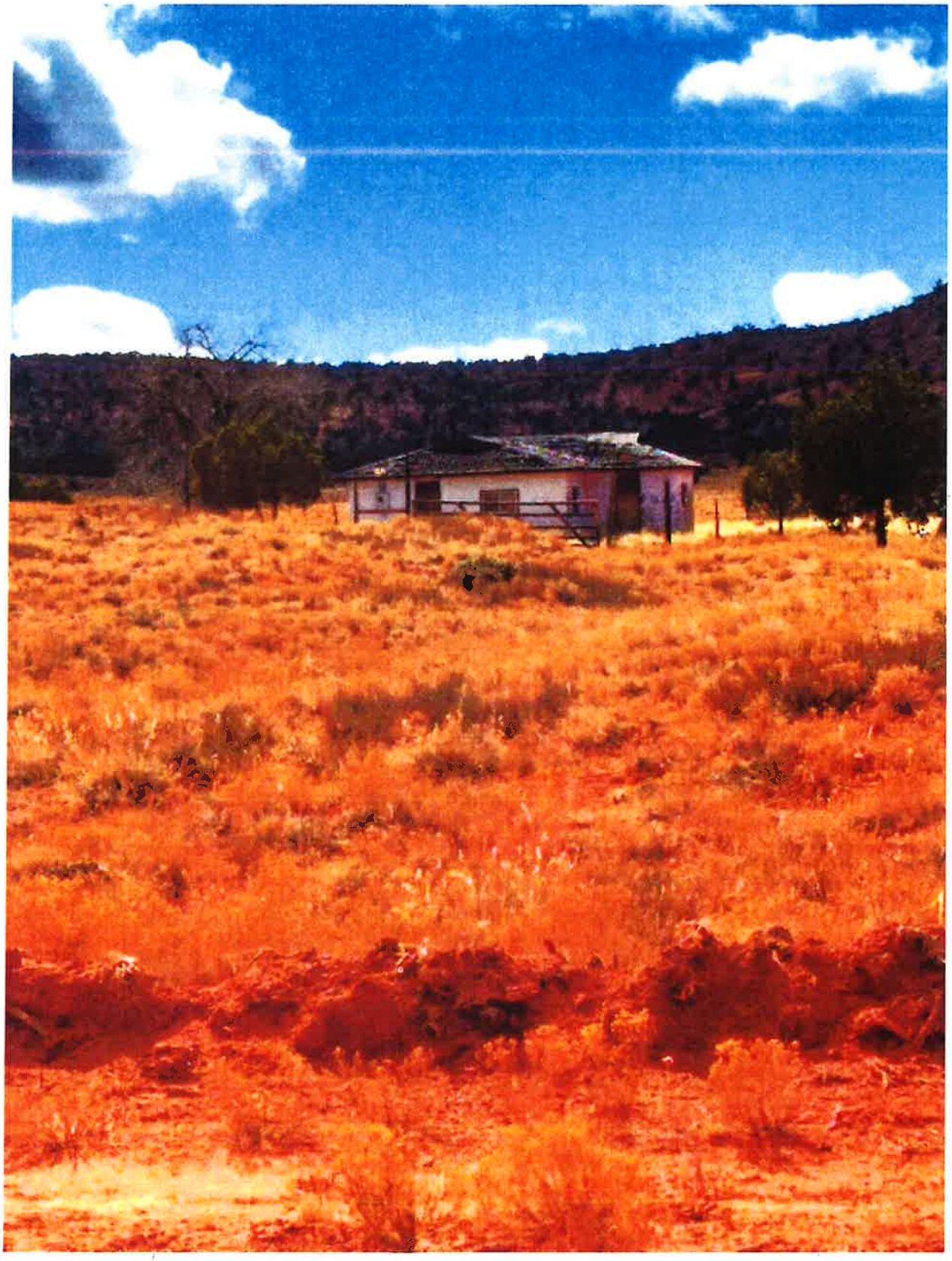
Last:	BLACK	**First:**	WENDY	**Mid:**	
DOB:	[redacted]	**Dr Lic:**		**Address:**	486 WEST 100 SOUTH
Race:	W	**Sex:**	F	**Phone:**	(435)459-1970	**City:**	BLANDING, UT 84511

Incident Number: 1803-0141

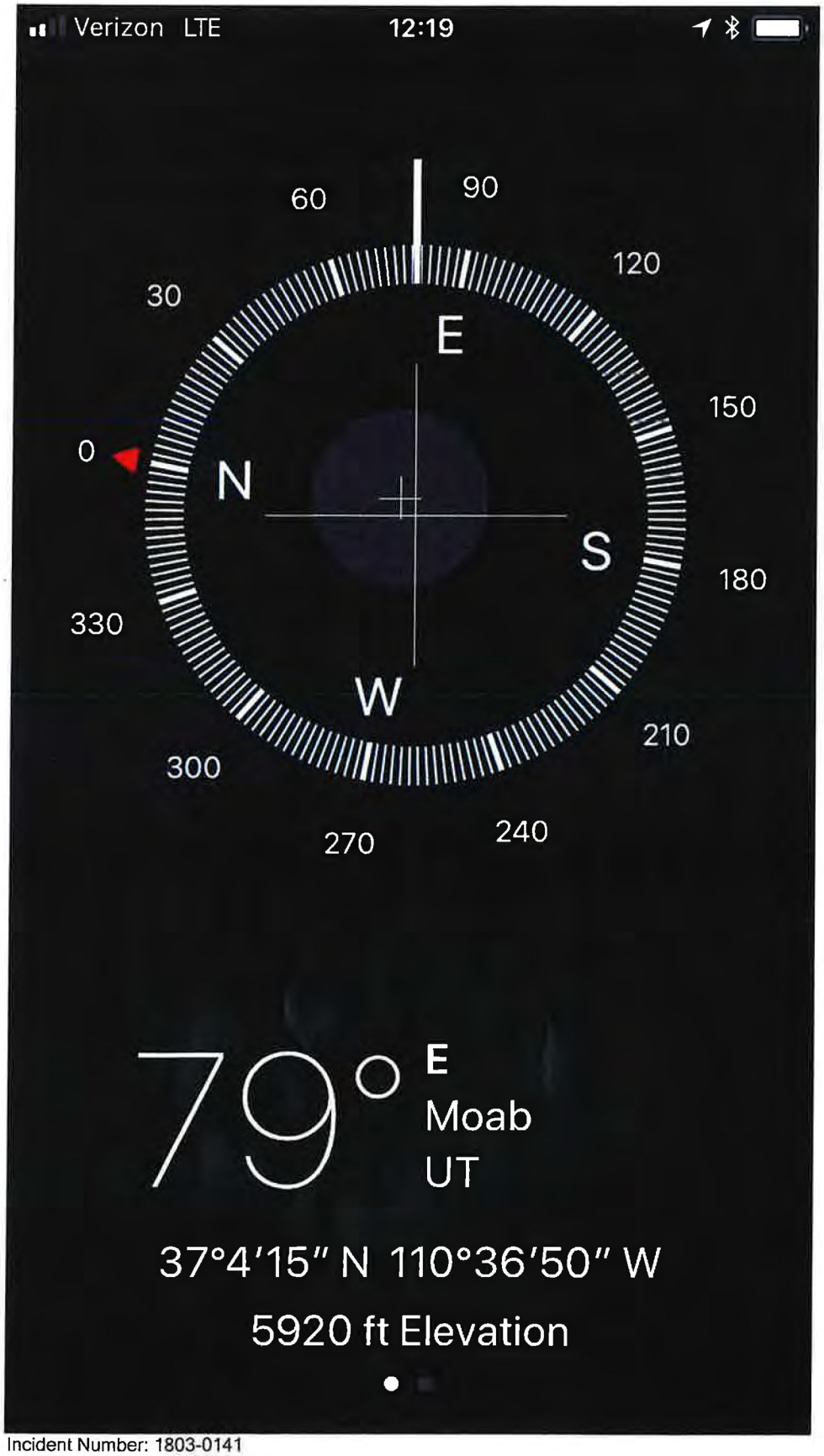








Incident Number: 1803-0141



Incident Number: 1803-0141

CHALLENGE TO THE RIGHT TO VOTE
PRE-ELECTION

State of Utah } ss.
County of San Juan }

I, Wendy Black (Name of person filing the challenge) of 486 W 100 S Blanding. UT (Address of person filing the challenge)

do herby challenge the right to vote of Willie Greyeyes (Name of challenged voter). Whose last known

address is _____ (Address of challenged voter) or phone number is _____. (Phone number of challenged voter)

I make this challenge as provided under section 20A-3-202 on the basis of: (Please check all that apply)

	the voter is not the person whose name appears in the official register or under which name the right to vote is claimed;
	the voter is not a resident of Utah;
	the voter is not a citizen of the United States;
	the voter has not or will not have resided in Utah for 30 days immediately before the date of the election;
✓	the voter's principal place of residence is not in the voting precinct claimed;
✓	the voter's principal place of residence is not in the geographic boundaries of the election area;
	the voter has already voted in the election;
	the voter is not at least 18 years of age;
	the voter has been convicted of a misdemeanor for an offense under this title and the voter's right to vote in an election has not been restored under Section 20A-2-101.3;
	the voter is a convicted felon and the voter's right to vote in an election has not been restored under Section 20A-2-101.5; or
	in a regular primary election or in the Western States Presidential Primary, the voter does not meet the political party affiliation requirements for the ballot the voter seeks to vote.

Additional facts pertaining to this challenge include: _____

The place Willie Greyeyes claims to live is his sisters home. He occassionally stays there but he does not have a permanent residence in Utah. He also claims to live in his mothers home on Piute Mesa. It is not livable, windows boarded up. (continued on back)
Roof delapidated. No tracks going into home for years

List included documents, affidavits or other evidence submitted with this challenge:

Affidavit:

I, the undersigned declare that I have exercised due diligence to personally verify the facts and circumstances establishing the basis of this challenge and according to my personal knowledge and belief the basis for this challenge of the challenged voter listed herein is valid. I make this statement under the understanding that this affidavit is subject to penalties of perjury.

Wendy Black
Signature of Person Filing the Challenge

3/20/2018
Date

Subscribed and sworn before me this 20 day of March, 20 18.

John David Nelson
Notary public or Deputy Clerk or Clerk

For Office Use

Date Received

DECLARATION OF CANDIDACY

by

Willie Grayeyes

(Print name of candidate exactly as it is to be printed on the Official Ballots)

for the office of San Juan County Commission Sw Dist #2

STATE OF UTAH
County of San Juan } ss.

March 9, 2018
(Date)

I, Willie Grayeeyes, declare my intention of becoming a candidate for the office of Commissioner for Dist #2 as a candidate for the Democratic party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at 17 miles N. on NC310 from Paiute Mesa, Utah from Nav. Mtn. Chapter Hse. Street, in the City or Town of Navajo Mtn Chapter com., Utah, Zip Code 86044, Phone No. 928 614 1281; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is

P.O Box 10035, Tonalea, Arizona 86044

Additional information:

Williegrayeyes@yahoo.com
e-mail Address

Signature of Candidate

Web Site

Subscribed and sworn before me this 3/9/2018
(month / day / year)

Notary Public (or other officer qualified to administer oath)

For Office Use

Date Certified by Party

Date Received

RECEIVED
MAR - 9 2018

Certified by
(Party)

Received by
(Authorized Person)

5-12-Pg
CARR PRINTING CO., Bountiful, Utah
Complete Election Supply Service Since 1902

QUALIFICATION FOR CANDIDATE FILING AFFIDAVIT

(Utah Code reference 20A-9-201)

I, the undersigned declare the constitutional and statutory requirements as listed below for the office of

Commissioner

were read to me by the filing officer and that I meet those qualifications.

Signature of Candidate — March 9, 2018 *Date*

Signature of Filing Officer — 3/9/18 *Date*

UTAH CANDIDATE FILING QUALIFICATIONS

Before the filing officer accepts any candidacy, he shall read to the candidate the constitutional and statutory requirements for candidacy, and the candidate shall state whether he fulfills the requirements of candidacy. If the candidate indicates that such candidate does not qualify, the filing officer shall decline such person's candidacy. 20A-9-201(3) **All candidates must be United States citizens.**

UTAH SENATE AND REPRESENTATIVE

Utah Constitution Article VI, Section 3, 4, 5 & 6

25 years old at the filing deadline time.
3 year resident of Utah at the filing deadline time.
6 month resident of the senate or representative district from which elected at the filing deadline time.

COUNTY COMMISSION

Utah Code 17-16-1; 17-53-202

Registered voter for at least one year before the date of the election.
Be a registered voter of the county which the member represents.
At least one year resident of the county immediately before the date of the election.

COUNTY CLERK, AUDITOR, RECORDER, TREASURER

Utah Code 17-16-1

A registered voter in the county.
At least one year resident of the county immediately before the date of the election.

COUNTY ASSESSOR

Utah Code 17-16-1; 17-17-2

A registered voter in the county.
At least one year resident of the county immediately before the date of the election.
Those candidates seeking the office of county assessor in a first through third class county must be a state-licensed or state-certified appraiser before filing for office. All other candidates for county assessor shall be a state-licensed or state-certified appraiser before the expiration of 36 months from the day on which the person's term of office begins.

COUNTY SHERIFF

Utah Code 17-16-1; 17-22-1.5

A registered voter in the county.
At least one year resident of the county by the date of the election.
At time of filing:
Has successfully met the requirements of the Peace Officer Training and Certification Act; or
Has passed a certification examination and be qualified to be certified as defined in Section 53-13-103.
Present a POST certification with the declaration of candidacy and be certified as a correctional officer.
17-22-1.5

COUNTY ATTORNEY

Utah Code 17-16-1; 17-18a-302

An attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar.
A registered voter in the county.
A current resident of the county in which the person is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney.

DISTRICT ATTORNEY

Utah Code 17-16-1; 17-18a-302

An attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar.
A registered voter in the prosecution district in which he is seeking office.
A current resident of the prosecution district in which the person is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney.

COUNTY SURVEYOR

Utah Code 17-16-1; 17-23-1

A registered voter in the county.
At least one year resident of the county immediately before the date of the election.
Any person elected exclusively as the county surveyor shall be a registered professional land surveyor in the state of Utah.
In a county where the office of county surveyor is consolidated with another elected office, the officeholder need not be a registered professional land surveyor, but all surveying work must be performed by a registered professional land surveyor.

STATE OF UTAH
PLEDGE OF FAIR CAMPAIGN PRACTICES
(UCA § 20A-9-206)

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of Utah has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their right to a free election, and that the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

I SHALL conduct my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing, without fear or favor, the record and policies of my opponents that I believe merit criticism.

I SHALL NOT use nor shall I permit the use of scurrilous attacks on any candidate or the candidate's immediate family. I shall not participate in or nor shall I permit the use of defamation, libel, or slander against any candidate or the candidate's immediate family. I shall not participate in nor shall I permit the use of any other criticism of any candidate or the candidate's immediate family that I do not believe to be truthful, provable, and relevant to my campaign.

I SHALL NOT use nor shall I permit the use of any practice that tends to corrupt or undermine our American system of free elections, or that hinders or prevents the free expression of the will of the voters, including practices intended to hinder or prevent any eligible person from registering to vote or voting.

I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees or volunteers.

I SHALL immediately and publicly repudiate support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of an opponent, to methods in violation of the letter or spirit of this pledge. I shall accept responsibility to take firm action against any subordinate who violates any provision of this pledge or the laws governing elections.

I SHALL defend and uphold the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of Utah, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Name: Willie Grayeyes **Office:** Commission/Dist #2

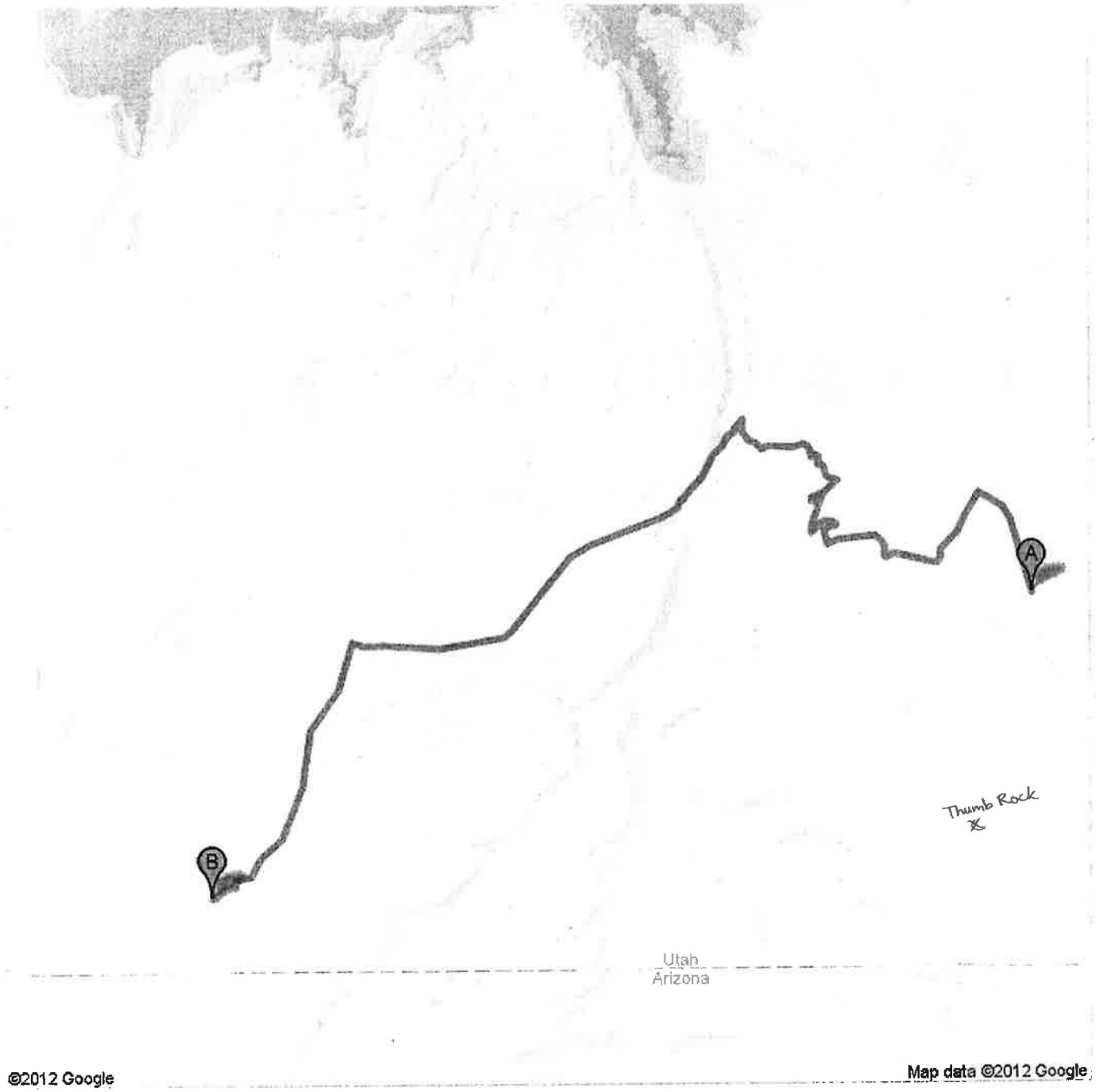
Signature: [signature] **Date:** March 9, 2018

***This is a voluntary pledge. Candidates are not required to sign this pledge of fair campaign practices.**

***This document is considered a public record and will be retained for public inspection until 30 days following the election.**

Google

Directions to Co Rd 488
17.7 mi – about **1 hour 4 mins**



A Co Rd 434/Piute Creek Rd

1.	Head **north** on **Co Rd 434/Piute Creek Rd** Continue to follow Co Rd 434 About 6 mins	go 1.5 mi total 1.5 mi
2.	Turn left toward **Co Rd 434/Piute Creek Rd** About 6 mins	go 1.6 mi total 3.0 mi
3.	Continue straight onto **Co Rd 434/Piute Creek Rd** Continue to follow Co Rd 434 About 42 mins	go 10.8 mi total 13.8 mi
4.	Turn left to stay on **Co Rd 434** About 9 mins	go 3.5 mi total 17.3 mi
5.	Turn right onto **Co Rd 488** About 1 min	go 0.3 mi total 17.7 mi

B Co Rd 488

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.

San Juan County Utah .org

Johnson, Norman <njohnson@sanjuancounty.org>

Election Issues

Johnson, Norman <njohnson@sanjuancounty.org> Mon, Oct 29, 2012 at 12:24 PM
To: Williegrayeyes@yahoo.com

Willie I need your financial report by 5:00 PM tomorrow October 30th
also I need to know your Physical Address in Utah for our records. Please call me
435-587-3223 - Norman

Msg @ 505-516-9742

12:20 PM 10-29-12

Willie Called @ 1:20 PM
Lives 17 Miles From Chapin House
on Piute Mesa, Utah Just North
of Thumb Rock -

EXHIBIT J

DELAYED CERTIFICATE OF BIRTH
STATE OF UTAH

ALTH
L STATISTICS
UTAH

25?7?7

STATE FILE NO.

1. REGISTRANT'S FULL NAME AT BIRTH: WILLIE GRAYEYES	2. DATE OF BIRTH (MONTH) (DAY) (YEAR): [redacted]
3. COLOR OR RACE: Indian; 4. SEX: Male; 5. PLACE OF BIRTH: Navajo Mountain; 6. COUNTY: San Juan	8. CITY OR TOWN OF BIRTH: Navajo Mountain Community
7. FULL NAME OF FATHER: Tulley Grayeyes c#76439	9. STATE OR COUNTRY OF FATHER'S BIRTH: Utah
10. FULL MAIDEN NAME OF MOTHER: Bertha Clarke	11. STATE OR COUNTRY OF MOTHER'S BIRTH: Utah
I hereby declare upon oath that the above statements are true to the best of my knowledge and belief. 12. SIGNATURE OF REGISTRANT: 's Father Tulley Grayeyes	13. PRESENT ADDRESS OF REGISTRANT: Tuba City, Arizona
SUBSCRIBED AND SWORN TO (AFFIRMED) BEFORE ME THIS: Feb. 17, 64 14. SIGNATURE OF NOTARY: Dyan M. Dixon	15. NOTARY COMMISSION EXPIRES: Aug 13, 66

APPLICANT -- DO NOT WRITE BELOW THIS LINE

HOSPITAL RECORD	[redacted] Utah	PHS INDIAN HOSPITAL, Tuba City, Arizona	Bertha Clarke	Tullie Grayeyes	[redacted]
CENSUS RECORD	[redacted] Navaho Mountain Community, San Juan Co. Utah	Utah State Indian Affairs Agency - Blanding, Utah	Bertha Clarke	Tullie Grayeyes	[redacted]
CHURCH RECORD	[redacted] Navajo Mountain Trading Post, Utah	Fr. J.H. Valine, Pastor, St. Bridget's Church, Milford, Utah	not known	Tulley Greyeyes	[redacted]
Document: AFFIDAVIT	birthdate [redacted] birthplace Navajo Mountain, Utah	Signed by: (GRANDMOTHER) Adzuma Clark C#73819	Mother: Bertha Clarke	Father: Tulley Grayeyes	Date issued: April 14, 1964

I hereby certify that no prior birth certificate has been found in the Division of Vital Statistics for this registrant and that documentary evidence has been reviewed, which substantiates the facts as set forth in the foregoing abstract.

STATE REGISTRAR: JOHN W. WRIGHT — EVIDENCE REVIEWED BY: Gwen Inkelberger — DATE FILED: May 12, 1964

STATE OF UTAH)
CO. OF SALT LAKE) ss
THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL CERTIFICATE ON FILE IN THE UTAH STATE DEPT. OF HEALTH.

DATE

DIRECTOR, DIVISION OF VITAL STATISTICS

EXHIBIT K

DECLARATION OF WILLIE GRAYEYES

I, WILLIE GRAYEYES, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. My name is Willie Grayeyes.

2. I am an enrolled member of the Navajo Nation.

3. I reside in the Navajo Mountain Chapter.

4. I maintain my full-time residency at Navajo Mountain in San Juan County, Utah.

5. Navajo Mountain is my principal place of residence.

6. I have lived in Navajo Mountain, Utah, almost my whole life. My entire family and clan is from San Juan County, Utah.

7. I attended school at Navajo Mountain.

8. The latitude/longitude coordinates for my home are 37.084477, -110.626033. See Exhibits A and B, Satellite Imagery and Latitude/Longitude Coordinates for the Principal Residence of Willie Grayeyes.

9. My home is in a very rural location near Piute Mesa in Utah. There are only three houses in the immediate vicinity.

10. I have resided at this home for at least 20 years and intend to remain there permanently and indefinitely.

11. I maintain a Post Office Box in Tonalea, Arizona. The Post Box number is 10035, and the zip code is 86044.

12. Most people in the Navajo Mountain community maintain a mail box, subcontract post office, under Tonalea, Arizona, based on convenience (80 miles away) and the fact that Tonalea provides prompt and reliable post office service.

13. I serve as the Chair of the Board of Directors for Utah Diné Bikéyah.

14. I am the Chapter Official for Navajo Mountain, Utah.

15. I am currently the Secretary/Treasurer for Navajo Mountain Chapter.

16. I am Chairman of the School Board for Naatsis'aan Community School.

17. I have been a registered voter in San Juan County, Utah, since I turned 18.

18. I have voted in almost every primary and general election in San Juan County since 2000.

19. If San Juan County reviewed their own voter file that they maintain on me, they would find that I voted in the 2000 Primary and General Elections, the 2002 General Election, the 2006 General Election, the 2008 Primary and General Elections, the 2010 General Election, the 2012 General Election, the 2014 General Election, the 2015 General Election, and the 2016 Primary and General Elections.

20. I have never voted in any other state.

21. In 2012, I was certified as the Democratic candidate in the former San Juan County Commission District 1 by the Lieutenant Governor of the State of Utah based upon my residence in Utah and Navajo Mountain. Exhibit C, 2012 Partial List of Certified Democratic Candidates.

22. According to the Memorandum Decision and Order, Dkt. 441, dated December 21, 2017, I reside in the new, Court-ordered District 2 of the San Juan County Commission for the 2018 Primary and General elections.

23. On March 15, 2018, I filed with the San Juan County Clerk's Office as a Democratic candidate for Court-ordered County Commission District 2. Exhibit E, Court Ordered Election Districts for San Juan County Commission.

24. I was at Navajo Mountain on March 21, 2018, for a meeting at school and left afterward. The next day, on March 22, 2018, Maggie Holgate from the school called me to tell me that Sheriff was looking for me. Apparently, he talk with my sister, Rose Mary Johnson, regarding where I live. My sister indicated that she didn't specify where I lived to him at that time, but Investigator Turk later said that my sister said I lived somewhere else other than Navajo Mountain.

25. I called Mr. Turk after his visit to follow up and we agreed to meet in person.

26. At the San Juan County Democratic Convention on March 24, 2018, I was nominated as the Democratic candidate for the new, Court-ordered District 2 of the San Juan County Commission for the General Election in 2018.

27. On April 4, 2018, I met with Officer Turk from the San Juan County Sheriff's Department in Bluff, Utah. Mr. Turk told me that the purpose of his visit was to determine my permanent residence.

28. During that visit, I described to Mr. Turk where I lived, Mr. Turk told me that he was unable to locate my residence.

29. I received a letter from the San Juan County Clerk/Auditor, John David Nielson, dated March 28, 2018, stating that my right to vote and hold office in San Juan County, Utah, was challenged by Wendy Black, of Blanding, Utah.

30. I have never met, and do not personally know, Wendy Black.

31. The letter stated that the basis of Ms. Black's challenge was that my primary residence is not within San Juan County, Utah, but the State of Arizona.

32. I am not a resident of Arizona.

33. The letter states that I have an opportunity to refute the challenge.

34. The letter did not contain any evidence or provide a description of the facts and circumstances that formed the basis for Ms. Black's challenge.

35. I have not been provided with a copy of the affidavit Ms. Black was required to file as part of her challenge.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on April 19, 2018

BY:

Name: Willie Grayeyes

EXHIBIT L

SUPPLEMENTAL DECLARATION OF WILLIE GRAYEYES

I, WILLIE GRAYEYES, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. On April 19, 2018, I prepared a Declaration that identified my current residence in the Navajo Mountain, Utah area.

2. I was born about one mile southeast of my current residence, on land within San Juan County, Utah, and my umbilical cord is buried near my place of birth.

3. According to Navajo tradition, which I believe, the area where I was born and where my umbilical cord is buried is my permanent place of residence.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on April 24, 2018

BY:

Name: Willie Grayeyes

EXHIBIT M

DECLARATION OF RUSSELL SMALLCANYON

I, RUSSELL SMALLCANYON, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. My name is Russell Smallcanyon.

2. I am an enrolled member of the Navajo Nation.

3. I am the Grazing Officer for Navajo Nation Grazing District 2-3.

4. Among other duties, I conduct livestock tallies of grazing permittees within District 2-3 to make sure that the permittees are in compliance with their permits in terms of the number and type of livestock they are grazing.

5. Willie Grayeyes has a grazing permit in District 2-3 and he grazes livestock in the area of his house at Paiute Mesa, Utah.

6. A copy of Mr. Grayeyes' grazing permit is attached to this Declaration.

7. I conducted a tally of Mr. Grayeyes' livestock in June 2017 at his home (an older frame house, corral, and hogan) in Paiute Mesa, Utah. A copy of the tally is attached to this Declaration.

8. Based on personal knowledge, Mr. Grayeyes' home and his livestock are located within the State of Utah and, in my opinion, he is a resident of Paiute Mesa, in San Juan County, Utah, and within the Navajo Mountain Chapter of the Navajo Nation.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on May 2, 2018 BY:

DGCM-2-1

Name: ~~RUSSELL~~ SMALLCANYON

EXHIBIT N

DECLARATION OF LENA FOWLER

I, LENA FOWLER, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. My name is Lena Fowler.

2. I am an enrolled member of the Navajo Nation.

3. I serve on the Board of Supervisors for Coconino County, Arizona, which consists of five members, each elected by district to four-year terms.

4. The Board of Supervisors establishes administrative policy and direction for the County, has budgetary oversight, and works within established guidelines to carry out its duties.

5. I have served Coconino County District 5 since 2009 and am currently in my third term.

6. My district encompasses tribal nations therefore I represent the citizens of these tribes in my work, including members of the Navajo Nation.

7. As part of my official duties, I represent the Arizona portion of the Navajo community of Navajo Mountain.

8. I am aware that an individual in San Juan County, Utah has accused Mr. Willie Greyeyes of residing in Arizona.

9. The Navajo Mountain community is divided between the state of Utah and Arizona, it has limited community services, there's a Navajo Head Start Center, Naatsis'aan Community School, Navajo Mountain High School and Navajo Utah Health Clinic. The local government is the Navajo Mountain Chapter. The nearest grocery store, gas station and laundry mat is at Inscription House Trading Post, approximately 40 miles away in Arizona.

10. The schools, head start, senior program, health clinic and the chapter are the employers in the community, as a result the residents travel to bigger towns and distant cities for employment

and higher education. The residents travel over two hours into Arizona to the nearest employment and purchase simply necessities.

11. All the residents of Navajo Mountain from the state of Utah and Arizona are served by the Tonalea U.S. Postal Service, 343 Highway 160, Tonalea, AZ 86044. The Tonalea Post Office mail truck delivers the mail at 10 a.m. every weekday to the Navajo Mountain Chapter where all residents pick up their mail.

12. The Coconino County Recorder's Office has confirmed Mr. Willie Greyeyes is not a registered voter in Coconino County, Arizona.

13. To my knowledge, Mr. Greyeyes has never been registered to vote in Coconino County, Arizona.

14. I have observed Mr. Greyeyes to always be a strong advocate for Utah Navajos.

15. I believe that Mr. Greyeyes resides in Utah. He was born and raised in the area.

16. I have known Mr. Greyeyes to be a very active community member. To this day, he continues to be a community servant.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on April 25, 2018

BY: Lena Fowler

Name: LENA FOWLER

EXHIBIT O

THE NAVAJO NATION
Navajo Board of Election Supervisors
Oath of Office
For All Elective Positions of the Navajo Nation

I, Willie Grayeyes,

do solemnly swear to uphold and abide by the laws of the Navajo Nation and Treaty of 1868 between the Navajo Nation and the United States of America and will faithfully execute the office of

Secretary/Treasurer
Representing
NAA'TSIS'AAN Chapter.

and will to the best of my ability preserve, protect and defend the laws and government of the Navajo Nation and advance the interests of the Navajo people, having due regard for the ethical duties and responsibilities of the office;
So help me God.

Signature

CERTIFICATION

I hereby certify that the above oath was sworn to and subscribed in my presence this 27th day of October, 2017.

Dated: October 27, 2017

Chief Justice,
Navajo Nation Supreme Court
(his or her Designee)

WITNESS:

THE NAVAJO NATION

Navajo Board of Election Supervisors

Oath of Office

For All Elective Positions of the Navajo Nation

I, Willie Grayeyes,

do solemnly swear to uphold and abide by the laws of the Navajo Nation and Treaty of 1868 between the Navajo Nation and the United States of America and will faithfully execute the office of

Naa' Tsis' Aan Community School Board Member
Representing
Naa' Tsis' Aan Chapter.

and will to the best of my ability preserve, protect and defend the laws and government of the Navajo Nation and advance the interests of the Navajo people, having due regard for the ethical duties and responsibilities of the office;
So help me God.

Signature

CERTIFICATION

I hereby certify that the above oath was sworn to and subscribed in my presence this 20th day of January, 2017.

Dated: January 20, 2017

Chief Justice Navajo Supreme Court
(his or her Designee)

WITNESS:

Original – Elected Official Yellow – Agency Office Pink – Court Golden Rod – NEA Central Office CA006

EXHIBIT P

BYLAWS of the
UTAH DINE BIKEYAH ORGANIZATION

ARTICLE I
OFFICES

Section 1.1 Business Offices. The principal office of the corporation shall be located in the city of Montezuma Creek and the county of San Juan in Utah. The corporation may have other offices either within or outside Utah, as designated by the Board of Directors or as the affairs of the corporation may require from time to time.
Section 1.2 Registered Office is located at 30 E 300 N House # 23, Montezuma Creek, UT 84534.
The registered office may be changed from time to time by the Board of Directors.

ARTICLE II
PURPOSES

Section 2.1 Purposes. This corporation is organized exclusively for promoting the public welfare by providing education to members and the public at large in accordance with Section 501(c)(3) of the Internal Revenue Code.
Section 2.2 Specific Objectives and Purposes. The specific objectives and purposes of this corporation shall be:
A. Providing education to members and the public at large concerning management, development, cultural significance, and use of the natural and cultural lands and resources of the Navajo People in Utah and the Four Corners Region. The Utah Diné Bikéyah Organization recognizes this region as being of international importance because of its historical/ archaeological significance, wilderness characteristics, diverse wildlife populations, and its globally unique geologic and natural features.
B. Furthermore, the purposes of the Corporation are to ensure that the aboriginal territory of the Navajo Nation remain a landscape where the needs of the Utah Navajo people are satisfied in harmony with the continued long term viability of its native plants, fish, wildlife and natural ecosystems.
C. Additionally, the purposes of the Corporation are to advance sustainable community and economic development in San Juan County, Utah and throughout the four-corners region.
D. A primary goal will be to benefit the public as a whole by the prioritization, promotion and encouragement of the protection, beneficial use and management of reservation and US public lands of importance to the Utah Navajo. Also, to contribute to and improve the education, health and well-being of Utah Navajo People living within their traditional territory.

Mission Statement:
Preserving and protecting the cultural and natural resources of ancestral Navajo/Dine' lands to benefit and bring healing to the earth and its people.

ARTICLE III
BOARD OF DIRECTORS

Section 3.1 General Powers. The Board is responsible for overall policy and direction of the Organization and delegates have responsibility for day-to-day operations to the *Utah Dine Bikeyah.* These delegates may include the executive director, staff and board committees as assigned. All corporate powers shall be exercised by or under the direction of the Board of Directors.

Section 3.2 Number, Election, and Qualifications. The business, property and affairs of the Corporation shall be managed by a Board of Trustees composed of five (5) persons. The Executive Director may be designated to serve on the Board of Trustees on an ex officio basis. The Board of Trustees shall be comprised of persons who are members of the Navajo Nation, and who support the purposes of the Corporation, and are willing to assist the Corporation in accomplishing said purposes. Navajo officials who actively serve as either San Juan County Commissioner or on the Navajo Nation Council representing Utah shall be invited to serve as an ex-officio member(s) of the Board of Trustees. Any action of the Board of Directors to increase or decrease the number of Directors, whether expressly by resolution or by implication through the election of additional Directors, shall constitute an amendment of these bylaws effecting such increase or decrease. Officers shall be elected or re-elected by the existing Board of Directors at each annual meeting of the board, and each trustee shall hold office for four year terms. Subsequent terms can be sought.

Section 3.3 Tenure. Trustees are elected for *four year terms. Term cycles are staggered so that approximately one-third of the trustees' terms expire each year. Initially, one-third of the board members will be asked to serve shortened terms to provide opportunity for rotation. The number of terms a Trustee is allowed to serve is not limited*

Section 3.4 Duties. Directors must be participating members. *Board Members are expected to attend the annual meeting and at least three board meetings per year. After two consecutive absences, the Board President or a member of the Executive Committee will contact the board member in question to confirm his or her interest in remaining on the board. After three consecutive absences, unless proven otherwise, it will be assumed that said board member desires to resign.*

Section 3.5 Vacancies. Any trustee may resign at any time by giving written notice to the President of the *Utah Dine Bikeyah Organization.* Such resignation shall take effect at the time specified therein, and unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum. A trustee elected to fill a vacancy shall be elected for the un-expired term of his/her predecessor in office.

Section 3.6 Annual and Regular Meetings.

Annual Meeting. The date of the regular annual meeting shall be set by the Board of Directors who shall also set the time and place.

Regular Meetings. Regular meetings of the Board shall be held quarterly and at places determined by the Board.

Section 3.7 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors. The person or persons authorized to call special meetings of the Board of Directors will provide proper notice

and may fix any place, date and time for holding any special meeting of the Board called by them.

Section 3.8 Notice. Notice of each meeting of the Board of Directors stating the place, day and hour of the meeting shall be given to each trustee at his business or home address at least five days prior thereto by mailing a written notice by first class, certified or registered mail, or at least two days prior thereto by personal delivery of written notice or by telephone notice or by email (and the method of notice need not be the same to each trustee).

Section 3.9 Quorum and Voting. A majority of the number of Directors fixed by section 2 of this Article III shall constitute a quorum, but if less than such majority is present at a meeting, a majority of the Directors present may adjourn the meeting without further notice than an announcement at the meeting, until a quorum shall be present. No trustee may vote or act by proxy at any meeting of Directors.

Section 3.10 Meetings by Telephone. Members of the Board of Directors or any other committee thereof may participate in a meeting of the board or committee by means of conference telephone or similar communications equipment. Such participation shall constitute presence in person at the meeting.

Section 3.11 Action Without a Meeting. If and when a majority of the Trustees shall consent in writing, including email, to any action to be taken by the Corporation, such action shall be as valid a corporate action as though it had been authorized at a meeting of the Board of Trustees.

Section 3.12 Presumption of Assent. A trustee of the *UTAH DINÉ BIKÉYAH ORGANIZATION* who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent is entered in the minutes of the meeting, or unless he files his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a trustee who voted in favor of such action.

Section 3.13 Compensation. Directors shall receive compensation in the amount of one hundred dollars per member, if requested, for services performed during Board Meetings. Other meetings relating to organizational work are not eligible for compensation. Reasonable expenses associated with attendance at board meetings and other meetings may also be paid or reimbursed by the corporation upon request. Directors shall not be disqualified to receive reasonable compensation for services rendered to or for the benefit of the *UTAH DINÉ BIKÉYAH ORGANIZATION* in any other capacity, provided that other members of the board are aware of the agreement between the board member or company of the board member and the *UTAH DINÉ BIKÉYAH ORGANIZATION.*

Section 3.14 Executive and Other Committees. By one or more resolutions, the Board of Directors may designate from among its members an executive committee and one or more other committees, each of which, to the extent provided in the resolution establishing such committee, shall have and may exercise all of the authority of the Board of Directors, except as prohibited by statute. The delegation of authority to any committee shall not operate to relieve the Board of Directors or any member of the board from any responsibility imposed by law. Rules governing procedures for meetings of any

committee of the board shall be as established by the Board of Directors, or in the absence thereof, by the committee itself.

ARTICLE IV
OFFICERS AND AGENTS

Section 4.1 Executive Committee Defined. The officers of the *UTAH DINÉ BIKÉYAH ORGANIZATION* shall include President, Vice-President, and Treasurer. The Board of Directors may also elect or appoint such other officers, assistant officers and agents, including an Executive Director, Secretary, one or more vice-chairs, a controller, assistant secretaries and assistant treasurers, as it may consider necessary. One person may hold more than one office at a time, except that no person may simultaneously hold the offices of President and Secretary. Officers need not be Directors of the Corporation. All officers must be at least eighteen years old.

Section 4.2 Election and Term of Office. The Executive Committee or officers of the *UTAH DINÉ BIKÉYAH ORGANIZATION* shall be elected by the Board of Directors at each regular annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon as convenient thereafter. Officers shall hold office for four (4) year terms.

Section 4.3 Removal. Any officer or agent may be removed by a majority vote of the Board of Directors whenever in its judgment the best interests of the corporation will be served thereby.

Section 4.4 Vacancies. Any officer may resign at any time, subject to any rights or obligations under any existing contracts between the officer and the corporation, by giving written notice to the President or the Board of Directors. An officer's resignation shall take effect at the time specified in such notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. A vacancy in any office, however occurring, may be filled by the Board of Directors for the unexpired portion of the term.

Section 4.5 Authority and Duties of Officers. The officers of the corporation shall have the authority and shall exercise the powers and perform the duties specified below and as may be additionally specified by the President, the Board of Directors or these bylaws, except that in any event each officer shall exercise such powers and perform such duties as may be required by law.

(a) President. The President shall, subject to the direction and supervision of the Board of Directors: (i) be the chief executive officer of the *UTAH DINÉ BIKÉYAH ORGANIZATION* and have general and active control of its affairs and business and general supervision of its officers, agents and employees; (ii) preside at all meetings of the Board of Directors; (iii) see that all orders and resolutions of the Board of Directors are carried into effect; and (iv) perform all other duties incident to the office of President and as from time to time may be assigned to her/him by the Board of Directors.

(b) Vice-President. The vice-president or vice-presidents shall assist the president and shall perform such duties as may be assigned to them by the president or by the Board of Directors. The vice-president (or if there is more than one, then the vice president designated by the Board of Directors, or if there be no such designation, then the vice-presidents in order of their election) shall, at the request of the president, or in his absence

or inability or refusal to act, perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president.

(c) Secretary. The secretary shall: (i) keep the minutes of the proceedings of the Board of Directors and any committees of the board; (ii) see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; (iii) be custodian of the corporate records and of the seal of the corporation; and (iv) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him/her by the president or by the Board of Directors. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

(d) Treasurer. The treasurer shall: (i) be the principal financial officer of the corporation and have the care and custody of all its funds, securities, evidences of indebtedness and other personal property and deposit the same in accordance with the instructions of the Board of Directors; (ii) receive and give receipts and a quittance for moneys paid on account of the corporation, and pay out of the funds on hand all bills, payrolls and other just debts of the *UTAH DINÉ BIKÉYAH ORGANIZATION* of whatever nature upon maturity; (iii) unless there is a controller, be the principal accounting officer of the corporation and as such prescribe and maintain the methods and systems of accounting to be followed, keep complete books and records of account, prepare and file all local, state and federal tax returns and related documents, prescribe and maintain an adequate system of internal audit, and prepare and furnish to the President and the Board of Directors statements of account showing the financial position of the *UTAH DINÉ BIKÉYAH ORGANIZATION* and the results of its operations; (iv) upon request of the board, make such reports to it as may be required at any time; and (v) perform all other duties incident to the office of treasurer and other such duties as from time to time may be assigned to him/her by the President or the Board of Directors. Assistant treasurers, if any, shall have the same powers and duties, subject to supervision by the treasurer.

ARTICLE V
MEMBERSHIP

Section 5.1 Classification, Qualification, Privileges and Election of Members. The corporation shall have two *classes of nonvoting members. Membership Class #1* is open to individuals and organizations that support the purposes of the Corporation, upon application to and approval by the Board of Trustees and upon payment of annual dues or providing annual volunteer service to the organization. Membership Class #2 is open to enrolled members of the Navajo Nation that support the purposes of the Corporation, upon application to and approval by the Board of Trustees.

Section 5.2 Dues. The Board of Directors may establish such membership initiation fees, periodic dues and other assessments and such rules and procedures for the manner and method of payment, the collection of delinquent dues and assessments and the proration or refund of dues and assessments in appropriate class as the Board of Directors shall deem necessary or appropriate.

Section 5.3 No Voting Rights. Members of the Corporation shall have no voting rights and shall not be entitled to notice of any meetings provided for hereunder.

ARTICLE VI
INDEMNIFICATION

Section 6.1 Indemnification of Directors, Officers, etc. To the full extent permitted by law, the Association shall indemnify any trustee or officer, including the executive director for purposes of this Section 9.1, or former trustee or officer of the Association, or any person who may have served at its request as a trustee or officer of another corporation against expenses actually and reasonably incurred by them, in connection with the defense of any action, suit or proceeding, civil or criminal, in which they are made a party by reason of being or having been such trustee or officer, except in relation to matters as to which they shall be adjudged in such action, suit or proceeding to be liable for gross negligence in the performance of duty; and to make such other indemnification (including advanced payment of indemnification) as shall be authorized by the Board.

Section 6.2 Insurance. By action of the Board of Directors, notwithstanding any interest of the Directors in such action, the *UTAH DINÉ BIKÉYAH ORGANIZATION* may, subject to Section 5.8, purchase and maintain insurance, in such amounts as the board may deem appropriate, on behalf of any person indemnified hereunder against any liability asserted against him/her and incurred by him/her in the capacity of or arising out of his/her status as an agent of the corporation, whether or not the corporation would have the power to indemnify him/her against such liability under applicable provisions of law. The corporation may also purchase and maintain insurance, in such amounts as the board may deem appropriate, to insure the *UTAH DINÉ BIKÉYAH ORGANIZATION* against any liability, including without limitation, any liability for the indemnifications provided in this Article.

Section 6.3 Limitation on Indemnification. Notwithstanding any other provision of these bylaws, the *UTAH DINÉ BIKÉYAH ORGANIZATION* shall neither indemnify any person nor purchase any insurance in any manner or to any extent that would jeopardize or be inconsistent with qualification of the corporation as an organization described in section 501(c)(3) of the Internal Revenue Code or would result in liability under section 4941 of the Internal Revenue Code.

ARTICLE VII
MISCELLANEOUS

Section 7.1 Account Books, Minutes, Etc. The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Directors and committees and business meetings of officers. Any trustee or his accredited agent or attorney may inspect all books and records of the corporation, for any proper purpose at any reasonable time.

Section 7.2 Fiscal Year. The fiscal year of the corporation shall operate on the calendar year: January 1 to December 31.

Section 7.3 Conveyances and Encumbrances. Property of the corporation may be assigned, conveyed or encumbered by such officers of the corporation as may be authorized to do so by the Board of Directors, and such authorized persons shall have power to execute and deliver any and all instruments of assignment, conveyance and encumbrance; however, the sale, exchange, lease or other disposition of all or

substantially all of the property and assets of the corporation shall be authorized only in the manner prescribed by applicable statute.

Section 7.4 Designated Contributions. The corporation may accept any designated contribution, grant, bequest or device consistent with its general tax-exempt purposes, as set forth in the articles of incorporation. As so limited, donor-designated contributions will be accepted for special funds, purposes or uses, and such designations generally will be honored. However, the corporation shall reserve all right, title and interest in and to and control of such contributions, as well as full discretion as to the ultimate expenditure or distribution thereof in connection with any special fund, purpose or use. Further, the corporation shall retain sufficient control over all donated funds (including designated contributions) to assure that such funds will be used to carry out the corporation's tax-exempt purposes.

Section 7.5 Conflicts of Interest. If any person who is a trustee or officer of the corporation is aware that the corporation is about to enter into any business transaction directly or indirectly with himself, any member of his family, or any entity in which he has any legal, equitable or fiduciary interest or position, including without limitation as a trustee, officer, shareholder, partner, beneficiary or trustee, such person shall (a) immediately inform those charged with approving the transaction on behalf of the corporation of his interest or position, (b) aid the persons charged with making the decision by disclosing any material facts within his knowledge that bear on the advisability of such transaction from the standpoint of the corporation, and (c) not be entitled to vote on the decision to enter into such transaction.

Section 7.6 Loans to Directors and Officers Prohibited. No loans shall be made by the corporation to any of its Directors or officers. Any trustee or officer who assents to or participates in the making of such loan shall be liable to the corporation for the amount of such loan until it is repaid.

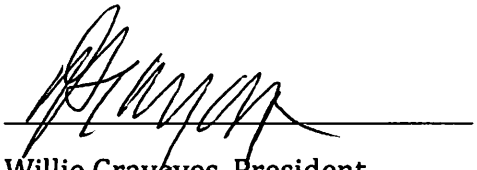
Section 7.7 Amendments. The power to alter, amend or repeal these bylaws and adopt new bylaws shall be vested in the Board of Directors.

Section 7.8 Severability. The invalidity of any provisions of these bylaws shall not affect the other provisions hereof, and in such event these bylaws shall be construed in all respects as if such invalid provision were omitted.

ARTICLE VIII
CERTIFICATION

The foregoing By-laws have been adopted by consent of the Board of Trustees as of _____, 2012. A quorum was present and the Bylaws received a majority of the votes of those present at the meeting.

Signed on behalf of the President of the Board of Trustees



Willie Grayeyes, President

EXHIBIT Q

A	B	C	D	E	F	G	H	
Voter ID	Last Name	First Name	Middle Name	Name Suffix	Status	Permanent Absentee	UOCAVA	Registratio
5703926	Grayeyes	Willie			Active	YES		
K	L	M	N	O	P	Q	R	
Party	Phone	Mailing Address	Mailing city, state zip	County ID	Precinct	House Number	House Number Suffix	Direction Pr
Democratic	(505)516-9742			San Juan	11	10035		
U	V	W	X	Y	Z	AA	AB	A
Direction Suffix	Street Type	Unit Type	Unit Number	City	Zip	Congressional	State House	State Senat
				Navajo Mtn	86044	3	73	
AE	AF	AG	AH	AI	AJ	AK	AL	A
Local Schoolboard	County Council	City Council	10/5/1999	How Voted	11/2/1999	How Voted	3/10/2000	How Voted
Local School Board # 5 5							3/10/2000	Normal
AO	AP	AQ	AR	AS	AT	AU	AV	A
How Voted	11/7/2000	How Voted	10/2/2001	How Voted	11/6/2001	How Voted	6/25/2002	How Voted
	11/7/2000	Normal						
AY	AZ	BA	BB	BC	BD	BE	BF	B
How Voted	11/4/2003	How Voted	6/22/2004	How Voted	11/2/2004	How Voted	10/4/2005	How Voted
Normal					11/2/2004	Normal		
BI	BJ	BK	BL	BM	BN	BO	BP	B
How Voted	6/27/2006	How Voted	11/7/2006	How Voted	11/6/2007	How Voted	2/5/2008	How Voted
			11/7/2006	Normal			2/5/2008	Normal
BS	BT	BU	BV	BW	BX	BY	BZ	C
How Voted	11/4/2008	How Voted	9/15/2009	How Voted	9/29/2009	How Voted	11/4/2009	How Voted
	11/4/2008	Normal						
CC	CD	CE	CF	CG	CH	CI	CJ	C
How Voted	11/2/2010	How Voted	9/13/2011	How Voted	11/8/2011	How Voted	6/26/2012	How Voted
	11/2/2010	Normal						
CM	CN	CO	CP	CQ	CR	CS	CT	C
How Voted	8/13/2013	How Voted	11/5/2013	How Voted	6/24/2014	How Voted	11/4/2014	How Voted
Normal							11/4/2014	Normal
CW	CX	CY	CZ	DA	DB	DC	DD	D
How Voted	11/3/2015	How Voted	6/28/2016	How Voted	11/8/2016	How Voted	12/15/2016	How Voted
	11/3/2015	Normal	7/5/2016	Absentee	10/31/2016	Absentee		
DG	DH	DI	DJ	DK	DL	DM		
How Voted	11/7/2017	How Voted	6/26/2018	How Voted	11/6/2018	How Voted		
	10/26/2017	Absentee						

EXHIBIT R

San Juan County Utah . org

Johnson, Norman <njohnson@sanjuancounty.org>

Election Issues

Johnson, Norman <njohnson@sanjuancounty.org> Mon, Oct 29, 2012 at 12:24 PM
To: Williegrayeyes@yahoo.com

Willie I need your financial report by 5:00 PM tomorrow October 30th
also I need to know your Physical Address in Utah for our records. Please call me
435-587-3223 - Norman

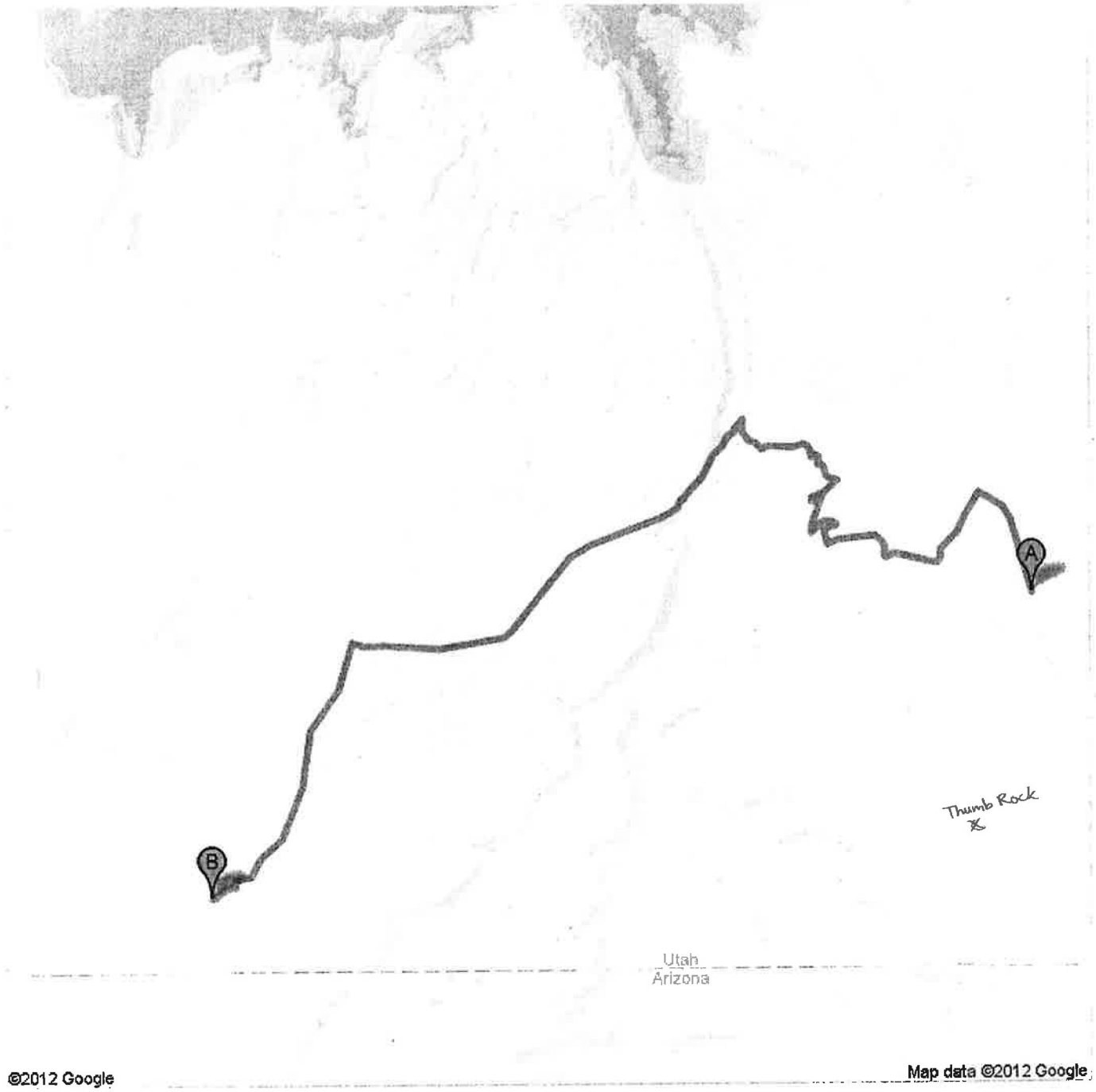
Msg @ 505-516-9742

12:20 PM 10-29-12

Willie Called @ 1:20 PM
Lives 17 Miles From Chapin House
on Piute Mesa, Utah Just North
of Thumb Rock -

Google

Directions to Co Rd 488
17.7 mi – about **1 hour 4 mins**



A Co Rd 434/Piute Creek Rd

1.	Head **north** on **Co Rd 434/Piute Creek Rd** Continue to follow Co Rd 434 About 6 mins	go 1.5 mi total 1.5 mi
2.	Turn left toward **Co Rd 434/Piute Creek Rd** About 6 mins	go 1.6 mi total 3.0 mi
3.	Continue straight onto **Co Rd 434/Piute Creek Rd** Continue to follow Co Rd 434 About 42 mins	go 10.8 mi total 13.8 mi
4.	Turn left to stay on **Co Rd 434** About 9 mins	go 3.5 mi total 17.3 mi
5.	Turn right onto **Co Rd 488** About 1 min	go 0.3 mi total 17.7 mi

B Co Rd 488

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.

EXHIBIT S

SAN JUAN COUNTY

Clerk/Auditor
John David Nielson
jdnielson@sanjuancounty.org

May 30, 2018

(sent via USPS & email)

Mr. Steve Boos
Ms. Maya Kane
Maynes, Bradford, Shipps & Sheftel, LLP
835 East Second Avenue, Suite 123
Durango, Colorado 81301

Re: Willie Grayeyes

Mr. Boos and Ms. Kane,

I am in receipt of your letter dated May 25, 2018, the Friday before a holiday weekend. I was out of the office at a polling location all day yesterday and just read the letter today.

It is unfortunate that you feel the need to pursue litigation, but I need to correct one thing in your letter. I did respond to your GRAMA request and mailed the responsive documents last Friday morning. When you receive those documents you will see that Ms. Black did fill out a formal voter challenge form that met the requirements of the statute.

Regarding the other claim in your letter, I was not overstepping into the authority of the Lt. Governor. The statutes (Utah Code Ann. 20A-9-202(4)) make it my responsibility to accept declarations of candidacy from candidates who meet with the qualification requirements, and I can't do that when I know a candidate does not meet those requirements. I simply informed Mr. Grayeyes and the San Juan County Democratic Party representative of that fact.

Sincerely,

John David Nielson
San Juan County Clerk/Auditor
435-587-3223

EXHIBIT T

MBSS
MAYNES, BRADFORD, SHIPPS & SHEFTEL LLP
ATTORNEYS AT LAW

THOMAS H. SHIPPS
SAM W. MAYNES
STEVEN C. BOOS**
ADAM T. REEVES
ELISABETH TAKEUCHI
CHARLES C. SPENCE+
SHAY L. DENNING++

*Also Admitted in Arizona and Navajo Nation
**Also Admitted in Arizona, New Mexico, Utah and Navajo Nation
+Also Admitted in New Mexico, Idaho, Utah and Wyoming
++Also Admitted in New Mexico
^^ Also Admitted in Arizona

SPECIAL COUNSEL:
SHERRI D. WAY
DAVID C. CRIPE

ASSOCIATES:
ANDREW HANSEN
DANIEL F. MCCARL
MAYA L. KANE

OF COUNSEL
PATRICIA A. HALL*
JOHN BARLOW SPEAR

JANICE C. SHEFTEL - RETIRED
BYRON V. BRADFORD (1907-1985)
FRANK E. (SAM) MAYNES (1933-2004)

sboos@mbssllp.com

May 3, 2018

John David Nielson, Clerk/Auditor
San Juan County
Post Office Box 338
Monticello, UT 84535

(Sent by email to: jdnielson@sanjuancounty.org)

Re: Wendy Black residency challenge of Willie Grayeyes

Dear Mr. Nielson:

I submit the attached Utah Government Records Access and Management Act (GRAMA) Request Form and ask that you provide us with the following:

1. All documentation related to the challenge initiated by Wendy Black of Blanding, Utah, on March 20, 2018,[1] regarding Mr. Willie Grayeyes' residence ("Challenge"), including but not limited to the original Challenge document filed by Ms. Black, any and all documents containing the facts and circumstances forming the basis for the Challenge, and the notarized affidavit signed by Ms. Black, as required by UCA § 20A-3-202.3(1)(a)(ii)(D);
2. All other documentation relating to information in the possession of San Juan County that relates to the Challenge, or any challenge filed by anyone else from January 1, 2018 to the present date against Mr. Grayeyes regarding his status as a voter or candidate for elected office in San Juan County, including email communications, files, memoranda, and notes;
3. All information that relates to San Juan County's investigation of Mr. Grayeyes' residency or investigations conducted by any other governmental or private entity, including but not limited to memoranda, email communications, notes, electronic and hardcopy files, the dates, times, locations, names of individuals, and notes relating to the investigation;

[1] Since you have not yet provided a copy of the challenge, we believe this is the correct date the Challenge was filed. If this is not the correct date, then Challenge shall be interpreted to apply to the Challenge that Ms. Black filed on any other date.

Releasing such records benefits the public, rather than an individual, and therefore I request an expedited response pursuant to Utah Code Ann. 63-2-204(3)(b). The records I request relate to an investigation of the residence Mr. Willie Grayeyes, who is a candidate for Commission District 2. The resolution of this matter will determine whether San Juan County deems Mr. Grayeyes eligible to continue his candidacy. All individuals in the new, court-ordered Commission District 2 have an interest in these documents, specifically in understanding what facts and circumstances exist to support the Challenge filed Ms. Black and what San Juan County has done to investigate the Challenge. Releasing this information in an expeditious manner will assist the County in adhering to election deadlines, it will contribute to the transparency and promote the integrity of the electoral process in the County and will help restore the faith of voters who believe that Mr. Grayeyes is being unfairly targeted by the County.

Before copying all records relating to the foregoing requests, please allow me access for the purposes of inspection. If the County chooses to withhold documents, please provide a privilege log for all withheld documents.

Sincerely,

MAYNES, BRADFORD, SHIPPS & SHEFTEL, LLP
Durango Office

Steven C. Boos

:SCB

UTAH GOVERNMENT RECORDS REQUEST FORM

TO: SAN JUAN COUNTY CLERK

Address of government office: 117 SOUTH MAIN P.O. Box 338

MONTICELLO UTAH 84535

Description of records sought (records must be described with reasonable specificity):

All documentation related to the challenge initiated by Wendy Black of Blanding,Utah on March 20, 2018, regarding the residence ofWillie Grayeyes including but not limited to the original challenge document file by Ms. Black any and all documents containing the facts and circumstances forming the basis for the challenge, and the notarized affidavit signed by Ms Black, as required by UCA section 20A-3-202.3(1)(a)(ii)(D). Others as specied in letter.

☒ I would like to inspect (view) the records.

☒ I would like to receive a copy of the records. I understand that I may be responsible for fees associated with copying charges or research charges as permitted by UCA 63-2-203. I authorize costs of up to $ 500.00

☐ UCA 63-2-203 (4) encourages agencies to fulfill a records request without charge. Based on UCA 63-2-203 (4), I am requesting a waiver of copy costs because:

☒ releasing the record primarily benefits the public rather than a person. Please explain:

The Wendy Black challenge to Willie Grayeyes has a direct bearing on the 2018 election for San Juan County Commission District Two and has already received wide spread media attention.

☐ I am the subject of the record.

☒ I am the authorized representative of the subject of the record. (See attachment)

☐ My legal rights are directly affected by the record and I am impoverished. (Please attach information supporting your request for a waiver of the fees.)

If the requested records are not public, please explain why you believe you are entitled to access.

☐ I am the subject of the record.

☐ I am the person who provided the information.

☐ I am authorized to have access by the subject of the record or by the person who submitted the information. Documentation required by UCA 63-2-202, is attached.

☐ Other. Please explain:

☒ I am requesting expedited response as permitted by UCA 63-2-204 (3)(b). (Please attach information that shows your status as a member of the media and a statement that the records are required for a story for broadcast or publication; or other information that demonstrates that you are entitled to expedited response.)

Requester's Name: Steven Boos

Mailing Address: 835 East 2nd Ave., Suite 123, Durango, CO 81301

Daytime telephone number: 970-247-1755 **Date:** May 3, 2018

Signature:

Case 4:18-cv-00041-DN Document 2-21 Filed 06/26/18 Page 5 of 5

I, Willie Greyeyes, am represented by the law firm of Maynes, Bradford, Shipps and Sheftel, LLP, and specifically by Maya Kane and Steven Boos, in responding to the letter I received from the San Juan County, Utah, Clerk/Auditor. I authorize Steven Boos and/or Maya Kane to request information from San Juan County pursuant to the Utah Government Records Access and Management Act (GRAMA) regarding my candidacy, the challenged to my candidacy, the related investigation, and all other matters that Mr. Boos and Ms. Kane deem relevant.

Willie Grayeyes _____ Date May 3, 2018

UNITED STATE DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

Willie Grayeyes, an individual, and **Terry Whitehat**, an individual, Plaintiffs, vs. **Spencer Cox**, as Lieutenant Governor of the state of Utah, **John David Nielson**, as Clerk/ Auditor of San Juan County, a political subdivision of the state of Utah, **Kendall G. Laws**, as Attorney of San Juan County a political subdivision of the state of Utah, **Colby Turk**, as Deputy Sheriff in the Sheriff's Office of San Juan County, a political sub-division of the state of Utah, and **Wendy Black**, an individual, Defendants.	**ORDER FOR PRELIMINARY INJUNCTION** Civil No. 4:18-cv-00041-DN Judge: David Nuffer

Pursuant to Plaintiffs' Motion for Preliminary Injunction, and good cause appearing therefore, the Court hereby ORDERS Defendants Spencer Cox and John David Nielson to restore the voting franchise and ballot access to Willie Grayeyes pending the final disposition of this case so that Mr. Greyeys can stand for election as a candidate for San Juan County Commissioner in District 2 in November 2018.

Dated this _____ day of _____, 2018.

BY THE COURT:

_____
Honorable David Nuffer