

A F F I D A V I T

CITY OF MONTGOMERY)
) SS
STATE OF ALABAMA)

I, John Doar, having been duly sworn, say:

1. I am an attorney for the United States Department of Justice. I am familiar with the pleadings, the evidence, the findings of fact, the conclusions of law, and the Decree and supplemental Order of the Court in the case of United States v. Alabama, et al., Civil Action No. 1677-N.

2. During the period from about January 1952 to September 13, 1961, the Bullock County Board of Registrars used a four-page application form which was prescribed by the Supreme Court of Alabama.

3. On September 13, 1961, this Court issued its Decree specifically enjoining the defendants from:

Applying or enforcing different qualification tests or standards to Negro applicants in Bullock County from those applied and enforced since 1954 to other applicants in Bullock County.

* * *

Using a form of application or questionnaire different from or more stringent than that used for registering persons in Bullock County prior to March 30, 1961.

4. On July 26, 1962, this Court issued a supplemental Order requiring the defendants to comply with the following standard, inter alia:

If the applicant is literate he possesses the qualification that he be able to read and write. If the applicants' answers on the application form demonstrate that he read the questions, then he has satisfied the requirement that he be able to read and write. This determination must be one of reasonableness and fairness. The application form cannot be used as a test for the purpose or to form the basis of rejecting applicants. Instead it must be used as a means to obtain essential information to facilitate the registration of applicants.

5. On January 14, 1964 the Supreme Court of Alabama prescribed a new and different application form to be used by the Boards of Registrars throughout the State. This new application form included a page labeled "Insert Part III", which contained a test to be used as part of the questionnaire. This test contained four questions testing the applicant's knowledge of government and four excerpts from the United States Constitution, one or more of which were to be read by the applicant to the registrar, and a space for the applicant to write from the dictation of a registrar several words from the Constitution. The Supreme Court's order provided for twelve of these inserts -- a different one to be used each month. A total of twenty-four different questions on government and nineteen provisions of the Constitution appeared on the twelve Part III Inserts.

6. On August 26, 1964 the Supreme Court of Alabama ordered the Boards of Registrars throughout the State to use a revised form of Insert Part III. According to this order, this revised form was necessary because of the passage of the 1964 Civil Rights Act. The new Insert Part III is a different test from that which had been previously used. The test consists of eight questions, four testing the applicant's knowledge of government and four testing the applicant's comprehension and reasoning ability based on written excerpts from the United States Constitution; and a dictation test administered by the registrar from one or more of the excerpts of the United States Constitution. There are 100 different forms of this test. A total of 399 different questions and 139 different excerpts from substantially all of the Constitution are used in making up the test. The 399 questions on the test are phrased so that some require a "True" or "False" answer; some give the applicant a multiple choice; and some require a fact answer, with no alternatives being suggested. The questions testing the applicant's knowledge of government include questions about the federal and state Constitutions; the structure of the federal and state governments; the identity of federal and state officers; the requirements for holding federal and state offices; the length of the terms of the federal and state offices; the duties of federal and state officers; voter registration requirements;

and the geographical location of centers of government. I have selected 60 questions from this test as illustrative of the type of questions used. These illustrations are:

- | | |
|-------------------|--|
| Revised Insert 1 | 1. A proposed change in the state constitution is called a proposed_____. |
| Revised Insert 2 | 1. Is it lawful for the state of Alabama to borrow money? |
| Revised Insert 3 | 1. To what county official are poll taxes paid?_____ |
| Revised Insert 3 | 3. What words are required by law to be on all coins and paper currency of the United States?_____ |
| Revised Insert 6 | 4. By a majority vote of the members of the congress, the congress can change provisions of the Constitution of the United States (True or False)_____ |
| Revised Insert 7 | 3. Name one of the grounds on which a person who is otherwise qualified to vote cannot be denied the right to vote. |
| Revised Insert 11 | 1. In what document or writing is the "Bill of Rights" found?_____ |
| Revised Insert 13 | 2. Of which branch of state government is the court of appeals a part?

<div style="margin-left: 100px;"> _____executive
 _____judicial
 _____legislative </div> |
| Revised Insert 15 | 3. Give the date on which Independence Day is celebrated in the United States of America._____ |

- Revised Insert 16 2. Check the offenses below which, if you are convicted of them, disqualify you from voting?
- _____murder
_____manufacturing whiskey
_____issuing worthless checks
_____petit larceny
- Revised Insert 16 3. The congress decides in what manner states elect presidential electors. (True or False)_____
- Revised Insert 18 2. Approval by vote of the people of an amendment to the state constitution is called:
- _____rejection
_____convention
_____ratification
_____prosecution
- Revised Insert 19 3. Name the president of the United States._____
- Revised Insert 20 2. The powers of state government are in three branches. One is executive. One is legislative. Check below the third branch of state government:
- _____criminal
_____judicial
_____public safety
_____municipal
- Revised Insert 21 1. Which of the following taxes help support schools?
- _____property
_____gasoline
_____sales
- Revised Insert 25 1. Can you simply purchase a license to drive a motor vehicle in Alabama or is it necessary to take a test?_____

- Revised Insert 26 3. What city is the capital of the United States?_____
- Revised Insert 27 4. Any proposed amendment to the state constitution must be approved by vote of the qualified electors of the state. (True or false)
- Revised Insert 30 2. Elections held by political parties to nominate candidates are called:
 ___conventions
 ___primaries
 ___general elections
- Revised Insert 31 1. In what house of Congress must revenue bills originate?_____
- Revised Insert 31 3. What is the name of the probate judge of this county?_____
- Revised Insert 36 1. How often must a United States population census be taken?_____
- Revised Insert 38 4. Women may now serve on juries in Alabama state courts (True or False)

- Revised Insert 42 3. Name one person by name or title who is part of the legislative branch of government in Alabama._____

- Revised Insert 44 4. An indigent person charged with a crime has the right to have an attorney assigned by the court to defend him. (True or False)_____
- Revised Insert 45 1. Name one month in the year when you can assess and pay property taxes in Alabama without penalty for delinquent assessments
- Revised Insert 47 1. If you are called for jury service in Alabama, name one reason why you should be lawfully excused.

- Revised Insert 48 2. Mark with an "X" the basis for representation in the United States House of Representatives:
- ☐ population
 - ☐ state legislation
 - ☐ provision of two per state
 - ☐ constitutional amendment passed in 1960
- Revised Insert 49 2. Which definition applies to "domestic tranquility":
- ☐ transportation laws
 - ☐ court decisions
 - ☐ peace at home
- Revised Insert 49 3. An area within a state which a member of the United States House of Representatives represents is called a _____ district.
- Revised Insert 52 2. Check the applicable definition for "duty of citizenship":
- ☐ something owed to our government
 - ☐ tax paid for becoming a citizen
 - ☐ treason
- Revised Insert 54 3. Name the official who is allowed to give you a permit to carry a pistol.
- _____
- Revised Insert 58 1. Can a person be fined for leaving the scene of an automobile accident? _____
- Revised Insert 61 1. A member of the Legislature of Alabama is elected for a term of how many years? _____

- Revised Insert 65 1. Elections held in May or June of even-numbered years are called _____ elections.
- Revised Insert 65 3. Name one elected state official, besides the governor, who cannot succeed himself in office.

- Revised Insert 67 2. Subjecting a person to trial more than once for the same offense is unlawful and is called:
____ indictment
____ illegal counsel
____ double jeopardy
____ civil rights violation
- Revised Insert 67 3. Of what branch of state government is the superintendent of education a member: legislative, executive or judicial?

- Revised Insert 71 1. Is sale of intoxicating beverages legal in this county? _____
- Revised Insert 71 4. Bills for raising revenue deal with voting rights. (True or False) _____
- Revised Insert 73 2. When does reapportionment of congressional representation take place?
____ each 2 years
____ each 6 years
____ after each presidential election
____ after each decennial census
- Revised Insert 73 3. Name the Commander-in-Chief of the United States Army and Navy. _____

- Revised Insert 76 3. State or local ad valorem taxes on property can be increased beyond the constitutional limit in Alabama only by_____
- Revised Insert 79 2. In Alabama, a supreme court justice cannot be:
 ____elected
 ____appointed
 ____named for life
- Revised Insert 80 1. Over which house of Congress does the vice president preside?_____
- Revised Insert 80 3. The laws of libel place a limitation on freedom of _____in so far as what may be said about an individual without liability for damages is concerned.
- Revised Insert 80 4. Democracy is a political party. (True or False)

- Revised Insert 82 1. In the precinct in which you live are paper ballots or voting machines used?

- Revised Insert 82 3. States have a right to organize and arm groups known as state_____.
- Revised Insert 85 4. The senate has power to impeach the chief justice of the Supreme Court. (True or False)_____
- Revised Insert 86 3. Public education and an individual's rights or opportunities to it_____(are or are not) mentioned in the United States Constitution.

- Revised Insert 91 3. The official count of persons in the United States is made by the Bureau of _____.
- Revised Insert 92 3. The courts make up the _____ branch of government.
- Revised Insert 93 1. Is the secretary of state of Alabama elected or appointed? _____
- Revised Insert 94 3. Name one state official who is a member of the state board which appoints persons to serve on boards of registrars _____
- Revised Insert 96 4. Congress cannot pass a bill over the president's veto. (True or False) _____
- Revised Insert 97 2. The owner of an automobile must assess it each year for:
 ____ sales tax
 ____ license
 ____ ad valorem taxes
 ____ transfer of ownership
- Revised Insert 99 2. The circuit solicitor for each state judicial circuit shall prosecute:
 ____ criminal cases
 ____ civil cases
 ____ civil rights complaints
- Revised Insert 99 3. The main representative of the United States to a foreign country is called an _____.
- Revised Insert 100 3. Is a person appointed or elected to the State Supreme Court? _____

With respect to the excerpts, the applicant is not told that the questions about the Constitution are taken from one or more of the excerpts of the Constitution. As with the questions testing knowledge of government, many words in the excerpts and questions are long, difficult, and unfamiliar in common usage. Following are four examples of the excerpts and the questions based on the excerpts:

"The executive power shall be vested in a president of the United States of America. He shall hold his office during a term of four years, and, together with the vice-president, chosen for the same term, be elected as follows:"

Questions:

- | | |
|-------------------|--|
| Revised Insert 14 | 2. The executive power of the United States is vested in_____. |
| Revised Insert 80 | 1. A vice president is elected for how many years?_____ |
| Revised Insert 47 | 1. The vice president of the United States is elected for a term of how many years?_____ |

"The Congress shall have power: To constitute tribunals inferior to the Supreme Court:"

Questions:

- | | |
|-------------------|--|
| Revised Insert 76 | 2. Who creates federal courts inferior to the Supreme Court?_____ |
| Revised Insert 61 | 1. Federal courts, in addition to the supreme court, may be established by_____. |
| Revised Insert 40 | 4. Tribunals are_____. |

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances:"

Questions:

- Revised Insert 42 2. List three "freedoms" concerning which Congress may make no laws.
- Revised Insert 29 3. The right of the people to assemble is limited by the requirement that such an assembly must be _____.
- Revised Insert 65 4. If persons feel that a government is not treating them fairly, what method of protest is provided by Part 3,* above, of the United States Constitution?
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"The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious tests shall ever be required as a qualification to any office or public trust under the United States:"

Questions:

- Revised Insert 100 1. The Constitution of the United States requires that all executive and judicial officers of the several states shall be bound by oath or affirmation to support _____.
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*Often the number of the excerpt referred to is given in the question.

*Revised Insert 57 3. Which of the following cannot legally affect the right of a person to hold public office in the United States?
___place of birth
___religious beliefs
___conviction of crime

Revised Insert 2 4. Persons opposed to swearing to an oath may say, instead: "I solemnly_____."

With respect to the administration of the test, the applicant is to open at random a notebook containing the 100 different test forms. The form appearing where the applicant opens the book is to be used by the applicant. The State of Alabama has recommended that 75% be a passing grade. No copy of the test is given to the applicant; there is no explanation required to be made by the registrar as to what questions the applicant missed or what grade the applicant received on the test. Also, there is no means of measuring with what speed and clarity the registrar dictated to the applicant excerpts from the Constitution. Finally, it is not clear how the dictation test is figured in computing the applicant's grade on this examination. A copy of a blank application form, including one such insert from the group of 100 such inserts, is attached.

*Also on this insert is the Constitutional section setting forth the requirement that all persons, in order to qualify as President, must have been born in the United States.

7. During the period from February 17, 1964, to September 7, 1964, the Bullock County Board of Registrars used the Insert Part III which was promulgated on January 14, 1964.

8. Under my supervision on October 28, 1964, application forms which were filed during August, September, and October, 1964, with the Bullock County Board of Registrars were inspected. The applications indicate that on September 9, 1964 the Board began to use the revised Insert Part III which was promulgated on August 26, 1964, and continued to use that Insert through October, 1964, requiring applicants for registration to complete it.

9. This affidavit is made in support of the Plaintiff's Application for an Order to Show Cause to which it is attached.

JOHN DOAR

Sworn to and subscribed before me
this _____ day of _____, 1964.

Notary Public in and for the
State of Alabama

My Commission expires: