

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Treva Thompson, Timothy Lanier,)	
Pamela King, Darius Gamble,)	
and Greater Birmingham Ministries,)	
)	
Plaintiffs,)	
)	Civil Action No.
v.)	2:16-cv-783-ECM-SMD
)	
John H. Merrill, in his official capacity)	
as Secretary of State, James Snipes, III, in)	
his official capacity as Chair of the)	
Montgomery County Board of Registrars,)	
and Leigh Gwathney, in her official)	
capacity as Chair of the Board of Pardons)	
and Paroles,)	
)	
Defendants.)	

**SECRETARY OF STATE JOHN H. MERRILL’S BRIEF IN OPPOSITION TO
PLAINTIFF GBM’S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO COUNT 18 (DOC. 260)**

This litigation involves a multi-pronged attack on Alabama’s laws concerning felon disenfranchisement. Plaintiff Greater Birmingham Ministries moved for summary judgment solely on its statutory challenge, brought pursuant to the National Voter Registration Act of 1993, to the STATE OF ALABAMA MAIL-IN VOTER REGISTRATION FORM. Doc. 260. Secretary of State John H. Merrill opposes GBM’s motion because, for the reasons set out below and in his own summary judgment papers, doc. 261 at 111-36, Secretary Merrill is the party entitled to judgment as a matter of law.

I. Introduction.

The National Voter Registration Act of 1993 “erect[s] a complex superstructure of federal regulation atop state voter-registration systems. The Act has two main objectives: increasing voter registration and removing ineligible persons from the State’s voter registration rolls.” *Husted v.*

A. *Philip Randolph Inst.*, 584 U.S. ____, 138 S. Ct. 1833, 1838 (2018) (internal citations and quotation marks omitted). As to the first objective, the NVRA “requires States to provide simplified systems for registering to vote in federal elections.” *Arizona v. Inter Tribal Council of Arizona*, 570 U.S. 1, 5 (2013) (cleaned up). “The Act requires each State to permit prospective voters to register to vote in elections for Federal office by any of three methods: simultaneously with a driver’s license application, in person, or by mail.” *Id.* (internal citations and quotation marks omitted). Mail-in registration is pertinent here.

The NVRA provides, *inter alia*, that the Election Assistance Commission (a federal agency), “in consultation with the chief election officers of the States, shall develop a mail voter registration application form for elections for Federal office,” 52 U.S.C. § 20508(a)(2), *i.e.*, the Federal Form, *Arizona*, 570 U.S. at 4; *League of Women Voters of the United States v. Newby*, 238 F.Supp.3d 6, 7-8 (D.D.C. 2017) (discussing the Federal Form and the federal agency responsible for it). To promote “simplified systems for registering to vote,” *Arizona*, 570 U.S. at 5, the NVRA provides that the form “require only such . . . information . . . as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.” 52 U.S.C. § 20508(b)(1). The form must include “a statement that--(A) specifies each eligibility requirement (including citizenship); (B) contains an attestation that the applicant meets each such requirement; and (C) requires the signature of the applicant, under penalty of perjury.” 52 U.S.C. § 20508(b)(2). The States must “accept and use” the Federal Form, 52 U.S.C. § 20505(a)(1), and the States may develop a form of their own that meets the same requirements, 52 U.S.C. § 20505(a)(2). The STATE OF ALABAMA MAIL-IN VOTER REGISTRATION FORM, which is challenged here, is such a form.

The State mail-in form “specifies each eligibility requirement” for applicants on one simple page. The applicant must be (1) a United States citizen, (2) who lives in her Alabama county of registration, (3) who will be 18 years old by Election Day, (4) who has not been adjudged incompetent, and (5) who has not convicted of a disqualifying felony. GBM contends that the form does not “specif[y] each eligibility requirement” because it could be even *more* specific. In GBM’s view, the NVRA requires Secretary Merrill to list each disqualifying felony on the voter registration form itself, as if not committing each disqualifying felony is a separate eligibility requirement (*i.e.*, “You must be someone (1) who is a U.S. citizen, (2) who lives in Alabama, (3) who will be 18 by Election Day, (4) who is not incompetent, and (5) who has not committed murder, and (6) who has not committed terrorism, and (7) who has not committed kidnapping, *etc.*”). No principle of statutory interpretation demands that unnatural reading. The Secretary’s reading of the Act is the more ordinary and natural reading. *See Leocal v. Ashcroft*, 543 U.S. 1, 9 (2004) (“[W]e must give words their ‘ordinary or natural’ meaning.”). And GBM’s you-can-always-be-more-specific reading would lead to absurd results and potentially render § 20508(b)(2)(A) unconstitutional. Thus, GBM’s motion for partial summary judgment as to Count 18, doc. 260, is due to be denied.

II. Factual Background.

Alabama has disenfranchised convicted criminals for at least two centuries.¹ As of the early 1990s, all felonies were disenfranchising. In 1996, Alabama voters revised the State Constitution to provide, *inter alia*, that only felonies involving moral turpitude are disenfranchising. Ala. Act No. 95-443; doc. 257-8 at 2 (Amendment 1). In 2012, Alabama voters

¹ Ala. Const. of 1819 art. VI, § 5; Ala. Const. of 1861 art. VI, § 5; Ala. Const. of 1865 art. VIII, § 1; Ala. Const. of 1868 art. VII, § 3; Ala. Const. of 1875 art. VIII § 3; *Hunter v. Underwood*, 471 U.S. 222, 223 n. ** (1985) (discussing 1901 Constitutional provision as enacted).

replaced the 1996 Amendment with a new one that repeated the existing language and added a subsection on secret ballots. Ala. Act No. 2011-656.

Today, in pertinent part, the Alabama Constitution provides: “Every citizen of the United States who has attained the age of eighteen years and has resided in this [S]tate and in a county thereof for the time provided by law, if registered as provided by law, shall have the right to vote in the county of his or her residence.” Ala. Const. art. VIII, § 177(a). And further that, “No person convicted of a felony involving moral turpitude, or who is mentally incompetent, shall be qualified to vote until restoration of civil and political rights or removal of disability.” Ala. Const. art. VIII, § 177(b).

The State mail-in form reflects these eligibility requirements as follows:

To register to vote in the State of Alabama, you must:

- ▶ Be a citizen of the United States.
- ▶ Live in Alabama.
- ▶ Be at least 18 years of age on or before election day.
- ▶ Not have been convicted of a disqualifying felony, or if you have been convicted, you must have had your civil rights restored.
- ▶ Not have been declared "mentally incompetent" by a court.

Doc. 257-35 at 19.

In 2017, Alabama enacted a statute listing (and limiting) which felonies involve moral turpitude for voting purposes. Ala. Act No. 2017-378. In 2019, Alabama created a new felony of aggravated theft by deception and added it to the list of disenfranchising felonies. Ala. Act No. 2019-513. *See also* Ala. Code § 17-3-30.1 (codifying, as relevant here, Ala. Act Nos. 2017-378 & 2019-513).

In 2018, the Secretary of State's office worked with the Election Assistance Commission to change the Federal Form's State-specific instructions for Alabama² with respect to felon disenfranchisement. Declaration of Ed Packard, doc. 257-35, at ¶¶ 2-9. The Federal Form now provides:

9. Signature. To register in Alabama you must:

- be a citizen of the United States
- be a resident of Alabama and your county at the time of registration
- be 18 years old before any election
- not have been convicted of a felony involving moral turpitude (or have had your civil and political rights restored). The list of moral turpitude felonies is available on the Secretary of State web site at: sos.alabama.gov/mtfelonies

- not currently be declared mentally incompetent through a competency hearing
- swear or affirm to "support and defend the Constitution of the U.S. and the State of Alabama and further disavow any belief or affiliation with any group which advocates the overthrow of the governments of the U.S. or the State of Alabama by unlawful means and that the information contained herein is true, so help me God"

Federal Form State Instructions at Alabama (page 8 of 27), *available at* https://www.eac.gov/sites/default/files/eac_assets/1/6/Federal_Voter_Registration_ENG.pdf (last visited September 14, 2020).

Thereafter, the Secretary of State amended the State mail-in form to similarly provide information about which felonies are disenfranchising. The Voter Declaration section of the form repeats the qualifications language (set out at 4, *supra*) and now includes additional language in a parenthetical that: "The list of disqualifying felonies is available on the Secretary of State's web site at: sos.alabama.gov/mtfelonies)"³ The Voter Declaration appears as follows:

² The Federal Form contains an application, general instructions, and State-specific instructions. 11 C.F.R. § 9428.3.

³ GBM asserts that "a reader could reasonably interpret the word 'disqualifying' to be *describing* felonies as disqualifying rather than *modifying* the term felonies to indicate that only a discrete set of felonies is disqualifying." Doc. 260 at 8. The word "disqualifying" was added to

Voter Declaration - Read and Sign Under Penalty of Perjury	
<ul style="list-style-type: none"> ▶ I am a U.S. citizen ▶ I live in the State of Alabama ▶ I will be at least 18 years of age on or before election day ▶ I am not barred from voting by reason of a disqualifying felony conviction (The list of disqualifying felonies is available on the Secretary of State's web site at: sos.alabama.gov/mtfelonies) ▶ I have not been judged "mentally incompetent" in a court of law 	<p>I solemnly swear or affirm to support and defend the constitution of the United States and the State of Alabama and further disavow any belief or affiliation with any group which advocates the overthrow of the governments of the United States or the State of Alabama by unlawful means and that the information contained herein is true, so help me God.</p>
YOUR SIGNATURE	DATE (mm/dd/yyyy)
If you falsely sign this statement, you can be convicted and imprisoned for up to five years.	

Doc. 257-35 at 19.

Thus, the State mail-in form “include[s] a statement that . . . specifies each eligibility requirement”—citizenship, residence, age, *etc.*—and further contains a statement that both makes clear that not all felonies are disqualifying and alerts felons to how they can get more information. Additionally, though not reproduced above, the form includes two phone numbers for the Secretary’s Elections Division (1-800-274-8683 and 334-242-7210) as well as an address and phone number for each Board of Registrars’ office in the State. *See* doc. 257-35 at 19.

the voter registration forms in 2006 to clarify that not *all* felonies are disenfranchising after the Attorney General’s issuance of his Opinion to Hon. William C. Segrest, Executive Director, Board of Pardons and Paroles, dated March 18, 2005, A.G. No. 2005-092, doc. 257-18, addressing which felonies involve moral turpitude. *See Chapman v. Gooden*, 974 So.2d 972, 980 (Ala. 2007) (discussing the *Segrest* opinion and the new voter registration forms in a lawsuit brought by plaintiffs whose felonies did not involve moral turpitude); Exhibit 1 at 1 (letter from then-Secretary of State Worley concerning promulgation of a new voter registration form “due to a recent opinion of the Attorney General of Alabama (2005-092)”). To the extent that any ambiguity remained, it was eliminated with the change described in the text. If all felonies were disenfranchising, it would be nonsensical to use the phrase “disqualifying” and create a list. Instead, it would only be necessary for the State mail-in form to refer to “a felony conviction,” as it did before 2006, *Chapman*, 974 So.2d at 980.

III. Summary judgment standard.

Summary judgment is appropriate where “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). “The court views the evidence, and all reasonable inferences drawn therefrom, in the light most favorable to the nonmoving party,” *Broadway v. State Farm Mut. Auto. Ins. Co.*, 364 F. Supp. 3d 1329, 1335 (M.D. Ala. 2019), namely Secretary Merrill.

IV. The State mail-in form includes a statement that specifies Alabama’s eligibility requirements in compliance with § 20508(b)(2)(A).

The NVRA requires that the Federal Form include, *inter alia*, “a statement that--(A) specifies each eligibility requirement (including citizenship).” 52 U.S.C. § 20508(b)(2)(A). Alabama must “accept and use” the Federal Form, 52 U.S.C. § 20505(a)(1), and may develop a form of its own that meets the same requirements, 52 U.S.C. § 20505(a)(2). The State mail-in form complies with § 20508(b)(2)(A) when the provision is read in an ordinary and natural way. By contrast, GBM’s strained reading would lead to absurd results and potentially render the provision unconstitutional.

a. Secretary Merrill has the better reading of § 20508(b)(2)(A)’s requirement to include a statement that specifies each eligibility requirement.

“We begin, as courts always should in matters involving statutory interpretation, with the statutory language.” *Durr v. Shinseki*, 638 F.3d 1342, 1344 (11th Cir. 2011). Section 20508(b)(2)(A) requires that the Federal Form “include a *statement* that-- (A) *specifies* each eligibility requirement (including citizenship),” 52 U.S.C. § 20508(b)(2)(A) (emphasis added), and that requirement carries over to any State mail-in voter registration form, 52 U.S.C. § 20505(a)(2).

On earlier cross motions for summary judgment, this Court considered the meaning of “specify” as follows:

“Specify” does not appear to be a defined term in the statute. “In the absence of a statutory definition of a term, [courts] look to the common usage of words for their meaning.” *CBS Inc. [v. PrimeTime 24 Joint Venture]*, 245 F.3d [1217,] 1222 [(11th Cir. 2001)]. “Specify” is defined in BLACK’S LAW DICTIONARY as “to mention specifically; to state in full and explicit terms; to point out; to tell or state precisely or in detail; to particularize; or to distinguish by words one thing from another.” BLACK’S LAW DICTIONARY (6th ed. 1990); *see also* WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY, Unabridged. 2019 (defining “specify” as “to mention or name in a specific or explicit manner,” “to include as an item in a specification,” “to make specific: to give a specific character or application to.”). In the context of interpreting a different statute, the Supreme Court has cited the following definition of “specify:” “to name or state explicitly or in detail.” *See Kucana v. Holder*, 558 U.S. 233, 243 & n.10 (2010) (citing WEBSTER’S NEW COLLEGIATE DICTIONARY 1116 (1974)).

Doc. 179-1 at 21 (first alteration by the Court). The question presented here, however, is not simply how to interpret the single word “specify,” but rather the phrase “a statement that specifies each eligibility requirement.” For as the Eleventh Circuit has warned, “Courts should avoid slicing a single word from a sentence, mounting it on a definitional slide, and putting it under a microscope in an attempt to discern the meaning of an entire statutory provision.” *Wachovia Bank, N.A. v. United States*, 455 F.3d. 1261, 1267 (11th Cir. 2006). Or as Judge Learned Hand elegantly put it, “the meaning of a sentence may be more than that of the separate words, as a melody is more than the notes.” *Helvering v. Gregory*, 69 F.2d 809, 810–811 (2d Cir. 1934); *see also* A. Scalia & B. Garner, *Reading Law* 356 (2012) (“Adhering to the *fair meaning* of the text (the textualist’s touchstone) does not limit one to the hyperliteral meaning of each word in the text. . . . The full body of a text contains implications that can alter the literal meaning of individual words.”) (footnote omitted)). This point is critical because “[a] word in a statute may or may not extend to

the outer limits of its definitional possibilities.” *Wachovia Bank*, 455 F.3d. at 1267 (*quoting Dolan v. United States Postal Serv.*, 546 U.S. 481, 486 (2006)).⁴

Here, the Court should look to “the common usage of words” to determine that the State mail-in form “specifies each eligibility requirement.” Doc. 179-1 at 21 (*citing CBS Inc.*, 245 F.3d at 1222); *see also Harrison v. Benchmark Electronics Huntsville, Inc.*, 593 F.3d 1206, 1212 (11th Cir. 2010) (“We assume that Congress used the words in a statute as they are commonly and ordinarily understood”) (cleaned up). Under an ordinary reading of § 20508(b)(2)(A), the State mail-in form specifies each eligibility requirement imposed by the State when it lists the five requirements each applicant must meet.

This reading is bolstered by reading § 20508(b)(2)(A) in context, which reveals that GBM is demanding that the mail-in voter registration form be redesigned such that an out-sized proportion of the form would address an issue that applies to a small percentage of the population is properly rejected. Stepping back to the further point, the NVRA does much more than just create the Federal Form. It also reaches voters through the State’s motor vehicle department and various

⁴ *Kucana* itself—on which GBM previously relied, doc. 108 at 2-3, and continues to rely, doc. 260 at 7—based its holding “that the key words ‘specified under this subchapter’ refer to statutory, but not regulatory, specifications” on multiple factors beyond a dictionary definition. *Kucana v. Holder*, 558 U.S. at 237. When it did consider the dictionary, the Court said that “‘Specified’ is not synonymous with ‘implied’ or ‘anticipated,’” before parenthetically citing WEBSTER’S NEW COLLEGIATE DICTIONARY and a Third Circuit decision by then-Judge Alito that used the “marginally ambiguous” language GBM cites. *Kucana*, 558 U.S. at 243 n. 10. In comparing “implied” or “anticipated” to “specified,” the Court was not settling on the level of specificity required (which is the issue here), but noting the difference between specificity and its complete absence (insofar as the Attorney General’s authority was not found in the subchapter, that is, statute, at all). *Id.* Indeed, Court then moved on to consider what “under this subchapter” meant since it was clear that the specification that existed was regulatory, not statutory. *Id.* at 244-45. Further, the Court’s consideration of factors beyond dictionary meanings, including context and constitutional concerns, *id.* at 237, 245-47, 251-52, supports Secretary Merrill’s position.

voter registration agencies and it imposes requirements concerning maintenance of the voter registration list. 52 U.S.C. §§ 20501 *et seq.*

Stepping closer and focusing on the Federal Form, there is more to it than the requirement to “include a statement that . . . specifies each eligibility requirement.” The Federal Form must meet the requirements set out in 52 U.S.C. § 20508(b). First, the Federal Form “may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.” 52 U.S.C. § 20508(b)(1). Second, it “shall include a *statement* that-- (A) *specifies each eligibility requirement (including citizenship)*; (B) contains an attestation that the applicant meets each such requirement; and (C) requires the signature of the applicant, under penalty of perjury.” 52 U.S.C. § 20508(b)(2) (emphasis added). Third, the Federal Form “may not include any requirement for notarization or other formal authentication.” 52 U.S.C. § 20508(b)(3). And, fourth, the form “shall include, in print that is identical to that used in the attestation portion of the application--(i) the *information required in section 20507(a)(5)(A) and (B) of this title*; (ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and (iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.” 52 U.S.C. § 20508(b)(4) (emphasis). “[T]he *information required in section 20507(a)(5)(A) and (B) of this title*,” 52 U.S.C. § 20508(b)(4) (emphasis), is information about “voter eligibility requirements; and penalties provided by law for submission of a false voter registration application.” 52 U.S.C. § 20507(a)(5)(A) & (B).

Stepping closer to focus on a statement of eligibility requirements, Alabama imposes more than simple avoidance of a disqualifying felony conviction. One of Alabama's eligibility requirements is that a registrant resides in the State. Residence it can sometimes be quite complicated as revealed in, for instance, the election contest at issue in *Horwitz v. Kirby*, 197 So. 3d 943 (Ala. 2015). Similarly, the Alabama Code addresses domicile for voters whose “dwelling . . . is located partly in two or more counties, districts, or precincts,” Ala. Code § 17-3-33, and for “[a]ny person who lives on a line between counties, districts, or precincts,” Ala. Code § 17-3-34. Neither the Alabama-specific instructions for the Federal Form nor the State mail-in form include this level of detail. *Cf. Hernández v. Mesa*, 589 U.S. ___, ___, 140 S. Ct. 735, 741-42 (2020) (“No law pursues its purposes at all costs.”) (internal citations and quotation marks omitted); *see also Kucana v. Holder*, 558 U.S. 233, 252 (2010). Another of Alabama's eligibility requirements is that the registrant be a U.S. citizen. The question of whether persons born in American Samoa are U.S. citizens is currently being litigated in the federal courts. *Fitisemanu v. United States*, 426 F. Supp. 3d 1155 (D. Utah 2019) (holding that they are), *on appeal as* Case Nos. 20-4017 & 20-4019 (10th Cir. pending). While undoubtedly important for some people, the issue is not addressed in the Alabama-specific instructions for the Federal Form or on the State mail-in form.

Looking at additional aspects of the relevant context, § 20508(b)(2)(A) only requires “a *statement* that—(A) specifies each eligibility requirement (including citizenship).” 52 U.S.C. § 20508(b)(2)(A). “Statement” limits “specifies” to an extent because a statement is not commonly read to call for an exhaustive explanation.

Other provisions of the NVRA also suggest that something less than outer limits of specification is appropriate. *Cf. Arkansas Games & Fish Com’n v. United States*, 568 U.S. 23, 36 (2012) (“But the first rule of case law as well as statutory interpretation is: Read on.”); *Wachovia*

Bank, N.A. v. United States, 455 F.3d. 1261, 1267 (11th Cir. 2006) (“[C]ontext is king.”). For instance, one provision earlier, § 20507(a)(5) provides that the States shall “*inform applicants* under sections 20504 [motor voter], 20505 [mail registration], and 20506 [voter registration agencies] of this title of -- (A) *voter eligibility requirements . . .*.” 52 U.S.C. § 20507(a)(5)(A) (emphasis added). *Informing applicants* sounds a lot less onerous than specifying eligibility requirements to the *n*th degree.

Similarly, a comparison to other voter registration opportunities governed by the NVRA is informative. While the provisions related to the mail-in registration form and voter registration agencies use the “specify” language, 52 U.S.C. §§ 20506(A)(i)(I) & 20508(b)(2)(A), the motor voter provision uses different language.⁵ In his original motion to dismiss, Secretary Merrill focused on the motor voter requirement that the registration form “shall include a statement that—*states* each eligibility requirement . . . ,” 52 U.S.C. § 20504(c)(2)(C)(i) (emphasis added).⁶ If Congress meant something different by the different language used here, it gave no indication in the text of the NVRA what difference was intended or why.

Importantly, a Congressional choice to mean something more intense by “specify” than by “states” would conflict with GBM’s theory underlying this claim. GBM has expressed concern that potential applicants would not have any and all questions answered on the face of the voter registration form, as it believes Congress intended.⁷ See *e.g.*, doc. 260 at 10-11. However, GBM

⁵ Section 20504 requires that the States make the opportunity to register to vote or update voter registration a part of the process for issuing a driver’s license or other “personal identification document issued by a State motor vehicle authority,” 52 U.S.C. § 20502(3), hence the motor voter nomenclature.

⁶ As set out in the Secretary’s own summary judgment papers, doc. 261 at 113-14, the supplemental complaint is not as clear as GBM portrays it to be.

⁷ Remarkably, GBM is under the impression that felony convictions are private matters, doc. 260 at 11-12, rather than public events. Further, GBM cites a portion of the legislative history that says Congress (out of respect for privacy) did not want anyone second guessing someone’s

does not explain why Congress would have had that concern for the mail-in voter registration forms, but not the motor voter forms. Instead, GBM glosses over the different language, assuming it all carries the same meaning. *See* doc. 260 at 11 (“Congress included the numerous provisions requiring [S]tates to specify eligibility requirements on *all registration forms* to ease voting access by allowing voters to assess their eligibility at the point of potential registration—whether it be at a voter registration drive, *a motor vehicles department*, or another public interest agency.”) (emphasis added); *see also id.* at 10 n. 5 (assuming the same standard applies to motor voter applications as to applications at voter registration agencies).

It is plain that the motor voter provision does not carry the meaning that GBM ascribes to the mail-in provision. When the United States threatened suit against the State and State officials in 2015 concerning the motor voter provision, doc. 257-33 at ¶ 1, the resulting Memorandum of Understanding and an amendment thereto demanded “an NVRA-compliant voter registration application,” *e.g.*, doc. 257-33 at ¶¶ 27, 31, 38; doc. 257-34 at ¶ 38, though, admittedly, the primary focus of the MOU was to incorporate voter registration into the Alabama Law Enforcement Agency electronic process.⁸ The revisions to ALEA’s processes were to be completed by late 2016. *See* doc. 257-33 at 16-22 (signatures in November 2015); doc. 257-34 at ¶ 38 (extending latest implementation deadline to ten months after the original effective date); *see also* Fed. R. Civ. P. 30(b)(6) deposition of ALEA, Exhibit 2, at 29:1-3. When ALEA was deposed more than two years later, the voter declaration Agency was using was as follows:

decision not to register, doc. 260 at 11, and quickly turns it into an unsupported assertion that such privacy concerns mean “Congress . . . sought to avoid potential voters having to disclose [their felony convictions] to determine eligibility,” *id.* at 12.

⁸ Interestingly, GBM does not believe the NVRA could contemplate the internet, doc. 260 at 9-10 n.5, but the U.S. Department of Justice insisted that it contemplates computerized applications, *see e.g.*, doc. 257-33 at ¶¶ 20, 24, 27-30, 38-43.

Voter Declaration
Read and Sign Under Penalty of Perjury

Would you like to register to vote? Yes

Do you want to use this address to update voter information? Yes

To register to vote, you must agree that the following statements are true.

1. I am a U.S. citizen
2. I am a legal resident of the State of Alabama
3. I will be at least 18 years of age on or before Election Day
4. I am not barred from voting by reason of a disqualifying felony conviction
5. I have not been judged "mentally incompetent" in a court of law

I solemnly swear or affirm to support and defend the constitution of the United States and the State of Alabama and further disavow any belief or affiliation with any group which advocates the overthrow of the governments of the United States or the State of Alabama by unlawful means and that the information contained herein is true, so help me God.

If you falsely agree to this statement, you can be convicted and imprisoned for up to five years.

Signature

Exhibit 2 at 25:7-26:23, 29:11-30:4 & Exhibit 2 to the deposition. Similarly, pursuant to the MOU, doc. 257-33 at ¶ 31, voter registration was incorporated into ALEA's APPLICATION FOR RENEWAL OR DUPLICATE LICENSE FOR ALABAMA DRIVERS TEMPORARILY OUT OF STATE, which, in pertinent part, provided at the deposition:

Voter Registration

The decision to register to vote is yours. If you decide to register to vote, the office at which you are submitting this application will remain confidential and will be used only for voter registration purposes. If you decline to register, your decision will remain confidential and will be used only for voter registration purposes. All information in the "Driver Information" section on the previous page must be filled out.

Deadline for submitting application: Voter registration and updating of voter records is closed during the 14 days prior to each election in Alabama.

Completion of the following information is optional					
Address where you last registered to vote	Street Address	City	County	State	Zip Code

Voter Declaration - Read and Sign Under Penalty of Perjury	
<ul style="list-style-type: none"> ■ I am a U.S. citizen ■ I am a legal resident of the State of Alabama ■ I will be at least 18 years of age on or before Election Day ■ I am not barred from voting by reason of a disqualifying felony conviction ■ I have not been judged "mentally incompetent" in a court of law 	<p>I solemnly swear or affirm to support and defend the constitution of the United States and the State of Alabama and further disavow any belief or affiliation with any group which advocates the overthrow of the governments of the United States or the State of Alabama by unlawful means and that the information contained herein is true, so help me God.</p>

If you falsely sign this statement, you can be convicted and imprisoned for up to five years.

Voter Signature	Date
-----------------	------

Exhibit 2 at 34 (Exhibit 3 to the deposition); *see also* Exhibit 2 at 30:6-31:5. Thus, as pertinent here, the eligibility requirement to not be "barred from voting by reason of a disqualifying conviction" is the same on the ALEA forms as on the State mail-in form, *supra*.

Nonetheless, GBM insists that the Alabama Law Enforcement Agency is one of "several" State agencies—they name two—that is potentially not in compliance with another provision of the NVRA because the mail-in form does not list each disqualifying felony. Doc. 260 at 11. It would be surprising if GBM had identified a glaring problem with ALEA's motor voter operations which the Voting Section of the U.S. Department of Justice missed. It would be all the more surprising because GBM claims ALEA is potentially in violation of 52 U.S.C. § 20506(a)(6)(C)—which requires voter registration agencies to "provide each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration

application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses such assistance”—because § 20506 does not apply to ALEA. Instead, ALEA is governed by the motor voter provisions in § 20504.⁹ Section 20504 does not include a provision comparable to § 20506(a)(6)(C). *See* 52 U.S.C. § 20504, generally. Moreover, and as already noted, § 20504 requires a “statement that -- (i) *states* each eligibility requirement (including eligibility),” § 20504(c)(2)(C)(i) (emphasis added), such that either the standard of specificity varies across different voter registration forms or, more likely, the standard is not as exacting as GBM reads it to be. In any event, in an effort to assist potential voters, the Secretary has provided educational posters setting out the disqualifying felonies to ALEA, the Department of Human Resources, the Alabama Medicaid Agency, and the Alabama Department of Public Health, in addition to the Boards of Registrars. Third Declaration of Clay S. Helms, Exhibit 3, at ¶ 4 & Exhibit A thereto.

Finally, insofar as context is concerned, it is also important that the NVRA recognizes convictions can be disqualifying, and Congress responded to that fact by requiring the United States Attorneys’ offices to notify State officials of federal convictions and provide the information local election officials need to make eligibility assessments. 52 U.S.C. § 20507(g)(1)-(3).¹⁰ Though aware that convictions are disqualifying, and presumed to know that States’ laws on these issues vary, *Miles v. Apex Marine Corp.*, 498 U.S. 19, 32 (1990) (“We assume that Congress is

⁹ *See e.g.*, doc. 257-33 (MOU focused on § 20504); doc. 171-5 at 3-7 (Statement of Interest of the United States in another case explaining the United States’ view of the States’ obligations under these sections). In citing this Statement, Secretary Merrill neither adopts nor signals agreement with any other portion of the Statement or with the United States’ peculiar view that 28 U.S.C. § 517 authorizes it to file such Statements.

¹⁰ Similarly and later, as part of the Help America Vote Act of 2002 (HAVA), Congress required the States to coordinate statewide voter registration lists “with State agency records on felony status.” 52 U.S.C. § 21083(a)(2)(A)(ii)(I).

aware of existing law when it passes legislation.”) (citation omitted), Congress did not single out criminal convictions for more explicit treatment in terms of defining the degree to which each State’s law must be explained. By contrast, Congress was explicit about other matters, for instance notifications that must be provided to persons offered the opportunity to register at a voter registration agency, 52 U.S.C. § 20506(a)(6)(B).¹¹

Moving on from context, Secretary Merrill’s approach to compliance with section 20508(b)(2)(A) is also consistent with the approach of the Election Assistance Commission. As set out at 4, *supra*, the Commission revised the Alabama-specific instructions on the Federal Form in consultation with the Secretary of State’s office. *Arizona*, 570 U.S. at 5 (“Each state specific instruction must be approved by the EAC before it is included on the Federal Form.”). The Federal Form language is not identical to the language that Secretary Merrill adopted, *compare* 4, *supra*, *with* 6, *supra*, but it certainly follows the same broad principle of specifying the requirement that an applicant must not be disqualified by reason of a felony conviction and then providing means of obtaining further information about which felonies are disqualifying.

This Court should defer to the Commission’s interpretation because Congress has not “directly spoken to the precise question at issue,” *Chevron, U.S.A., Inc. v. Nat’l Res. Def. Council, Inc.*, 467 U.S. 837, 842 (1984). The Commission has been charged with actually developing the Federal Form, 52 U.S.C. § 20508(a)(2), including prescribing any necessary regulations, 52 U.S.C. § 20508(a)(1); *see also* 11 C.F.R. §§ 9428.3 *et seq.*, and that requires making policy judgments about, *inter alia*, the specificity of eligibility requirements. “The power of an administrative

¹¹ As part of HAVA, Congress imposed more requirements for the mail-in form which, while focused on eligibility and precise in their demands, did not address felony disenfranchisement. 52 U.S.C. § 21083(b)(4)(A) (requiring two questions and a statement that are explicitly set out in the statute and another statement that is described in the statute).

agency to administer a congressionally created . . . program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress.” *Chevron*, 467 U.S. at 843 (internal citation and quotation marks omitted; first alteration by the Court).

Alternatively, if *Chevron* deference does not apply, a lesser deference does. “[A]gencies charged with applying a statute necessarily make all sorts of interpretive choices, and while not all of those choices bind judges to follow them, they certainly may influence courts facing questions the agencies have already answered.” *United States v. Mead Corp.*, 533 U.S. 218, 227 (2001). “The fair measure of deference to an agency administering its own statute has been understood to vary with circumstances, and courts have looked to the degree of the agency’s care, its consistency, formality, and relative expertness, and to the persuasiveness of the agency’s position. The approach has produced a spectrum of judicial responses, from great respect at one end to near indifference at the other.” *Id.* at 228 (footnotes and citations omitted); *see also Skidmore v. Swift & Co.*, 323 U.S. 134, 139-40 (1944).

Deference is appropriate here because there is necessarily room for discretion in how specifically the eligibility requirements must be listed, *Shea v. Vialpando*, 416 U.S. 251, 262 n. 11 (1974) (“the sound principle of according deference to administrative practice normally applies only where the relevant statutory language is unclear *or susceptible to differing interpretations*”) (emphasis added), and the Commission is charged with working through those details in consultation with the chief election officials in the States, 52 U.S.C. § 20508(a)(2). The Secretary of State’s office relied on its election expertise in determining that not possessing a disqualifying felony conviction was one “eligibility requirement” (as opposed to several dozen or hundred separate eligibility requirements). And the office determined that a reference to a website made

more sense than a lengthy list of felonies. *See* Packard Decl., doc. 257-35, at ¶¶ 3, 9-11. The Commission indicated to the Secretary's office that it would consider the Secretary's proposal before ultimately following that course, Packard Decl., doc. 257-35, at ¶¶ 2-4.

The Commission recently followed a similar course with Tennessee. That State's instructions say: "To register in Tennessee you must: . . . not have been convicted of a felony, but if convicted, *your eligibility to register and vote depends upon the crime you were convicted of and the date of your conviction.* For more information about this process, call 877-850-4959 or visit <https://sos.tn.gov/restoration>. If your conviction has been expunged, you are not considered to have a felony conviction." Federal Form at 24 (emphasis added). These instructions, which essentially say "it's complicated" and then provide contact information, were updated this year. *Id.*

Importantly, it was *after* the Commission acted as to the Federal Form, that Secretary Merrill made changes to the State mail-in form. *See* Packard Decl., doc. 257-35, at ¶¶ 2-9. "[T]he well-reasoned views of the agencies implementing a statute 'constitute a body of experience and informed judgment to which courts *and litigants* may properly resort for guidance.'" *Mead Corp.*, 533 U.S. at 227 (internal citations and quotation marks omitted; alteration by the Court; italics added); *see also Skidmore*, 323 U.S. at 140. Secretary Merrill's judgment that he could similarly comply with § 20508(b)(2)(A) was reinforced by the fact that the form at issue is a *mail-in* form. It would not be practical to add a lengthy list of felonies to the State mail-in form, while keeping that form as one-page (front and back) form that can be easily completed and mailed. Packard Decl., doc. 257-35, at ¶¶ 3, 9-11; *id.* at 19-20. Accordingly, Secretary Merrill was highly justified in following the Commission's lead before investing the time and State monies necessary to revise the State mail-in form and have it mass produced

For all of these reasons, Secretary Merrill has the better reading of § 20508(b)(2)(A)'s requirement to include a statement that specifies each eligibility requirement.

b. GBM's reading of § 20508(b)(2)(A) would lead to absurd results.

While Alabama could simply disenfranchise all felons, it has chosen to let many vote—those whose felony convictions do *not* involve moral turpitude. GBM would read § 20508(b)(2)(A) to punish Alabama for this choice by demanding greater specification, no matter how cumbersome the result. But “the legislature is presumed to act with sensible and reasonable purpose,” and thus “a statute should, if at all possible, be read so as to avoid an unjust or absurd conclusion.” *Durr v. Shinseki*, 638 F.3d 1342, 1349 (11th Cir. 2011). Here, GBM's reading leads to absurd results.

Section 17-3-30.1(c) of the Alabama Code lists nearly 50 paragraphs of felonies which involve moral turpitude for purposes of voting, and thus are disqualifying felonies. The list is as follows:

- (1) Murder as defined in the following sections:
 - a. Subdivision (1) of subsection (a) of Section 13A-5-40.
 - b. Subdivision (2) of subsection (a) of Section 13A-5-40.
 - c. Subdivision (3) of subsection (a) of Section 13A-5-40.
 - d. Subdivision (4) of subsection (a) of Section 13A-5-40.
 - e. Subdivision (5) of subsection (a) of Section 13A-5-40.
 - f. Subdivision (6) of subsection (a) of Section 13A-5-40.
 - g. Subdivision (7) of subsection (a) of Section 13A-5-40.
 - h. Subdivision (8) of subsection (a) of Section 13A-5-40.
 - i. Subdivision (9) of subsection (a) of Section 13A-5-40.
 - j. Subdivision (10) of subsection (a) of Section 13A-5-40.
 - k. Subdivision (11) of subsection (a) of Section 13A-5-40.
 - l. Subdivision (12) of subsection (a) of Section 13A-5-40.
 - m. Subdivision (13) of subsection (a) of Section 13A-5-40.

- n. Subdivision (14) of subsection (a) of Section 13A-5-40.
- o. Subdivision (15) of subsection (a) of Section 13A-5-40.
- p. Subdivision (16) of subsection (a) of Section 13A-5-40.
- q. Subdivision (17) of subsection (a) of Section 13A-5-40.
- r. Subdivision (18) of subsection (a) of Section 13A-5-40.
- s. Subdivision (19) of subsection (a) of Section 13A-5-40.¹²
- t. Section 13A-6-2.
- (2) Manslaughter as defined in Section 13A-6-3.
- (3) Assault as defined in Section 13A-6-20, except for subdivision (5) of subsection (a) of Section 13A-6-20¹³, and Section 13A-6-21.
- (4) Kidnapping in the first degree as defined in Section 13A-6-43.
- (5) Kidnapping in the second degree as defined in Section 13A-6-44.
- (6) Rape as defined in Sections 13A-6-61 and 13A-6-62.
- (7) Sodomy as defined in Sections 13A-6-63 and 13A-6-64.
- (8) Sexual torture as defined in Section 13A-6-65.1.
- (9) Sexual abuse as defined in Sections 13A-6-66, 13A-6-67, and 13A-6-69.1.
- (10) Enticing a child to enter a vehicle for immoral purposes as defined in Section 13A-6-69.
- (11) Facilitating solicitation of unlawful sexual conduct with a child as defined in Section 13A-6-121.
- (12) Electronic solicitation of a child as defined in Section 13A-6-122.
- (13) Facilitating the on-line solicitation of a child as defined in Section 13A-6-123.
- (14) Traveling to meet a child for an unlawful sex act as defined in Section 13A-6-124.
- (15) Facilitating the travel of a child for an unlawful sex act as defined in Section 13A-6-125.
- (16) Human trafficking as defined in Sections 13A-6-152 and 13A-6-153.
- (17) Terrorism as defined in Section 13A-10-152.

¹² Two new subdivisions of the capital murder statute have been added since Ala. Code § 17-3-30.1(c) was first adopted in 2017. *Compare* Ala. Act No. 2017-378 *with* Ala. Code § 13A-5-40(a)(20) (murder in the presence of a child under the age of 14 when the victim is a parent or legal guardian of the child) & (21) (murder of a first responder acting in an official capacity), adopted by Ala. Act Nos. 2018-537 & 2019-514, respectively.

¹³ Section 13A-6-20(a)(5) concerns driving under the influence. Ala. Code § 13A-6-20(a)(5).

- (18) Soliciting or providing support for an act of terrorism as defined in Section 13A-10-153.
- (19) Hindering prosecution of terrorism as defined in Section 13A-10-154.
- (20) Endangering the water supply as defined in Section 13A-10-171.
- (21) Possession, manufacture, transport, or distribution of a destructive device or bacteriological or biological weapon as defined in Section 13A-10-193.
- (22) Selling, furnishing, giving away, delivering, or distribution of a destructive device, a bacteriological weapon, or biological weapon to a person who is less than 21 years of age as defined in Section 13A-10-194.
- (23) Possession, manufacture, transport, or distribution of a detonator, explosive, poison, or hoax device as defined in Section 13A-10-195.
- (24) Possession or distribution of a hoax device represented as a destructive device or weapon as defined in subsection (c) of Section 13A-10-196.
- (25) Attempt to commit an explosives or destructive device or bacteriological or biological weapons crime as defined in Section 13A-10-197.
- (26) Conspiracy to commit an explosives or destructive device or bacteriological or biological weapons crime as defined in Section 13A-10-198.
- (27) Hindrance or obstruction during detection, disarming, or destruction of a destructive device or weapon as defined in Section 13A-10-199.
- (28) Possession or distribution of a destructive device or weapon intended to cause injury or destruction as defined in Section 13A-10-200.
- (29) Treason as defined in Section 13A-11-2.
- (30) Dissemination or public display of obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts as defined in Section 13A-12-191.
- (31) Possession and possession with intent to disseminate obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts as defined in Section 13A-12-192.
- (32) Parents or guardians permitting children to engage in production of obscene matter as defined in Section 13A-12-196.
- (33) Production of obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts as defined in Section 13A-12-197.
- (34) Distribution, possession with intent to distribute, production of obscene material, or offer or agreement to distribute or produce, as defined in Section 13A-12-200.2.
- (35) Trafficking in cannabis, cocaine, or other illegal drugs or trafficking in amphetamine and methamphetamine as defined in Section 13A-12-231.
- (36) Bigamy as defined in Section 13A-13-1.

- (37) Incest as defined in Section 13A-13-3.
- (38) Torture or other willful maltreatment of a child under the age of 18 as defined in Section 26-15-3.
- (39) Aggravated child abuse as defined in Section 26-15-3.1.
- (40) Prohibited acts in the offer, sale, or purchase of securities as defined in Section 8-6-17.
- (41) Burglary as defined in Sections 13A-7-5 and 13A-7-6.
- (42) Aggravated theft by deception as defined in Section 13A-8-2.1.
- (43) Theft of property as defined in Sections 13A-8-3 and 13A-8-4.
- (44) Theft of lost property as defined in Sections 13A-8-7 and 13A-8-8.
- (45) Theft of trademarks or trade secrets as defined in Section 13A-8-10.4.
- (46) Robbery as defined in Sections 13A-8-41, 13A-8-42, and 13A-8-43.
- (47) Forgery as defined in Sections 13A-9-2 and 13A-9-3.
- (48) Any crime as defined by the laws of the United States or by the laws of another state, territory, country, or other jurisdiction, which, if committed in this state, would constitute one of the offenses listed in this subsection.

Ala. Code § 17-3-30.1(c)(1)-(47).

That list is specific. It is also longer than any list included in the State-specific instructions of the Federal Form—even if the references to the Alabama Code are omitted. Of course, those citations add information. For instance, subsection 47 is “Forgery as defined in Sections 13A-9-2 and 13A-9-3.” Ala. Code § 17-3-30.1(c)(7). The citations are to forgery in the 1st and 2nd degrees, respectively. Forgery in the 3rd degree is also a felony, Ala. Code § 13A-9-3.1, but is not included in the list of disqualifying felonies. Hence, if the Secretary were to just list descriptions of the felonies without the statutory citations, some additional descriptions would be needed.¹⁴ And, while some felonies may be easily listed, others carry a more complex description. For example, “Possession, manufacture, transport, or distribution of a destructive device or bacteriological or

¹⁴ The Secretary’s online list includes “Forgery 1st Degree – Section 13A-9-2” and “Forgery 2nd Degree – Section 13A-9-3.” See sos.alabama.gov/mtfelonies (last visited September 1, 2020).

biological weapon as defined in Section 13A-10-193,” Ala. Code § 17-3-30.1(c)(21), is a mouthful. Plainly, it would not be practical to add this list to the State mail-in form, while keeping that form as one-page (front and back) form that can be easily completed and mailed, and that was the Secretary’s judgment as well, Packard Decl., doc. 257-35, at ¶¶ 3, 9-11; *see also id.* at 15-18.

Moreover, the 48th paragraph above shows that GBM’s reading of the NVRA is as limitless as it is unworkable: “Any crime as defined by the laws of the United States or by the laws of another state, territory, country, or other jurisdiction, which, if committed in this state, would constitute one of the offenses listed in this subsection,” is also disqualifying. Ala. Code § 17-3-30.1(c)(48). Hence, it is difficult to see why GBM’s hyper-specific reading of “specify” would not require the State to list the equivalent felonies of every other government on the planet to be sure the form “state[s] in full and explicit terms” the eligibility requirements that an applicant avoid conviction for burglary in Georgia the State, Georgia the country, South Carolina, South Sudan, and any other jurisdiction. The Secretary of State’s office gave no serious consideration to attempting this feat. Packard Decl., doc. 257-35, at ¶ 9. And surely such “[i]mpossible standards of specificity are not required.” *Jordan v. De George*, 341 U.S. 223, 231 (1951).

GBM says that their reading of “specify” need not go *that* far. But why not? In at least some cases, it will be far easier for someone convicted of a felony in Alabama to click on the Secretary of State’s website and see whether his crime of conviction is one of the 47 listed there than it will be for someone convicted out-of-jurisdiction to determine whether his conviction would constitute a disqualifying felony under Alabama law. *See Skinner v. State*, 987 So. 2d 1172, 1177 (Ala. Crim. App. 2006) (reversing and remanding so circuit court could hold a hearing regarding whether a California conviction was a qualifying felony for purposes of Alabama’s habitual offender statute); *cf. Mathis v. United States*, 579 U.S. ___, 136 S. Ct. 2243, 2251 (2016)

(considering whether “the elements of Mathis’s crime of conviction (Iowa burglary) cover a greater swath of conduct than the elements of the relevant ACCA offense (generic burglary)”). Thus, if the Secretary can satisfy the NVRA by treating all out-of-jurisdiction disqualifying convictions as part of one eligibility requirement—as GBM concedes—then he can satisfy the NVRA by treating all in-State and out-of-jurisdiction disqualifying convictions as part of one eligibility requirement—the simple requirement to be free “of a disqualifying felony conviction.” *See* doc. 257-35 at 19; *see also* doc. 179-1 at 24 (referring to the out-of-jurisdiction disqualifying convictions provision as an “aspect of the eligibility requirement”).

The problems with GBM’s reading run deeper still. GBM acknowledges that “most felony convictions are not disqualifying,” doc. 97 at 31, and Alabama easily could have adopted a longer list. Alabama may also wish to make changes to the list in Ala. Code § 17-3-30.1(c). Indeed, the list was first adopted in 2017 by Ala. Act No. 2017-378 and has already been revised to include a newly-created felony, *i.e.*, aggravated theft by deception, *see* Ala. Act No. 2019-513. There would seem to be room for further improvements as well.¹⁵ There is also always the possibility that a felony on the list could be held unconstitutional or repealed. In those instances, GBM’s theory would require not simply updating a readily-available online list, but reprinting hundreds of thousands (or more) of forms at substantial cost. Packard Decl., doc. 257-35, at ¶¶ 12-13.

In short, even if “specify each eligibility requirement” could be read to require listing each felony on the above list (with or without their out-of-jurisdiction counterparts), that strained reading should be rejected. The Supreme Court’s decision in *Public Citizen v. United States Department of Justice*, 491 U.S. 440 (1989), is instructive. The case involved whether the Federal

¹⁵ For instance, impeachment is listed as a felony for which a CERV is not available, Ala. Code § 15-22-36.1(g), and for which voting rights may not otherwise be restored, Ala. Code § 17-3-31, but is missing from the list of disqualifying felonies in Ala. Code § 17-3-30.1(c).

Advisory Committee Act (FACA), which was intended to regulate the “numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government.” *Id.* at 445-46. The FACA applied to, among other entities, any committee “utilized” by the executive branch. *Id.* at 451. And the question in the case was whether FACA applied to the American Bar Association’s Standing Committee on Federal Judiciary. Though the Standing Committee’s advice was “utilized” by the President “in one common sense of the term,” *id.* at 452, the Court did not read the FACA so broadly. *Id.* at 443-45, 451-52. The Court explained that “‘Utilize’ is a woolly verb, its contours left undefined by the statute itself. Read unqualifiedly, it would extend FACA’s requirements to any group of two or more persons, or at least any formal organization, from which the President or an Executive agency seeks advice. We are convinced Congress did not intend that result.” *Id.* at 452 (footnote omitted). “Nor can Congress have meant—as a straightforward reading of ‘utilize’ would appear to require—that all of FACA’s restrictions apply if a President consults with his own political party before picking his Cabinet. It was unmistakably *not* Congress’ intention to intrude on a political party’s freedom to conduct its affairs as it chooses.” *Id.* at 453 (citation omitted); *see also id.* at 463-64 (“A literalistic reading, however, would catch far more groups and consulting arrangements than Congress could conceivably have intended.”). So too here.

The *Public Citizen* Court recognized that “[l]ooking beyond the naked text for guidance is perfectly proper when the result it apparently decrees is difficult to fathom or where it seems inconsistent with Congress’ intention, since the plain-meaning rule is rather an axiom of experience than a rule of law, and does not preclude consideration of persuasive evidence if it exists.” *Public Citizen*, 490 U.S. at 455 (internal citation and quotation marks omitted). It “is particularly appropriate here, given the importance [the Court has] consistently attached to

interpreting statutes to avoid deciding difficult constitutional questions where the text fairly admits of a less problematic construction.” *Id.* at 455; *see also id.* at 465-67 (further discussing constitutional avoidance).

Here, there is no need to look beyond the text to realize that the State mail-in form specifies each of Alabama’s eligibility requirements for voters. GBM’s contrary reading would result in such a lengthy list that Alabama would effectively be prevented from using the moral turpitude standard it has deemed appropriate—a situation that would raise serious constitutional concerns. This is true with the current list and any longer list that Alabama may wish to adopt. This is further true if it would be necessary to list the analogous felonies of other jurisdictions, which could create an overwhelming (and mostly advisory) research project. In short, GBM’s “sterile reading of the statute ignores Congress’ practical purpose and exalts literalness over common sense.” *Gelman v. Federal Election Comm’n*, 631 F.2d 939, 943 (D.C. Cir. 1980).

c. GBM’s reading of § 20508(b)(2)(A) would render that provision unconstitutional; § 20508(b)(2)(A) should be interpreted to avoid raising significant constitutional concerns.

“When the validity of an act of the Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided.” *Crowell v. Benson*, 285 U.S. 22, 62 (1932) (footnote omitted); *see also Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). GBM’s interpretation of the requirement to “include a statement that . . . specifies each eligibility requirement” would render section 20508(b)(2)(A) unconstitutional by interfering with the State’s authority to set voter qualifications. “Since the power to establish voting requirements is of little value without the power to enforce those requirements,” that interference is reason for this Court, even if not convinced that the Secretary’s reading is the best

one, to determine whether it “is at least a possible one,” *Arizona*, 570 U.S. at 17-18, and then, finding that it is, adopt it.¹⁶

“[T]he States establish qualifications for voting for state officers” *Katzenbach v. Morgan*, 384 U.S. 641, 647 (1966); *see also Simmons v. Galvin*, 575 F.3d 24, 33 (1st Cir. 2009) (“The state has a strong interest in setting its own qualifications for voters”). By constitutional design, “the qualifications established by the States for voting for members of the most numerous branch of the state legislature also determine who may vote for United States Representatives and Senators.” *Katzenbach*, 384 U.S. at 647.¹⁷ The Constitution has, of course, been amended to impose some limits on the State’s power to set qualifications.¹⁸ Still, the Supreme Court has recognized that “[t]he States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised, absent of course the discrimination which the Constitution condemns.” *Lassiter v. Northampton Cty. Bd. of Elections*, 360 U.S. 45, 50 (1959)

¹⁶ In *Arizona*, Justice Thomas rejected the United States’ position that Congress has authority to set voter registration rules, instead concluding that the States exclusively have the authority to set voter-eligibility requirements and determine whether they have been met. *Arizona*, 570 U.S. at 29-38 (Thomas, J., dissenting); *see also Husted*, 138 S. Ct. at 1848-50 (Thomas, J., concurring) (“Respondents’ reading of the NVRA would seriously interfere with the States’ constitutional authority to set and enforce voter qualifications.”). The Secretary preserves the argument for consideration on appeal. Justice Thomas also determined that “Constitutional avoidance is especially appropriate in this area because the NVRA purports to regulate presidential elections, an area over which the Constitution gives Congress no authority whatsoever.” *Arizona*, 570 U.S. at 35 (Thomas, J., dissenting).

¹⁷ U.S. Const. art. I § 2 (House elections); U.S. Const. amend. XVII (Senate elections); *Arizona*, 570 U.S. at 16 (“[T]he Elections Clause empowers Congress to regulate *how* federal elections are held, but not *who* may vote in them.”); *id.* at 17; *id.* at 25-28 (Thomas, J., dissenting) (explaining the history behind this choice). *See also* U.S. Const. art. II § 1 cl. 2 (Presidential electors); U.S. Const. amend. XIV (recognizing the State’s right to set qualifications and, specifically, to disenfranchise felons).

¹⁸ U.S. Const. amend. XV (eliminating disenfranchisement based on “race, color, or previous condition of servitude”); U.S. Const. amend. XIX (enfranchising women); U.S. Const. amend. XXVI (lowering the voting age to 18); *see also* U.S. Const. amend. XXIV (eliminating poll taxes).

(internal citations omitted). In this area, “there is wide scope for exercise of [the State’s] jurisdiction. Residence requirements, age, *previous criminal record* are obvious examples indicating factors which a State may take into consideration in determining the qualifications of voters.” *Id.* at 51 (internal citations omitted; emphasis added); *Jones v. Governor of Florida*, ___ F.3d ___, 2020 WL 5493770, * 5-6 (11th Cir. 2020) (*en banc*) (“[R]equiring felons to complete their full criminal sentences falls squarely within the state’s power to fix core voter qualifications.”) (internal citation and quotation marks omitted).

While Alabama has chosen not to disenfranchise on the basis of all felonies, or even most felonies, *see* doc. 97 at 31, Alabama has developed a lengthy list of felonies that would take substantial room to detail, especially when considering the need to address exceptions (like assault, but not when driving under the influence) or lengthy descriptions (like the felonies concerning destructive devices, bacteriological weapons, and biological weapons). *See* 20-23, *supra*. Additionally, Alabama has reasonably decided that the fact that one’s felony conviction was secured by a different jurisdiction—say the federal government or Georgia—does not change the analysis of whether the felon should be permitted to join Alabama’s electorate, *see* Ala. Const. art. VIII, § 177; Ala. Code § 17-3-30.1(c)(48). Thus, reading “specify” at “outer limits of its definitional possibilities,” *Wachovia Bank, N.A. v. United States*, 455 F.3d 1261, 1267 (11th Cir. 2006) (internal block quote and citation omitted), would require listing not just the 47 named Alabama felonies but the analogous felonies of other jurisdictions. That list would likely be impossible to compile.

Moreover, Alabama may wish to change its list over time, or it may have change forced upon it (in the form of a holding that a felony on the list is unconstitutional). To try to list all the disqualifying felonies on the State mail-in form and then maintain that list on the form would be

so unwieldy and so expensive as to interfere with, or cancel out, Alabama's right to set policy as to who will be included in the electorate. *See* Packard Decl., doc. 257-35, at ¶¶ 10, 12-13 (explaining that the State mail-in form is a one-page form intended to be mailed and the costs associated with production).

The constitutional conflict is escalated when one considers that, prior to the passage of Ala. Act No. 2017-378, Alabama could not have provided a comprehensive list of moral turpitude felonies (even limited to Alabama crimes) because none existed. This despite the fact that the moral turpitude standard is perfectly constitutional without an administratively-helpful list. *See Jordon v. De George*, 341 U.S. 223 (1951). Similarly, on a *going-forward* basis, it would be impossible for Alabama to comply with GBM's novel interpretation if, for any reason, Ala. Code § 17-3-30.1 were held unconstitutional or repealed.

Tellingly, the original complaint in this case, doc. 1, filed before the enactment of Ala. Act No. 2017-378, contained no claim that the State mail-in form did not comply with the NVRA. GBM contends that "[t]he fact that the Secretary of State did not previously list the disqualifying felonies says more about the unconstitutional vagueness of the prior law than about what the NVRA requires to be specified on the registration form." Doc. 108 at 6-7 (footnote omitted). While GBM might wish that were the case, *but see De George*, 341 U.S. 223, the fact remains that it is GBM's novel reading of § 20508(b)(2)(A) that would hold more than two decades of practice unlawful and put an absurd and unconstitutional burden on the State.

V. Conclusion.

Plaintiff GBM's motion for partial summary judgment, doc. 260, is due to be denied.

Respectfully submitted,

Steve Marshall
Attorney General

s/Misty S. Fairbanks Messick
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Winfield J. Sinclair (ASB-1750-S81W)
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Counsel for the Secretary of State

CERTIFICATE OF SERVICE

I hereby certify that, on September 29, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Armand Derfner (aderfner@derfneraltman.com); Danielle Lang (dlang@campaignlegalcenter.org); James U. Blacksher (jblacksher@ns.sympatico.ca); Jessica Ring Amunson (jamunson@jenner.com); J. Gerald Herbert (gherbert@campaignlegalcenter.org); J. Mitch McGuire (jmcguire@mandabusinesslaw.com); Mark P. Gaber (mgaber@campaignlegalcenter.org); Michael E. Stewart (mstewart@jenner.com); Jason P. Hipp (jhipp@jenner.com); Molly Danahy (mdanahy@campaignlegal.org); Jonathan Diaz (jdiaz@campaignlegalcenter.org); Melissa Takara Fedornak (mfedornak@jenner.com); and, Julie Strass Harris (Julie.StrausHarris@usdoj.gov).

s/Misty S. Fairbanks Messick
Of Counsel

NANCY L. WORLEY
SECRETARY OF STATE



First Floor, State Capitol
Suite S-105
600 Dexter Avenue
P.O. Box 5616
Montgomery, Alabama 36103-5616

State of Alabama

March 15, 2006

VIA HAND DELIVERY

The Honorable Drayton Nabers, Jr., Chief Justice
Supreme Court of Alabama
300 Dexter Avenue
Montgomery, Alabama 36104-3741

Re: Amended Voter Registration Forms

Dear Justice Nabers:

Please find enclosed amended Alabama voter registration forms for adoption by the Supreme Court of Alabama. As you may know, *Code of Alabama* 1975, § 17-4-122 gives the Supreme Court of Alabama the authority to prescribe voter registration forms. Voter registration forms promulgated by the Court become effective upon filing with the Secretary of State's office. It is necessary that we change the voter registration forms due to a recent opinion of the Attorney General of Alabama (2005-092).

In keeping with tradition, our office, as the state's chief elections office, has drafted the enclosed voter registration forms for formal adoption by the Supreme Court of Alabama. If you are agreeable, please facilitate the appropriate order and file the enclosed forms with the Secretary of State's office. For your reference, the last such order was entered by the Court on October 22, 1999.

Following your order, we must submit the forms to the Department of Justice for Section 5 pre-clearance. Thank you for your assistance with this matter, and please feel free to call me or our elections attorney, Adam Bourne, with any questions.

Sincerely,

Nancy L. Worley
Secretary of State of Alabama

Cc: The Honorable Robert G. Esdale, Clerk of the Supreme Court of Alabama

State of Alabama Postcard Voter Registration Form

FOR USE BY U.S. CITIZENS ONLY ♦ FILL IN ALL BOXES ON THIS FORM ♦ USE INK ♦ DO NOT USE A PENCIL ♦ PRINT
You can use this form to:

- ▶ Register to vote in Alabama.
- ▶ Update your voter registration record, if you have changed your name or address.

Deadline for submitting application:

Registration and updating of voter records cut off ten days prior to each election in Alabama.

To register to vote in the State of Alabama, you must:

- ▶ Be a citizen of the United States.
- ▶ Reside in Alabama.
- ▶ Be at least 18 years of age on or before election day.
- ▶ Not have been convicted of a disqualifying felony, or if you have been convicted, you must have had your civil rights restored.
- ▶ Not have been declared "mentally incompetent" by a court.

Statement of U.S. Citizenship

Are you a citizen of the United States? ☐ Yes ☐ No

Attention! If you answered "no," you are not eligible to register to vote in the State of Alabama.

① Print Your Name:	Last	First	Middle

② Print Maiden Name / Former Name (if reporting a change of name)

Social Security Number:

			-			-				
--	--	--	---	--	--	---	--	--	--	--

Social Security Number is requested, but not required, by authority of §17-4-122, Code of Alabama, 1975, for record-keeping purposes.

③ Home Telephone	④ Work Telephone	⑤ Inside City Limits?	If yes, please name the city:	⑥ County where you live
()	()	<input type="checkbox"/> Yes <input type="checkbox"/> No		

⑦ Addresses	Current	Address where you live: (Do not use post office box)		Print House Number and Street	City	State	ZIP
		Address where you receive your mail:		Print House Number and Street (or PO Box)	City	State	ZIP
		Address where you were last registered to vote: (Do not use post office box)		Print House Number and Street	City	County	State

⑧ Date of Birth (month, day, year)	⑪ Place of Birth	City	County	State	Country

⑨ Race (check one)
<input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> American Indian <input type="checkbox"/> Hispanic <input type="checkbox"/> Other

⑩ Sex (check one)
<input type="checkbox"/> Female <input type="checkbox"/> Male

⑫ Map / Diagram
If your house has no street number or name, please draw a map of where your house is located. Please include roads and landmarks.

⑬ Did you receive assistance?
If you are unable to sign your name, who helped you fill out this application? Give name, address, and phone number (phone number is optional).

REGISTRARS USE ONLY

County Pct _____
City Pct _____
DATE APPROVED _____
Board member _____
Board member _____
Board member _____

VOTER DECLARATION - READ AND SIGN

- ▶ I am a U.S. citizen
- ▶ I live in the State of Alabama
- ▶ I will be at least 18 years of age on or before election day
- ▶ I am not barred from voting by reason of a disqualifying felony conviction
- ▶ I have not been judged "mentally incompetent" in a court of law

I SOLEMNLY SWEAR OR AFFIRM TO SUPPORT AND DEFEND THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF ALABAMA AND FURTHER DISAVOW ANY BELIEF OR AFFILIATION WITH ANY GROUP WHICH ADVOCATES THE OVERTHROW OF THE GOVERNMENTS OF THE UNITED STATES OR THE STATE OF ALABAMA BY UNLAWFUL MEANS AND THAT THE INFORMATION CONTAINED HEREIN IS TRUE, SO HELP ME GOD.

Your Signature: _____ Date: _____

WARNING! If you falsely sign this statement, you can be convicted and imprisoned for up to five years.

Questions? Do you need assistance?

Please call your county Board of Registrars at the number listed on the back of this form.
You may also call the Elections Division of the Secretary of State's office at 334-242-7559.
Secretary of State Nancy L. Worley

1-800-274-VOTE (1-800-274-8683) or 334-242-7210



To mail, put the address of your county Board of Registrars on the lines below.

Autauga County
165 W 5th St
Prattville AL 36067-3041
(334) 361-3713

Baldwin County
PO Box 1507
Bay Minette AL 36507-1507
(251) 937-0305

Barbour County
303 E Broad Street, Room 104
E Jatale AL 36027
(334) 687-1585

Bibb County
175 SW Davidson Dr
Centerville AL 35042-2237
(205) 926-3102

Blount County
PO Box 326
Oneonta AL 35121-0005
(205) 625-4182

Bullock County
2178 N Prairie St
Union Springs AL 36089-1659
(334) 738-3772

Butler County
700 Court Sq
Greenville AL 36037-0756
(334) 382-5685

Calhoun County
1702 Noble St Ste 113
Anniston AL 36201-3841
(256) 241-2930

Chambers County
3205 22nd Ave, Suite C
Valley AL 36854-3020
(334) 864-4313

Cherokee County
102 Main St Ste 106
Centre AL 35960-1536
(256) 927-5338

Chilton County
PO Box 270
Clanton AL 35046-0270
(205) 755-3820

Choctaw County
117 S Mulberry Ave Ste 1
Butler AL 36904-2557
(205) 459-2531

Clarke County
PO Box 10
Grove Hill AL 36451-0010
(251) 275-3062

Clay County
PO Box 446
Ashland AL 36251-0446
(256) 354-7815

Cleburne County
120 Vickery St Rm 103
Heflin AL 36264-1166
(256) 463-5298

Coffee County
6 County Complex
New Brockton AL 36351-9791
(334) 894-5347

Colbert County
201 N Main St
Tuscumbia AL 35674-2095
(256) 386-8535

Conecuh County
204 North Main St
Evergreen AL 36401-2836
(251) 578-7024

Coosa County
PO Box 218
Rockford AL 35136-0218
(256) 377-2418

Covington County
228 Hillcrest Dr
Anadistia AL 36420-2527
(334) 428-2685

Crenshaw County
PO Box 328
Luverne AL 36049-0328
(334) 335-6568 x275

Cullman County
500 2nd Ave SW Ste 112
Cullman AL 35055-4135
(256) 775-44750

Dale County
PO Box 1101
Ozark AL 36361-1101
(334) 774-9038

Dallas County
PO Box 987
Selma AL 36702-0987
(334) 874-2534

DeKalb County
200 Grand Ave SW Ste 103
Fort Payne AL 35967-1401
(256) 845-8598

Elmore County
100 E Commerce St Rm 205
Wetumpka AL 36092-2756
(334) 567-1150

Escambia County
PO Box 557
Brewton AL 36427-0557
(251) 867-0243

Iowa County
800 Forrest Ave Ste 206
Gadsden AL 35901-3660
(256) 549-5384

Fayette County
103 First Ave NW Ste 4
Fayette AL 35555-2627
(205) 932-5432

Franklin County
PO Box 70
Russellville AL 35653-0070
(256) 332-8849

Geneva County
PO Box 430
Geneva AL 36340-0430
(334) 684-5655

Greene County
PO Box 224
Eufaula AL 35462-0224
(205) 372-9669

Hale County
905D Centerville St
Greensboro AL 36744-1536
(334) 624-4872

Henry County
101 W Court Square Ste E
Abbeville AL 36310-2135
(334) 585-6080

Houston County
PO Box 6406
Dothan AL 36302-6406
(334) 677-4776

Jackson County
PO Box 548
Scottsboro AL 35768-0548
(256) 574-9339

Jefferson County
716 Richard Arrington Jr Blvd N
Ste A-410
Birmingham AL 35203-0115
(205) 325-5550

Lamar County
PO Box 338
Vernon AL 35582-0338
(205) 695-6348

Lauderdale County
PO Box 1059
Florence AL 35631-1059
(256) 760-5840

Lawrence County
14330 Court St Ste 109
Mountain AL 35650-1139
(256) 974-2450

Lee County
PO Box 1530
Opelika AL 36803-1530
(334) 745-9780

Limestone County
100 S Clinton St Ste E
Athens AL 35611
(334) 724-8405

Lowndes County
PO Box 311
Hayneville AL 36040-0311
(334) 548-2389

Macon County
101 E Northside St Rm 105
Tuskegee AL 36083-1735
(334) 724-2617

Madison County
100 Northside Sq Rm 517
Huntsville AL 35801-4820
(256) 532-3510

Marengo County
PO Box 480715
Linden AL 36748-0715
(334) 295-2249

Marion County
PO Box 964
Hamilton AL 35570-0964
(205) 921-3625

Marshall County
424 Blount Ave Ste 106
Guntersville AL 35978-1108
(256) 671-7740

Mobile County
109 Government St Rm 116
Mobile AL 36602-3132
(251) 574-8586
(251) 690-8587

Monroe County
PO Box 972
Morroneville AL 36481-0972
(251) 743-4107 x141

Montgomery County
PO Box 1657
Montgomery AL 36104-1667
(334) 832-1215

Morgan County
PO Box 666
Decatur AL 35602
(256) 351-4660

Perry County
PO Box 555
Marion AL 36756-0555
(334) 683-2218

Pickens County
PO Box 173
Carrollton AL 35447-0173
(205) 337-2071

Pike County
120 W Church St Rm B2
Troy AL 36081-1913
(334) 566-1757

Randolph County
PO Box 215
Wedowee AL 36278-0215
(256) 357-2138

Russell County
PO Box 700
Phenix City AL 36868-0700
(334) 298-1443

Shelby County
PO Box 1642
Columbiana AL 35051-1642
(205) 689-3913

St. Clair County
PO Box 488
Ashville AL 35933-0488
(205) 594-2126

Sumter County
PO Box 793
Livingston AL 35470-0793
(205) 652-7902

Talladega County
PO Box 6170
Talladega AL 35161-6170
(256) 761-2132
(256) 761-2131

Tallapoosa County
PO Box 972
Dadeville AL 36853-1371
(205) 825-1081

Tuscaloosa County
2501 7th St Ste 200
Tuscaloosa AL 35401-1801
(205) 349-3870

Walker County
PO Box 1472
Jasper AL 35502-1472
(205) 384-7279

Washington County
PO Box 1224
Chilton AL 36518-1224
(251) 847-3255

Wilcox County
PO Box 661
Camden AL 36726-0661
(334) 682-9753

Winston County
PO Box 459
Double Springs AL 35553-0459
(205) 489-3966

Secretary of State
PO Box 5616
Montgomery AL 36103-5616
(334) 242-7210
(800) 274-8883

YOUR ADDRESS:

PUT
FIRST
CLASS
STAMP
HERE

MAIL TO:

BOARD OF REGISTRARS

State of Alabama Postcard Voter Registration Form

FOR USE BY U.S. CITIZENS ONLY ♦ FILL IN ALL BOXES ON THIS FORM ♦ USE INK ♦ DO NOT USE A PENCIL ♦ PRINT

You can use this form to:

- ▶ Register to vote in Alabama.
- ▶ Update your voter registration record, if you have changed your name or address.

Deadline for submitting application:

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- ▶ Reside in Alabama.
- ▶ Be at least 18 years of age on or before election day.
- ▶ Not have been convicted of a disqualifying felony, or if you have been convicted, you must have had your civil rights restored.
- ▶ Not have been declared "mentally incompetent" by a court.

Statement of U.S. Citizenship

Are you a citizen of the United States? ☐ Yes ☐ No

Attention! If you answered "no," you are not eligible to register to vote in the State of Alabama.

① Print Your Name: Last	First	Middle

② Print Maiden Name / Former Name (if reporting a change of name)

Social Security Number:

			-			-				
--	--	--	---	--	--	---	--	--	--	--

Social Security Number is requested, but not required, by authority of §17-4-122, Code of Alabama, 1975, for record-keeping purposes.

③ Home Telephone	④ Work Telephone	⑤ Inside City Limits?	If yes, please name the city:	⑥ County where you live
()	()	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Addresses	⑦ Current	Address where you live: (Do not use post office box)	Print House Number and Street	City	State	ZIP
	Old	Address where you receive your mail:	Print House Number and Street (or PO Box)	City	State	ZIP
		Address where you were last registered to vote: (Do not use post office box)	Print House Number and Street	City	County	State

⑧ Date of Birth (month, day, year)	⑨ Place of Birth	City	County	State	Country

⑩ Race (check one)
<input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> American Indian <input type="checkbox"/> Hispanic <input type="checkbox"/> Other

⑪ Sex (check one)
<input type="checkbox"/> Female <input type="checkbox"/> Male

REGISTRARS USE ONLY
County Pct _____
City Pct _____
DATE APPROVED _____
Board member _____
Board member _____
Board member _____

⑫ Map / Diagram
If your house has no street number or name, please draw a map of where your house is located. Please include roads and landmarks.

⑬ Did you receive assistance?
If you are unable to sign your name, who helped you fill out this application? Give name, address, and phone number (phone number is optional).

VOTER DECLARATION - READ AND SIGN

- ▶ I am a U.S. citizen
- ▶ I live in the State of Alabama
- ▶ I will be at least 18 years of age on or before election day
- ▶ I am not barred from voting by reason of a disqualifying felony conviction
- ▶ I have not been judged "mentally incompetent" in a court of law

I SOLEMNLY SWEAR OR AFFIRM TO SUPPORT AND DEFEND THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF ALABAMA AND FURTHER DISAVOW ANY BELIEF OR AFFILIATION WITH ANY GROUP WHICH ADVOCATES THE OVERTHROW OF THE GOVERNMENTS OF THE UNITED STATES OR THE STATE OF ALABAMA BY UNLAWFUL MEANS AND THAT THE INFORMATION CONTAINED HEREIN IS TRUE, SO HELP ME GOD.

Your Signature: _____ Date: _____

WARNING! If you falsely sign this statement, you can be convicted and imprisoned for up to five years.

Questions? Do you need assistance?

Please call your county Board of Registrars at the number listed on the back of this form. You may also call the Elections Division of the Secretary of State's office at 334-242-7559.
 Secretary of State Nancy L. Worley

1-800-274-VOTE (1-800-274-8683) or 334-242-7210



To mail, put the address of your county Board of Registrars on the lines below.

Autauga County 165 W 5th St Prattville AL 36067-3041 (334) 361-3713	Clarke County PO Box 10 Grove Hill AL 36451-0010 (251) 275-3062	DeKalb County 200 Grant Ave SW Ste 103 Fort Payne AL 35967-1401 (256) 845-8598	Jefferson County 716 Richard Arrington Jr Blvd N Ste A-410 Birmingham AL 35203-0115 (205) 325-5550	Mobile County 109 Government St Rm 116 Mobile AL 36602-3132 (251) 574-8565 (251) 690-8587	Talladega County PO Box 6170 Talladega AL 35161-6170 (256) 781-2132 (256) 751-2131
Baldwin County PO Box 1507 Bay Minette AL 36507-1507 (251) 937-0305	Clay County PO Box 446 Ashland AL 36251-0446 (256) 354-7815	Elmore County 100 E Commerce St Rm 205 Wetumpka AL 35092-2756 (334) 567-1150	Lamar County PO Box 338 Vernon AL 35582-0338 (205) 695-6348	Monroe County PO Box 972 Morroneville AL 36461-0972 (251) 743-4107 x141	Tallapoosa County 125 N Broadnax St Rm 20 Dadeville AL 36853-1371 (256) 825-1081
Barbour County 303 E Broad Street, Room 104 Eufaula AL 36027 (334) 687-1585	Cleburne County 120 Vickery St Rm 103 Heflin AL 36264-1166 (256) 463-5299	Escambia County PO Box 557 Brewton AL 36427-0557 (251) 867-0243	Lauderdale County PO Box 1059 Florence AL 35631-1059 (256) 760-5840	Montgomery County PO Box 1667 Montgomery AL 36104-1667 (334) 832-1215	Tuscaloosa County 2501 7th St Ste 200 Tuscaloosa AL 35401-1801 (205) 349-3870
Bibb County 175 SW Davidson Dr Centerville AL 35042-2237 (205) 926-3102	Coffee County 6 County Complex New Brockton AL 36351-9791 (334) 894-5347	Etowah County 800 Forrest Ave Ste 206 Gadsden AL 35901-3660 (256) 549-5384	Lawrence County 14330 Court St Ste 109 Athens AL 35650-1139 (256) 974-2460	Morgan County PO Box 668 Decatur AL 35602 (256) 351-4660	Walker County PO Box 1472 Jasper AL 35502-1472 (205) 364-7279
Blount County PO Box 326 Oneonta AL 35121-0005 (205) 625-4182	Colbert County 201 N Main St Tuscumbia AL 35674-2095 (256) 386-6335	Fayette County 103 First Ave NW Ste 4 Fayette AL 35555-2627 (205) 932-5432	Lee County PO Box 1530 Opelika AL 36803-1530 (334) 745-9780	Perry County PO Box 555 Marion AL 36756-0555 (334) 683-2218	Washington County PO Box 1224 Chattam AL 36518-1224 (251) 847-3255
Bullock County 217B N Prairie St Union Springs AL 36089-1659 (334) 736-5372	Conecuh County 204 North Main St Evergreen AL 36401-2836 (251) 578-7024	Franklin County PO Box 70 Russellville AL 35653-0070 (256) 332-8849	Limestone County 100 S Clinton St Ste E Athens AL 35611 (256) 233-6405	Pickens County PO Box 173 Carrollton AL 35447-0173 (205) 367-2071	Wilcox County PO Box 661 Camden AL 36726-0661 (334) 682-9753
Butler County 700 Court Sq Greenville AL 36037-0756 (334) 382-5685	Cosa County PO Box 218 Rockford AL 35136-0218 (256) 377-2418	Geneva County PO Box 430 Geneva AL 36340-0430 (334) 684-5655	Lowndes County PO Box 311 Hayneville AL 36040-0311 (334) 548-2389	Pike County 120 W Church St Rm B2 Troy AL 36081-1913 (334) 566-1757	Winston County PO Box 458 Double Springs AL 35553-0458 (205) 489-3966
Calhoun County 1702 Noble St Ste 113 Anniston AL 36201-3841 (256) 241-2930	Covington County 228 Hillcrest Dr Andalusia AL 36420-2527 (334) 428-2685	Greene County PO Box 224 Eutaw AL 35462-0224 (205) 372-9669	Macon County 101 E Northside St Rm 105 Tuskegee AL 36083-1735 (334) 724-2617	Randolph County PO Box 215 Wedowee AL 36278-0215 (256) 357-2138	Secretary of State PO Box 5616 Montgomery AL 36103-5616 (334) 242-7210 (800) 274-8683
Chambers County 3205 22nd Ave, Suite C Valley AL 36854-3020 (334) 864-4313	Crenshaw County PO Box 328 Luverne AL 36049-0328 (334) 335-6568 x275	Hale County 905D Centerville St Greensboro AL 36744-1536 (334) 624-4672	Madison County 100 Northside Sq Rm 517 Huntsville AL 35801-4820 (256) 532-3510	Russell County PO Box 700 Phenix City AL 36868-0700 (334) 298-1443	
Cherokee County 102 Main St Ste 106 Centre AL 35960-1536 (256) 927-5336	Cullman County 500 2nd Ave SW Ste 112 Cullman AL 35055-4135 (256) 775-44750	Henry County 101 W Court Square Ste E Abbeville AL 36310-2135 (334) 585-6080	Marengo County PO Box 480715 Linden AL 36748-0715 (334) 295-2249	Shelby County PO Box 1642 Columbiana AL 35051-1642 (205) 669-3913	
Chilton County PO Box 270 Clanton AL 35046-0270 (205) 755-3820	Dale County PO Box 1101 Ozark AL 36361-1101 (334) 774-9038	Houston County PO Box 8406 Dothan AL 36302-6406 (334) 677-4776	Marion County PO Box 964 Hamilton AL 35570-0964 (205) 921-3625	St. Clair County PO Box 488 Ashville AL 35953-0488 (205) 594-2126	
Choctaw County 117 S Mulberry Ave Ste 1 Butler AL 36904-2557 (205) 459-2531	Dallas County PO Box 367 Selma AL 36702-0987 (334) 874-2534	Jackson County PO Box 548 Scottsboro AL 35768-0548 (256) 574-9339	Marshall County 424 Blount Ave Ste 106 Guntersville AL 35976-1108 (256) 571-7740	Sumter County PO Box 793 Livingston AL 35470-0793 (205) 652-7902	

YOUR ADDRESS:

PUT
FIRST
CLASS
STAMP
HERE

MAIL TO:

BOARD OF REGISTRARS



STATE OF ALABAMA
AGENCY-BASED VOTER REGISTRATION APPLICATION (NVRA-1A)

IF YOU ARE NOT REGISTERED TO VOTE WHERE YOU LIVE NOW, WOULD YOU LIKE TO APPLY TO REGISTER TO VOTE HERE TODAY?

- ☐ I want to apply to register to vote today.
- ☐ I want to change my address for voting purposes with this form.
- ☐ I do not want to apply to register to vote today.

Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.

If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek help is yours. You may fill out the application in private.

Name _____ Date _____ Signature _____

Please detach lower portion and give to applicant

WHETHER OR NOT YOU CHOOSE TO APPLY TO REGISTER TO VOTE OR DECLINE TO REGISTER, THIS FORM WILL REMAIN CONFIDENTIAL AND WILL BE USED FOR VOTER REGISTRATION PURPOSES ONLY.

IF YOU DECLINE TO REGISTER TO VOTE TODAY, YOUR DECISION WILL REMAIN CONFIDENTIAL AND WILL BE USED FOR VOTER REGISTRATION PURPOSES ONLY.

If you believe that someone has interfered with your right to register or to decline to register to vote, or your right to privacy in deciding whether to register or in applying to register to vote, you may file a complaint with the Secretary of State, P. O. Box 5616, Montgomery, AL 36103-5616 or by calling 334-242-7210 or 1-800-274-VOTE (1-800-274-8683).

State of Alabama Agency-Based Voter Registration Form

FOR USE BY U.S. CITIZENS ONLY ♦ FILL IN ALL BOXES ON THIS FORM ♦ USE INK ♦ DO NOT USE A PENCIL ♦ PRINT

To register to vote in the State of Alabama, you must:

- ▶ Be a citizen of the United States.
- ▶ Reside in Alabama.
- ▶ Be at least 18 years of age on or before election day.
- ▶ Not have been convicted of a disqualifying felony, or if you have been convicted, you must have had your civil rights restored.
- ▶ Not have been declared "mentally incompetent" by a court.

FOR USE BY AGENCY OFFICIAL ONLY

Check one (1) box:

☐ Registrars☐ Motor Voter☐ State Designated Agency☐ Agency-Based☐ Disabilities Services Office

Signature of Agency Representative _____

Business Phone of Agency Representative _____

Statement of U.S. Citizenship

Are you a citizen of the United States?

☐ Yes☐ No**Attention!** If you answered "no," you are not eligible to register to vote in the State of Alabama.**① Print Your Name: Last First Middle****② Print Maiden Name / Former Name (if reporting a change of name)****Social Security Number:**

			-			-				
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Social Security Number is requested, but not required, by authority of §17-4-122, Code of Alabama, 1975, for record-keeping purposes.

③ Home Telephone () ()	④ Work Telephone () ()	⑤ Inside City Limits? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, please name the city:	⑥ County where you live
------------------------------------	------------------------------------	--	--------------------------------------	--------------------------------

Addresses	Current	Address where you live: (Do not use post office box)	Print House Number and Street	City	State	ZIP
		Address where you receive your mail:	Print House Number and Street (or PO Box)	City	State	ZIP
	Old	Address where you were last registered to vote: (do not use post office box)	Print House Number and Street	City	County	State

⑧ Date of Birth (month, day, year)	⑪ Place of Birth	City	County	State	Country
---	-------------------------	-------------	---------------	--------------	----------------

⑨ Race (check one)
☐ White ☐ Black
☐ Asian ☐ American Indian
☐ Hispanic ☐ Other

⑩ Sex (check one)
☐ Female ☐ Male

⑫ Map / Diagram
 If your house has no street number or name, please draw a map of where your house is located. Please include roads and landmarks.

⑬ Did you receive assistance?
 If you are unable to sign your name, who helped you fill out this application? Give name, address, and phone number (phone number is optional).
REGISTRARS USE ONLY

County Pct _____

City Pct _____

DATE APPROVED _____

Board member _____

Board member _____

Board member _____

VOTER DECLARATION - READ AND SIGN

- ▶ I am a U.S. citizen
- ▶ I live in the State of Alabama
- ▶ I will be at least 18 years of age on or before election day
- ▶ I am not barred from voting by reason of a disqualifying felony conviction
- ▶ I have not been judged "mentally incompetent" in a court of law

I SOLEMNLY SWEAR OR AFFIRM TO SUPPORT AND DEFEND THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF ALABAMA AND FURTHER DISAVOW ANY BELIEF OR AFFILIATION WITH ANY GROUP WHICH ADVOCATES THE OVERTHROW OF THE GOVERNMENTS OF THE UNITED STATES OR THE STATE OF ALABAMA BY UNLAWFUL MEANS AND THAT THE INFORMATION CONTAINED HEREIN IS TRUE, SO HELP ME GOD.

Your Signature: _____

Date: _____

WARNING! If you falsely sign this statement, you can be convicted and imprisoned for up to five years.**Questions? Do you need assistance?**
 Please call your county Board of Registrars at the number listed on the back of this form.
 You may also call the Elections Division of the Secretary of State's office at 334-242-7559.
 Secretary of State Nancy L. Worley 1-800-274-VOTE (1-800-274-8683) or 334-242-7210


IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CIVIL ACTION NO.: 2:16-CV-783-ECM-SRW

TREVA THOMPSON,

Plaintiff,

V.

JOHN H. MERRILL, in his official capacity as
Secretary of State, et al.,

Defendants.

DEPOSITION OF CHIEF DEENA PREGNO

March 25, 2019

Taken before Elaine Scott, CCR,
Commissioner for the State of Alabama at
Large, in the Law Offices of the Attorney
General, 501 Washington Avenue, Montgomery,
Alabama, on Monday, March 25, 2019, commencing
at approximately 11:25 a.m.

CHIEF DEENA PREGNO 3/25/2019

Page 2	Page 4
<p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 JENNER & BLOCK</p> <p>5 Jennifer Yun</p> <p>6 1099 New York Avenue NW</p> <p>7 Suite 900</p> <p>8 Washington, DC 20001-4412</p> <p>9</p> <p>10 JENNER & BLOCK</p> <p>11 Jason P. Hipp</p> <p>12 919 Third Avenue</p> <p>13 New York, New York 10022-3908</p> <p>14</p> <p>15 FOR THE DEFENDANT:</p> <p>16 OFFICE OF THE ATTORNEY GENERAL</p> <p>17 Misty S. Fairbanks Messick</p> <p>18 Winfield J. Sinclair</p> <p>19 State of Alabama</p> <p>20 501 Washington Avenue</p> <p>21 Montgomery, Alabama 36130</p> <p>22</p> <p>23</p>	<p>1 EXAMINATION INDEX</p> <p>2</p> <p>3 CHIEF DEENA PREGNO</p> <p>4 BY MS. YUN 9</p> <p>5</p> <p>6</p> <p>7 EXHIBIT INDEX</p> <p>8 Plaintiff's</p> <p>9 PREGNO 1 Subpoena 16</p> <p>10 PREGNO 2 Voter Registration Form 30</p> <p>11 PREGNO 3 License Renewal Forms 30</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>
Page 3	Page 5
<p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 REPRESENTING ALEA:</p> <p>4 ASSISTANT ATTORNEY GENERAL</p> <p>5 ALABAMA LAW ENFORCEMENT AGENCY</p> <p>6 Michael Robinson</p> <p>7 301 South Ripley Street</p> <p>8 Montgomery, Alabama 36104</p> <p>9</p> <p>10 COURT REPORTER:</p> <p>11 BAKER REALTIME WORLDWIDE REPORTING & VIDEO</p> <p>12 Elaine Scott</p> <p>13 250 Commerce Street</p> <p>14 Third Floor, Suite One</p> <p>15 Montgomery, Alabama 36117</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and agreed by</p> <p>3 and between counsel representing the parties</p> <p>4 that the deposition of CHIEF DEENA PREGNO is</p> <p>5 taken pursuant to stipulation and agreement;</p> <p>6 that all formalities with respect to</p> <p>7 procedural requirements are waived; that said</p> <p>8 deposition may be taken before Elaine Scott,</p> <p>9 Certified Court Reporter and Commissioner for</p> <p>10 the State of Alabama at Large, without the</p> <p>11 formality of a commission.</p> <p>12 It is further stipulated and agreed</p> <p>13 by and between counsel representing the</p> <p>14 parties that the filing of the deposition may</p> <p>15 be introduced at the trial of this case or</p> <p>16 used in any manner by either party hereto</p> <p>17 provided for by the Statute.</p> <p>18 It is further stipulated and agreed</p> <p>19 by and between the parties hereto and the</p> <p>20 witness that the signature of the witness to</p> <p>21 this deposition is NOT hereby waived.</p> <p>22</p> <p>23</p>

2 (Pages 2 to 5)

CHIEF DEENA PREGNO 3/25/2019

Page 6	Page 8
<p>1 CHIEF DEENA PREGNO, 2 The witness, having first been duly 3 sworn or affirmed to speak the truth, the 4 whole truth and nothing but the truth, 5 testified as follows: 6 7 MR. ROBINSON: I would like to put 8 something on the record. The Agency objects 9 to the subpoena, that it's not properly 10 served. There's no witness fee attached. 11 Additionally we discussed with plaintiff's 12 counsel Daniel Lang that we don't have any 13 documents that are responsive with the 14 exception of one document that may be remotely 15 potentially arguably responsive that we'll 16 turn over in just a minute. Additionally, 17 that document was approved by the United 18 States Department of Justice Voting Rights 19 Section for use in Alabama. 20 In addition to that, the 21 electronic system for registration is set up 22 in coordination with the United States 23 Department of Justice Voting Rights Section,</p>	<p>1 transcript is handled and all of those 2 matters, but we do not have an agreement as to 3 the objections, and therefore we will be 4 making objections as we proceed. 5 The other piece of that would 6 also be, Mr. Robinson, if you -- I don't know 7 what your position is on whether you want to 8 waive signature or not. 9 MR. ROBINSON: We're going to read 10 and sign. 11 MS. MESSICK: Okay. Did I 12 correctly state -- 13 MS. YUN: Yes. 14 MS. MESSICK: -- the limit of our 15 agreement? 16 MS. YUN: Yes. 17 MS. MESSICK: Okay. 18 19 EXAMINATION 20 BY MS. YUN: 21 Q. Good morning. 22 A. Good morning. 23 Q. Please state your full name and</p>
Page 7	Page 9
<p>1 and as part of that we were instructed that we 2 were to make -- take no action or make no 3 comments to any applicant that would in any 4 way be construed as discouraging them from 5 registering to vote. We have no process in 6 determining who is eligible. That's gone 7 through the appropriate election authorities. 8 And I just wanted to put on the record that 9 we've already made it clear that we don't take 10 part in the process that is being explored by 11 this lawsuit and the rule. 12 MS. MESSICK: Madame Court 13 Reporter, you were talking about the usual 14 stipulations. It's my understanding that the 15 plaintiffs did not agree to the usual 16 stipulations insofar as objections to 17 questions are generally reserved with the 18 exception of objections to the form. And I 19 have wanted to object to the form and to 20 anything that goes outside the scope. 21 So I believe that the parties are 22 stipulating to the procedural issues insofar 23 as you taking the deposition and how the</p>	<p>1 current business address for the record. 2 A. Deena Leigh Pregno, 301 South 3 Ripley Street, Montgomery, Alabama 36104. 4 Q. My name is Jennifer Yun, and I 5 represent the plaintiffs in this action, and 6 I'll be taking your deposition today. 7 Have you ever been deposed before? 8 A. Yes. 9 Q. When? 10 A. I don't know the actual dates. 11 Q. How many times have you been 12 deposed before? 13 A. Two. 14 Q. Will you describe approximately 15 when -- which years you've been deposed 16 before? 17 A. Last year. 18 Q. Both of them last year? 19 A. 2018, I believe. 20 Q. Let's take them one by one. The 21 first one, what kind of case was it? 22 A. I can't remember which case it 23 was. I can't recall.</p>

3 (Pages 6 to 9)

Page 10	Page 12
<p>1 Q. We can come back to that.</p> <p>2 A. Okay.</p> <p>3 Q. Do you remember whether you were</p> <p>4 being deposed in an official or personal</p> <p>5 capacity in the first one?</p> <p>6 A. Official.</p> <p>7 Q. What about the second one?</p> <p>8 A. Official.</p> <p>9 Q. Do you remember the nature of the</p> <p>10 case, the second case?</p> <p>11 A. It was concerning the depiction of</p> <p>12 the person's real sex on the face of the</p> <p>13 license.</p> <p>14 Q. Have you ever testified at trial</p> <p>15 before?</p> <p>16 A. Concerning traffic cases, yes.</p> <p>17 Q. And approximately how many of</p> <p>18 those?</p> <p>19 A. A few hundred. I'm not sure.</p> <p>20 Q. And were those all in your official</p> <p>21 capacity?</p> <p>22 A. Yes.</p> <p>23 Q. Do you understand that today you</p>	<p>1 to transcribe, and you'll not be sure if</p> <p>2 you're answering the full question being</p> <p>3 asked.</p> <p>4 A. Okay.</p> <p>5 Q. We also want the transcript to be</p> <p>6 as complete and accurate as possible. So</p> <p>7 please make sure to respond verbally to</p> <p>8 questions because if you just nod or shake</p> <p>9 your head, then that will not appear in the</p> <p>10 transcript; is that okay?</p> <p>11 A. Yes.</p> <p>12 Q. Your attorney or the defendants'</p> <p>13 attorney might object to one of my questions,</p> <p>14 but unless he or she instructs you not to</p> <p>15 answer, then when the objection is finished,</p> <p>16 you should answer the question. Do you</p> <p>17 understand that?</p> <p>18 A. Yes.</p> <p>19 Q. Let me know if you need a break.</p> <p>20 However, I would ask that you not request a</p> <p>21 break while one of my questions is pending.</p> <p>22 Is that okay?</p> <p>23 A. Yes.</p>
Page 11	Page 13
<p>1 will be answering questions under oath?</p> <p>2 A. Yes.</p> <p>3 Q. And that is the same as if you were</p> <p>4 testifying in court?</p> <p>5 A. Yes.</p> <p>6 Q. And do you understand that your</p> <p>7 testimony must be truthful and complete?</p> <p>8 A. Yes.</p> <p>9 Q. So I'll now go over some grounds</p> <p>10 rules. You may be aware of them from your</p> <p>11 depositions last year, but I will -- just for</p> <p>12 the sake of reminders, I'll try to ask my</p> <p>13 questions slowly and clearly and I'll ask that</p> <p>14 you the same with your answers. Is that okay?</p> <p>15 A. Yes.</p> <p>16 Q. I would also ask that you let me</p> <p>17 know if you don't understand a question. Is</p> <p>18 that okay?</p> <p>19 A. Yes.</p> <p>20 Q. It's important that we speak one at</p> <p>21 a time and that you listen to the full</p> <p>22 question before giving your answer.</p> <p>23 Otherwise, it is hard for the court reporter</p>	<p>1 Q. Is there any reason that you may</p> <p>2 not be able to testify truthfully and</p> <p>3 accurately today?</p> <p>4 A. No.</p> <p>5 Q. Have you ever taken -- have you</p> <p>6 taken today any medications or substances that</p> <p>7 may affect your memory or may impair your</p> <p>8 ability to answer my questions?</p> <p>9 A. No.</p> <p>10 Q. Do you understand that you're here</p> <p>11 today in your capacity as an employee of the</p> <p>12 Alabama Law Enforcement Agency?</p> <p>13 A. Yes.</p> <p>14 Q. And is the Agency also commonly</p> <p>15 referred to as ALEA?</p> <p>16 A. Yes.</p> <p>17 Q. Over the course of the day I'll --</p> <p>18 if I use the terms the Agency or ALEA, I'll be</p> <p>19 referring to your employer, the Alabama Law</p> <p>20 Enforcement Agency.</p> <p>21 A. Okay.</p> <p>22 Q. Are you aware that you have been</p> <p>23 designated by the Alabama Law Enforcement</p>

CHIEF DEENA PREGNO 3/25/2019

Page 14	Page 16
<p>1 Agency to testify as what's known as a Rule</p> <p>2 30(b)(6) witness?</p> <p>3 A. Yes.</p> <p>4 Q. Do you understand that this means</p> <p>5 that the plaintiffs in this case have</p> <p>6 identified certain subject matters it wants to</p> <p>7 explore in a deposition setting, and in</p> <p>8 response, ALEA has designated you to testify</p> <p>9 about those subject matters on behalf of the</p> <p>10 Agency?</p> <p>11 A. Yes.</p> <p>12 Q. Do you understand that it's as</p> <p>13 though ALEA itself is testifying?</p> <p>14 A. Yes.</p> <p>15 Q. Do you understand that we are</p> <p>16 seeking institutional knowledge of the Agency?</p> <p>17 A. Yes.</p> <p>18 Q. Do you understand that to the</p> <p>19 extent you lacked personal knowledge on some</p> <p>20 of those subject matters, you are to prepare</p> <p>21 by thoroughly learning the institution's</p> <p>22 knowledge?</p> <p>23 A. Yes.</p>	<p>1 A. No.</p> <p>2 Q. Did you speak to any of the lawyers</p> <p>3 who represent the Secretary of State Office in</p> <p>4 this action?</p> <p>5 A. No.</p> <p>6 Q. I am now handing you what is being</p> <p>7 marked as Exhibit 1. It's the subpoena from</p> <p>8 the plaintiffs in this case issued to ALEA on</p> <p>9 February 11, 2019.</p> <p>10 (Plaintiff's Exhibit Number 1 was</p> <p>11 marked for identification. A copy</p> <p>12 is attached.)</p> <p>13 Q. And we'll now go over the topics</p> <p>14 for which -- for which ALEA is putting you</p> <p>15 forth as a Rule 30(b)(6) witness.</p> <p>16 The first topic on page 1 is photo</p> <p>17 registration at ALEA driver's license offices.</p> <p>18 Are you prepared to testify about</p> <p>19 this topic?</p> <p>20 A. Yes.</p> <p>21 Q. When did you first learn that you</p> <p>22 were being designated to testify about this?</p> <p>23 A. I'll have to go look at the exact</p>
Page 15	Page 17
<p>1 Q. Are you the only designee for ALEA</p> <p>2 for this particular deposition?</p> <p>3 A. Yes.</p> <p>4 Q. Could you describe what you did to</p> <p>5 prepare for today's deposition?</p> <p>6 A. I went over the subpoena.</p> <p>7 Q. Without mentioning anything that</p> <p>8 was discussed, did you meet with counsel?</p> <p>9 A. Yes.</p> <p>10 Q. For how long?</p> <p>11 A. Approximately thirty minutes.</p> <p>12 Q. How many times?</p> <p>13 A. Twice.</p> <p>14 Q. Did you review any documents other</p> <p>15 than the subpoena?</p> <p>16 A. Yes, the photo declaration that's</p> <p>17 in front of you.</p> <p>18 Q. Anything else?</p> <p>19 A. No.</p> <p>20 Q. Did you speak to anyone to prepare</p> <p>21 to your -- prepare your testimony today as</p> <p>22 ALEA's 30(b)(6) designee other than your</p> <p>23 counsel?</p>	<p>1 date.</p> <p>2 Q. Was it in the last week, in the</p> <p>3 last month?</p> <p>4 A. The last month.</p> <p>5 Q. Do you have personal knowledge of</p> <p>6 this topic?</p> <p>7 A. Yes.</p> <p>8 Q. Is there any reason you cannot</p> <p>9 testify fully and thoroughly on this subject?</p> <p>10 A. No.</p> <p>11 Q. Second topic is any training or</p> <p>12 guidance offered to ALEA officials regarding</p> <p>13 the interpretation of Moral Turpitude Act of</p> <p>14 2017, also know as House Bill 282, HB 282, or</p> <p>15 Act Number 2017-378 or the effect of felony</p> <p>16 convictions on voter eligibility.</p> <p>17 Are you prepared to testify about</p> <p>18 this?</p> <p>19 A. Yes.</p> <p>20 Q. When did you first learn that you</p> <p>21 were being deposed on this topic?</p> <p>22 A. The same time I learned about the</p> <p>23 subpoena.</p>

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CHIEF DEENA PREGNO 3/25/2019

<p style="text-align: right;">Page 18</p> <p>1 Q. Do you have personal knowledge on 2 this topic? 3 A. I'm not following your question. 4 Q. Do you -- do you have personal 5 knowledge regarding the topic that we just 6 discussed -- we just read out loud, the 7 topic -- the second topic -- the second topic. 8 The second topic starts with, "any 9 training or guidance offered to ALEA officials 10 regarding HB 282 or the effect of felony 11 convictions on voter eligibility." 12 A. There was no guidance. So yes, I 13 can testify that there was no guidance or 14 training. 15 Q. Okay. So you have personal 16 knowledge regarding -- 17 A. Yes. 18 Q. -- that topic? Okay. And the 19 third topic, the last topic, is any guidance 20 ALEA officials provide to potential voters at 21 ALEA offices about the effect of voter 22 convictions and voter eligibility. 23 A. Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 professional background chronologically 2 briefly? 3 A. I started the trooper academy in 4 1996, was in highway patrol for approximately 5 three years, worked in dignitary protection 6 approximately three years, worked with -- 7 under the director's office until 2011 maybe, 8 and then went to highway patrol, worked there 9 for approximately two years, service division 10 I believe it was for two years. And then the 11 driver's license division in 2012 is where 12 I've been since 2012. 13 Q. And -- 14 A. I've got a total of twenty-three 15 years of service. I'm not sure those years 16 are exact. 17 Q. Understood. And what is your 18 current position at ALEA? 19 A. ALEA Driver's License Division 20 Chief. 21 Q. And you said that it was around 22 approximately 2012 when you started working at 23 the driver's license division?</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Are you prepared to testify about 2 this? 3 A. Yes. 4 Q. And did you learn that you were 5 being deposed about this topic at the same 6 time you read this subpoena? 7 A. Yes. 8 Q. And do you have any -- do you have 9 personal knowledge of this topic? 10 A. Yes. 11 Q. Any reason you cannot testify fully 12 or thoroughly on this subject? 13 A. No. 14 Q. Could you briefly discuss your 15 educational background? 16 A. I have a minor in business 17 administration and a computer science minor -- 18 I'm sorry. I have a major in business 19 administration and a minor in computer 20 information science from Troy University, 21 certified by the Alabama Peace Officers 22 Standards and Training Commission. 23 Q. And could you tell us your</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Correct. 2 Q. Could you tell us what -- when did 3 you become -- strike that. 4 When did you become the division 5 chief? 6 A. January of 2015. 7 Q. And could you explain what your 8 responsibilities are as the division chief? 9 A. Oversee the operations of all 10 driver's license offices in the State of 11 Alabama operated by ALEA. 12 Q. And is that because some of the 13 offices are not operated by ALEA? 14 A. That's correct. 15 Q. And who operates those offices? 16 MS. MESSICK: Object to the form -- 17 I'm sorry. Objection. Irrelevant and outside 18 the scope. 19 Q. You can go ahead and answer. 20 A. They are operated by county probate 21 judges and license commissioners. 22 Q. Is there any other responsibility 23 other than overseeing the operations of the</p>

6 (Pages 18 to 21)

<p style="text-align: right;">Page 22</p> <p>1 driver's license offices that are operated by 2 ALEA? 3 A. The different units involved -- 4 under the driver's license division as far as 5 reinstatement, CDL, medical, driver 6 improvement, safety. 7 Q. Those are all under your -- 8 A. Yes. 9 Q. -- your responsibility? And who do 10 you report to? 11 A. Colonel Charles Ward. 12 Q. And what is his position? 13 A. Director of the Department of 14 Public Safety. 15 Q. Approximately how many people or 16 how many people report to you? 17 A. Two report to me. 18 Q. Who are those people? 19 A. Captain John Archer, ASA-3 Mona 20 Lisa Hall. 21 Q. And what are their job titles? 22 MS. MESSICK: Objection. 23 Relevance.</p>	<p style="text-align: right;">Page 24</p> <p>1 State of Alabama? 2 A. When an applicant comes in to 3 process for a driver's license or an ID card, 4 once the issuance process is almost completed, 5 if the individual is within voting age -- the 6 system is set up to identify if they're within 7 the voting age and if they are a U.S. 8 citizen. And if that is the case, the voter 9 registration tab will automatically appear and 10 it asks the question would you like to 11 register to vote today. 12 Q. So that is using an automatic 13 system? 14 A. The page appears, the examiner asks 15 the question, and then they respond yes or no 16 based on the applicant's answer to the 17 examiner. 18 Q. Understood. And you said this is 19 when people come in to apply for a driver's 20 license or an ID card. Will you explain what 21 other forms of ID cards that your offices 22 process? 23 MS. MESSICK: Object to the -- I'm</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. You can answer. 2 A. Captain John Archer, he's assistant 3 division chief and administrative assistant. 4 Mona Lisa Hall is the division administrative 5 support person. 6 Q. And before you became the division 7 chief in 2015, between 2012 and 2015, could 8 you describe what your role was at the 9 driver's license division? 10 MS. MESSICK: Objection. Relevance 11 and outside the scope. 12 A. I was the district commander and 13 region commander of driver's license. 14 Q. What were you responsible -- what 15 does that job entail? 16 MS. MESSICK: Objection. Relevance 17 and outside the scope. 18 A. I was over the south region which 19 involved Montgomery, Opelika, Mobile, 20 Tuscaloosa, Selma, Dothan, all those district 21 and field offices for driver's license. 22 Q. Could you describe what ALEA does 23 with regards to voter registration in the</p>	<p style="text-align: right;">Page 25</p> <p>1 sorry. Objection. Scope. 2 A. Either a driver's license or 3 nondriver's identification card. 4 Q. So there's only one type of 5 nondriver's license identification card? 6 A. Correct. 7 Q. Does ALEA also provide any forms 8 that has voter registration information to 9 applicants who come to the office? 10 A. We no longer provide a voter 11 registration card with an automated process. 12 Q. So you don't use any paper forms? 13 A. No. 14 Q. The voter declaration document that 15 you brought -- that you and your counsel 16 brought with you today, is this -- is this an 17 accurate representation of what a -- what an 18 applicant will see or sign when they are going 19 through the process that you just described? 20 A. If they answer yes to the question, 21 the voter declaration is printed. They are 22 told to read all the -- all the information 23 and sign at the bottom if it is correct.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q. And what about when they want to 2 either change their address -- let's take it 3 one by one. 4 What about when an applicant comes 5 in and wants to change their address? 6 A. If they change their address, a tab 7 will appear and ask if they would like to 8 update their voter registration address with 9 the new address, and it's either a yes or no 10 answer. 11 Q. Does it happen regardless of 12 whether the applicant is already registered to 13 vote? 14 A. Yes. 15 Q. So in theory, if you are not 16 registered to vote, you could register to vote 17 at that point? 18 A. Yes. 19 Q. Those applicants will also see the 20 same form, the voter declaration page that 21 is -- that you brought with you today? 22 A. Correct, if they answer yes to the 23 question.</p>	<p style="text-align: right;">Page 28</p> <p>1 A. No. 2 Q. Is there an unwritten policy? 3 A. There's no unwritten policy. We 4 don't deal with voter registration other than 5 what's automated in the system. So we don't 6 have those answers. 7 Q. So how could -- how would an 8 employee know that the board of registrar 9 office is the place that they should refer 10 those questions to? 11 A. Because in the years past when we 12 had voter registration cards, we provided them 13 to the applicant and told them if you have any 14 questions talk to the voter registration 15 office. 16 Q. So that's been the practice of 17 driver's license offices with regards to voter 18 registration questions? 19 A. Yes. 20 Q. And that is starting from before 21 you had an automated system that popped up 22 whenever the conditions were met? 23 A. Correct.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Could you describe what ALEA does 2 to assist applicants with voter registration 3 questions, if any? 4 A. We forward them to the local voter 5 registration office, registrar's office. 6 Q. So if they're asking those 7 questions in person while they are in front of 8 the examiner, what happens then? 9 A. We tell them we don't have that 10 information, they need to contact the voter 11 registration office. 12 Q. That is the local office of their 13 county of residence? 14 A. Yes. 15 Q. So is there a written policy on 16 that point, that employees of the ALEA 17 driver's license offices should forward all 18 questions regarding voter registration to -- 19 refer them to the local voter registrar 20 office? 21 A. No. 22 Q. Are there any instructions given to 23 employees that that's how they should respond?</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. When did ALEA switch over to that 2 system where you don't have any paper forms? 3 A. I believe it was 2017. 4 Q. And prior to the switch, what do -- 5 what forms did ALEA provide to the driver's 6 license applicants? 7 A. It was a voter registration card. 8 Q. And it was the same card that would 9 be available at voter registration offices? 10 A. Correct. That's who provided them. 11 Q. We'll actually go ahead and mark 12 the voter declaration form as an exhibit now. 13 This is the same voter registration form that 14 the witness and counsel brought with them 15 today as responsive to the subpoena that was 16 issued to ALEA. 17 (Plaintiff's Exhibit Number 2 was 18 marked for identification. A copy 19 is attached.) 20 MS. MESSICK: For the record, he 21 said might conceivably possibly may be 22 responsive. I think it's obvious it's not 23 responsive to the subpoena.</p>

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<p>1 MR. ROBINSON: For the record, to</p> <p>2 reiterate, this was approved by the United</p> <p>3 States Department of Justice Voter</p> <p>4 Registration Section.</p> <p>5 BY MS. YUN:</p> <p>6 Q. Do you also process forms for</p> <p>7 renewal or duplicate license for drivers</p> <p>8 temporarily out of state?</p> <p>9 A. Yes.</p> <p>10 Q. I'm now handing you what's being</p> <p>11 marked as Exhibit 3.</p> <p>12 (Plaintiff's Exhibit Number 3 was</p> <p>13 marked for identification. A copy</p> <p>14 is attached.)</p> <p>15 Q. Does this form -- is this the form</p> <p>16 that would be utilized to process that</p> <p>17 request?</p> <p>18 A. Yes.</p> <p>19 Q. And that form also has a section</p> <p>20 that is used for voter registration, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And the voter declaration part on</p> <p>23 the second page is the same as what the voter</p>	<p>1 Q. Has ALEA been working with the</p> <p>2 Secretary of State Office to increase voter</p> <p>3 registrations at ALEA offices?</p> <p>4 MS. MESSICK: Objection. Scope.</p> <p>5 A. Under the lawsuit through DOJ,</p> <p>6 we've updated the system to provide them that</p> <p>7 opportunity.</p> <p>8 Q. When you say updated the system,</p> <p>9 you mean switching over to the electronic</p> <p>10 automated system?</p> <p>11 A. Yes, that's correct.</p> <p>12 Q. What are ALEA's obligations under</p> <p>13 the National Voter Registration Act?</p> <p>14 MS. MESSICK: Objection to scope.</p> <p>15 Also you're asking her what a federal law</p> <p>16 requires. She's not a lawyer.</p> <p>17 Q. You can go ahead and answer.</p> <p>18 A. What was the question again?</p> <p>19 MR. ROBINSON: If you know.</p> <p>20 A. Do I know? I don't know what's</p> <p>21 required for voter registration.</p> <p>22 Q. Could you describe any steps that</p> <p>23 ALEA has taken to comply with the National</p>
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<p>1 declaration form of Exhibit 2 -- what the</p> <p>2 voter declaration document has is the same as</p> <p>3 page 2 of this form DL 100, Exhibit 2 -- I</p> <p>4 mean, Exhibit 3?</p> <p>5 A. That's correct.</p> <p>6 Q. These applications are accepted</p> <p>7 only by mail or do you also have an</p> <p>8 electronic --</p> <p>9 A. Only by mail.</p> <p>10 Q. Do you ever accept them in person?</p> <p>11 A. Yes, but if they are out of state</p> <p>12 it's kind of hard to do.</p> <p>13 Q. Do ALEA offices provide what</p> <p>14 voter -- what the requirements are for voter</p> <p>15 registration to applicants other than</p> <p>16 providing them with the voter registration</p> <p>17 form?</p> <p>18 A. No.</p> <p>19 Q. What are the goals, if any, to ALEA</p> <p>20 with regard to voter registration?</p> <p>21 A. Opportunity for them to register at</p> <p>22 the time of issuance of an ID card or driver's</p> <p>23 license.</p>	<p>1 Voter Registration Act?</p> <p>2 MS. MESSICK: Objection. Scope.</p> <p>3 A. Update --</p> <p>4 MS. MESSICK: I'm sorry. I'm</p> <p>5 sorry. And also, again, it calls for her to</p> <p>6 have an understanding of the federal law. The</p> <p>7 subpoena asks her to talk about what happens</p> <p>8 in ALEA offices, not whether it complies with</p> <p>9 federal law or in what way it complies with</p> <p>10 that law.</p> <p>11 Q. You can answer.</p> <p>12 MR. ROBINSON: But it's -- it's</p> <p>13 outside the scope of the subpoena. So it's</p> <p>14 going to be her opinion. It's not binding on</p> <p>15 the Agency.</p> <p>16 MS. MESSICK: We agree with that</p> <p>17 completely.</p> <p>18 Q. You can answer.</p> <p>19 A. We -- through the lawsuit with DOJ,</p> <p>20 we updated the system to provide that</p> <p>21 opportunity for them to register to vote.</p> <p>22 Q. Could you explain your</p> <p>23 interactions -- ALEA's interactions, if any,</p>

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<p>1 with the Secretary of State Office with 2 regards to voter registration services? 3 MS. MESSICK: Again, it's outside 4 the scope, and I don't see how any of it's 5 relevant. It's private. 6 MS. YUN: I would just like to note 7 for the record that the subpoena -- the first 8 topic under the subpoena is voter registration 9 at ALEA driver's license offices. 10 MS. MESSICK: You're asking about 11 another state agency now. 12 BY MS. YUN: 13 Q. Do you understand the question? 14 Should I read the question again? 15 A. Yes, please. 16 Q. Could you explain your interactions 17 with the Secretary of State Office with 18 regards to voter registration services, if 19 any? And your as in ALEA's interactions, not 20 you in your personal capacity. 21 A. ALEA takes -- 22 MS. MESSICK: Well, then I object 23 again to the scope.</p>	<p>1 Q. Do you receive any communication 2 from the Office of the Secretary of State with 3 regard to voter registration? 4 MS. MESSICK: Objection. Scope. 5 Q. I would like to note it is within 6 scope, but you can answer. 7 A. No. The only time we receive any 8 information from them is when someone has -- 9 in the license commissioner offices there has 10 been occasion where they would erroneously 11 register someone to vote. And then the 12 Secretary of State's office would call me, and 13 we would identify which office did it and, you 14 know, try to guide them not to -- to ask the 15 right question at the time of issuance. So -- 16 Q. Just to clarify, you said that's 17 when -- that's not an ALEA office. That's a 18 driver's license commission? 19 A. It could be either/or, but in the 20 past it's been a probate or license 21 commissioner office who has -- 22 Q. So you would go back to them and 23 say we received this communication from the</p>
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<p>1 MR. ROBINSON: Same objection. 2 A. ALEA takes the information. If 3 they say they would like to register to vote, 4 then we transfer that information to the 5 appropriate authority for voter registration 6 for them to determine if they're eligible. 7 Q. So do you have any interactions 8 with the Secretary of State Office, the Office 9 of the Secretary of State? 10 A. Personally? 11 Q. Does ALEA -- does the driver's 12 license division have any interactions with 13 the Secretary of State office with regards to 14 voter registration rather than forwarding 15 the -- 16 A. The data? 17 Q. -- the data? 18 A. No. 19 Q. So you do not receive any guidance 20 with regards to your practices from the 21 Secretary of State Office? 22 A. No. 23 MS. MESSICK: Objection. Scope.</p>	<p>1 Secretary of State Office, we need to fix it? 2 A. (Witness nods.) 3 Q. Would you please say -- 4 A. Yes. 5 Q. Are these to fix one error or are 6 these to let them know that that was wrong and 7 therefore you should be sure to not do it 8 again? 9 MR. ROBINSON: Objection. It's 10 outside the scope. 11 MS. MESSICK: Objection. It's 12 outside the scope. 13 A. It would be to tell them this was 14 wrong, please don't let it happen again. 15 Q. And that is directed specifically 16 at only that office? 17 A. The office that made the mistake, 18 yes. 19 Q. Could you give us some examples of 20 what kind of mistakes these have been? 21 MR. ROBINSON: Outside the scope. 22 MS. MESSICK: Objection. 23 Relevance.</p>

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<p>1 A. When someone changes their address</p> <p>2 and they did not wish to register to vote but</p> <p>3 the person operating the issuance system</p> <p>4 marked yes.</p> <p>5 Q. Any other examples?</p> <p>6 A. No.</p> <p>7 MS. MESSICK: Same objection.</p> <p>8 Q. Were there any other communications</p> <p>9 that you -- that ALEA -- your division would</p> <p>10 receive other than what you just described in</p> <p>11 terms of mistakes made in the process of</p> <p>12 sending information over for voter</p> <p>13 registration?</p> <p>14 MS. MESSICK: Objection. Scope and</p> <p>15 relevance.</p> <p>16 A. No.</p> <p>17 Q. So the only times when you receive</p> <p>18 communication from the Secretary of State</p> <p>19 Office is when there are discreet mistakes</p> <p>20 being made to a form and then you notify that</p> <p>21 office regarding the mistake. Is that -- is</p> <p>22 that a fair representation of your testimony</p> <p>23 today?</p>	<p>1 A. That's correct.</p> <p>2 Q. So ALEA did not send out any</p> <p>3 communication to the driver's license offices</p> <p>4 or their employees regarding the passage of</p> <p>5 this law, HB 282, correct?</p> <p>6 A. Correct, we did not.</p> <p>7 Q. Was there any discussion on the</p> <p>8 effect of HB 282 on the voter registration</p> <p>9 within the Agency?</p> <p>10 MS. MESSICK: Objection. Scope. I</p> <p>11 would say any answer is limited to her</p> <p>12 personal knowledge, not the Agency.</p> <p>13 MR. ROBINSON: Same objection.</p> <p>14 Q. Was there any discussion that ALEA</p> <p>15 had with regard to HB 282 with the Office of</p> <p>16 the Secretary of State?</p> <p>17 MS. MESSICK: Objection. Scope.</p> <p>18 Q. I would just like to note it is</p> <p>19 within scope under the second topic. You can</p> <p>20 answer.</p> <p>21 MS. MESSICK: We disagree. She may</p> <p>22 answer with her personal knowledge and not on</p> <p>23 behalf of the Agency.</p>
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<p>1 MS. MESSICK: Objection. Scope,</p> <p>2 relevance, asked and answered.</p> <p>3 MR. ROBINSON: Yeah, objection.</p> <p>4 Scope, relevance, and asked and answered.</p> <p>5 A. Yes.</p> <p>6 Q. Is ALEA aware of the definition of</p> <p>7 Moral Turpitude Act of 2017 also known as HB</p> <p>8 282 or House Bill 282?</p> <p>9 A. Yes.</p> <p>10 Q. What is the Agency's understanding</p> <p>11 of the effect of that law?</p> <p>12 A. It deals with felony voter rights.</p> <p>13 Q. Does ALEA understand the law to</p> <p>14 affect voter eligibility?</p> <p>15 A. Yes.</p> <p>16 Q. Was that understanding communicated</p> <p>17 to driver's license offices or their</p> <p>18 employees?</p> <p>19 A. No. I didn't have any</p> <p>20 understanding of this until I received the</p> <p>21 subpoena.</p> <p>22 Q. And that was within the last month</p> <p>23 or so?</p>	<p>1 A. No, there was no discussion.</p> <p>2 Q. So is it fair to say that you did</p> <p>3 not receive any instructions from the</p> <p>4 Secretary of State Office regarding what</p> <p>5 disqualifying felony convictions are for voter</p> <p>6 eligibility?</p> <p>7 MS. MESSICK: Asked and answer.</p> <p>8 Q. You may answer.</p> <p>9 A. That is correct. We did not</p> <p>10 receive any information from the Secretary of</p> <p>11 State's Office.</p> <p>12 Q. So any -- just to be clear, any</p> <p>13 information, meaning there was no guidance</p> <p>14 from the Secretary of State's Office, correct?</p> <p>15 MS. MESSICK: Objection. Asked and</p> <p>16 answered.</p> <p>17 A. That is correct.</p> <p>18 Q. And no formal or informal</p> <p>19 communications from the office?</p> <p>20 MS. MESSICK: Objection. Asked and</p> <p>21 answered.</p> <p>22 Q. Of the Secretary of State's Office?</p> <p>23 A. That is correct.</p>

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<p>1 Q. Could you describe any 2 instructions, if any, that ALEA gave to its 3 employees regarding disqualifying felony 4 convictions after HB 272 passed -- 282 passed? 5 A. There were no -- no documents 6 regarding the passage of 282 provided or 7 instructions provided to ALEA employees. 8 Q. Do driver's license offices have 9 the list of felonies that are now considered 10 disqualifying felony convictions? 11 A. No. 12 Q. Were there any public announcements 13 with regards to voter eligibility that ALEA 14 issued after HB 282 passed? 15 A. No. 16 Q. How about press releases? 17 A. Through ALEA? 18 Q. Yes. 19 A. No. 20 Q. There were no official statements 21 from ALEA, right? 22 A. No. 23 Q. And no public guidance materials</p>	<p>1 should ask this person whether they would like 2 to register to vote and if they say yes and 3 they have any questions, you say that it is 4 routine practice for them to just refer those 5 questions -- refer the applicant to the voter 6 registration office. Was that the case before 7 HB 282 passed also? 8 A. Yes. 9 Q. And you know that to be the case at 10 least since 2012 which is when you started 11 working in the division, correct? 12 MS. MESSICK: Objection. Scope. 13 A. Correct. 14 Q. How do you -- are there any -- 15 strike that. When an applicant comes into the 16 office they are standing there in front of the 17 examiner. If they have questions about 18 anything regarding their eligibility for a 19 form of ID, how does the examiner answer that 20 question? 21 MS. MESSICK: Object to the form. 22 Also that's incredibly vague. 23 MR. ROBINSON: Same objection --</p>
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<p>1 like posters or signs that were to be posted 2 within the office -- within the driver's 3 license office; is that correct? 4 A. Correct. 5 Q. Are there any training that is 6 given to ALEA employees with regards to voter 7 eligibility? 8 A. No. 9 Q. So there is no training given to 10 ALEA employees with regards to what counts as 11 a disqualifying felony conviction, correct? 12 A. Correct. 13 Q. Are there any materials that ALEA 14 provides to any applicants regarding voter 15 eligibility after HB 282 passed? 16 A. No. 17 Q. And ALEA does not provide a list of 18 felonies that are now considered disqualifying 19 felony convictions under HB 282, correct? 20 A. Correct. 21 Q. You stated earlier today that you 22 if an applicant is standing in front of the 23 examiner and a question pops up that you</p>	<p>1 MS. MESSICK: I'm sorry. I think I 2 said object to the form. It's irrelevant. 3 It's outside the scope and it's vague. 4 BY MS. YUN: 5 Q. Do you understand my question? 6 A. You're asking if they have a 7 question about issuance of an ID? 8 Q. About their eligibility for an ID, 9 whether it's a driver's license or a 10 nondriver's license ID. 11 A. No. They are trained on that. 12 Q. Do you have any written guidance 13 material on that? 14 A. Yes. 15 MS. MESSICK: I'm sorry. Objection 16 to scope and relevance. 17 Q. And are there any written materials 18 that they can reference at the desk when they 19 are asked those questions, the examiners? 20 MR. ROBINSON: Objection. Scope 21 and relevance. 22 MS. MESSICK: Objection. Scope and 23 relevance.</p>

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<p>1 A. It may not be at their desk, but</p> <p>2 they go through forty hours of training on</p> <p>3 what documents are required for a driver's</p> <p>4 license or ID card. So it's -- if they are a</p> <p>5 good examiner, it's committed to memory.</p> <p>6 Q. And that forty-hour training is</p> <p>7 when they first started working at the office</p> <p>8 or is it periodic?</p> <p>9 MS. MESSICK: Objection. Scope and</p> <p>10 relevance.</p> <p>11 MR. ROBINSON: Same objections.</p> <p>12 A. It's upon hiring, and then we have</p> <p>13 retraining annually.</p> <p>14 Q. And if any of those requirements</p> <p>15 change, how are those changes communicated to</p> <p>16 the employees?</p> <p>17 MS. MESSICK: Objection. Scope and</p> <p>18 relevance.</p> <p>19 MR. ROBINSON: Objection. Scope</p> <p>20 and relevance.</p> <p>21 A. In writing.</p> <p>22 MS. YUN: I think we are just about</p> <p>23 done, but we would like to take a five-minute</p>	<p>1 REPORTER'S CERTIFICATE</p> <p>2 STATE OF ALABAMA)</p> <p>3 JEFFERSON COUNTY)</p> <p>4 I, Elaine Scott, Licensed Court</p> <p>5 Reporter and Commissioner for the State of</p> <p>6 Alabama at Large, hereby certify that on March</p> <p>7 25, 2019, I reported the deposition of CHIEF</p> <p>8 DEENA PREGNO, who was first duly sworn or</p> <p>9 affirmed to speak the truth in the matter of</p> <p>10 the foregoing cause, and that pages 1 through</p> <p>11 48 contain a true and accurate transcription</p> <p>12 of the examination of said witness by counsel</p> <p>13 for the parties set out herein.</p> <p>14 I further certify that I am neither</p> <p>15 of kin nor of counsel to any of the parties to</p> <p>16 said cause nor in any manner interested in the</p> <p>17 results thereof.</p> <p>18</p> <p>19 ELAINE SCOTT, Court Reporter</p> <p>20 and Commissioner for the State</p> <p>21 of Alabama at Large,</p> <p>22 CCR License No. 354, Expires 9/30/19</p> <p>23 MY COMMISSION EXPIRES NOVEMBER 16, 2019</p>
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<p>1 break just to -- just so that we have an</p> <p>2 opportunity to confer.</p> <p>3 MS. MESSICK: Great. Thank you.</p> <p>4 (Break taken.)</p> <p>5 MS. YUN: We have no further</p> <p>6 questions at this time.</p> <p>7 MS. MESSICK: We have no questions.</p> <p>8 All right. Thank you, everybody.</p> <p>9</p> <p>10 (The deposition of CHIEF DEENA</p> <p>11 PREGNO, concluded on March 25,</p> <p>12 2019, at 12:25 p.m.)</p> <p>13 FURTHER DEPONENT SAITH NOT</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	

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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

Treva Thompson, *et al.*,

Plaintiffs,

v.

John H. Merrill, in his official capacity as
Secretary of State, *et al.*,

Defendants.

Civil Action No. 2:16-cv-783-ECM-SRW

**SUBPOENA TO PRODUCE DOCUMENTS AND TESTIFY AT A DEPOSITION IN A
CIVIL ACTION**

To: Alabama Law Enforcement Agency ("ALEA")
Legal Department
201 S. Union Street
Montgomery AL 36104
Meredith.Barnes@alea.gov

- I. YOU ARE COMMANDED, pursuant to Federal Rule of Civil Procedure 45 and Rule 30(b)(6), to appear at the date, time, and place set forth below to testify at a deposition to be taken under oath in this civil action. The deposition will be taken before a court reporter authorized to administer oaths by the laws of the State of Alabama, and testimony will be recorded stenographically. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf and who have knowledge of, and are adequately prepared to testify concerning, the following matters: voter registration at ALEA driver license offices; any training or guidance offered to ALEA officials regarding the Definition of Moral Turpitude Act of 2017 ("HB 282"), also known as House Bill 282, HB 282, or Act No. 2017-378, or the effect of felony convictions on voter eligibility; and any guidance ALEA officials provide to potential voters at ALEA offices about the effect of felony convictions on voter eligibility.

DATE AND TIME: March 25, 2019 at 10:00 am

PLACE: McGuire & Associates LLC, 31 Clayton Street, Montgomery, AL 36104



- II. YOU ARE COMMANDED, pursuant to Federal Rule of Civil Procedure 45, to produce to McGuire & Associates LLC, 31 Clayton Street, Montgomery, AL 36104, within thirty days of service of this subpoena, the following documents, electronically stored information, or objects, and to permit inspection or copying of the same:
1. All documents and communications regarding the effect, scope, interpretation, implementation, of the Definition of Moral Turpitude Act of 2017 (“HB 282”), also known as House Bill 282, HB 282, or Act No. 2017-378, or otherwise related to the Alabama Law Enforcement Agency’s activities, responses, reactions, duties, and functions related to HB 282, including but not limited to:
 - a. instructions regarding the implementation of HB 282 prepared or received by the Alabama Law Enforcement Agency or any employees thereof;
 - b. public announcements, press releases, official or unofficial statements, public guidance, and/or other forms of communication regarding HB 282 or the implementation thereof, or otherwise related to the disqualification or non-disqualification, the registration or non-registration, or otherwise related to the effect of a felony conviction on voter registration;
 - c. training or guidance materials regarding HB 282 or and/or the registration to vote of citizens with prior felony convictions, whether formal or informal;
 - d. documents or materials provided to, prepared for, or directed at any current, former, potential, potentially disqualified, or disqualified voter in Alabama regarding or related to HB 282 and/or the registration of citizens with felony convictions, and any documents or materials that contain or describe training, guidance, or otherwise describe the method, means, and/or circumstances in which a citizen with a felony conviction may register to vote;
 - e. All documents and materials regarding the disqualification of citizens with felony convictions involving moral turpitude from 2016 to the present;
 - f. All documents and materials regarding the restoration of voting rights or voter registration for citizens after August 1, 2017, for citizens who were denied the right to register to vote, or to vote, on the basis of a disqualifying felony conviction prior to August 1, 2017.
 2. Documents sufficient to show records of all communications—whether oral or written—regarding the understanding of disqualifying felonies before August 1, 2017, including but not limited to:
 - a. Training, education, and guidance materials on which felonies disqualified an applicant or how to assess a felony’s severity;

- b. Requests for clarification on voter eligibility based on whether a felony is disqualifying, and responses to those requests;
 - c. Communications regarding the approval or rejection of an application for the restoration of voting rights, on the basis of a qualifying or disqualifying felony.
 - d. Communications to any applicant, or policy or guidance materials regarding communications to applicants, regarding whether a felony is disqualifying;
- 3. Documents sufficient to show records of all communications—whether oral or written—regarding the understanding of disqualifying felonies under HB 282, or otherwise related to such understanding on or after August 1, 2017, including but not limited to:
 - a. Training, education, and guidance materials on which felonies disqualified an applicant or how to assess a felony's severity;
 - b. Requests for clarification on voter eligibility related to HB 282, and responses to those requests;
 - c. Communications regarding the approval or rejection of an application for the restoration of voting rights, on the basis of a qualifying or disqualifying felony.
 - d. Communications to any applicant, or policy or guidance materials regarding communications to applicants, regarding HB 282;
- 4. Documents sufficient to show all applications for voting rights of citizens previously convicted of felonies, or inquiries or requests for information related to application(s) for voting rights of citizens previously convicted of felonies, including documents sufficient to show:
 - a. The date of the request;
 - b. The statutory violation and degree;
 - c. The race of the applicant;
 - d. Court imposed legal financial obligations, including fines, fees, and/or restitutions;
 - e. The date of completion of sentence, including probation and parole;
 - f. The date of payment of all legal financial obligations, or if all legal financial obligations are not complete, current state of legal financial obligations;
 - g. The outcome of the application.

To the extent responsive records rely on administrative or electronic codes, provide information to understand those codes, such as the name and description of the fields in the data and a description of each code, including, where applicable, any documents, communications, or things related to the means by which a particular code was assigned to an applicant or voter, to the extent not otherwise included in your response to this requires.

Electronic information in its original format is preferred.

III. Pursuant to Fed. R. Civ. P. 45(a)(1)(iv) the text of Fed. R. Civ. P. 45 (c), (d), (e), (g) is reproduced below:

(c) PLACE OF COMPLIANCE.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a

written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents*. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified*. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form*. The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information*. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection*.

(A) *Information Withheld*. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced*. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt*. The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

DATED: February 11, 2019

Respectfully submitted,

Joseph Mitchell McGuire (AL Bar: ASB-8317-S69M)
McGuire & Associates LLC
31 Clayton Street
Montgomery, AL 36104
(334) 517-1000
jmcguire@mandabusinesslaw.com
Counsel for Plaintiffs and Plaintiff Class

Voter Declaration

Read and Sign Under Penalty of Perjury

Would you like to register to vote? Yes

Do you want to use this address to update voter information? Yes

To register to vote, you must agree that the following statements are true.

1. I am a U.S. citizen
2. I am a legal resident of the State of Alabama
3. I will be at least 18 years of age on or before Election Day
4. I am not barred from voting by reason of a disqualifying felony conviction
5. I have not been judged "mentally incompetent" in a court of law

I solemnly swear or affirm to support and defend the constitution of the United States and the State of Alabama and further disavow any belief or affiliation with any group which advocates the overthrow of the governments of the United States or the State of Alabama by unlawful means and that the information contained herein is true, so help me God.

If you falsely agree to this statement, you can be convicted and imprisoned for up to five years.

Signature





ALABAMA LAW ENFORCEMENT AGENCY

Information Bureau Licensing Services Division

Application for a Renewal or Duplicate License for Alabama Drivers Temporarily Out of State

Military personnel and their dependents residing out of state, college students enrolled full-time out of state and employees temporarily placed on assignment out of state may complete the following information to request a renewal or duplicate Driver License if they have obtained an Alabama Driver License with their picture and signature in the last four years. A Renewal License may be applied for 60 days prior to expiration date.

This request is for a: (please select) ☐ Duplicate ☐ Renewal ☐ Information Update

Driver Information (changes from your current license will be reflected on your duplicate or renewed license)

Full Name		Social Security Number	
Alabama Driver License Number	Expiration Date	Date of Birth	
Update the following Information	<input type="checkbox"/> No changes to current information	Height	Weight
		Organ Donor (circle one) <input type="radio"/> Yes <input type="radio"/> No	
Alabama Residence Street Address (do not use a PO Box)		Apartment or Suite #	
City	Zip Code	County	
If you are registered to vote, a change of address for your Alabama residence will update your voter registration record <u>unless</u> you check this box. <input type="checkbox"/>			
Daytime Phone Number		Email Address (<input type="checkbox"/> check if you would like renewal reminder)	

Out of State Information

Reason for being out of state	<input type="checkbox"/> Military Personnel/Dependent <input type="checkbox"/> Out of State Full-time Student <input type="checkbox"/> Out of State Employment		
Military Post or University/School			
Location	Address (do not use a PO Box)		Apartment or Suite #
	City	Province/Territory/State	Country
			Postal Code
Additional Comments (may also use this space for a mailing address if different)			

Supporting documents to be included with form:

- ☐ **Military:** Military personnel enclose 1) a copy of military picture ID card and 2) military orders.
- ☐ **Student:** Students enclose a 1) copy of student picture ID card and 2) current college enrollment documents.
- ☐ **Employee:** Employees temporarily assigned out of state must enclose a letter, on letterhead, from your employer stating your assignment.

Foreign nationals are not eligible to apply for a license by mail. Star ID cannot be issued by mail.



ALABAMA LAW ENFORCEMENT AGENCY

Information Bureau Licensing Services Division

Fees

Money order or Certified Bank Draft made payable to the **ALEA Licensing Services Division**. **No personal checks please.**

\$31.25 Any License Duplicate

\$36.25 Standard License, Motorcycle, Vessel & CDL Class C Renewal

\$56.25 CDL Class B Renewal

\$66.25 CDL Class A Renewal

No Fee Information Update Only

Mail this form, supporting documents and a payment to:

Alabama Law Enforcement Agency
Licensing Services Division
PO Box 1471
Montgomery AL 36102-1471

Please send me a duplicate or renewal of my driver license with the updated information listed above. The information I have provided in this application is true and accurate.

Driver Signature

Date

Voter Registration

The decision to register to vote is yours. If you decide to register to vote, the office at which you are submitting this application will remain confidential and will be used only for voter registration purposes. If you decline to register, your decision will remain confidential and will be used only for voter registration purposes. All information in the "Driver Information" section on the previous page must be filled out.

Deadline for submitting application: Voter registration and updating of voter records is closed during the 14 days prior to each election in Alabama.

Completion of the following information is optional

Address where you last registered to vote	Street Address	City	County	State	Zip Code

Voter Declaration - Read and Sign Under Penalty of Perjury

- I am a U.S. citizen
- I am a legal resident of the State of Alabama
- I will be at least 18 years of age on or before Election Day
- I am not barred from voting by reason of a disqualifying felony conviction
- I have not been judged "mentally incompetent" in a court of law

I solemnly swear or affirm to support and defend the constitution of the United States and the State of Alabama and further disavow any belief or affiliation with any group which advocates the overthrow of the governments of the United States or the State of Alabama by unlawful means and that the information contained herein is true, so help me God.

If you falsely sign this statement, you can be convicted and imprisoned for up to five years.

Voter Signature

Date

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Treva Thompson, Timothy Lanier,
Pamela King, Darius Gamble,
and Greater Birmingham Ministries,

Plaintiffs,

v.

John H. Merrill, in his official capacity
as Secretary of State, James Snipes, III, in
his official capacity as Chair of the
Montgomery County Board of Registrars,
and Leigh Gwathney, in her official
capacity as Chair of the Board of Pardons
and Paroles,

Defendants.

Civil Action No.
2:16-cv-783-ECM-SMD

THIRD DECLARATION OF CLAY S. HELMS

1. My name is Clay S. Helms. I am the Deputy Chief of Staff and Director of Elections for the Alabama Secretary of State's Office. I am over the age of 19, and the facts I have set out below are based upon my personal knowledge, the records of the Alabama Secretary of State's Office maintained in the ordinary course of business, or documents issued to the public by Alabama governmental agencies.

2. Attached hereto as Exhibit A is a PDF of an educational poster that explains which felonies are disenfranchising in Alabama (pursuant to Ala. Code § 17-3-30.1(c)) and how a felon who has lost his voting rights may be able to have his rights restored. The physical version of the poster is 17 inches by 11 inches.

3. This poster was revised earlier this year. In past years, the Alabama Board of Pardons and Paroles has provided our office with a supply of posters, most of which we redistribute

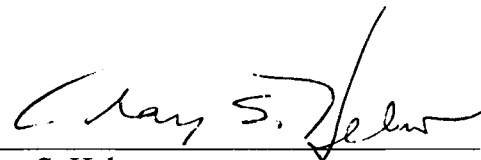
to the Boards of Registrars throughout the State. This year, our office is also distributing the poster to other State offices involved in voter registration, and we have agreed to pay up to \$300 for the increased production costs associated with this broader distribution.

4. The Alabama Board of Pardons and Paroles delivered some of the new posters to the Secretary of State's warehouse earlier this month for our office to distribute. From that stock, the Alabama Law Enforcement Agency has picked up 200 posters, the Department of Human Resources has picked up 70 posters, the Alabama Medicaid Agency has picked up 22 posters, and the Alabama Department of Public Health has picked up 140 posters. We have asked that these agencies distribute the posters to their offices (and, in the case of ALEA, to the county offices providing driver license services) throughout the State. Additionally, the Secretary of State's Office has mailed posters to each Board of Registrars' office throughout the State.

* * *

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 29, 2020.

A handwritten signature in black ink, appearing to read "Clay S. Helms", written over a horizontal line.

Clay S. Helms
Deputy Chief of Staff
Director of Elections
Alabama Secretary of State's Office

Convicted of a felony? You may still be able to vote.

1. Not convicted of a felony in the BLUE list below OR convicted of a misdemeanor?
You can vote! Register today. Contact your local Board of Registrars or the Secretary of State's office.
2. Convicted of a felony in the BLUE list below?
You might be able to restore your right to vote. Learn more in the RED box below.

List of felonies that require restoration:

Current through April 9, 2020.
For a current list, please see sos.alabama.gov/mtfelonies.

- Aggravated child abuse
- Aggravated theft by deception
- Assault (except DUI of alcohol/controlled substance)
- Attempt to commit an explosive or destructive device or bacteriological or biological weapons crime
- Bigamy
- Burglary (I and II degrees)
- Conspiracy to commit an explosives or destructive or bacteriological or biological weapons crime
- Dissemination or public display of obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts
- Distribution, possession with intent to distribute, production of obscene material, or offer/agreement to distribute or produce obscene material
- Electronic solicitation of a child
- Endangering the water supply
- Enticing a child to enter a vehicle, house, etc. for immoral purposes
- Facilitating online solicitation of a child
- Facilitating solicitation of unlawful sexual conduct with a child
- Facilitating the travel of a child for an unlawful sex act
- Forgery (I and II degrees)
- Hinderance or obstruction during detection, disarming, or destruction of a destructive device or weapon
- Hindering prosecution of terrorism
- Human trafficking
- Incest
- Kidnapping (I and II degrees)
- Manslaughter
- Murder
- Parents or guardians permitting children to engage in production of obscene matter
- Possession and possession with intent to disseminate obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts
- Possession or distribution of a destructive device or weapon intended to cause injury or destruction
- Possession or distribution of a hoax device represented as a destructive device or weapon
- Possession, manufacture, transport, or distribution of a destructive device or bacteriological weapon or biological weapon
- Possession, manufacture, transport, or distribution of a detonator, explosive, poison, or hoax device
- Production of obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts
- Prohibited acts in the offer, sale, or purchase of securities
- Rape (any degree)
- Robbery (any degree)
- Selling, furnishing, giving away, delivering, or distribution of a destructive device, a bacteriological weapon, or biological weapon to a person less than 21 years of age
- Sexual abuse (any degree)
- Sexual abuse of a child less than 12-years-old
- Sexual torture
- Sodomy (any degree)
- Soliciting or providing support for an act of terrorism
- Terrorism
- Theft of lost property (I and II degrees)
- Theft of property (I and II degrees)
- Theft of trademarks or trade secrets
- Torture or other willful maltreatment of a child under 18 years of age
- Trafficking in cannabis, cocaine, or other illegal drugs or trafficking in amphetamine and methamphetamine
- Traveling to meet a child for an unlawful sex act
- Treason

Any crime as defined by the laws of the United States or by the laws of another State, territory, country, or other jurisdiction, which, if committed in Alabama, would constitute one of the felonies listed above.

Do you meet all four requirements?

- ☐ You do NOT have any pending felony charges.

☐ You HAVE paid in full all fines, court costs, fees and victim restitution ordered at the time of sentencing on disqualifying cases.

☐ You HAVE completed your sentence, including probation or parole.
- ☐ You were NOT convicted of:

Enticing a child to enter a vehicle for immoral purposes

Impeachment

Incest

Murder

Parents or guardians permitting children to engage in obscene matter

Possession of obscene matter

Possession with intent to distribute child pornography

Production of obscene matter

Production of obscene matter involving a minor

Rape (any degree)

Sexual abuse (any degree)

Sexual torture

Sodomy (any degree)

Soliciting a child by computer

Treason

Yes, I meet all four requirements.

You can restore your right to vote by obtaining a Certificate of Eligibility to Register to Vote.
COMPLETE: **ABPP-4 CERV Application**

No, I still owe fines, court costs, fees or victim restitution.

You may be able to get your monies owed forgiven by requesting relief from the court or the Board of Pardons and Paroles.

FILE a request with the court. Example: **AOC E-Form to Request to Reprioritize Costs** (eforms.alacourt.gov)
OR COMPLETE: **ABPP-5 Remission of Fine and Forfeiture Application**

No, I was convicted of one of the felonies in the RED list above.

You may apply for a pardon to be considered for the restoration of your civil and political rights from the Board of Pardons and Paroles in all cases, except treason, impeachment, and cases in which a sentence of death is imposed and not commuted.

COMPLETE: **ABPP-3 Pardon Application**

HOW TO APPLY

ONLINE: paroles.alabama.gov

EMAIL: pardons@paroles.alabama.gov

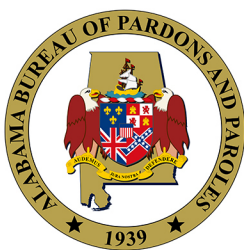
BY PHONE: 334.242.8700



Scan this code to access additional information and forms.

Exhibit A

D278254



Prepared in collaboration with the
Office of the Alabama Secretary of State.