

Indiana Election Commission
Minutes
February 18, 2022

Members Present: Paul Okeson, Chairman of the Indiana Election Commission (“Commission”); Suzannah Wilson Overholt, Vice Chair of the Commission; Karen Celestino-Horseman, member; Michael Claytor, Proxy for Suzannah Wilson Overholt, Member; Litany A. Pyle, Member.

Members Absent: None.

Staff Attending: J. Bradley King, Co-Director, Indiana Election Division of the Office of the Secretary of State (Election Division); Angela M. Nussmeyer, Co-Director of the Election Division; Matthew Kochevar, Co-General Counsel of the Election Division; Valerie Warycha, Co-General Counsel of the Election Division.

Others Attending: Ms. Rebekah Atkins; Ms. Alexandra Bartlett; The Hon. Bruce Borders; Ms. Beth Boyce; Mr. Aaron Calkins; Ms. Heather Carie; Ms. Meghan Carver; Ms. Christine Bohm; Mr. Charles Bookwalter; Mr. Adnan Dhahir; Mr. Michael Duckworth; The Hon. Jeff Ellington; Ms. Beverly Gard; Mr. Curt Hammitt; Mr. Dan Holyz; Mr. Gregory Irby; Mr. Dave Kesvomas; Ms. Haneefah Khaaliq; Ms. Myra Kinser; Ms. Amandy Lowery; Ms. Valerie McCray; Ms. Thomasina Marsili; The Hon. Thomas Matthew McDermott, Jr; Mr. Paul Mullin; Mr. Danny Niederberger; Mr. Evan Norris; Ms. Heather Oake; Ms. Laura O’Sullivan; Ms. Erica Boatwright Pickell; The Rev. Mark J. Powell; Mr. Peter Priest; Ms. Amy Rainey; Mr. Richard Ring; Mr. Kevin Smith; Mr. Zach Smith; Mr. Allen Stevens; Ms. Amanda Stevenson-Holmes; Mr. Josh Waddell; Mr. Gabe Whitley; Mr. Scott Yahne.

1. Call to Order:

The Chair called the February 18, 2022 meeting of the Commission to order at 1:30 p.m. EST in Conference Room B, Indiana Government Center South, 402 West Washington Street, Indianapolis.

2. Transaction of Commission Business:

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for this meeting prepared by Maria W. Collier, RPR, CRR, of Stewart Richardson and Associates, which is incorporated by reference into these minutes.

The following scrivener’s error is corrected:

Page 80, line 2, replace “termed” with “turned”.

Page 159, line 15, replace “rolls” with “roles”.

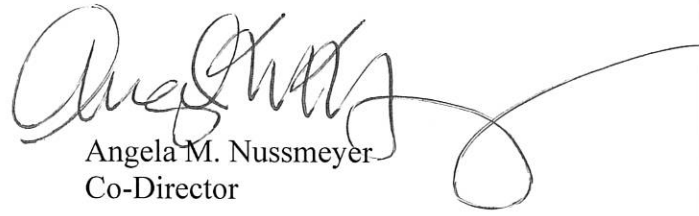
Page 270, line 21, replace “Kochevar” with “Kochevar/Warycha”.

The Commission adjourned its meeting at 8:16 p.m. EST.

Respectfully submitted,

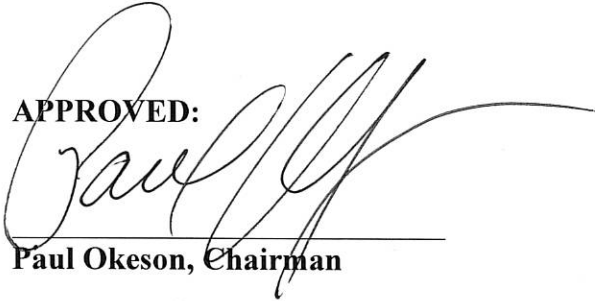


J. Bradley King
Co-Director



Angela M. Nussmeyer
Co-Director

APPROVED:



Paul Okeson, Chairman

In the Matter Of:

INDIANA ELECTION COMMISSION PUBLIC SESSION

Transcript of Proceedings

February 18, 2022

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INDIANA ELECTION COMMISSION
PUBLIC SESSION

Conducted on: February 18, 2022

Conducted at: Indiana Government Center South
402 West Washington Street, Conference Room B
Indianapolis, Indiana

A Stenographic Record by:
Maria W. Collier, RPR, CRR

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APPEARANCES

INDIANA ELECTION COMMISSION:

Paul Okeson - Chairman

Suzannah Wilson Overholt - Vice Chairman

Litany Pyle - Member

Karen Celestino-Horseman - Member

Michael Claytor - Proxy for Suzannah Wilson Overholt
During consideration of Atkins v. Bell, Cause 2022-01

INDIANA ELECTION DIVISION STAFF:

Angela M. Nussmeyer - Co-Director

J. Bradley King - Co-Director

Matthew Kochevar - Co-Counsel

Valerie Warycha - Co-Counsel

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1 CHAIRMAN OKESON: I'll call the meeting of the
2 Indiana Election Commission to order, Friday
3 February 18, 2022, 1:30. We are in Conference
4 Rooms A and B here at Government Center South.

5 I would like to recognize myself, Chairman
6 Paul Okeson, as present, along with Vice Chair
7 Suzannah Wilson Overholt. We also have Michael
8 Claytor present, who will be a proxy for one of the
9 hearings; Member Karen Celestino-Horseman and
10 Member Litany Pyle. We have Indiana Election
11 Division co-staff: Co-Director Brad King,
12 Co-Director Angie Nussmeyer, Co-Counsels Matthew
13 Kochevar and Valerie Warycha to my right. We have
14 our court reporter, Maria Collier, from Stewart
15 Richardson.

16 And before we continue, if you are planning on
17 speaking today, we will ask you to come forward,
18 please identify yourself and spell your name for
19 the court reporter.

20 As a quick note, I believe initially we had on
21 the agenda voting systems technical oversight.
22 That is not on the agenda today. So if you are
23 here for voting systems, that has been moved to the
24 24th, so next week is that meeting. So apologies
25 if you didn't get that notice, but we will not be

1 dealing with that subject in today's agenda.

2 Moving on, I'd like to get compliance with the
3 Open Door Law. I request the co-directors please
4 confirm.

5 MR. KING: Mr. Chairman, on behalf of myself
6 and Co-Director Nussmeyer, we certify that notice
7 was given in compliance with the Indiana Open Door
8 Law and the agenda for this meeting has been
9 posted.

10 CHAIRMAN OKESON: Thank you.

11 Moving on, we have approval of the
12 December 10, 2021, and December 17, 2021, Lake
13 County Redistricting Commission and January 3 and
14 January 4, 2022, Commission minutes. I recognize
15 the co-directors to present the minutes.

16 MR. KING: Mr. Chairman, on behalf of myself
17 and Co-Director Nussmeyer, we have reviewed the
18 minutes and recommend them to you for your
19 approval.

20 CHAIRMAN OKESON: Is there a motion?

21 VICE CHAIRMAN OVERHOLT: So moved.

22 CHAIRMAN OKESON: Is there a second?

23 MS. PYLE: Second.

24 CHAIRMAN OKESON: Any discussion on the
25 minutes? Any questions?

1 Hearing none, all those in favor signify by
2 saying "Aye."

3 VICE CHAIRMAN OVERHOLT: Aye.

4 MS. CELESTINO-HORSEMAN: Aye.

5 MS. PYLE: Aye.

6 CHAIRMAN OKESON: The "ayes" have it. The
7 minutes are approved.

8 At this point I'd like to make sure that we do
9 the administration of the oath. Any person
10 planning on testifying or speaking to the
11 Commission today must stand and please follow the
12 oath issued by Co-Counsel Kochevar.

13 MR. KOCHEVAR: If you plan to testify before
14 the Indiana Election Commission today, please raise
15 your right hand and say "I do" after recitation of
16 the oath.

17 Do you solemnly swear, under the penalties of
18 perjury, that the testimony you are about to give
19 to the Indiana Election Commission is the truth,
20 the whole truth, and nothing but the truth? Please
21 say "I do."

22 ALL: I do.

23 CHAIRMAN OKESON: Thank you. Thank you,
24 Mr. Kochevar.

25 Today we will be dealing with some candidate

1 challenge hearing procedures. In the past, the
2 Commission has followed certain procedures for
3 conducting candidate challenge hearings, and I move
4 that the Commission use the following procedures
5 today:

6 When each candidate challenge is called, the
7 hearing will begin by recognizing the Election
8 Division staff to provide information about the
9 documents provided to commission members, including
10 candidate challenge forms and the notice given to
11 the candidate and challenger. Unless there is
12 objection, the documents provided to the Commission
13 by the Election Division will be entered into the
14 record of this meeting.

15 After the Election Division staff completes
16 its presentation, the challenger will be recognized
17 first. The challenger or challenger's authorized
18 representative may present their case for no more
19 than 7 minutes, unless the Commission votes to
20 allow additional time to the presenter. Commission
21 members may ask questions during the presentation,
22 but the time spent answering those questions will
23 not be counted against the presenter's time. The
24 Election Division may signal the Chair when the
25 presenter's time is up.

1 If the presenter offers additional documents
2 or other evidence not previously received by the
3 Commission, then the original must be provided to
4 the Election Division. I will direct you to
5 Valerie Warycha to our right.

6 The candidate or the candidate's authorized
7 representative will be recognized following the
8 last presentation by the challenger. The candidate
9 may present their case for no more than 7 minutes
10 unless the Commission also votes to allow for
11 additional time.

12 Following the presentation by a challenger,
13 the candidate may cross-examine the challenger.
14 Following the presentation by a candidate, a
15 challenger may cross-examine the candidate.
16 Cross-examination times will be limited to
17 2 minutes for each unless the Commission votes to
18 add additional time. The cross-examination must be
19 limited to questions regarding statements made by
20 the presenter.

21 Following presentation by a candidate, the
22 challenger may present a rebuttal of no more than
23 2 minutes. The Commission may dismiss the cause of
24 any challenger who has failed to appear and testify
25 before the Commission. If more than one challenge

1 has been filed against an individual candidate, the
2 Commission may consolidate the challenges but will
3 provide the same amount of time for each individual
4 challenger and equal time to that candidate.

5 Is there a second to my motion for the
6 Commission to adopt these procedures for today's
7 candidate challenge hearings?

8 VICE CHAIRMAN OVERHOLT: Second.

9 CHAIRMAN OKESON: Any discussion, questions?

10 Hearing none, all those in favor signify by
11 saying "Aye."

12 VICE CHAIRMAN OVERHOLT: Aye.

13 MS. CELESTINO-HORSEMAN: Aye.

14 MS. PYLE: Aye.

15 CHAIRMAN OKESON: The "ayes" have it
16 unanimously. The motion carries. Those are the
17 procedures.

18 We will begin with the Collett challenges,
19 2022-02 and 2022-04, the matter of the challenge of
20 John Collett, candidate for Republican Party
21 nomination for State Representative, District 43.
22 Two challenges to this candidate were filed with
23 the Election Division. Is there consent to
24 consolidate these two challenges in consideration
25 to the Commission?

1 VICE CHAIRMAN OVERHOLT: Consent.

2 MS. CELESTINO-HORSEMAN: Consent.

3 MS. PYLE: Consent.

4 CHAIRMAN OKESON: Consent.

5 The Election Division has provided copies of
6 each Candidate Filing Challenge Form, attachments,
7 copy of notice given you'll find in your binders.
8 The Election Division provided a copy of the
9 withdrawal of the declaration of candidacy filed by
10 Mr. Collett for this office. I therefore move the
11 Commission dismiss these two causes due to lack of
12 jurisdiction over the matter as a result of the
13 candidate's withdrawal.

14 Is there a second?

15 VICE CHAIRMAN OVERHOLT: Second.

16 CHAIRMAN OKESON: Any discussion?

17 Hearing none, all those in favor signify by
18 saying "Aye."

19 VICE CHAIRMAN OVERHOLT: Aye.

20 MS. CELESTINO-HORSEMAN: Aye.

21 MS. PYLE: Aye.

22 CHAIRMAN OKESON: The "ayes" have it. The
23 matter is dismissed.

24 Next we have Cause 2022-01 in the matter of
25 the challenge to Sabrina R. Bell, candidate for

1 Republican Party nomination for Crawford County
2 Circuit Court Judge.

3 I will note for the record that Mr. Michael
4 Claytor has been appointed to serve as proxy to
5 Vice Chair Suzannah Wilson Overholt for this
6 matter.

7 The Election Division provided copies of the
8 Candidate Filing Challenge Form and attachments and
9 a copy of given notice in this matter in the
10 binders. The Commission has received a motion for
11 continuance of this matter from the candidate and
12 an objection to granting the continuance from the
13 challenger. For purposes of this consideration and
14 discussion, I move that the Commission deny the
15 motion for continuance.

16 Is there a second?

17 MS. PYLE: Second.

18 CHAIRMAN OKESON: Having a second, any
19 discussion?

20 MS. CELESTINO-HORSEMAN: What would be the
21 basis for denying the motion for continuance?

22 CHAIRMAN OKESON: We have the challenger here.

23 MS. CELESTINO-HORSEMAN: Oh, the challenger is
24 here?

25 CHAIRMAN OKESON: Yes.

1 MS. CELESTINO-HORSEMAN: Okay.

2 CHAIRMAN OKESON: Any other questions?

3 All those in favor signify by saying "Aye."

4 MR. CLAYTOR: Aye.

5 MS. CELESTINO-HORSEMAN: Aye.

6 MS. PYLE: Aye.

7 CHAIRMAN OKESON: Aye.

8 The "ayes" have it. The motion to deny
9 continuance is granted.

10 I will now recognize Ms. Atkins for the
11 opportunity to present her case subject to the same
12 limitations as set out in the procedures. You have
13 7 minutes. Please state your name and spell it for
14 the record.

15 MS. ATKINS: My name is Rebekah Atkins. It's
16 R-e-b-e-k-a-h, and Atkins is A-t-k-i-n-s.

17 CHAIRMAN OKESON: Please have a seat.
18 Co-Counsel Warycha will begin a clock here for
19 7 minutes when you're ready.

20 MS. ATKINS: Okay. Ms. Bell, she is -- I
21 understand that she is stealing my identity. She
22 is doing false court records. She is forging the
23 court records. She is refusing to recuse herself
24 and allow other judges to officiate the causes.
25 She obtained false guardianship cases against me.

1 She will not allow my -- me any access to
2 public court records. When I walk in the county
3 clerk's office, they say the judge says that
4 Ms. Atkins is not allowed any court records, and
5 law enforcement tells me these are public. And she
6 had the clerk's office shut down Odyssey's public
7 access terminal and the online system so I cannot
8 access these records that not only are these court
9 records public, I am the named party.

10 She says -- in her asking for continuance, she
11 said that she's not the judge of my cases. I
12 signed into Odyssey e-file, and all four cases she
13 is the assigned judge of the case, according to the
14 official Odyssey e-file.

15 She is maintaining my mother on a forged
16 identity. My mother's identity was stolen to her
17 and was placed on a forged identity.

18 CHAIRMAN OKESON: Say that again.

19 MS. ATKINS: My mother was placed on a forged
20 identify when she was a young child. There's
21 foster care records. Everybody says those records
22 are public in Crawford County Circuit Court
23 division. She withholds my mom's legal identity so
24 my mom cannot legally vote.

25 She filed a habeas corpus. She will not allow

1 me to the court. In July 2019, law enforcement was
2 sent to the clerk's office to try to get these
3 records from the clerk. Judge Bell filed a no
4 trespass order with no due process. She did it as
5 a party, and when she bring action to court as a
6 party, as the judge she would have to recuse
7 herself. She did not. She's still the assigned
8 judge of the case.

9 She keeps trying to bar me from the whole
10 courthouse, from public premises because, according
11 to the clerks, those are the judge's records. But
12 she is doing false prosecution. She is
13 participating in false police reports, taking my
14 identity and writing up anyone that tries to help
15 me. She writes them up as false police reports
16 claiming they did horrible things to me. And then
17 she goes in the prosecutor's office, does false
18 prosecution against these people, and I am never
19 served.

20 And when I step in there to get the records,
21 the clerk says no, I can't have no records because
22 Judge Bell says I can't have no records. And if I
23 dare to step foot in an open court to try to ask
24 Judge Bell, she tells the sheriff's deputies to
25 order me off the premises or throw me in jail.

1 And then now she's done this for over five
2 years. When she announced her candidacy to run
3 here, that's telling me she plans to do this for
4 another seven years to me. That's not acceptable.
5 I mean, she is not. She's stealing my identity.
6 She's trying to forge court cases to make it look
7 like another judge is officiating, but these orders
8 are not served on me. She don't serve those orders
9 on me. She just puts them in the public CCS. I
10 have Odyssey e-file. I can go there and the case
11 is assigned to Judge Bell.

12 And I filed a judicial complaint just the 1st
13 of February because Heather Falks of the Indiana
14 Supreme Court, who is also investigating this, she
15 said Judge Bell is not allowed -- she told me to
16 file another judicial complaint because Judge Bell
17 is refusing to allow any other judges to officiate.

18 So I do not believe that an individual who is
19 using the judicial office for personal financial
20 gain, who is stealing my identity, making false
21 court records, false lawsuits for monetary gain.
22 And she will not give me those records. Those are
23 Judge Bell's records, not Rebekah Atkins' records,
24 but she's using my name. That's identity theft. I
25 don't believe somebody doing that should be allowed

1 to be on the ballot for judicial candidacy.

2 CHAIRMAN OKESON: Is that the summation?

3 MS. ATKINS: And I do not believe that she had
4 training. I believe that she is -- and I expressed
5 that to the Commission, that she has no intention
6 of ever meeting me in any kind of official meeting
7 where she has to be held accountable.

8 CHAIRMAN OKESON: Does that complete your
9 opening remarks?

10 MS. ATKINS: Yes. If you have any questions,
11 I will answer them.

12 CHAIRMAN OKESON: I have a question. Is
13 everything that's been afforded the Commission on
14 this case located in this binder in the tab?

15 MS. WARYCHA: Yes.

16 CHAIRMAN OKESON: So I don't --

17 MS. ATKINS: I have some printouts from
18 Odyssey e-file showing that she's the assigned
19 judge, if you need them. I have also a letter from
20 an attorney that says there is a well established
21 guardianship there, but they don't have dissolve
22 guardianship.

23 CHAIRMAN OKESON: So let's start with, your
24 first assertion is that you are the victim of
25 identity theft at the hands of Judge Bell; correct?

1 MS. ATKINS: Yes.

2 CHAIRMAN OKESON: Is there a police report?
3 What evidence do you have that would support that
4 statement in particular?

5 MS. ATKINS: I have filed an Access to Public
6 Records Act, which I have given them the cause
7 number of that, and I filed that October 26, 2020.
8 The Access to Public Records Act requires an
9 expedited, which is emergency hearing --

10 CHAIRMAN OKESON: Did you file a police
11 report?

12 MS. ATKINS: They will not allow me to take a
13 police report until I get these cases because they
14 say I have to have the evidence.

15 CHAIRMAN OKESON: Right. You have to have
16 evidence.

17 MS. ATKINS: But they did say --

18 CHAIRMAN OKESON: You have accused someone of
19 identity theft. Do you have any evidence of that?

20 MS. ATKINS: I did file a forgery --

21 CHAIRMAN OKESON: Do you have any evidence
22 that Judge Bell has stolen, to use your term, your
23 identity?

24 MS. ATKINS: Okay. Actually, I do, but I
25 don't have the case. I have an answer from an

1 attorney.

2 CHAIRMAN OKESON: While she looks, does
3 anybody else have any questions?

4 MS. CELESTINO-HORSEMAN: Yes.

5 CHAIRMAN OKESON: Sure. Go ahead.

6 MS. ATKINS: There's two copies, and the
7 attorney says it's a guardianship case which I have
8 no access to.

9 MS. CELESTINO-HORSEMAN: Ms. Atkins, you said
10 you filed complaints with the Judicial
11 Qualifications Commission?

12 MS. ATKINS: Yes.

13 MS. CELESTINO-HORSEMAN: And did they return
14 any kind of finding that the judge was guilty of
15 the things that you are claiming?

16 MS. ATKINS: They have kept telling me that I
17 didn't have enough evidence. The last one I --

18 MS. CELESTINO-HORSEMAN: Okay. Let me finish
19 because I see what you're saying. I think I see
20 where you're going.

21 MS. ATKINS: Fine.

22 MS. CELESTINO-HORSEMAN: So they did not make
23 any finding because of lack of evidence. They did
24 not prosecute your complaint; correct?

25 MS. ATKINS: Correct.

1 MS. CELESTINO-HORSEMAN: So there is no entry
2 or finding of any of the judges ruling saying that
3 this judge has not followed the law and done these
4 things; correct?

5 MS. ATKINS: Not that I have in my hands, no,
6 except for they did have -- I filed the latest one,
7 which they have not prosecuted or dismissed at this
8 point.

9 MS. CELESTINO-HORSEMAN: Okay. So do you
10 realize that, should they find that what you're
11 saying is true and that she is not qualified to sit
12 on the bench, even if she gets elected to position
13 of judge again, she will be removed? You know, I
14 appreciate your passion and everything about this,
15 but Indiana law makes it very clear as to things we
16 can consider. And she hasn't been convicted of a
17 felony. She hasn't been declared to be unqualified
18 to sit as a judge by the Judicial Qualifications
19 Commission. I mean, there is just nothing here
20 that gives us authority under law -- I don't
21 believe anyway that gives us the authority under
22 law to grant your challenge. I'm sorry.

23 CHAIRMAN OKESON: There's no evidence to
24 support your assertions.

25 MS. ATKINS: She says she's not the assigned

1 judge, and I have these documents that says she is.

2 CHAIRMAN OKESON: She's not here to attest to
3 what you claim she said or didn't say. I'm saying
4 that your claim is not based on any evidence.

5 MS. ATKINS: And to answer her question she
6 asked, the Judicial Commission and the Indiana
7 Supreme Court said they are very reluctant to try
8 to remove an elected judge.

9 MS. CELESTINO-HORSEMAN: But they have done
10 it.

11 MS. ATKINS: They have, but they do not wish
12 to do that. And so at this point, before she even
13 gets on the ballot, before she even runs, this is
14 the point that she needs to be removed from the
15 ballot. She should not be allowed to continue to
16 do this behavior to me and run for election.

17 CHAIRMAN OKESON: Barring something else that
18 you may have with you, I see nothing that would
19 warrant that request. And with that in mind, I
20 move the Commission deny the challenge in this case
21 and direct the Election Division include the name
22 of Sabrina R. Bell in the certified list of
23 candidates to be printed on the ballot.

24 Is there any discussion? Second?

25 MR. CLAYTOR: Second.

1 CHAIRMAN OKESON: Any discussion? Any
2 questions?

3 All those in favor signify by saying "Aye."
4 Aye.

5 MR. CLAYTOR: Aye.

6 MS. CELESTINO-HORSEMAN: Aye.

7 MS. PYLE: Aye.

8 CHAIRMAN OKESON: The "ayes" have it. The
9 motion carries. Thank you for coming today.

10 UNIDENTIFIED SPEAKER: Will the board turn the
11 microphones on so we can hear better?

12 CHAIRMAN OKESON: The microphones are on.

13 Moving on --

14 UNIDENTIFIED SPEAKER: Is the volume up then?

15 CHAIRMAN OKESON: Yes. This should go into
16 evidence.

17 UNIDENTIFIED SPEAKER: We can't hear in the
18 back.

19 UNIDENTIFIED SPEAKER: Yeah. They're not on.

20 CHAIRMAN OKESON: I'm doing the best I can,
21 folks.

22 MS. CELESTINO-HORSEMAN: Do these microphones
23 project?

24 CHAIRMAN OKESON: I don't know. I think
25 they're for recording purposes only.

1 We will now hear Cause No. 20- --

2 (Microphone feedback)

3 CHAIRMAN OKESON: Everybody is doing their
4 best. Let's keep our comments positive.

5 I recognize that we've been rejoined by Vice
6 Chair Suzannah Wilson Overholt.

7 We will now hear Cause No. 2022-09 in the
8 matter of --

9 (Microphone feedback)

10 CHAIRMAN OKESON: I can't sing like this.

11 And I will apologize in advance. I hope I get
12 the name right. In the challenge to Haneefah
13 Khaaliq, candidate for Democratic Party nomination
14 for United States Senator. The Election Division
15 has provided copies of the Candidate Filing
16 Challenge Form with attachments and a copy of
17 notice given in this matter in your binders.

18 I now recognize -- is it Yaw-nee?

19 MR. YAHNE: Yay-nee.

20 CHAIRMAN OKESON: Yahne. Scott Yahne --

21 MR. YAHNE: Yaw-nee works, though.

22 CHAIRMAN OKESON: Well, we'll get it right.

23 -- challenger for your presentation. Will you --

24 MR. YAHNE: State my name?

25 CHAIRMAN OKESON: Please, and spell it for the

1 court reporter.

2 MR. YAHNE: Certainly. I'm Scott, last name
3 Yahne, Y-a-h-n-e.

4 CHAIRMAN OKESON: I apologize. I get the same
5 thing with my last name.

6 Seven minutes. Please proceed.

7 MR. YAHNE: May I be seated?

8 CHAIRMAN OKESON: Sure.

9 MR. YAHNE: Thank you very much for
10 entertaining my challenge here today. I am Scott
11 Yahne. I filed the challenge as a registered voter
12 of Precinct 35, Center Township, in Valparaiso.
13 Specifically, I filed a Candidate Filing Challenge,
14 a CAN-1, as referred to by their short names, if I
15 may.

16 CHAIRMAN OKESON: Yes.

17 MR. YAHNE: And I filed that challenge on
18 February 9 of this year to challenge the
19 eligibility of Haneefah Khaaliq. And the challenge
20 is whether Haneefah Khaaliq should appear on the
21 May primary ballot as a candidate for the office of
22 U.S. Senate.

23 In the challenge and an attachment, I
24 explained that I had reason to believe that
25 Haneefah Khaaliq is ineligible to be a candidate

1 because she had not filed a sufficient number of
2 signatures to appear on the ballot, on the primary
3 ballot. Specifically, a candidate for Senate is
4 required to file petitions for primary ballot
5 placement as a candidate for U.S. Senator, and
6 that's a CAN-4 petition. So from here on out, I'll
7 refer to those as CAN-4s, if I may.

8 CHAIRMAN OKESON: Sure.

9 MR. YAHNE: The requirement to file petitions
10 comes from Indiana Code 3-8-2-8, and it requires,
11 one, that petitions be signed by 4,500 voters in
12 the state. It further requires that at least 500
13 voters from each congressional district, each of
14 the nine districts, must also file -- or sign their
15 names to support the candidacy under the CAN-4.

16 Now, in prior years, I'm aware that this
17 commission has had cause to consider and act upon
18 challenges arising under 3-8-2-8. In the interest
19 of time and given that you folks know these issues,
20 I won't go into the detail, but it is my
21 understanding that, with good cause, this
22 commission has upheld 3-8-2-8. And that is
23 consistent with the findings of courts, United
24 States Supreme Court, other courts, federal courts
25 throughout the country, that states have an

1 inherent interest, a legitimate interest to limit
2 the number of candidates that might appear on a
3 ballot, and petition requirements are those types
4 of requirements that can be imposed.

5 And then so, you know, there's some question
6 as to whether Indiana's rule is too restrictive.
7 That's a matter not for Scott to decide,
8 respectfully, not for you folks to decide, but for
9 our Indiana General Assembly. And until and unless
10 that law is changed, I believe we're all obliged to
11 follow it. And if we change the rules in the
12 middle of a campaign, in an election cycle, we
13 wouldn't be adhering to the rule of law which is a
14 cornerstone of our democracy and, I believe, one
15 that should be upheld and honored at all times.

16 So specifically --

17 MS. WARYCHA: Can you move the microphone
18 closer to you.

19 MR. YAHNE: Oh, certainly, or I can get
20 closer.

21 MS. WARYCHA: Thank you.

22 MR. YAHNE: Specifically, in the case of
23 Ms. Khaaliq -- and first of all, let me say it's a
24 tremendous challenge. I mean, it is a difficult
25 undertaking for any candidate to come forward. And

1 by all measures, it seems like she came rather
2 close. I don't know that she got the 4,500 close,
3 but what I do know from reviewing the petitions --
4 and rather than look at each district, because we
5 have 7 minutes here and I want to move us along, I
6 looked at one district, Congressional District 5.

7 And I am not sure of the appropriate
8 mechanism, but I do have exhibits to tender to you
9 all. And I had sought to file them last week, but
10 I understand the preference is to bring them here.
11 So I have one original and then five copies of the
12 same affidavit, and that affidavit, signed,
13 notarized by me under the penalties for perjury.
14 And I explained in this affidavit how I went about
15 reviewing the CAN-4s that were filed.

16 First of all, I requested CAN-4s filed by the
17 candidate from the Division and the Commission, the
18 Indiana Election Division and Commission. And I
19 received copies of electronic files that I then
20 reviewed, and there were a couple thousand pages of
21 those. I looked through each and every page. As I
22 describe in the affidavit, I describe the process
23 that I went through to -- it was important to me to
24 get this count correct. I had seen the county's
25 registration SVRS form that suggested that the

1 counts were low, but I didn't go by that. In fact,
2 that report had a lesser number of signatures than
3 I found when I did the review of the CAN-4s.

4 When I did my search of Congressional
5 District 5 for Candidate Khaaliq, I found that the
6 county official -- and there are three types of
7 county officials that can certify those
8 signatures -- certified 349 signatures within
9 Congressional District 5. And to be counted
10 pursuant to Indiana Code 3-8-2-9, the signatures
11 have to be certified by the county representative.

12 And so that you all would have some ability to
13 kind of check behind and make sure I'm doing this
14 right, I included those in the affidavit that I've
15 just sent to you as an attachment, I've included
16 images of each signature I located.

17 (Timer)

18 MR. YAHNE: And as I went through --

19 CHAIRMAN OKESON: Is that the time?

20 MS. WARYCHA: Seven minutes.

21 CHAIRMAN OKESON: Is there a motion to grant
22 Mr. Yahne additional time?

23 MS. CELESTINO-HORSEMAN: So moved to grant
24 additional time.

25 CHAIRMAN OKESON: Is there a second?

1 MS. PYLE: Second.

2 MS. CELESTINO-HORSEMAN: But I would ask that
3 you keep it --

4 MR. YAHNE: Less than a minute, how about
5 that?

6 CHAIRMAN OKESON: Can we have a motion for
7 2 minutes, 3 minutes?

8 MS. CELESTINO-HORSEMAN: Okay. I'll make a
9 motion for 2 minutes.

10 CHAIRMAN OKESON: Motion for additional
11 2 minutes. Do we have a second?

12 MS. PYLE: Second.

13 CHAIRMAN OKESON: All those in favor signify
14 by saying "Aye."

15 VICE CHAIRMAN OVERHOLT: Aye.

16 MS. CELESTINO-HORSEMAN: Aye.

17 MS. PYLE: Aye.

18 CHAIRMAN OKESON: You have 2 more minutes.

19 MR. YAHNE: Thank you. I determined that
20 there were 349 of those signatures certified, and
21 to make sure that I was counting everything that I
22 saw and so when I went back later I would know if I
23 included it in the tabulation, in my computer
24 system I marked "completed" on -- a digital
25 "completed" stamp on each certified page that I

1 counted.

2 I also have -- I have a zip file here, and
3 this zip file contains the files that I received in
4 response to my request. And it has denominated
5 page -- I added page numbers for the footer on
6 those documents, but the "completed" stamps also
7 appear in the original files that I was granted
8 with that modification so that I could confirm the
9 number of signatures that I counted and so that, if
10 anybody wanted to go behind and say, hey, Scott,
11 you missed this signature or that signature, you
12 all can see exactly what I counted. But I
13 determined that there were 349 of those signatures
14 for Candidate Khaaliq, and that falls beneath the
15 threshold of 500.

16 As such, I would ask the Commission to
17 determine that Candidate Khaaliq did not obtain the
18 requisite 500 signatures from voters in
19 Congressional District 5, and based on that
20 determination, I respectfully request that the
21 Commission determine and find that Candidate
22 Khaaliq is ineligible to appear on the May 2022
23 primary ballot. Thank you.

24 (Timer)

25 CHAIRMAN OKESON: Well timed.

1 MR. YAHNE: I'm sorry. May I present this?

2 MS. CELESTINO-HORSEMAN: Mr. Chair?

3 CHAIRMAN OKESON: Sure.

4 MS. CELESTINO-HORSEMAN: Can I move that we
5 grant Ms. Khaaliq an additional 2 minutes as well?

6 CHAIRMAN OKESON: Sure. But prior to doing
7 that, she's also offered a 2-minute
8 cross-examination based on anything that he has
9 just said, if you'd like to do that.

10 MS. KHAALIQ: Oh, thank you very much.

11 CHAIRMAN OKESON: And as you speak, will you
12 please pronounce your name and spell it for the
13 court reporter.

14 MS. KHAALIQ: Yes, absolutely. Haneefah
15 Khaaliq, I'm running for United States Senate, and
16 that's H-a-n-e-e-f, as in Frank, -a-h,
17 K-h-a-a-l-i-q.

18 CHAIRMAN OKESON: So we'll give you 2 minutes
19 of cross-examination, should you want it, before
20 doing your 7 minutes of presentation, if you'd like
21 to start that.

22 MS. KHAALIQ: Yes. Thank you.

23 CHAIRMAN OKESON: Please go ahead.

24 MS. KHAALIQ: Mr. Scott Yahne, when you filed
25 your challenge against this campaign, were you

1 asked to provide proof of your voter registration?
2 Have you done that at any time? If so -- or if
3 not, I would ask you to do that first because you
4 have to be a registered voter, and I would assume
5 that you need to provide some form of proof of
6 that.

7 MS. CELESTINO-HORSEMAN: Mr. Chair, could I
8 clarify something?

9 CHAIRMAN OKESON: This will not count against
10 your time.

11 Please go ahead.

12 MS. CELESTINO-HORSEMAN: Okay. It says --
13 you're not required to show proof. You can attest
14 it on this form, and I think this form has
15 penalties of perjury. So if you do not believe he
16 is a registered voter, you could bring forth that
17 proof, and then he could be found guilty of
18 committing perjury, but he is not obligated at this
19 point to bring that forward unless he has it and he
20 wants to show it.

21 MS. KHAALIQ: Okay. Thank you for clarifying
22 that.

23 CHAIRMAN OKESON: Please continue.

24 MS. KHAALIQ: The next question I have is in
25 your challenge, Mr. Yahne, you claim --

1 MR. YAHNE: I'm sorry. I didn't want to leave
2 a question unanswered. Should I respond to the
3 question or was the question withdrawn?

4 MS. CELESTINO-HORSEMAN: I think she's
5 withdrawn it. Is that correct?

6 MS. KHAALIQ: Yes.

7 MR. YAHNE: Okay. Thank you.

8 MS. KHAALIQ: Mr. Yahne, you claim to
9 understand the difficulty of gathering signatures.
10 Did you yourself help collect any signatures?

11 MR. YAHNE: I did not.

12 MS. KHAALIQ: For anyone?

13 MR. YAHNE: No.

14 MS. KHAALIQ: And when you filed your
15 challenge against me, I'm also aware that you filed
16 your challenge against the other Democratic
17 candidate as well.

18 MR. YAHNE: Dr. McCray, yes.

19 MS. KHAALIQ: Correct. Did you also challenge
20 the individual on the Republican side, according to
21 the report?

22 MR. YAHNE: No, I did not.

23 MS. KHAALIQ: What was your reason for just
24 challenging us two?

25 MR. YAHNE: Well, first threshold question was

1 whether and to even ask whether you had obtained
2 these signatures. I have personally known -- I was
3 not asked to do this, but I became aware that it
4 was an issue. I have personally known Tom
5 McDermott for nearly 20 years, so that was my
6 interest in doing this.

7 MS. KHAALIQ: Thank you very much.

8 CHAIRMAN OKESON: Does that conclude your
9 cross-examination?

10 MS. KHAALIQ: Yes.

11 CHAIRMAN OKESON: You're now afforded
12 7 minutes -- well, 9 minutes.

13 MS. CELESTINO-HORSEMAN: Move for an
14 additional 2, yes.

15 CHAIRMAN OKESON: As I said, 9 minutes.
16 Please go ahead.

17 MS. KHAALIQ: Thank you. I'll start by saying
18 good afternoon to everyone, members of the
19 Commission, members of the public. I am Haneefah
20 Khaaliq running for United States Senate here in
21 Indiana, and it is a pleasure to be before all of
22 you today, perhaps not under the circumstances, but
23 it's all right we're here.

24 So I'll start off by addressing the statute of
25 limitations, as I understand it, followed by

1 concerns with the report Mr. Yahne mentions, and
2 I'll also address the jurisdiction precedent. I'll
3 conclude with my final opinion.

4 First, I begin with the statute of
5 limitations, and I am open to enlightenment. This
6 is, you know, a new process to me as well as I'm
7 sure it is to many of us. Mr. Scott Yahne of
8 Valparaiso filed his petition to be a challenger on
9 February 9th. According to the Indiana Code I
10 read, the Commission must hold and conclude a
11 hearing within three business days after the
12 challenger statement is filed. By my calculation,
13 that would have been this past Monday. Today is
14 Friday, February 18th. Therefore, I would ask for
15 a clarification with the code, its applicability to
16 my situation, and if this challenge can be entirely
17 dismissed based on that.

18 VICE CHAIRMAN OVERHOLT: Could we have counsel
19 advise us on that?

20 CHAIRMAN OKESON: Would you care to, please.

21 MS. WARYCHA: Yeah. Hang on just a moment.

22 MS. KHAALIQ: Is this against my time?

23 CHAIRMAN OKESON: No.

24 MS. WARYCHA: No. I paused it.

25 MS. KHAALIQ: Thank you.

1 MR. KOCHEVAR: Mr. Chairman.

2 CHAIRMAN OKESON: Yes.

3 MR. KOCHEVAR: I believe that the code
4 reference where a three-day deadline for the
5 Commission to act can be found at Indiana
6 Code 3-8-8, which is a challenge procedure. But if
7 you look at 3-8-8-1, which if you have the red code
8 book here you can find on page 285, that Section 1
9 provides for the application of this chapter, and
10 it provides in subsection A "This chapter applies
11 only to a candidate for election to any of the
12 following: 1. A legislative office, 2. A state
13 office other than a judicial office."

14 Both legislative office and state office are
15 defined in the election code under 3-5-2. You'll
16 have to give me a moment to look those up to tell
17 you what those are, unless one of the other members
18 of the staff of the Election Division can provide
19 that.

20 MS. KHAALIQ: May I go on?

21 CHAIRMAN OKESON: Please.

22 MS. KHAALIQ: Next I will address the fact
23 that Mr. Scott Yahne of Valparaiso bases his
24 challenge on an unofficial report subject to a high
25 probability rate of human error. Indiana Code

1 3-8-2-8 states, in part, "A declaration of
2 candidacy for the office of United States Senator
3 must be accompanied by a petition signed by at
4 least 4,500 voters." Although I believe the
5 campaign made this mark, the report fails to
6 establish this for a number of reasons, which I now
7 wish to express.

8 First, the unofficial report is repeatedly
9 noted as such by the Indiana Elections Commission
10 in all of its communications. It is well-known by
11 the candidates that the unofficial report -- and
12 I'm just guessing it's called that for a number of
13 reasons. Again, correct me if I'm wrong. I'm open
14 to enlightenment, but to my knowledge, no county
15 clerk's office was required to use the system in
16 the first place.

17 Second, on average, it took at least two to
18 three days for county clerks' offices to enter the
19 data, depending on how many signatures they had to
20 enter. This window of time was often extended by
21 various things: Technical issues, COVID-19,
22 inclement weather, people calling off sick. The
23 county clerk's office also stopped entering data
24 after February 1st at noon, although they received
25 petitions up until noon that same day. We know

1 this because on February 2nd through the 3rd our
2 numbers stagnated. We know we had several hundred
3 signatures come in on February 1st that met the
4 deadline. Despite this, again, our numbers froze
5 at 4,473, and the same count was rendered to us on
6 February 2nd and February 3rd.

7 Now, while I appreciate the clerks and all
8 their hard work, to my knowledge, there was very
9 little oversight throughout this entire process. I
10 often found myself questioning the process as I
11 went about it, asking myself questions like how
12 could we know if someone who had access to the
13 voting rolls wasn't just forging names. How could
14 we verify all candidates started the process at the
15 same time when there's no special time stamp or
16 marking to tell us otherwise and that the
17 signatures are fresh and not taken from a previous
18 run for office. I also questioned what about
19 protecting candidates from county office staffers
20 who may prefer one candidate over another. How can
21 we honestly confirm the integrity of the system?

22 The process was not uniform. For example,
23 some clerks had us fill out information to come
24 back and pick up the certified petitions, some
25 didn't, even though, if you recall, some allowed us

1 to mail petitions in, some did not. Finally, no
2 official report was ever provided to me or any
3 other candidate at any time and I received no
4 instructions on how to request one, if available.

5 I have certified and sealed petitions with me
6 right now that the Indiana Elections Commission
7 returned because they alleged they received them
8 after February 4th. That's fine, okay. But if the
9 petitions have supposedly already been added to the
10 unofficial report, why wouldn't the Commission want
11 the actual evidence of that? I don't know.

12 Therefore, all things considered, I humbly ask
13 again the Indiana Elections Commission to dismiss
14 this challenge based on the overwhelming number of
15 challenges and imperfections the process itself
16 faces and the number of circumstances that may be
17 out of one's control.

18 Next I will address jurisdiction. I turn your
19 attention to the language written in the 2022
20 Indiana Election Administrators Manual concerning
21 challenges. On page 37, it reads, in part, "The
22 challenger must be a registered voter of the
23 election district that the candidate seeks to
24 represent or a county chairman in which any part of
25 the election district is located."

1 I presume mentioning the district is
2 important. Mr. Scott Yahne of Valpo -- I'm going
3 to skip that part. Even if he has proof of his
4 registration, which I asked for earlier, does
5 Mr. Scott Yahne have a right to bring a challenge
6 on behalf of all the other districts which he is
7 not a registered voter in? Even according to the
8 unofficial report, which I remain skeptical of, I
9 brought in well over the amount of signatures
10 required in the first district which he has filed.
11 Therefore I would ask the Indiana Elections
12 Commission again to consider dismissal until
13 Mr. Scott Yahne or the Commission can provide that
14 he can, in fact, bring a challenge on behalf of
15 other districts he does not live in.

16 Finally, I will use my final moment to affirm
17 my belief in the Constitution of the United States.
18 Now, like the others, I could have raised a
19 challenge too against any of the candidates. I did
20 not because I believe the three requirements
21 outlined by our United States Constitution to run
22 for the United States Senate is sufficient, that
23 you be 30 years old, that you live in the state you
24 want to represent, and that you be a United States
25 citizen.

1 Even if I supposedly made the numbers
2 according to the unofficial report, I would still
3 have unanswered questions about this process. If
4 you combine all the signatures from all the
5 candidates in the Senate race, even according to
6 the unofficial report, together we collected nearly
7 17,000 signatures. That's three times the amount
8 of the incumbent. Additionally, we raised nearly a
9 quarter of a million dollars. The evidence is
10 overwhelming that Hoosiers want to see competition
11 on both sides of the aisle. Most Senate candidates
12 across the country right now are squaring off, as
13 we sit here giving the incumbent what I believe is
14 a head start.

15 Therefore, I call upon the IED to consider all
16 these things I've just stated, including precedent
17 and how it was possible that Senator Todd Young
18 survived his challenge, and to recognize a document
19 long held as the bedrock of America democracy and
20 allow my name to remain on the ballot. Thank you.

21 CHAIRMAN OKESON: Does that conclude your
22 opening statement? Does that conclude your
23 remarks?

24 MS. KHAALIQ: I'm finished.

25 CHAIRMAN OKESON: Thank you.

1 Would you like your 2 minutes of rebuttal or
2 cross-examination?

3 MR. YAHNE: I'm sorry. May I do
4 cross-examination?

5 CHAIRMAN OKESON: Yes. Two minutes.

6 MR. YAHNE: Thank you.

7 Did you file -- I'm sorry. Ms. Khaaliq, did
8 you file a declaration of candidacy and CAN-2 form?

9 MS. KHAALIQ: I did.

10 MR. YAHNE: And you must file that form to
11 declare your candidacy for U.S. Senate; correct?

12 MS. KHAALIQ: That's correct, yes.

13 MR. YAHNE: And that form indicates that you
14 need to submit the CAN-4 form, correct, with
15 signatures?

16 MS. KHAALIQ: Well, you're just stating the
17 process. I don't know what this is for. Just get
18 to the question.

19 MR. YAHNE: I asked you did you file that.

20 MR. KING: Well, you know that I filed all the
21 documents.

22 MR. YAHNE: And did you certify --

23 MS. CELESTINO-HORSEMAN: Mr. Chairman, can I
24 ask that --

25 CHAIRMAN OKESON: Go ahead. This does not eat

1 into your time.

2 MS. CELESTINO-HORSEMAN: I would just ask that
3 so far this has been civil. I would ask that that
4 continue. He's just asking a question. If you
5 could just answer his question.

6 MS. KHAALIQ: No. That's fine. I thank you.

7 CHAIRMAN OKESON: Proceed.

8 MR. YAHNE: And was the information in your
9 declaration of candidacy true and correct?

10 MS. KHAALIQ: Yes, it was.

11 MR. YAHNE: And there's a statement in there
12 that you met the specific requirements for this
13 particular office.

14 MS. KHAALIQ: I absolutely did, yes.

15 MR. YAHNE: And one of those requirements is
16 500 signatures within each congressional district;
17 correct?

18 MS. KHAALIQ: We all know that. Thank you.

19 MR. YAHNE: Did you secure 500 signatures --

20 MS. KHAALIQ: I absolutely did.

21 MR. YAHNE: Can I finish my question?

22 MS. KHAALIQ: I thought you were done.

23 MR. YAHNE: Did you secure --

24 MS. KHAALIQ: I did.

25 MR. YAHNE: -- 500 signatures --

1 MS. KHAALIQ: I did.

2 MR. YAHNE: -- in Congressional District 5?

3 MS. KHAALIQ: I absolutely did.

4 MR. YAHNE: Did you file those --

5 MS. KHAALIQ: Well, I just explained that a
6 number of signatures, in fact, several hundred
7 signatures were turned in on February 1st prior to
8 the deadline. Now, I also explained that it took,
9 on average, two to three days for those signatures
10 to be entered into the system. I don't have any
11 control over that. It seems here that nobody does.
12 And there was no official report ever given.

13 So, again, I'm answering your questions. I
14 really don't know why we keep circling back around.
15 That's all I have for you.

16 MR. YAHNE: My question was: Did you file
17 with the Commission or the Division 500 certified
18 signatures certified by the county?

19 (Timer)

20 MS. KHAALIQ: I absolutely did. I absolutely
21 did. And I can't help the report, the unofficial
22 report that you're getting.

23 CHAIRMAN OKESON: That concludes your
24 cross-examination.

25 MS. KHAALIQ: Thank you.

1 VICE CHAIRMAN OVERHOLT: We're not done.

2 MS. KHAALIQ: I'm sorry.

3 CHAIRMAN OKESON: You also have the
4 opportunity for rebuttal to his cross-examination.

5 MS. KHAALIQ: I don't have any rebuttal.

6 MR. YAHNE: Do I have the 2-minute rebuttal?

7 CHAIRMAN OKESON: No. You had your
8 cross-examination. She's afforded rebuttal. You
9 brought the challenge. She's responding to your
10 challenge.

11 MR. YAHNE: All right. I'll be quiet, but
12 just for further clarification --

13 CHAIRMAN OKESON: We've already established
14 rules and procedures that have been adopted by a
15 motion and voted, so those are the procedures for
16 this hearing.

17 MR. YAHNE: I was reading those procedures,
18 and it does provide a challenger has 2 minutes for
19 rebuttal. But I'll waive it. I mean, I'm not
20 going to stand on it right now.

21 CHAIRMAN OKESON: I don't believe we afforded
22 the challenger -- the challenger who brings the
23 case, we did not in the procedure allow the
24 challenger a 2-minute rebuttal, did we?

25 MR. YAHNE: I can give you the specific

1 reference to the minutes. But if not, I can let it
2 go.

3 CHAIRMAN OKESON: No. We'll make sure we're
4 doing it right.

5 You are correct. I stand corrected. I'm
6 sorry. You are afforded 2 minutes of rebuttal,
7 although I'm not sure what you would be rebutting,
8 but go ahead.

9 MR. YAHNE: Just one aspect. I think it was
10 clear to the Commission that my report to you and
11 the affidavit that I filed was not based on an
12 unofficial report. Rather, it was based on the
13 very CAN-4 declarations filed by a candidate with
14 the Division and the Commission. Those certified
15 signatures that are referenced and the images
16 contained in the -- appended to the affidavit,
17 those are the official designations. That's not an
18 unofficial record.

19 CHAIRMAN OKESON: What I hear you saying is
20 what was filed by the campaign confirms to you that
21 there were not 500 in Congressional District 5; is
22 that correct?

23 MR. YAHNE: I believe she said that --

24 CHAIRMAN OKESON: I'm just clarifying.

25 MR. YAHNE: She said I based my determination

1 on an unofficial report, the SVRS report. I found
2 more signatures in the official filings than I did
3 in the unofficial report she's referencing.

4 CHAIRMAN OKESON: Neither of which came to 500
5 in Congressional District 5, which is your --

6 MR. YAHNE: No, not even close.

7 CHAIRMAN OKESON: Okay. Thank you. Anything
8 else?

9 MR. YAHNE: Nothing.

10 VICE CHAIRMAN OVERHOLT: I have a question.

11 CHAIRMAN OKESON: Well, I'm closing the public
12 portion, so go ahead.

13 VICE CHAIRMAN OVERHOLT: Ms. Khaaliq, did you
14 bring the copies of the petitions with you today?

15 MS. KHAALIQ: That were sent back to me after
16 because of the deadline, February 4th, or the ones
17 before that?

18 VICE CHAIRMAN OVERHOLT: All of them.

19 MS. KHAALIQ: They were all turned in.

20 VICE CHAIRMAN OVERHOLT: I guess what I'm
21 asking, do you have those with you today?

22 MS. KHAALIQ: No, because they were turned in
23 to the Indiana Elections Division already.

24 VICE CHAIRMAN OVERHOLT: Do you have copies of
25 them at your campaign headquarters or anything?

1 MS. KHAALIQ: Well, I can ask for them back.

2 VICE CHAIRMAN OVERHOLT: Okay. Well, then my
3 next question would be: Did you personally count
4 the signatures for each of the districts?

5 MS. KHAALIQ: All the ones that we turned in
6 yes, yes, and the ones that we also received after
7 that the Indiana Elections Division would not
8 receive because of February 4th. And, again, I
9 don't understand that process because, if you have
10 an unofficial report that all the county clerks
11 don't even use, why wouldn't you want the evidence
12 that --

13 VICE CHAIRMAN OVERHOLT: And I appreciate
14 that. That's not what I'm asking. I'm just asking
15 whether you individually counted these signatures
16 that were --

17 MS. KHAALIQ: Yes, we did. And we know that
18 they came to the correct amount. So, again, the
19 discrepancy is in the report and the same report
20 that he's stated that he's basing his challenge off
21 of. And, you know, like I said --

22 VICE CHAIRMAN OVERHOLT: I want to keep you to
23 the questions I'm asking. But he has testified
24 that he actually -- what he testified to, what he
25 just argued is that he wasn't relying on the

1 report. He actually went through and counted all
2 the signatures.

3 MS. KHAALIQ: From where, though? Where did
4 he get them from?

5 VICE CHAIRMAN OVERHOLT: In his affidavit, he
6 says that he received digital copies of the
7 petitions.

8 MS. KHAALIQ: That's the -- of my petitions?
9 Absolutely not. Absolutely not.

10 VICE CHAIRMAN OVERHOLT: Well, you don't need
11 to --

12 MS. KHAALIQ: Well, I'm sorry. Absolutely
13 not. He could not have because my campaign is the
14 only campaign that has digital copies of our own
15 petitions, so I don't know why he's saying that. I
16 have no idea.

17 I don't know how he would have gotten
18 additional --

19 VICE CHAIRMAN OVERHOLT: There's no question
20 in front of you.

21 MS. KHAALIQ: Okay.

22 MS. CELESTINO-HORSEMAN: May I?

23 CHAIRMAN OKESON: Please go ahead.

24 MS. CELESTINO-HORSEMAN: So you went and got
25 copies of the -- digital copies of the petitions.

1 Where did you get those from?

2 MR. YAHNE: I made a request to both the
3 Indiana Election Commission and the Indiana
4 Election Division for any CAN-4 forms filed by the
5 candidate.

6 MS. CELESTINO-HORSEMAN: And do you recall the
7 date when you received those?

8 MR. YAHNE: Yes. I can find that momentarily.
9 It was soon after the filing, I believe. I made
10 the request -- I know it was on a Monday, maybe a
11 Sunday actually.

12 MS. CELESTINO-HORSEMAN: So you received them
13 after the 4th, the deadline?

14 MR. YAHNE: Yes. I made the request on the
15 6th. I think I received digital copies on the 7th
16 or 8th.

17 MS. CELESTINO-HORSEMAN: So, Ms. Khaaliq, for
18 the 5th Congressional District only, how many
19 certified signatures did you have on your petition
20 that you filed with the Election Division by the
21 deadline, February 4th?

22 MS. KHAALIQ: Okay. So on January 31st, there
23 was a number that was given to us in the unofficial
24 report.

25 MS. CELESTINO-HORSEMAN: What is the Indiana

1 official report?

2 MS. KHAALIQ: The unofficial report that we
3 received from the Indiana Elections Division staff
4 nearly every day.

5 MS. CELESTINO-HORSEMAN: Telling you what, the
6 status of --

7 MS. KHAALIQ: Telling us the number of
8 signatures that supposedly came in. But, again,
9 there were so many different variables, and some of
10 those signatures weren't even counted on the same
11 day that we turned them in. As I stated earlier,
12 there was an average of maybe two or three days
13 turnaround time for those numbers to be entered.

14 MS. CELESTINO-HORSEMAN: Okay.

15 MS. KHAALIQ: Now, we --

16 MS. CELESTINO-HORSEMAN: But go back to my
17 question.

18 MS. KHAALIQ: I am.

19 MS. CELESTINO-HORSEMAN: How many signatures
20 had you turned in and that you know of that were
21 certified by the deadline date of the 4th.

22 MS. KHAALIQ: So on January 31st, we had a
23 number of signatures given to us.

24 MS. CELESTINO-HORSEMAN: I --

25 MS. KHAALIQ: Wait a minute. If you let me --

1 MS. CELESTINO-HORSEMAN: Excuse me.

2 MS. KHAALIQ: If you let me finish.

3 MS. CELESTINO-HORSEMAN: Excuse me. We are
4 here. You do not cut in on us and everything else.

5 MS. KHAALIQ: I'm trying to answer the
6 question.

7 MS. CELESTINO-HORSEMAN: I understand that.
8 Go ahead and give me an answer. I mean, I just
9 need a number. Go ahead.

10 MS. KHAALIQ: I'm trying to answer the
11 question. So on January 31st, there was a number
12 of signatures that came in from the unofficial
13 report. You have January 31st, you have
14 February 1st, you have February 2nd, 3rd, and the
15 4th. On February 1st, we had hundreds of
16 signatures come in, ma'am, hundreds of them. They
17 were not counted and included in the unofficial
18 report.

19 Now, on January 1st, I still needed 154
20 signatures. I knew that I had 200 signatures
21 coming in from that district on February 1st. They
22 were not counted. We received the same numbers,
23 the same count on February the 2nd, the 3rd, and
24 the final report we received was on the 4th.

25 Now, Saturday, Sunday, Monday, Mr. Scott Yahne

1 just stated that he got the report on Monday. Do
2 you realize that there were many county clerks'
3 offices that were closed up until the 7th, a
4 Monday? So I do not know -- whatever information
5 he got, I do not know that it included those
6 petitions. Now, I handed in a number of additional
7 petitions on the 3rd of February.

8 MS. CELESTINO-HORSEMAN: Okay. What I'm
9 trying to ask you is this: Number one, for the 5th
10 District, which you knew is at issue here, you do
11 not know which clerks' offices were closed on
12 Friday due to bad weather; isn't that right?

13 MS. KHAALIQ: That is correct.

14 MS. CELESTINO-HORSEMAN: So they could have
15 all been open.

16 Number two, as far as the number of petitions
17 submitted, you said, you acknowledged that in the
18 few days before the 4th, you knew you were under,
19 but you said there were supposed to be 200
20 signatures coming in.

21 MS. KHAALIQ: There were, yes.

22 MS. CELESTINO-HORSEMAN: So who was submitting
23 those? Were you submitting those personally?

24 MS. KHAALIQ: Well, there were petition
25 carriers.

1 MS. CELESTINO-HORSEMAN: Okay. So you relied
2 on your petition carriers. Have you got a verified
3 statement or anything from them that shows that
4 they submitted those petitions?

5 MS. KHAALIQ: Yes. We have all records.

6 MS. CELESTINO-HORSEMAN: Can we see it?

7 MS. KHAALIQ: I don't have it with me today,
8 but I do have records of the number of petitions
9 that they handed in and the number of signatures.

10 MS. CELESTINO-HORSEMAN: Do you know what
11 counties they handed those in to?

12 MS. KHAALIQ: I don't have that information in
13 front of me, but I can prepare it.

14 MS. CELESTINO-HORSEMAN: Okay. So, I mean,
15 you see our problem. This gentleman got the
16 petitions from the Election Division and went
17 through and hand-counted each one and came up with
18 a number that gave you credit for six more, however
19 many more, than the election staff gave you. Now
20 you knew you were coming to this challenge today on
21 this, and so if you had brought us the people who
22 said I went over there and turned them in or they
23 refused them or if you had brought us the copies of
24 those petitions showing that day what happened, I
25 mean, evidence that could somehow contradict this,

1 that would be another matter. But we don't have
2 that here in front of us.

3 So I'm sorry. Without that kind of
4 evidence -- and, by the way, I do want you to know
5 I've heard wonderful things about you, and I think
6 we need more women, strong women to do this. But
7 as an officer of the Court and a member of this
8 body, I've taken an oath that I have to uphold the
9 law, and the law clearly states that you have to
10 have 500 signatures per congressional district that
11 are certified by the clerk.

12 MS. KHAALIQ: And, ma'am, I understand that.
13 I certainly do. And I appreciate your kind words.
14 But I must reemphasize the fact that the report
15 that was obtained by Mr. Scott Yahne on Monday,
16 February 7th, or whenever it was, it was an
17 unofficial report.

18 MS. CELESTINO-HORSEMAN: He's not relying on
19 that report.

20 MS. KHAALIQ: Well, he just stated that he
21 was, though.

22 MS. CELESTINO-HORSEMAN: No, he didn't. He
23 said -- go ahead.

24 VICE CHAIRMAN OVERHOLT: Have you looked at
25 the affidavit he provided today?

1 MS. KHAALIQ: I was not provided with it until
2 today.

3 VICE CHAIRMAN OVERHOLT: Well, we were too,
4 but the reason I'm asking you that is because, if
5 you look at this, you'll see --

6 MS. KHAALIQ: On page?

7 VICE CHAIRMAN OVERHOLT: Well, just open it
8 halfway through and you'll see --

9 MS. KHAALIQ: Can you just tell me the page
10 number?

11 MS. CELESTINO-HORSEMAN: It's on the
12 petitions.

13 VICE CHAIRMAN OVERHOLT: Yeah. It says
14 page 86 of 243. I don't know if that's the actual
15 page. But if you just flip through, they're all
16 kind of the same. You can see from this that he
17 is -- this is looking at the actual petitions that
18 were filed, not looking at the unofficial report.

19 MS. KHAALIQ: Right. I understand, but he
20 still got this scan from someone, and I'm almost
21 sure that he got it from someone who was, again,
22 they had received these petitions on the date or up
23 to the date that they got them. This does not
24 include the petitions and signatures that were
25 turned in up until noon on February 1st. We had

1 hundreds of signatures come in on February 1st by
2 noon, and they were not included in this because,
3 as I stated before, on average, it took about two
4 to three days for the correct information to be
5 entered in, and that would have included the
6 petitions.

7 So, again, I am trying to make the point that
8 you had closures, you had county clerks' offices
9 that were closed up until the 7th, some of them, of
10 February due to the inclement weather. You had
11 people who were out sick. You had individuals
12 who -- the system was so imperfect. And then you
13 even had county clerks' offices who did not
14 participate in this process entirely.

15 CHAIRMAN OKESON: I think the difference is
16 that you're making assertions through your own
17 statements here without bringing any evidence,
18 where --

19 MS. KHAALIQ: They are actually not
20 assertions, sir, because we know --

21 CHAIRMAN OKESON: Do you have proof of who was
22 sick and not in attendance?

23 MS. KHAALIQ: We know that these county
24 clerks' offices were closed due to inclement
25 weather. Marion County was closed, Tippecanoe,

1 Morgan County. Johnson County didn't even know who
2 to send the petitions to.

3 VICE CHAIRMAN OVERHOLT: Ms. Khaaliq, so the
4 significant factor here is that Mr. Yahne has
5 focused on a single district, which is District 5.
6 I mean, in what he filed with the Commission before
7 today, he listed his count, the counts for all of
8 the districts. He's focused on 5, which shows a
9 shortfall. There are other districts here in his
10 count that show a shortfall.

11 And our questions to you today, because he has
12 focused on District 5, our questions are focused on
13 District 5, because it is true -- I mean, you could
14 have gotten, as it looks like you did, you got more
15 than the 500 in some districts, but that,
16 unfortunately -- well, fortunately, unfortunately,
17 our system doesn't work where you get to carry
18 over. It's not just a total of 4,500. It's got to
19 be the 500 from each congressional district. And
20 this body, we don't have the authority to change
21 that. You know, it is that 500 count, 500
22 signatures per district. And I know. I mean, I've
23 helped collect signatures in the past for these
24 petitions, and I have signed petitions in the past
25 knowing that it's a big deal and difficult to

1 collect all these signatures. But today, what is
2 important is for you to provide us with concrete
3 evidence that with respect to District 5, that
4 there are another 154 signatures.

5 MS. KHAALIQ: There absolutely are.

6 VICE CHAIRMAN OVERHOLT: But we need to see
7 them or we need --

8 MS. KHAALIQ: They were handed in to you
9 already.

10 MS. CELESTINO-HORSEMAN: Okay. May I?

11 CHAIRMAN OKESON: Please.

12 MS. CELESTINO-HORSEMAN: Okay. The candidate
13 was responsible to get 500 certified signatures to
14 the Election Division by noon on Monday. Are you
15 saying --

16 MS. KHAALIQ: On Friday.

17 MS. CELESTINO-HORSEMAN: On Friday. Sorry.
18 Are you saying that you delivered 500 signatures
19 and the Election Division did not process that?

20 MS. KHAALIQ: I handed in all the petitions
21 that I had by February 4th, that noon deadline. In
22 fact, I turned those in on February 3rd.

23 MS. CELESTINO-HORSEMAN: That wasn't my
24 question, Ms. Khaaliq. My question was: Are you
25 saying that you turned in 500 signatures on that

1 date and the Election Division staff did not
2 process those or did not include those?

3 MS. KHAALIQ: I am absolutely positive.

4 MS. CELESTINO-HORSEMAN: For District 5?

5 MS. KHAALIQ: That is correct.

6 MS. CELESTINO-HORSEMAN: So there's now been a
7 question raised, Mr. Chair, about the Election
8 Division staff. Maybe we should ask them to speak
9 on this.

10 CHAIRMAN OKESON: Well, I'd absolutely
11 entertain that. Co-Director Nussmeyer, would you
12 like to?

13 MS. NUSSMEYER: Certainly, Mr. Chairman,
14 members of the Commission. My name is Angie
15 Nussmeyer. I'm the co-director at the Indiana
16 Election Division. I met with Ms. Khaaliq when she
17 came in to file at the office -- I believe it was
18 on Thursday during the inclement weather -- and
19 received her CAN-2 and her CAN-4 petitions that had
20 been certified by the county voter registration
21 officials and were required to be filed in our
22 office before noon, Friday, February 4th. Our
23 office was open, and so we had that deadline until
24 noon February 4th to receive those petitions.

25 My counterpart and I and our teams have

1 allowed candidates to amend their filings up until
2 the deadline of noon, Friday, February 4th, and I
3 don't recall receiving any additional petitions
4 from Ms. Khaaliq directly, but I'm certain that we
5 had some that were mailed in or delivered from
6 other folks to our office. Our team --

7 CHAIRMAN OKESON: But received after the
8 deadline, you're saying?

9 MS. NUSSMEYER: No, received before noon on
10 Friday, February 4th. We received petitions after
11 Friday, February 4th, at noon, which under state
12 law we are required to reject because state law
13 says you must reject a filing if it is after the
14 deadline. We have no discretion about whether or
15 not we accept or reject a filing that is received
16 after a deadline.

17 My team file stamped every single petition
18 that was filed by Ms. Khaaliq and by mail and
19 received by the office. We scanned in every
20 petition. It is public information. Any person
21 could request a copy of the CAN-4s that were
22 certified by county voter registration officials
23 and filed by the candidate or a candidate's
24 representative or by mail by noon Friday,
25 February 4th.

1 Commissioner Overholt and Commissioner
2 Celestino-Horseman did direct our staff to review
3 the petition signature counts because that was a
4 challenge brought forward today for a couple
5 Democratic candidates, and my staff serves the
6 Democratic commissioners. And we found actually a
7 lesser number, 338 signatures that were certified
8 by county voter registration officials and filed
9 with the Indiana Election Division on or before the
10 Friday noon deadline.

11 CHAIRMAN OKESON: For Congressional
12 District 5?

13 MS. NUSSMEYER: For Congressional District 5.

14 CHAIRMAN OKESON: For Haneefah Khaaliq?

15 MS. NUSSMEYER: Correct.

16 CHAIRMAN OKESON: So less than the number
17 established in Mr. Yahne's, 346?

18 MS. NUSSMEYER: Correct. It was a review of
19 all the certified petitions that were filed and
20 received by our office by noon, Friday,
21 February 4th. So that was our staff's count of
22 those petitions at the request of our commissioners
23 given that was a challenge brought forward today.

24 MS. KHAALIQ: May I say something, please?

25 CHAIRMAN OKESON: Just one moment.

1 Co-Director King, do you have anything to add?

2 MR. KING: Mr. Chairman, members of the
3 Commission, I have very little to add other than to
4 say that, to my knowledge, the statements made by
5 Co-Director Nussmeyer are entirely correct and
6 accurate. The Republican staff did not conduct the
7 signature count review that was referenced, but it
8 is a common practice in our office to do so and the
9 candidates running for statewide primary
10 nominations to do so, and so I have no reason to
11 think there is anything inaccurate in what
12 Ms. Nussmeyer is saying.

13 MS. NUSSMEYER: If I may just add to my
14 comments --

15 CHAIRMAN OKESON: Please, please. Go ahead.

16 MS. NUSSMEYER: -- and to what Mr. King raised
17 as well, under state law, we don't have authority
18 to reject a CAN-2 from a U.S. Senate candidate or a
19 statewide candidate like governor who are required
20 to collect these petition signatures to run in the
21 Democratic or Republican Party primary. As long as
22 that CAN-2 was accompanied by the certified CAN-4
23 petitions from the county voter registration
24 office, we do not perform a count unless there is
25 typically a challenge brought forward. That is the

1 mechanism under state law. There is no mandate for
2 the staff to count those signatures.

3 But when there is a challenge that is brought
4 forward, we often do the review for our
5 commissioners to ensure that they have the best
6 available information as they go through this
7 process and to inform their decision-making.

8 CHAIRMAN OKESON: Knowing how thorough both
9 you and Mr. King's operations are, what I hear you
10 saying is the official count that you have is 338
11 from Congressional District 5 filed by the
12 deadline.

13 MS. NUSSMEYER: Based on the certified
14 petitions filed in our office by noon,
15 February 4th, as certified by county voter
16 registration officials on their attestation found
17 on the back of the CAN-4 petitions.

18 MS. KHAALIQ: May I say something, please?

19 CHAIRMAN OKESON: I'll give you 30 seconds.

20 MS. KHAALIQ: Okay. Again, the IED received
21 these scanned petitions from somewhere, and they
22 received them from the county clerks' offices; am I
23 correct?

24 MS. CELESTINO-HORSEMAN: They scanned them.

25 MS. KHAALIQ: Okay. But you received them --

1 MS. CELESTINO-HORSEMAN: They got them from
2 you.

3 MS. KHAALIQ: Right.

4 MS. CELESTINO-HORSEMAN: And then they scanned
5 them.

6 CHAIRMAN OKESON: So you've already made
7 statements to that effect. If there's anything new
8 to add. Sounds like you're going to the same --

9 MS. KHAALIQ: I would just say that the IED
10 depends on this unofficial report collected with
11 what I turned in, am I correct, on February --
12 before February 4th. So then why send the
13 unofficial reports to us all? Why use that as a
14 mechanism for information?

15 MS. NUSSMEYER: Mr. Chairman, if I may
16 respond.

17 Ms. Khaaliq, you asked me to send you a copy
18 of the report because you understood that it was a
19 public information and an unofficial report. So
20 you personally reached out to me for a copy of the
21 report, as I send out to my state central committee
22 and others who request that public information and
23 explain in every email that it is an unofficial
24 report and that what matters are the certified
25 numbers found on the back of each of the CAN-4

1 petitions. So you received that report because you
2 made a public records request of me personally.

3 MS. KHAALIQ: And again --

4 CHAIRMAN OKESON: Thank you.

5 VICE CHAIRMAN OVERHOLT: And I just want to
6 clarify once and for all, Ms. Nussmeyer, when you
7 and your staff counted the -- what you counted at
8 the request of myself and Ms. Celestino-Horseman
9 were the actual certified petition numbers, what
10 you just described. You did not rely -- this
11 number that you came up with is not relying on the
12 unofficial report; it's relying on your review of
13 the actual certified petitions.

14 MS. NUSSMEYER: That is correct.

15 CHAIRMAN OKESON: So we have closed the
16 hearing on Case No. 2022-09. We've had some
17 discussion, some questions. Any further comments?

18 Would anyone like to offer a motion?

19 VICE CHAIRMAN OVERHOLT: Yeah. I --

20 CHAIRMAN OKESON: To uphold or deny the
21 challenge.

22 VICE CHAIRMAN OVERHOLT: Thank you for
23 reminding me how to phrase this.

24 MS. KHAALIQ: May I ask another question?

25 CHAIRMAN OKESON: I'm sorry. We've closed the

1 hearing.

2 MS. KHAALIQ: Okay. Thank you.

3 CHAIRMAN OKESON: I'm not affording him any
4 additional time in equity and fairness.

5 VICE CHAIRMAN OVERHOLT: And I move that we
6 uphold the challenge due to the fact that at least
7 one congressional district, that the 500 signatures
8 were not obtained as required by law.

9 CHAIRMAN OKESON: There's a motion. Is there
10 a second?

11 MS. CELESTINO-HORSEMAN: Second.

12 CHAIRMAN OKESON: Any further discussion? Any
13 questions?

14 Hearing none, all those in favor signify by
15 saying "Aye."

16 VICE CHAIRMAN OVERHOLT: Aye.

17 MS. CELESTINO-HORSEMAN: Aye.

18 MS. PYLE: Aye.

19 CHAIRMAN OKESON: Aye.

20 The "ayes" have it. The motion to uphold the
21 challenge carries. I direct the Election Division
22 to not include Haneefah Khaaliq on the certified
23 list of primary candidates sent to the county
24 election boards and indicate the name of this
25 candidate is not to be printed on the ballot.

1 Thank you.

2 Next case, we have -- you may remain there,
3 Mr. Yahne -- Yahne v. McCray, 2022-08, challenge to
4 Valerie McCray, candidate for the Democratic Party
5 nomination also for United States Senator. Again,
6 the Election Division has been provided copies of
7 the information in your binders.

8 Is Valerie McCray present?

9 MS. McCRAY: Yes.

10 CHAIRMAN OKESON: Thank you. You understand
11 the procedures on how we'll conduct this hearing?

12 MS. McCRAY: Yes, yes.

13 CHAIRMAN OKESON: I will first recognize Scott
14 Yahne, challenger. Again, 7 minutes.

15 MR. YAHNE: May I ask a question?

16 MS. WARYCHA: Can you get closer to the mic.

17 MR. YAHNE: Yes. Will my prior testimony be
18 part of this record as well so that I don't need to
19 repeat certain elements or shall I start as though
20 I had not?

21 MS. CELESTINO-HORSEMAN: Why don't you tell us
22 just as you go along the corporate bottom line.

23 CHAIRMAN OKESON: You're certainly welcome to
24 an executive summary.

25 MR. YAHNE: Okay. Very well. Thank you.

1 Very well. I am Scott Yahne. I am a registered
2 voter. I vote every election that I'm able.
3 That's Precinct 35, Center Township in Valparaiso.
4 I am in Congressional District 1.

5 I did also file a CAN-1 concerning
6 Dr. McCray's candidacy. Likewise, I went through
7 the summary requirements that a candidate must file
8 CAN-4s to be placed on the primary ballot. Same
9 threshold applies, 4,500 voters in the state, 500
10 voters from each congressional district, and this
11 law is binding on all of us. It wouldn't be fair
12 to afford one candidate one set of rules and
13 another candidate another set of rules. As we've
14 heard, this is not an easy process, and it requires
15 the devotion of considerable time and resources to
16 obtaining these signatures as opposed to going out
17 and perhaps speaking to folks or doing the other
18 things that are part of campaigns.

19 In this specific instance for Dr. McCray --

20 CHAIRMAN OKESON: Just one comment. Are you
21 again also identifying a single congressional
22 district?

23 MR. YAHNE: I am, yes, Congressional
24 District 2.

25 CHAIRMAN OKESON: Okay. Thanks.

1 MR. YAHNE: Again, I looked at the official
2 records, and as was noted, I did come to the same
3 number you did. There were a couple of instances
4 where either the number wasn't drawn clearly, I
5 wasn't entirely certain whether a voter was
6 rejected. In a couple of instances I voted to
7 increase what perhaps the number was cited just so
8 I gave the candidate every benefit of the doubt.
9 That was my goal throughout, to make sure that I
10 was as comprehensive and as absolutely fair as I
11 could possibly be to the candidates when doing this
12 count.

13 I do have an affidavit that I'd like to
14 present, if I may.

15 CHAIRMAN OKESON: Is this additional evidence
16 not already offered?

17 MR. YAHNE: Correct. This is for Candidate
18 McCray.

19 CHAIRMAN OKESON: Thanks, Valerie. Let the
20 record reflect that we've accepted additional
21 documents.

22 MR. YAHNE: And if I might ask that my prior
23 remarks be incorporated in the record so that I can
24 somewhat speak somewhat more quickly regarding --
25 or succinctly regarding this affidavit. But this

1 affidavit is similar to the last affidavit that I
2 presented to you in that I included images from the
3 specific CAN-4 forms filed by the candidate. And
4 in this circumstance, I focused on Congressional
5 District~2.

6 And I determined, as is set forth in my
7 report -- and there's a work sheet that I prepared
8 in Excel and to which I affixed each image of each
9 signature that I found. I found that Candidate
10 McCray obtained 62 signatures to support her
11 candidacy for Congressional District~2. The
12 information, I tried to be very comprehensive and
13 tried to understand all the information. I can
14 ultimately only look to records that are filed with
15 the Commission and the Division.

16 CHAIRMAN OKESON: In the interest of time,
17 though, what you've done essentially is follow the
18 same procedure that you did for Ms. Khaaliq?

19 MR. YAHNE: Precisely, yes.

20 CHAIRMAN OKESON: You provided us that here,
21 and what you're asserting is that in Congressional
22 District~2, an insufficient number of signatures
23 were filed by the deadline. Does that summarize
24 your --

25 MR. YAHNE: That's exactly right, and that, as

1 such, Candidate McCray --

2 CHAIRMAN OKESON: Please don't take me as
3 disrespectful, but, I mean, that summarizes it?

4 MR. YAHNE: It does.

5 CHAIRMAN OKESON: Okay. We'll dock it.

6 MS. PYLE: Clarification. So on page 1 of
7 your exhibits, it's saying that Congressional
8 District~2 has 115. I understand that's still
9 less, but I think you said 62.

10 MR. YAHNE: I'm sorry. Page 1 of?

11 MS. PYLE: Of your affidavit that you gave us
12 here.

13 CHAIRMAN OKESON: Right here.

14 MS. CELESTINO-HORSEMAN: The report, that's
15 what she's referring to.

16 MR. YAHNE: Oh, that's the county unofficial
17 report. That's not my count.

18 MS. PYLE: Okay. Thank you.

19 CHAIRMAN OKESON: So 62 --

20 MR. YAHNE: I searched for additional --

21 CHAIRMAN OKESON: 62 is your --

22 MR. YAHNE: That's correct, yes.

23 MS. PYLE: Thank you.

24 CHAIRMAN OKESON: Ms. McCray, would you like
25 2 minutes of cross-examination to Mr. Yahne's

1 opening remarks?

2 MS. McCRAY: Well, the main thing is I'm a
3 little bit confused because, on the campaign trail
4 with Mr. McDermott, he said he wanted all three
5 candidates to be on the ballot for it to be a
6 democracy, for it to be a challenge. Are you going
7 against his wishes? Because I've heard him say it
8 multiple times, to bring a challenge.

9 MR. YAHNE: I'm sorry. I'll be happy to
10 answer. I'm reading the state law. I've heard
11 some comments from Mayor McDermott. I'm not
12 familiar with that comment.

13 MS. McCRAY: Just he's said it multiple times.
14 So the other question I have is: You said
15 you're just his friend, but how many cases have you
16 been on with Mr. McDermott? You're his attorney
17 quite often; is that correct?

18 MR. YAHNE: I may have forgotten something in
19 20 years, but I don't recall representing Thomas
20 McDermott.

21 CHAIRMAN OKESON: And just procedurally, I
22 believe in the rules that we adopted for this, the
23 cross-examination in the 2-minute period is to be
24 limited to remarks that he made during his opening
25 statement. Thank you.

1 MS. McCRAY: Okay. We never answered the
2 question of the statutes of limitations as well --
3 that goes to you guys as well -- that Mrs. Khaaliq
4 asked.

5 MS. CELESTINO-HORSEMAN: Mr. Chair, could we
6 have -- since that's been raised before, for future
7 people who may want to raise it, can we have staff
8 comment?

9 CHAIRMAN OKESON: I'm certainly open to that.
10 Co-Counsel Kochevar, would you like to --

11 MS. WARYCHA: I think she referenced 3-8-8-4,
12 right?

13 MR. KOCHEVAR: Yes. Okay. So returning back
14 to the 3-8-8 section, there are two things to take
15 consideration of here. One, 3-8-8 does not apply
16 to federal candidates. A candidate for United
17 States Senator is running for a federal office
18 under our state election code. That law only
19 applies to state offices, those being governor,
20 lieutenant governor, et cetera, and to legislative
21 office, meaning those running for the Indiana
22 General Assembly, state representative, state
23 senator.

24 In addition, for number two, is that 3-8-8 has
25 been used to challenge those particular candidates

1 after the primary. I can cite to you and to the
2 Commission's record a challenge against Indiana
3 Secretary of State Connie Lawson when she was a
4 candidate in 2018, 3-8-8 was used, as well as
5 against now State Representative Earl Harris, who
6 represents the state House District No. 2 up in
7 Lake County when he ran for office in -- I do not
8 remember the year, but he was also challenged under
9 that statute after the primary. So those are the
10 reasons they don't apply here.

11 CHAIRMAN OKESON: So it's not applicable.

12 MR. KOCHEVAR: It's not applicable, yes,
13 3-8-8.

14 MS. WARYCHA: I agree with Matthew.

15 CHAIRMAN OKESON: Thank you, Valerie.

16 MS. NUSSMEYER: Mr. Chairman, if I might.

17 CHAIRMAN OKESON: Please.

18 MS. NUSSMEYER: The statute that you would
19 want to review is 3-8-2-18. Right?

20 MR. KOCHEVAR: Yes. I'm sorry. Yes.

21 CHAIRMAN OKESON: That would apply for federal
22 office?

23 MS. NUSSMEYER: Correct. That is the deadline
24 for which the Commission has to consider a
25 challenge that was properly and timely filed not

1 later than noon -- and Mr. King or Mr. Kochevar
2 will remember the date -- 68 days before the
3 primary election, Valerie?

4 MS. WARYCHA: That's correct, yes.

5 MS. NUSSMEYER: Which is next Thursday, the
6 24th.

7 CHAIRMAN OKESON: So the filing is timely?

8 MS. WARYCHA: Correct.

9 MR. KOCHEVAR: I will just add on for the
10 record, we must also include 3-8-2-14, which
11 establishes the deadline for a party who can file a
12 challenge against a candidate running in the
13 primary for that deadline as well. So we must
14 include --

15 CHAIRMAN OKESON: So what I'm hearing in this
16 is that the challenger has met the requirements set
17 out in Indiana statute determined by the Indiana
18 Election Division to make this challenge.

19 MR. KOCHEVAR: Based upon the record that you
20 have before you, the answer is yes.

21 MS. WARYCHA: Agreed.

22 CHAIRMAN OKESON: Co-Director King, anything
23 to add?

24 MR. KING: No, nothing to add to the counsels'
25 remarks.

1 CHAIRMAN OKESON: Okay. You're still about
2 halfway through your 2-minute cross-examination.

3 MS. McCRAY: I'm fine with him. Do I get a
4 chance to just talk?

5 CHAIRMAN OKESON: So now you have 7 minutes.

6 MS. McCRAY: Oh, 7 minutes. Okay. I want to
7 reiterate something that Mrs. Khaaliq was saying
8 about the haphazardness of the signatures. And I
9 just received, for example -- I had someone in
10 Elkhart, District 2, which he's referring to, I had
11 someone in Elkhart to go to the county to pick up
12 our petitions and overnight them to me, which that
13 person did. However, not all of them -- they
14 didn't hand him all of those signatures.

15 So in the mail I just received a pack, another
16 pack of signatures from Elkhart that have been
17 certified but never -- was never handed back to the
18 person who mailed them to me. So we handed in some
19 for Elkhart, but I was thinking we handed in all of
20 them, but we're just now getting stuff in the mail.
21 I was getting stuff from all over the state, from
22 strange, little counties, Whitney, this county,
23 after the fact that have been certified but not --
24 because of the snow, because of the closings, we're
25 just getting some of those signatures. So it was

1 not a smooth transition by any stretch of the
2 matter.

3 District 2, District 1, I drove in snow,
4 sleet, rain to get some of these signatures. And
5 people don't -- that day when things were due, the
6 weather conditions were so horrible, so I think
7 that needs to be factored in. And I can enter into
8 evidence that these have been certified but just
9 got to me two days ago. So this is just one of
10 many examples that I just happened to grab on my
11 way out the door.

12 VICE CHAIRMAN OVERHOLT: Can we see those?

13 MS. McCRAY: And this is for District 2. It's
14 still probably not enough.

15 MS. CELESTINO-HORSEMAN: That's what I was
16 going to ask you. How many are there?

17 MS. McCRAY: I haven't even counted them. But
18 it's just sort of some of the things that went on.
19 I don't know what happened to South Bend, for
20 example. Those were supposed to have been handed
21 in. That was well over 200 signatures. I don't
22 know what happened with those.

23 So just to reiterate, there are so many issues
24 with my campaign collection, and one of the issues
25 that we've had -- I've had, and I just want it to

1 be on record, I am not going to have those numbers.
2 I know that. But what I also wanted to go on
3 record was that I entered this -- December 12th it
4 was my understanding that I had 3,500 signatures,
5 only to find out that someone faked all of that and
6 we basically had to start all over, hit the ground
7 running December 12th.

8 So all the signatures we've collected are
9 between December 12th to December -- till when the
10 date was. So we did a phenomenal job but we only
11 had three or four weeks to work with. It was
12 clearly a sabotage on our campaign, clearly from
13 someone who did not want us to be on the ballot, me
14 to be on the ballot. It was very intricate. It
15 was very well-planned. And the whole goal seemed
16 to have been to run out our clock until I wouldn't
17 be able to collect the rest of those signatures.
18 We did a phenomenal job of getting as many
19 signatures as we could. We went around and we
20 pulled together alliances that I would love to be
21 able to participate with.

22 And what I have entered -- what I would like
23 to enter is what I was able to do was capture -- I
24 wasn't able to capture all the conversations, but I
25 was able to capture the text messages that I was

1 getting from a Donnell Duncan, who was part of my
2 volunteer staff. He must have been termed or paid
3 because he did not turn in any of the 3,500
4 signatures, 3,554 signatures that we thought we had
5 going into December 12th. Part of these signatures
6 we handed to Donnell Duncan to chart, to verify.
7 Those were never turned in as well.

8 So I just wanted this board to understand that
9 our campaign, we know -- we thought we'd collected
10 not only 5,000 signatures, but we thought we were
11 heading into 7,000 signatures, only to find out
12 that our campaign was severely sabotaged.

13 So with that being said, here are the text
14 messages that I'd like to enter into the record. I
15 would love an investigation to figure out who did
16 this. But we tried our best. We actually were
17 collecting signatures all during the year, and we
18 were handing them to Mr. Duncan, and none of those
19 signatures have appeared, none of them. So what
20 you have are the signatures we collected between
21 December 12th and January, the deadline.

22 CHAIRMAN OKESON: What I hear you saying is
23 you recognize that those signatures do not meet the
24 requisite number.

25 MS. McCRAY: Absolutely, absolutely. I just

1 wanted to go on the record that we were not a lazy
2 campaign. We were out there doing the very best
3 that we could do, and I just wanted it to be on the
4 record that these things happen, that people
5 strategically sabotaged our campaign. And these
6 things happen, and I just wanted to go on record it
7 happened to me. I'm really sad that Mr. McDermott
8 challenged both African-American female people on
9 this campaign.

10 CHAIRMAN OKESON: Let the record --

11 MS. McCRAY: We had an opportunity here to do
12 something different in Indiana, and Mr. McDermott
13 has destroyed that.

14 CHAIRMAN OKESON: The record shows that
15 Mr. Scott Yahne has challenged you, not
16 Mr. McDermott --

17 MS. McCRAY: Oh, come on now.

18 CHAIRMAN OKESON: -- for the record.

19 MS. McCRAY: For the record, McDermott was in
20 the Indy Star saying that he knew someone that was
21 going to challenge; he knew the person that was
22 going to challenge and he was going to support that
23 challenger. That was in Indy Star. This was a --
24 this is their deal going on. Come on now. So, I
25 mean, it's pretty obvious.

1 (Timer)

2 MS. McCRAY: So I'm just disappointed. I'm
3 disappointed in Mr. McDermott that he would
4 actually do this.

5 CHAIRMAN OKESON: Okay. So that's the
6 7 minutes.

7 MS. McCRAY: Okay. Thank you.

8 CHAIRMAN OKESON: Is there an offer to extend?
9 Hearing none, moving on. Mr. Yahne, if you
10 would like, you have cross-examination for
11 2 minutes.

12 MR. YAHNE: I'm simply disappointed at those
13 last comments. I'll just leave it at that.

14 MS. McCRAY: Oh, come on.

15 MR. YAHNE: Yes. Do I know Tom McDermott?
16 Yes. Is my interest because I know Tom McDermott
17 and why I'm here? Yes, absolutely. The balance, I
18 take exception.

19 CHAIRMAN OKESON: Appreciate that.
20 Do you have a rebuttal, Ms. McCray?

21 MS. McCRAY: I don't know why he takes -- it's
22 pretty obvious. There are -- if no one challenges
23 these signatures, we're on the ballot.
24 Mr. McDermott, on the campaign trail, was
25 constantly saying he wanted all three candidates to

1 be on the ballot, and then he suddenly changes his
2 mind. I think that him wanting to be the only
3 candidate on the ballot is just sad. It's the
4 saddest thing that can happen to this campaign and
5 is going to be -- it's going to have a negative
6 effect on the voters because the voters know they
7 don't have a clear choice. So we missed an
8 opportunity to help the Democratic Party.

9 MS. CELESTINO-HORSEMAN: Can we say something
10 now?

11 CHAIRMAN OKESON: Does that conclude your
12 remarks?

13 MS. McCRAY: Yes.

14 CHAIRMAN OKESON: Okay. Thank you. So I'm
15 going to bring the public portion of the hearing
16 2022-08 to a close. Discussion?

17 MS. CELESTINO-HORSEMAN: Thank you.
18 Ms. McCray, I have to say, like I told Ms. Khaaliq,
19 as a woman who has been involved in politics for a
20 very long time, as someone whose family is Mexican,
21 as a daughter of a mother who was served out of
22 back doors of restaurants, I totally understand,
23 and I want to see strong women, women of color in
24 these offices.

25 However, to get there, you have to learn and

1 educate yourself regarding the laws and the rules.
2 You can't sit there and say to anyone that these
3 rules don't apply to us because we are people of
4 color.

5 MS. McCRAY: No, I did not say that.

6 MS. CELESTINO-HORSEMAN: I have been
7 challenged in everything else myself along the way,
8 so I know frustration, but --

9 MS. McCRAY: I don't think that was ever said.
10 I don't think that ever came from my mouth --

11 MS. CELESTINO-HORSEMAN: Well, you said --

12 MS. McCRAY: -- that I thought that we
13 should --

14 MS. CELESTINO-HORSEMAN: No. Let me finish.

15 MS. McCRAY: Go ahead.

16 MS. CELESTINO-HORSEMAN: You said you didn't
17 think Mr. McDermott should have challenged and that
18 denied two women of color on the ballot. So having
19 said that, I do appreciate the fact that you were
20 honest and said that there were not enough
21 signatures for the 2nd Congressional District,
22 which would then mean that you are not qualified to
23 run for office. I'm a little disappointed that,
24 again, first Ms. Khaaliq claimed it was our
25 election staff who had some plot, and now you're

1 saying someone planted someone in your campaign
2 that caused this.

3 MS. McCRAY: Absolutely, absolutely.

4 MS. CELESTINO-HORSEMAN: As the candidate,
5 though, ma'am, that's the other thing you learn
6 from all this. Take these lessons and learn.

7 MS. McCRAY: Oh, absolutely. I just wanted it
8 to go on record. I'm not challenging the challenge
9 at all. I just wanted to go on record that someone
10 did this, that someone who was very committed to
11 not having us on the ballot did this.

12 MS. CELESTINO-HORSEMAN: Well, ma'am, as the
13 candidate, that's your job. I mean, the buck stops
14 with you.

15 MS. McCRAY: Absolutely, absolutely.

16 MS. CELESTINO-HORSEMAN: And so you go through
17 and monitor, and you should have been asking to see
18 these reports and see these --

19 MS. McCRAY: And if you go through the
20 affidavit that I gave you, we were constantly
21 asking for those. I have 147 pages. I just pulled
22 out those that actually had the signature counts on
23 there. There were me asking for proof, asking for
24 copies, asking for these things, and what I got was
25 a runaround.

1 CHAIRMAN OKESON: I think this --

2 MS. McCRAY: Right. It was just an
3 unfortunate thing.

4 CHAIRMAN OKESON: And I think what I've heard
5 you say is that you wanted to get this on the
6 record and --

7 MS. McCRAY: I just wanted to get that on the
8 record.

9 CHAIRMAN OKESON: And what I also heard you
10 say is you don't deny the challenge.

11 MS. McCRAY: No, I do not deny the challenge.

12 CHAIRMAN OKESON: So with that in mind, is
13 there a motion?

14 VICE CHAIRMAN OVERHOLT: I move to uphold the
15 challenge.

16 MS. CELESTINO-HORSEMAN: Second.

17 CHAIRMAN OKESON: Any further discussion or
18 questions?

19 Hearing none, all those in favor to uphold the
20 challenge please signify by saying "Aye."

21 VICE CHAIRMAN OVERHOLT: Aye.

22 MS. CELESTINO-HORSEMAN: Aye.

23 MS. PYLE: Aye.

24 CHAIRMAN OKESON: The "ayes" have it. The
25 motion carries. The challenge is upheld. The

1 Election Division is directed not to include
2 Valerie McCray on the certified list of primary
3 candidates sent to county election boards and
4 indicate that the name of this candidate is not
5 permitted on the ballot. Thank you.

6 Cause No. 2022-16 in the matter of the
7 challenge to Thomas McDermott, Jr., candidate for
8 Democratic Party nomination to the United States
9 Senate. Again, the Election Division has provided
10 copies of filings and all relevant material in your
11 binder.

12 MR. McDERMOTT: Mr. President, I wasn't here
13 earlier today.

14 CHAIRMAN OKESON: I'm sorry. You weren't
15 sworn in?

16 MR. McDERMOTT: No, sir.

17 CHAIRMAN OKESON: You're the challenger.

18 MS. CELESTINO-HORSEMAN: So you need to sit
19 over here.

20 CHAIRMAN OKESON: Valerie McCray?

21 MS. McCRAY: Yes.

22 CHAIRMAN OKESON: You are the one bringing the
23 challenge; correct?

24 MS. McCRAY: I'm sorry?

25 CHAIRMAN OKESON: You are the one bringing the

1 challenge?

2 MS. McCRAY: To Mr. McDermott?

3 CHAIRMAN OKESON: Yes.

4 MS. McCRAY: Yes.

5 CHAIRMAN OKESON: Please. With that in
6 mind -- I'm sorry -- please administer the oath.

7 MR. KOCHEVAR: Please say "I do" after
8 recitation of the oath.

9 Do you solemnly swear, under the penalties of
10 perjury, that the testimony you are about to give
11 to the Indiana Election Commission is the truth,
12 the whole truth, and nothing but the truth?

13 MR. McDERMOTT: I do.

14 CHAIRMAN OKESON: Do you understand the
15 procedures we've adopted for the purposes of this
16 hearing?

17 MR. McDERMOTT: Yes, sir.

18 CHAIRMAN OKESON: Would you say your name
19 again.

20 MR. McDERMOTT: Yes, sir. My name is Thomas
21 Matthew McDermott, Jr. I'm the mayor of Hammond,
22 Indiana. I was elected mayor of Hammond, Indiana,
23 January 1st -- well, I took office January 1, 2004,
24 sir. I've been elected five times since then.

25 CHAIRMAN OKESON: Could you spell it.

1 MR. McDERMOTT: M-c-D-e-r-m-o-t-t.

2 CHAIRMAN OKESON: Thank you.

3 MR. McDERMOTT: Jr.

4 CHAIRMAN OKESON: Thank you. And with that,
5 I'll recognize Valerie McCray, the challenger, for
6 her 7-minute presentation.

7 MS. McCRAY: I'll be brief. My challenge is
8 based on two things. One, someone informed me that
9 they knew of some copying that was going on with
10 his campaign. I'm not at privilege to tell who
11 that was.

12 Also, Mr. McDermott has been in previous
13 campaigns. There's some that he has used previous
14 forms to present, has changed the dates, the names.
15 He's had access to other forms. I think that
16 they're just -- I need to hear that he didn't forge
17 these signatures.

18 VICE CHAIRMAN OVERHOLT: Do you have any
19 evidence, Ms. McCray?

20 MS. McCRAY: No, just hearsay. I'm sorry.
21 Just hearsay and I just know that he ran for office
22 before. The only evidence, when I looked into
23 Mr. McDermott, there have been just some judicial
24 issues that he has had to pay fines for, and so the
25 issue for me is, is he honest in this particular

1 procedure. And I just wanted proof that he's
2 actually turned in signatures that are legitimate.

3 CHAIRMAN OKESON: Does that conclude your
4 opening comments?

5 MS. McCRAY: Yes.

6 MS. CELESTINO-HORSEMAN: Can I say something
7 here before we go on?

8 CHAIRMAN OKESON: Sure.

9 MS. CELESTINO-HORSEMAN: You know, as
10 challenger, you have to give us evidence. You
11 can't come in and say "I have a feeling about this"
12 or "Someone who I can't tell you who it was" --

13 MS. McCRAY: Yeah, I know.

14 MS. CELESTINO-HORSEMAN: -- and all of that.
15 And being the first one up, you have a certain
16 burden you have to meet. So I don't think that
17 burden has been met here.

18 CHAIRMAN OKESON: Well, if Mr. McDermott would
19 like to yield his cross-examination, opening
20 statements, and subsequent rebuttals for a motion.

21 MS. CELESTINO-HORSEMAN: Would you,
22 Mr. McDermott?

23 MR. McDERMOTT: I'm sorry. My attorney was
24 talking to me, sir.

25 CHAIRMAN OKESON: They tend to do that.

1 VICE CHAIRMAN OVERHOLT: We're obnoxious that
2 way.

3 MR. McDERMOTT: It was like I had three people
4 talking to me at once. I apologize.

5 CHAIRMAN OKESON: Valerie McCray has
6 acknowledged that she does not have sufficient
7 evidence, if any, to support her claim but just
8 wanted to hear you make a comment, but you are not
9 required to. Member Celestino-Horseman has noted
10 that, and it's been suggested that maybe you yield
11 your time for any opening remarks or any
12 cross-examination and we simply hear a motion.

13 MR. McDERMOTT: It's very embarrassing to hear
14 what Ms. McCray is saying about me right now. It's
15 challenging my integrity in front of the state
16 Election Commission.

17 CHAIRMAN OKESON: So this is part of your
18 7 minutes opening statement.

19 MR. McDERMOTT: My attorney advises me not to
20 say anything, but I feel my honor is at stake.

21 CHAIRMAN OKESON: Thank you. Anything
22 further?

23 MR. McDERMOTT: The signatures we collected
24 during this campaign were 100 percent hard work,
25 grit, effort, thousands of miles driven, hundreds

1 of volunteers. We've worked tirelessly. And it
2 was just as snowy and just as icy and just as cold
3 for our team, and we still made the deadline
4 because it's a deadline. We worked so hard, and it
5 was such a major accomplishment for my campaign.

6 To hear the things that I'm hearing right now,
7 insinuations, defamatory statements, hurts my
8 heart, sir. I worked super hard with my team to
9 collect every one of those signatures, and every
10 one of those signatures is 100 percent valid, sir,
11 and it's insulting to hear otherwise. It really
12 makes you wonder why people run for public office,
13 sir. It really makes you wonder because I did
14 everything the way you're supposed to, sir.

15 MS. McCRAY: Just a rebuttal on that.

16 CHAIRMAN OKESON: Hold on a second.

17 Does that conclude your comments?

18 MR. SMITH: Mr. Chairman, do we have to
19 cross-examine?

20 CHAIRMAN OKESON: Sure. State your name.

21 MR. SMITH: I'm sorry. Kevin Smith. I let
22 the Commission know yesterday that I'd be here as
23 Mr. McDermott's representative as well as attorney.

24 CHAIRMAN OKESON: Spell that.

25 MR. SMITH: I'm sorry. K-e-v-i-n, S-m-i-t-h.

1 CHAIRMAN OKESON: Go ahead.

2 MR. SMITH: I didn't know if there was a need
3 for rebuttal based on the commissioner's request
4 for us to waive, or cross-examination.

5 CHAIRMAN OKESON: It's certainly up to you.
6 You heard Ms. Celestino-Horseman's comments.

7 MR. SMITH: I'm fine with her comments. We
8 can close with Mayor McDermott's statement.

9 MS. CELESTINO-HORSEMAN: My position is that,
10 since there is no evidence to support the
11 challenge, that we should just go ahead and dismiss
12 it right now because we have no grounds to hear it.

13 MS. McCRAY: Can I say one more thing? I was
14 just informed that Mr. Yahne, going backwards now,
15 is not a registered voter. That needs checked.

16 CHAIRMAN OKESON: Ma'am, that case is closed.

17 MS. McCRAY: I don't know, but it was closed
18 on negative information.

19 CHAIRMAN OKESON: That case was closed. We're
20 not hearing that matter. It has been voted on.
21 That case is closed. You can't drag that into
22 another hearing.

23 MS. McCRAY: Well --

24 CHAIRMAN OKESON: Ms. McCray, I'm sorry.

25 MS. McCRAY: I just found this out. I'm

1 sorry. I do want for the record that Mr. Yahne,
2 who pulled these things, is not a registered voter.

3 CHAIRMAN OKESON: It is not for the record.
4 That is not germane to this particular cause
5 number.

6 With that in mind, is there a motion?

7 MS. CELESTINO-HORSEMAN: I move that the
8 challenge be dismissed -- denied. Thank you.

9 CHAIRMAN OKESON: Is there a second?

10 VICE CHAIRMAN OVERHOLT: Second.

11 CHAIRMAN OKESON: Having a motion and a second
12 to deny the challenge, is there any further
13 questions or commentary?

14 Hearing none, all those in favor signify by
15 saying "Aye."

16 VICE CHAIRMAN OVERHOLT: Aye.

17 MS. CELESTINO-HORSEMAN: Aye.

18 MS. PYLE: Aye.

19 CHAIRMAN OKESON: The "ayes" have it. The
20 challenge is denied. The Election Division is
21 directed to include the name Thomas M. McDermott,
22 Jr., in the certified list of candidates to be
23 printed on the ballot. Thank you.

24 MR. McDERMOTT: Thank you.

25 CHAIRMAN OKESON: Can we go into recess until

1 3:30 by consent. Return to this location at 3:30.

2 Thank you.

3 (Recess taken.)

4 CHAIRMAN OKESON: We're going to resume.

5 Thank you. Back in session. Moving on, we have
6 two cause numbers, Norris v. Niederberger, Cause
7 No. 2022-19, and Bartlett v. Niederberger, Cause
8 2022-20, in the matter of challenge to Danny
9 Niederberger for Republican Party nomination for
10 United States Senator.

11 Given these two challenges appear to be
12 substantially identical in their objection, is
13 consent to consolidate these two challenges given
14 for consideration by the Commission?

15 VICE CHAIRMAN OVERHOLT: Consent.

16 CHAIRMAN OKESON: We will consolidate them. I
17 will recognize, per your request, Evan Norris and
18 Alexander Bartlett to make their opening remarks in
19 combination. If you need a little bit more, we'll
20 consider it, but please proceed with your
21 7 minutes.

22 MR. NORRIS: Thank you, Mr. Chairman. We will
23 try to keep this to the 7 minutes to keep this
24 moving along as fast as we can. Evan Norris,
25 N-o-r-r-i-s. I bring this matter against

1 Mr. Niederberger as a resident of Boone County,
2 Indiana, specifically Eagle Township, Precinct
3 No. 5. Along is...

4 MS. BARTLETT: Yes. Hi, I'm Alexandra "Ali"
5 Bartlett. I bring the challenge as a registered
6 voter of Marion County.

7 CHAIRMAN OKESON: Spell that.

8 MS. BARTLETT: B-a-r-t-l-e-t-t.

9 MR. NORRIS: So this is something that this
10 commission has already heard here today in dealing
11 with the Ms. Khaaliq and Ms. McCray matters under
12 Cause Nos. -08 and -09. This is an issue of
13 signature deficiencies. It's the same basic
14 premise and the same basic arguments that have
15 already been presented to this commission today.

16 Ms. Bartlett and I are arguing it as this:
17 Mr. Niederberger does not have the requisite number
18 of signatures as required under Indiana law. We
19 argue he is ineligible to be placed on the primary
20 ballot for U.S. Senator, and therefore,
21 Ms. Bartlett and I respectfully request that this
22 commission uphold this challenge and rule
23 Mr. Niederberger ineligible for the May primary.

24 I'll let Ms. Bartlett go into it a little bit
25 more.

1 CHAIRMAN OKESON: Please. Thank you.

2 MS. BARTLETT: Yes. As Evan mentioned, you
3 already heard this challenge today, so we will be
4 brief in our remarks. But pursuant to state law, a
5 declaration of candidacy for the office of
6 U.S. Senator must be accompanied by a petition
7 signed by at least 4,500 voters in the state and
8 500 voters in each congressional district. And the
9 due date for those submissions was Friday,
10 February 4, 2022, at noon. The Indiana law also
11 says that the Election Division cannot accept a
12 filing after that deadline.

13 On February 9, 2022, I submitted an access to
14 public records request to the Division and received
15 a prompt response -- thank you for that -- with
16 copies of all of the petition signatures submitted
17 by Mr. Niederberger, which were deficient in at
18 least four congressional districts --

19 CHAIRMAN OKESON: Do we have that?

20 MS. BARTLETT: -- under the 500 signature
21 mark. And, yes, we did submit all of that
22 information along with our challenge documents.

23 CHAIRMAN OKESON: Sorry to interrupt you.

24 MS. BARTLETT: No, no problem.

25 After our review of those records, it's pretty

1 clear that there are at least, like I mentioned,
2 four congressional districts that are deficient of
3 the 500 signature mark, and this is all being
4 viewed in the light most favorable to
5 Mr. Niederberger as we've reviewed these.

6 Just as a brief recap, by our count, he is
7 deficient by at least 117 signatures under the
8 statewide 4,500 vote requirement. In the 1st
9 Congressional District he was deficient by at least
10 23 signatures. In the 3rd Congressional District,
11 he is deficient by at least 30 signatures. In the
12 7th Congressional District, he is deficient by at
13 least 146 signatures. And in the 8th Congressional
14 District, he is deficient by at least 74
15 signatures.

16 Just to clarify a bit, I mentioned that we are
17 viewing this, in our review, in the light most
18 favorable to Mr. Niederberger, and that's because,
19 you know, for purposes of the 7th Congressional
20 District, if we were to look at the official record
21 of petition signatures that were submitted, timely
22 submitted to the Division, that actually reflects
23 that zero were submitted. But, again, we are
24 viewing this in the light most favorable to
25 Mr. Niederberger and not using the official count.

1 That's how we did that calculation, just for
2 clarity.

3 CHAIRMAN OKESON: So if you were giving him a
4 break, he has more than he officially does.

5 MS. BARTLETT: Exactly. So I'm going to turn
6 it over to Evan just to speak on a few additional
7 topics.

8 MR. NORRIS: I just want to bring up something
9 very quickly to preempt any argument that may be
10 made by Mr. Niederberger when it comes to the 2016
11 challenge against now Senator Todd Young. The
12 issue pertaining to Senator Young back in 2016 is
13 apples to oranges compared to what we're bringing
14 here today.

15 In 2016, Senator Young submitted evidence of
16 at least 500 signatures in the 1st Congressional
17 District. The challenger in the 2016 matter
18 alleged that the evidence was insufficient, and
19 those arguments centered around whether certain
20 signatures or evidence should have been even
21 considered. That's not the case that we have here.

22 In this challenge, we are essentially saying
23 that Mr. Niederberger hasn't submitted even 500 in
24 four congressional districts along with the 4,500
25 requirement. He simply did not meet the signature

1 requirements on multiple grounds.

2 However, I believe that the applicable
3 precedent has been set in the 2020 challenge
4 brought by Mr. Brian Roth -- or that was brought
5 against Mr. Brian Roth for governor. In that
6 matter, Mr. Roth also did not meet the signature
7 requirement, the same issue that we have here with
8 Mr. Niederberger. Roth also raised the 2016 issue
9 involving Senator Young. Again, I recall the
10 Commission distinguishing the 2016 matter and the
11 Roth matter because Mr. Roth, like
12 Mr. Niederberger, did not submit evidence of even
13 meeting that minimum threshold of 500 signatures in
14 each congressional district.

15 In this matter, we do not need to get to
16 verification of signatures because there is no
17 evidence that Mr. Niederberger obtained 500
18 signatures in four different congressional
19 districts. Our challenge today here is rooted in
20 simple math. Mr. Niederberger does not have the
21 requisite signatures on his petition as required
22 under Indiana law. If Mr. Niederberger believes
23 that the signature statute is somehow unfair, there
24 are other avenues, such as arguing before the
25 General Assembly or bringing it in a proper court

1 of law.

2 And at this time we'd like to, I guess,
3 reserve any additional time for questions and
4 things to help keep the process moving along.
5 Thank you.

6 CHAIRMAN OKESON: Perfect. Thank you.

7 Mr. Niederberger, would you like to do
8 cross-examination?

9 MR. NIEDERBERGER: Danny Niederberger,
10 N-i-e-d-e-r-b-e-r-g-e-r.

11 I just have a couple questions. When you
12 reviewed the signatures, did you review the SVRS
13 system or did you review the signatures that were
14 turned in to the Secretary of State's office?

15 MS. BARTLETT: We requested and reviewed both.

16 MR. NIEDERBERGER: Can you enlighten me on
17 which one you are challenging, please?

18 MS. BARTLETT: We would be challenging the
19 official petition signature count.

20 MR. NIEDERBERGER: Which would be which one?

21 MS. BARTLETT: Which would be the count that
22 was submitted to the Division.

23 MR. NIEDERBERGER: Okay. Thank you.

24 CHAIRMAN OKESON: Any further
25 cross-examination?

1 MR. NIEDERBERGER: No, sir.

2 CHAIRMAN OKESON: You are afforded 7 minutes
3 of remarks if you'd like them.

4 MR. NIEDERBERGER: Thank you. Danny
5 Niederberger. Already spelled my name. Well, I
6 didn't want to be here today. In all honesty, I
7 really didn't. But I'd like to motion to dismiss
8 all arguments related to the SVRS system. Number
9 one, as pointed out in both Mr. Norris and --

10 CHAIRMAN OKESON: The SVRS system is not on
11 trial today.

12 MR. NIEDERBERGER: I understand. That's what
13 they say --

14 CHAIRMAN OKESON: You're not really permitted
15 to offer a motion to that effect. So go ahead with
16 your remarks.

17 UNIDENTIFIED SPEAKER: Let him speak.

18 CHAIRMAN OKESON: Excuse me.

19 MR. NIEDERBERGER: I understand I can't make
20 motions. It's just how I speak. I'm not a lawyer.
21 It's just how to speak.

22 CHAIRMAN OKESON: I'm not either.

23 MR. NIEDERBERGER: But the SVRS system is not
24 in Indiana Code. It is completely unofficial. Not
25 all counties subscribe to the SVRS system, which is

1 partially what their argument is, so please take
2 that into consideration.

3 As outlined in the challenges, the Indiana
4 Code stipulates that only the physical ballot
5 signatures that are turned in to the Secretary of
6 State's office as of February 4th by noon deadline
7 will be counted towards a candidacy, and those are
8 the only ones that are challenged. Now, I can tell
9 you that this campaign submitted over 600
10 signatures to each congressional district between
11 January 5th and February 1st at noon, submitted all
12 of them to 85 different counties across the state.
13 85 of the 92 counties we had signatures in. I
14 personally delivered to 75 of those counties,
15 delivered and picked up.

16 Now, I can tell you that timing is everything
17 in this. I am, to coin a phrase, running this on
18 an 8-cent budget. I don't have the money to pay
19 people to go out and get signatures. I don't have
20 the money to pay people to pick up signatures, drop
21 them off at these various different counties.
22 Simply, I put in the hard work, and I'm proud of
23 what I've accomplished.

24 Now, as I said, over 600 --

25 CHAIRMAN OKESON: And this won't count against

1 your time. I have a quick question. Is that to
2 suggest you recognize you did not meet the
3 signature requirement?

4 MR. NIEDERBERGER: No, sir. So I turned in
5 over 600 signatures to each county to be verified.
6 Now, between picking up signatures, dropping them
7 off by the February 4th requirement, I believe that
8 I have enough signatures in each congressional
9 district, outside of District No. 7. As was
10 alluded previously, there are zero. Why? That's
11 from Marion County. Here's what I want to tell you
12 guys because this is what happened to me, this has
13 happened in the past, and it will happen in the
14 future. And as was stated in a previous hearing,
15 there is no control, there is nothing in Indiana
16 Code to prevent this from happening.

17 As this will attest, I turned in a whole bunch
18 of signatures stamped right here January 13 to
19 Marion County Election Office. Now, I went in
20 Monday, January 31st, in the morning, went in to
21 drop off more signatures as well as pick these up.
22 I was told they were not ready. Okay. Fine.
23 Still have time before the deadline. I had more
24 signatures to drop off and pick up the next couple
25 of days, so I had a whole bunch of people dropping

1 off signatures in Marion County specifically up
2 until the February 1st noon deadline.

3 February 2nd, Wednesday morning, I go back in
4 to the Marion County Election Office. I ask them
5 if they have my signatures ready. They say, "No,
6 we don't." I said, "What about the ones I dropped
7 off a few weeks ago?" Said, "No, we don't have
8 them ready yet." Okay. Perfectly fine. I still
9 have time before the deadline.

10 Now, if you'll recall, as was brought up in
11 previous hearings, Thursday was the winter storm.
12 Most county offices were closed. Friday morning,
13 February 4th, deadline at noon to get these
14 signatures in, I go in to the Marion County
15 Election Board. What do I get told? They're
16 closed. Closed. After refusing to give me my
17 signatures twice, they were closed.

18 Now, I went to the Election Division right
19 after, just walked down the street, went to the
20 Election Division, turned in the rest of my
21 signatures for the other eight congressional
22 districts. I was told then the deadline stayed at
23 noon because the Indiana Election Division remained
24 open. Perfectly fine. I applaud the staff. The
25 staff was very helpful in answering my questions.

1 My problem is not with the IED.

2 However, February 7th, the next Monday after
3 the deadline, I go back in to Marion County and I
4 ask for my signatures. And they said, "Well, did
5 you receive a call?" Because, as with most
6 counties, you give them your contact information,
7 your name, your number, and they'll call you when
8 they're ready to be picked up. I said, "No, ma'am,
9 I did not receive a call, but the deadline was last
10 Friday to get these in to the State, so I would
11 like them back, please."

12 They were reluctant in giving me my
13 signatures. They stalled me for 20 minutes before
14 I got my signatures. Obviously I can't turn them
15 in to the State. I recognize the deadline, so I'm
16 not asking for these to be admitted. But I will
17 show you this right here submitted February 1st,
18 time stamped, not verified. There is no county
19 seal on that, no county seal. Signatures were not
20 verified. I turned them in on time. Whether or
21 not I could get them in to the State, I accept
22 that. Okay? I accept that. These are the rules.
23 They were hard rules to play by. I played by the
24 rules. I accept that.

25 What Marion County did to me is completely

1 ridiculous, and I want it on record because this is
2 ridiculous. I played by the rules. These
3 signatures, it's a hard task. Anybody can tell you
4 getting these signatures is a hard task. Anybody
5 can tell you that. But regardless of whether you
6 attest that I didn't get the signatures in the
7 other districts or not, Marion County was never
8 going to come into question because they were never
9 going to give me my signatures, and that is
10 ridiculous. Okay? So I want that on record.

11 Now, you do have precedence here. U.S. Term
12 limits v. Thornton, the U.S. Supreme Court ruled
13 that ballot access laws are okay if they are
14 reasonable. My argument here is that this is not
15 reasonable because, number one, there is no
16 jurisdiction, there's nothing in Indiana Code that
17 tells the counties they have to get these
18 signatures back to you at any point in time.

19 Now --

20 (Timer)

21 MR. NIEDERBERGER: One more minute, please.
22 May I have one more minute, please?

23 CHAIRMAN OKESON: By consent, offer another
24 minute?

25 MS. CELESTINO-HORSEMAN: Consent.

1 VICE CHAIRMAN OVERHOLT: Consent.

2 MR. NIEDERBERGER: Thank you. It is
3 completely unreasonable. I understand the time
4 limits. I played by the rules. But it is
5 completely unreasonable that the counties have full
6 discretion on whether or not to get these signature
7 forms back to you. So what I'm asking you to do is
8 to -- as set in 2016 when Todd Young got on the
9 ballot, you are allowed to bypass this rule. I am
10 asking you to do that for me.

11 CHAIRMAN OKESON: Thank you. Mr. Norris,
12 Ms. Bartlett, would you like 2 minutes of
13 cross-examination?

14 MR. NORRIS: Very quickly.

15 Do you dispute the fact that you are short of
16 the 4,500 signatures as required statewide?

17 MR. NIEDERBERGER: I have no reason to believe
18 that I am short those signatures.

19 MR. NORRIS: What evidence do you have to show
20 this commission that you obtained those 4,500
21 signatures?

22 MR. NIEDERBERGER: With me today, none.

23 MR. NORRIS: Do you dispute the fact that you
24 are short of the 500 signatures in four of the nine
25 congressional districts in the state of Indiana?

1 MR. NIEDERBERGER: Yes.

2 MR. NORRIS: Okay. What evidence do you have
3 to show this commission that you obtained --

4 MR. NIEDERBERGER: With me, none.

5 MR. NORRIS: I have to ask my question. Are
6 you able to show this commission here today that
7 you had 500 signatures in the 1st Congressional
8 District?

9 MR. NIEDERBERGER: Only by what I turned in to
10 the Secretary of State's office on February 4th.

11 MR. NORRIS: Are you able to show this
12 commission, as you sit here today, that you
13 obtained 500 signatures in the 3rd Congressional
14 District?

15 MR. NIEDERBERGER: Only by what I turned in to
16 the Secretary of State's office on February 4th.

17 MR. NORRIS: Are you able to show this
18 commission, as you sit here today, that you
19 obtained 500 signatures in the 7th Congressional
20 District?

21 MR. NIEDERBERGER: Only by what is brought
22 right here because zero were turned in on
23 February 4th.

24 MR. NORRIS: Are you able to show this
25 commission, as you sit here today, that you

1 obtained 500 signatures in the 8th Congressional
2 District?

3 MR. NIEDERBERGER: Only by what I turned in to
4 the Secretary of State's office on February 4th.

5 MR. NORRIS: Nothing further.

6 CHAIRMAN OKESON: Do you have rebuttal? You
7 have two minutes.

8 MR. NIEDERBERGER: Yes. Like I said, it is my
9 understanding that the burden of proof has to be on
10 them, so unless they have the signatures with them
11 to turn in to prove that I didn't meet the
12 signature requirements, I have no reason to believe
13 that I did not meet this requirement outside of the
14 7th District, which I've outlined in my case.

15 CHAIRMAN OKESON: They provided proof that you
16 did not meet the threshold of signatures required,
17 and you have provided no proof that you have.

18 MR. NIEDERBERGER: Where is the proof other
19 than what they have outlined? Do they have copies
20 of the forms with them?

21 MS. WARYCHA: They're right here. They're a
22 very large --

23 MR. NORRIS: It's a very large file.

24 MS. WARYCHA: This.

25 MR. NIEDERBERGER: Fair enough. Thank you.

1 CHAIRMAN OKESON: And as to your records,
2 you've brought no proof to contradict that proof;
3 correct?

4 MR. NIEDERBERGER: Correct.

5 CHAIRMAN OKESON: With that in mind, the
6 hearing is closed on --

7 MR. NIEDERBERGER: May I request something
8 real quick?

9 CHAIRMAN OKESON: Make it brief.

10 MR. NIEDERBERGER: Can I request a hand vote?

11 CHAIRMAN OKESON: No. Cause Nos. 2022-19 and
12 2022-20 are now closed for public hearing. Is
13 there any further discussion or questions from the
14 Commission?

15 MS. CELESTINO-HORSEMAN: Just a brief comment.
16 Mr. Niederberger, I would agree with you regarding
17 that the statute should say that the clerks should
18 get you this information back by a certain date. I
19 agree with you on that. Unfortunately, we're not
20 the legislature, so we can't make a change in the
21 law.

22 Now, as for the Todd Young case that you
23 referred to, that was a case where he had 400 --
24 well, they were claiming he only had 498
25 signatures.

1 MR. NIEDERBERGER: Yes, ma'am.

2 MS. CELESTINO-HORSEMAN: But the basis of that
3 challenge was the fact that he had turned in more
4 than 498, but they were saying it was only 498
5 because he -- they were challenging whether someone
6 was a registered voter and whether they were
7 eligible to sign that petition. It wasn't a case
8 that they could say in their discretion, you know
9 what, we're going to waive the 500 signatures. No,
10 that was not it at all. What they finally
11 ultimately said was that, okay, the challenge that
12 three of these people are not eligible to sign this
13 petition, that's not good, so that didn't go
14 anywhere. That's why. So it's a different thing.
15 It's not discretion.

16 MR. NIEDERBERGER: So, ma'am, are you saying
17 that he did not have the 500 signatures?

18 MS. CELESTINO-HORSEMAN: No, I am not.

19 CHAIRMAN OKESON: She's not saying that at
20 all.

21 MS. CELESTINO-HORSEMAN: No, not at all.

22 CHAIRMAN OKESON: The matter at hand, the
23 Young case, I believe, was voted on this by this
24 commission and rendered 4-0, and we're about to get
25 to that point right now.

1 Can I have a motion to uphold or deny the
2 challenge?

3 MS. PYLE: I would move to uphold the
4 challenge.

5 CHAIRMAN OKESON: There's a motion. Is there
6 a second? I'll second it.

7 Any further comment or questions? All those
8 in favor for the motion to uphold the challenge
9 please signify by saying "Aye."

10 VICE CHAIRMAN OVERHOLT: Aye.

11 MS. CELESTINO-HORSEMAN: Aye.

12 MS. PYLE: Aye.

13 CHAIRMAN OKESON: The "ayes" have it. The
14 challenge is upheld, and the Election Division is
15 directed not to include Danny Niederberger on the
16 certified list --

17 (Crowd noise)

18 THE REPORTER: I cannot hear you,
19 Mr. Chairman. I did not hear the last of that,
20 Mr. Chairman. Can you repeat that, please.

21 CHAIRMAN OKESON: Yes. Not to include Danny
22 Niederberger on the certified list of primary
23 candidates sent to the county election boards and
24 to indicate that the name of this candidate not be
25 printed on the ballot.

1 MR. NIEDERBERGER: Thank you.

2 CHAIRMAN OKESON: Thank you, sir. Appreciate
3 you coming.

4 Next case. We will now hear Cause No. 2022-24
5 in the matter of the challenge to Stephen Kurant --
6 Kurant? Kurant. Sorry. Democratic Party
7 nomination for United States Representative,
8 District 2. The Election Division has information
9 in your binder. Recognize Laura O'Sullivan, the
10 challenger, for presentation. You have 7 minutes.
11 And please state your name and spell it for the
12 court reporter.

13 MS. O'SULLIVAN: Thank you. Good afternoon.
14 Laura O'Sullivan, L-a-u-r-a, O'Sullivan, O,
15 apostrophe, S-u-l-l-i-v-a-n.

16 CHAIRMAN OKESON: And before you go on, is
17 Mr. Kurant here? I have no notice of any request
18 for continuation.

19 MS. WARYCHA: No, we did not receive one.

20 CHAIRMAN OKESON: We have not received any
21 notice? All right. And it's Kurant?

22 MR. KING: We understand it's Kurant.

23 CHAIRMAN OKESON: Stephen Kurant, are you
24 here? Does somebody want to yell out in the
25 hallway for Stephen Kurant real quick. Going once,

1 twice. Stephen Kurant, are you here?

2 Let the record reflect Mr. Kurant has not
3 appeared.

4 UNIDENTIFIED SPEAKER: He's in the restroom,
5 somebody said.

6 CHAIRMAN OKESON: Why don't you go ahead with
7 your 7 minutes of opening comments. If Mr. Kurant
8 shows up, he can be seated in the other, in the
9 interest of time.

10 MS. O'SULLIVAN: Absolutely. I'll be brief.
11 So Mr. Kurant fails to provide his Indiana voter
12 registration --

13 MS. CELESTINO-HORSEMAN: Wait a second. Could
14 you ask them to be quiet.

15 CHAIRMAN OKESON: Yeah. Please cut the
16 chatter. The court reporter is having difficulty
17 hearing. We want to make sure we get an accurate
18 public record. Thank you.

19 MS. O'SULLIVAN: Mr. Kurant fails to provide
20 his Indiana voter registration info on his CAN-2
21 declaration form. He also -- upon searching the
22 Indiana Statewide Voter Registration System, it
23 shows that Mr. Kurant is not registered to vote in
24 Indiana. Mr. Kurant fails to claim affiliation
25 with the Democratic Party on his CAN-2 form. Upon

1 searching the Indiana Statewide Voter Registration
2 System, it shows that Mr. Kurant has not voted in
3 the last two Democratic primaries in Indiana.

4 Mr. Kurant has listed his residence in
5 Livingston, Texas, and his mailing address as a
6 P.O. box located at the Ireland Road Staples store
7 in South Bend, Indiana, located in St. Joseph
8 County. Upon discovering that he had filed with
9 St. Joseph County, I contacted St. Joseph County
10 Chairwoman Diana Hess, and she has confirmed that
11 she has not communicated with nor certified
12 Mr. Kurant as a member of the Democratic Party in
13 St. Joseph County.

14 I provided to the committee some documents as
15 evidence, including Mr. Kurant's CAN-2 form, which
16 is missing crucial information in the general
17 information under Sections 1 and 3 and fails to
18 include county chair certification. I also have
19 included a letter from St. Joseph County Chair
20 Diana Hess confirming that she has not met with or
21 spoken to nor certified him as a Democratic
22 candidate.

23 Various searches, both statewide and
24 St. Joseph County, for Mr. Kurant's voting record
25 are also provided, yielding no results for his

1 name. I've also provided a Google map search of
2 1143 East Ireland Road, his stated mailing address,
3 showing that it is a Staples store in South Bend.

4 CHAIRMAN OKESON: Thank you. Has anyone heard
5 from Mr. Kurant?

6 VICE CHAIRMAN OVERHOLT: I would just note
7 that -- I think one thing that is worth pointing
8 out is that federal candidates -- this individual,
9 Mr. Kurant, has requested to be placed on the
10 ballot as a candidate for U.S. Representative for
11 the 2nd District in the Democratic primary. And I
12 would just point out that the residency requirement
13 is not a qualification for federal candidates
14 because they just have to be inhabitant when
15 elected, which is an issue we can all discuss at
16 some other time. But anyway...

17 But the other -- but there is the -- so I
18 think for this particular challenge that living at
19 the Staples in South Bend, I guess we don't need to
20 get into that, or I guess it gives a Texas address.
21 But I think the issue is that he still is required
22 to satisfy the voting in the two primaries or
23 having the chair of the party, of the local party,
24 provide the certification, and he hasn't done that.
25 So in light of that, I would move to uphold the

1 challenge.

2 MS. CELESTINO-HORSEMAN: Second.

3 CHAIRMAN OKESON: There's a second to uphold
4 the challenge. Any further conversation?

5 Hearing none, all those in favor of upholding
6 the challenge signify by saying "Aye."

7 VICE CHAIRMAN OVERHOLT: Aye.

8 MS. CELESTINO-HORSEMAN: Aye.

9 MS. PYLE: Aye.

10 CHAIRMAN OKESON: The "ayes" have it. The
11 motion is carried. The challenge is upheld. The
12 Election Division is directed to not include
13 Stephen Kurant on the certified list of primary
14 candidates sent to the county election boards and
15 to indicate that the name of this candidate not be
16 printed on the ballot. Thank you.

17 MS. O'SULLIVAN: Thank you very much.

18 CHAIRMAN OKESON: The next cause is 2022-15,
19 Bohm v. Schrader, Democratic Party nomination for
20 United States Representative, District 3.

21 MS. BOHM: Good afternoon.

22 CHAIRMAN OKESON: Hi.

23 Schrader? Thomas Schrader? Tom Schrader?
24 Has anyone seen him today here?

25 Let the record indicate Mr. Schrader is not

1 present.

2 Would you like to make some opening comments?

3 MS. BOHM: I'm Christine Bohm,
4 C-h-r-i-s-t-i-n-e, last name is Bohm, B-o-h-m. I'm
5 3rd District Congressional chair for the Indiana
6 Democratic Party.

7 I have provided the Commission with a large
8 stack of evidence to back up my statements.
9 Basically my biggest contention is that
10 Mr. Schrader apparently is unaware of his own name.
11 He fills out his forms as Tom or Tommy, but yet he
12 signs and notarizes them as Thomas. On line 1 of
13 your filing, it requires, per state statute, that
14 your name be your legal given birth certificate
15 name, and he is putting his alias at that point on
16 that same form.

17 He has provided an incomplete address. His
18 address is actually a hotel in Fort Wayne.

19 And finally, the most egregious portion of his
20 filing is on page 2. Question No. 12 states "I
21 have filed all reports required for all previous
22 candidacies." Mr. Schrader has run nine times. He
23 runs in every election. Seven of those have been
24 for federal office. Two of those have been for
25 municipal posts.

1 I have printed out trying to prove the
2 negative that he has never filed a financial
3 report, he has never opened a campaign committee.
4 I am afraid that Mr. Schrader may be taking below
5 the threshold and doing things, although I don't
6 know that to be true. On line 12 on his petition,
7 the check mark is yes, that he has filed, but on
8 the no box, it was originally checked and scribbled
9 out. Was that done prior to notarization or after
10 notarization?

11 (Lights went out)

12 CHAIRMAN OKESON: Sorry.

13 MS. BOHM: That is okay. Basically that is my
14 whole case. Mr. Schrader is not a viable
15 candidate. He is not a serious candidate. He is
16 not a candidate who upholds the law.

17 CHAIRMAN OKESON: Seeing that Mr. Schrader is
18 not present, is there a motion?

19 VICE CHAIRMAN OVERHOLT: Actually, no, not
20 yet.

21 CHAIRMAN OKESON: We can close the public
22 hearing and you can ask questions if you want.

23 VICE CHAIRMAN OVERHOLT: Yeah.

24 CHAIRMAN OKESON: Okay. The hearing on the
25 matter is closed. Go ahead.

1 VICE CHAIRMAN OVERHOLT: Well, I guess I
2 would -- I know he's not here, but what we're doing
3 is ultimately comparing the forms, the legal
4 requirements, what was provided. And I just want
5 to point out that, in terms of the legal
6 requirements in terms of the name issue, I don't
7 see an issue with the way that he filled out his
8 name. He does list it in multiple ways on the
9 form, but the statutes actually say that it's --
10 they can use the legal name, which is the one shown
11 on the birth certificate. They can use a nickname.
12 And they can use names that appear to be kind of
13 derivatives of those. I mean, Tommy and Thomas A.
14 would appear to be derivatives of a similar name.
15 So I'm not sure that I'm influenced by the name
16 challenge.

17 The address, he does give a street address.
18 The fact that it's a hotel, I think, should not --

19 MS. BOHM: It's incomplete. There is no
20 1020 Coliseum Boulevard according to the USPS --

21 CHAIRMAN OKESON: Ma'am, your testimony is
22 over.

23 MS. BOHM: Sorry. I thought it was a
24 question.

25 VICE CHAIRMAN OVERHOLT: Well, I guess you

1 didn't testify. I'll ask you that question. So
2 what's incomplete about the address?

3 MS. BOHM: His actual mailing address is
4 1020 North Coliseum Boulevard, No. 42.

5 VICE CHAIRMAN OVERHOLT: And are there
6 addresses that are on South Coliseum Boulevard?

7 MS. BOHM: Yes.

8 VICE CHAIRMAN OVERHOLT: That's something to
9 discuss among the Commission. I guess so the name
10 issue is something that I think -- so the address
11 issue is maybe something to figure out, and he's
12 not here to answer that. Those are my comments.
13 I'll stop at that.

14 MS. CELESTINO-HORSEMAN: Okay. So he ran for
15 mayor at one time; correct?

16 MS. BOHM: Yes, ma'am.

17 MS. CELESTINO-HORSEMAN: And as mayor he was
18 required to file campaign finance reports because
19 the salary that the mayor draws -- or set up a
20 campaign committee because the salary that the
21 mayor draws is above a certain point and the law
22 requires it. And the evidence you've submitted
23 shows that he never filed -- never opened a
24 committee, never filed any reports; correct?

25 MS. BOHM: Correct.

1 MS. CELESTINO-HORSEMAN: And you are supposed
2 to do that --

3 MS. BOHM: Right.

4 MS. CELESTINO-HORSEMAN: -- if you're going to
5 run for office.

6 MS. BOHM: Right.

7 MS. CELESTINO-HORSEMAN: And clarification,
8 yeah, the FEC, because our law does not say
9 anything about the FEC filings, so none of that is
10 relevant. But it is relevant regarding his failure
11 to file when he ran for mayor.

12 MS. BOHM: But the statement doesn't -- if I
13 may clarify that, though, my own education, the
14 statement on the form says did you file all
15 necessary financial paperwork. It doesn't clarify
16 state or federal.

17 MS. CELESTINO-HORSEMAN: If you look at the
18 statute, the statute says that.

19 MS. BOHM: Okay.

20 CHAIRMAN OKESON: Okay. Mr. Schrader is not
21 here, so at this point...

22 VICE CHAIRMAN OVERHOLT: I would move to
23 uphold the challenge.

24 MS. CELESTINO-HORSEMAN: Second.

25 CHAIRMAN OKESON: Having a second, any

1 questions, further conversation?

2 Hearing none, all those in favor of upholding
3 the challenge signify by saying "Aye."

4 VICE CHAIRMAN OVERHOLT: Aye.

5 MS. CELESTINO-HORSEMAN: Aye.

6 MS. PYLE: Aye.

7 CHAIRMAN OKESON: The "ayes" have it. The
8 Election Division is directed not to include the
9 name of Tommy Schrader on the certified list of
10 primary candidates sent to the county election
11 boards and to indicate this candidate's name not be
12 printed on the ballot. Thank you.

13 MS. BOHM: Thank you so much.

14 CHAIRMAN OKESON: Next case, 2022-10, Calkins
15 v. Banks, Republican Party nomination for United
16 States Representative. The Election Division has
17 provided all the information in your binders.
18 Please note for the record Paul O. Mullin has
19 entered an appearance for the candidate, James
20 Banks, in the matter.

21 Am I pronouncing it -- is it Calkins?

22 MR. CALKINS: Calkins.

23 CHAIRMAN OKESON: Calkins.

24 MR. CALKINS: Calkins, yes. My name is Aaron
25 Calkins, or A.J. Calkins. I am a registered voter

1 in Perry D Precinct up in Allen County, and I am
2 also a candidate for this position, 3rd
3 Congressional District of Indiana.

4 I am contesting the qualification for Jim
5 Banks to be on the ballot based on the Amendment
6 No. 14, Section 3, 1.1, the disqualification
7 clause. And it states any current person cannot be
8 a house of representative or senator if they
9 participate or support an insurrection. An
10 insurrection, the definition is an organized or
11 usually violent act of revolt or rebellion against
12 an established government or governing authority of
13 the state or other political entity.

14 The January 6th event, I am a student of
15 history.

16 CHAIRMAN OKESON: This won't count against
17 your time. I just want to -- you're accusing Jim
18 Banks, James Banks, of being an insurrectionist?

19 MR. CALKINS: Of violating the 12th Amendment
20 of the electoral law.

21 CHAIRMAN OKESON: Sorry. Go ahead. That
22 won't count against your time. Go ahead. I'm
23 sorry.

24 MR. CALKINS: I am a student of history. I
25 grew up -- Mr. Banks is younger than me. I grew up

1 with Watergate. I'm sorry, I didn't see any shows
2 from probably about the time I was six to eight
3 because I saw a green table every day, every
4 afternoon. I knew all the actors. Then as I grew
5 up, then I saw the Clinton impeachments. Now as an
6 adult, I've seen the Trump impeachments. And I've
7 seen for the first time an insurrection, people
8 invading the U.S. Capitol.

9 My first time that I went into the U.S.
10 Capitol, there wasn't a single guard. It was
11 before 9/11, and I could literally walk through the
12 door, walk through the metal detector -- there
13 wasn't even a guard -- and I walked to the Senate
14 gallery and watched a couple senators talking.
15 That was how it was. A couple years later, 9/11,
16 oh, my gosh, you would think tanks were rolling
17 down Pennsylvania Avenue. There was concrete
18 everywhere. Today, you've got to stand in line for
19 about a day before you can walk into the Capitol.
20 When I saw that happen, I thought this was
21 horrible. This is as bad as burning it down in
22 1819 -- or excuse me -- 1812.

23 Earlier last year, for some reason, because it
24 was close, I went to something called Spiegel
25 Grove. That is the home of Rutherford B. Hayes.

1 And I picked up a book about Hayes. The election
2 law of 1887 was created after the 14th Amendment.
3 It took Congress almost 12 years to pass a law and
4 then another couple more years to codify it into
5 regulation, and that was to ensure that the
6 minority did not steal the election like what
7 happened with Rutherford B. Hayes in 1876. The
8 Republicans did not win the election, and he was
9 determined to be president four days before
10 inauguration.

11 Trump lost the election. It was completely
12 gone through the courts time and time again about
13 whether or not they were legal electors. And in
14 1876, it was an issue. They came to the Capitol
15 with two sets of electors because they had two sets
16 of governors in the southern states. Louisiana had
17 two governors; they had two sets of electors.
18 Several of the other states did the same thing. It
19 was in total disarray. We didn't have that in
20 2020. We had one set of electors that were
21 approved by the state election committees, and that
22 was approved.

23 Representative Banks stated that this was his
24 personal decision that he didn't believe the
25 electoral system was correct. He was part of a

1 lawsuit in December. December 8th he cosigned into
2 a lawsuit, and it was set by the state of Texas
3 against five states that were going to try to
4 disqualify the electors of over 30 million voters.
5 He wanted to basically disenfranchise 30 million
6 voters from five states to say their votes didn't
7 count, the electors doesn't count, take it to the
8 House of Representatives. That didn't work.

9 Then came January 6th. His counterpart in the
10 Senate, he said that this was an insurrection. He
11 said he took an oath by God, and somewhere that
12 still means something in this country.

13 MS. CELESTINO-HORSEMAN: Who said this?

14 MR. CALKINS: Todd Young said that.

15 This is the same oath that Representative
16 Banks took as a congressman. He also took it as a
17 member of the military that he would uphold the
18 constitution. Okay?

19 Now, on top of all that, one of the states
20 that he voted against was Pennsylvania because he
21 said he didn't believe the electoral count at all.
22 So the issue is, I went back and looked at all the
23 cases in Pennsylvania. There were over 30 cases
24 that were decided against him or dismissed. It
25 went through the courts. It was validated. But if

1 it was just one person that was part of this, I
2 could say, okay, he may have had that right. But
3 under an insurrection, it's a group of people.

4 And our good friend Peter Navarro, if any of
5 you have seen him, so I have physically witnessed
6 him saying this. He said in public office he was
7 putting together a group of 100 Senators and
8 Congressmen to contest the law so it could go back
9 to the states and it would overturn the electoral
10 count. That was their direction. So he wanted to
11 create havoc and eliminate the electoral vote by
12 contesting the electoral count.

13 That -- they -- one of the -- it was a coup.
14 Well, it wasn't really a coup, but it was an
15 insurrection. There was a violent insurrection
16 from these people that invaded the Capitol, and
17 then there was the political insurrection of people
18 that were going to try to take it down just like
19 they did in 1776.

20 There wasn't an alternative set of electors
21 that came to the Capitol. One set of electors were
22 turned in, and our Congressman decided that he had
23 the rights to vote against it. I believe he was
24 part of an insurrection, and because he supported
25 that, I believe that, under the clause, that he

1 should not be on the ballot.

2 VICE CHAIRMAN OVERHOLT: So to --

3 CHAIRMAN OKESON: Does that complete your
4 remarks?

5 MR. CALKINS: Yes, it does.

6 VICE CHAIRMAN OVERHOLT: Sorry.

7 CHAIRMAN OKESON: Would you like two minutes
8 for cross-examination?

9 MR. MULLIN: Yes.

10 CHAIRMAN OKESON: Go right ahead.

11 MR. MULLIN: My name is Paul Mullin. I'm here
12 on behalf of Jim Banks. With me today is Emily
13 Stuart-Fehr, who is also with my office, and then
14 also Christopher Crabtree, who is on the Banks
15 campaign.

16 CHAIRMAN OKESON: Could you spell your name
17 for the court reporter.

18 MR. MULLIN: And my name is spelled Paul,
19 P-a-u-l, Mullin M-u-l-l-i-n.

20 Just a few cross-examination questions. Just
21 to be clear, you're a candidate for Congress;
22 correct?

23 MR. CALKINS: Yes, I am, sir.

24 MR. MULLIN: And you're on the Democratic side
25 of the ledger?

1 MR. CALKINS: Yes, I am.

2 MR. MULLIN: Are you employed, sir?

3 MR. CALKINS: No, I am not.

4 MR. MULLIN: Am I accurate you have no legal
5 training?

6 VICE CHAIRMAN OVERHOLT: This is beyond the
7 scope of the opening statement.

8 CHAIRMAN OKESON: So the cross-examination is
9 to be related to only the statements that he's
10 made.

11 MR. MULLIN: But he was giving --

12 CHAIRMAN OKESON: You can use your 7 minutes
13 to make those points.

14 MR. MULLIN: Okay. I guess I'll abide by the
15 ruling, but --

16 CHAIRMAN OKESON: We established these
17 procedures at the beginning, and we're going to
18 follow them.

19 MR. MULLIN: Okay. And, sir, you discussed
20 your training. Am I accurate you have no case law
21 today on how the Supreme Court's interpreted the
22 14th Amendment in terms of Section 3?

23 MR. CALKINS: That is correct.

24 MR. MULLIN: That's all.

25 CHAIRMAN OKESON: If you would like 7 minutes.

1 MR. MULLIN: Please. So I introduced myself.
2 My name is Paul Mullin, and I'm here on behalf of
3 Jim Banks. He is Indiana's 3rd District
4 Congressman, and he sits on the House Armed
5 Services Committee. He couldn't be here today.
6 He's previously scheduled to be at an overseas
7 event. He is participating in a bipartisan
8 legislative delegation at the Munich Security
9 Conference. And it's noteworthy that Vice
10 President Harris is also participating in the
11 American delegation at that conference as a
12 speaker.

13 Today we ask this candidate challenge be
14 rejected and denied by the panel. I would move, in
15 the interest of time, if we may bifurcate two
16 questions. One is the authority or jurisdiction
17 for this panel to make a decision based on a
18 federal candidate that's been brought on the
19 grounds of violating the 14th Amendment and
20 supporting an insurrection. I would posit that
21 this commission has the authority over state
22 election laws, and the authority is well-defined in
23 Indiana Code. And what this challenger has brought
24 is essentially a U.S. constitutional challenge
25 seeking an interpretation of a U.S. constitutional

1 amendment, and this state of Indiana commission
2 does not have the statutory authority to hear such
3 an allegation. And we would respectfully request
4 this challenge be dismissed based on lack of
5 jurisdiction and lack of authority on this claim.
6 This claim should be heard by federal courts or the
7 Congress itself.

8 VICE CHAIRMAN OVERHOLT: Should we address
9 that question so we can keep moving along?

10 CHAIRMAN OKESON: Co-Counsel?

11 MS. WARYCHA: Yes. I'm looking for statute
12 right now that I believe allows the Commission --

13 VICE CHAIRMAN OVERHOLT: It's 3-8-1-2(h).

14 MS. WARYCHA: There you go. Is that the one
15 that allows us to have jurisdiction over federal
16 candidates?

17 VICE CHAIRMAN OVERHOLT: Yes.

18 MS. WARYCHA: Thank you.

19 CHAIRMAN OKESON: Okay.

20 MR. MULLIN: Thank you. And it was more
21 jurisdiction over the interpretation of a U.S.
22 constitutional challenge, but I'll move on to the
23 merits.

24 This challenge still fails, and we ask this
25 challenge be denied. It's a baseless allegation

1 that Congressman Jim Banks participated in an
2 insurrection or rebellion within the
3 14th Amendment. No facts were presented that I
4 heard that he participated in an insurrection or
5 rebellion. What I heard was some very creative
6 linguistics on twisting around some words that him
7 carrying out his constitutional duties, in
8 Mr. Calkins' opinion, does not comport with the
9 14th Amendment.

10 So the 14th Amendment, when we think of the
11 14th Amendment, that's what gives us the equal
12 protection clause. And the 14th Amendment came
13 into existence very quickly -- very shortly after
14 the Civil War, and that's the context that it's
15 examined in. It contains -- beyond the equal
16 protection clause, which allows for equal
17 protection of the law, it also includes Section 3,
18 which is a reference that a person who has engaged
19 in insurrection or rebellion against the United
20 States cannot hold a federal office.

21 And he referenced January 6th. Of course,
22 there was no facts presented that Mr. Banks was a
23 participant in what we've all seen as the ugly
24 pictures of what occurred that day at the Capitol
25 building. And the reason we didn't see that is

1 because no such facts exist.

2 In reference to that tumultuous conduct
3 exhibited on January 6th, Congressman Banks has
4 publicly commented that he did not support that
5 conduct, nor did he engage in it. And he has also
6 called for the prosecution of unlawful conduct that
7 occurred that day. He actually was on a cable news
8 show that evening and perhaps the first member of
9 Congress to speak publicly to the country after
10 those events occurred on January 6th. He
11 denounced -- he took that opportunity to denounce
12 the rioting, the trespassing, and the violence that
13 we saw that day.

14 I'd like to read a portion of the transcript
15 from him appearing on January 6, 2021, on the
16 Tucker Carlson Tonight show. The transcript, as
17 Congressman Banks stated, he stated this, referring
18 to the January 6th riot: "Well, Tucker, this was
19 an absolutely heart-wrenching, gut-wrenching day on
20 Capitol Hill. As someone who has worn the uniform
21 and served our country abroad in Afghanistan and
22 now serving my country on Capitol Hill, I couldn't
23 believe what was unfolding right before my eyes in
24 our nation's capitol.

25 "That being said, I had busloads of

1 constituents who drove to Washington, D.C., today.
2 They drove through the night, the thousands of
3 people from all over the state of Indiana, the
4 Midwest, and the hundreds of thousands of people
5 nationwide who came to our nation's capitol to make
6 their voices heard, and that was interrupted by
7 thugs who stormed the Capitol.

8 "I hope we do everything we possibly can to
9 prosecute those who brought violence to the Capitol
10 and disrupted the democratic process and a very
11 important debate that was occurring on the House
12 floor. First and foremost, I hope that we
13 prosecute these people seen in the photos that did
14 what they did today, that cost the life of one
15 individual and that brought violence to the Capitol
16 building in many ways."

17 And I'm happy to share this transcript if
18 anybody would like it in its entirety.

19 VICE CHAIRMAN OVERHOLT: I take it, though, he
20 didn't say that under oath; right? That's just a
21 transcript of an interview?

22 MR. MULLIN: Correct, correct.

23 MS. CELESTINO-HORSEMAN: And I don't know that
24 I'd call Tucker Carlson necessarily a reliable
25 source to quote to this body.

1 MR. MULLIN: That was an exact --

2 CHAIRMAN OKESON: All right. Let's keep it
3 civil.

4 MR. MULLIN: That was an exact quote by
5 Congressman Banks on January 6, 2021.

6 MR. CALKINS: I'm not saying at all that he
7 was involved --

8 CHAIRMAN OKESON: Your time is not now, sir.

9 MR. MULLIN: I'd also like to make three
10 additional points and stay within my time limit of
11 7 minutes.

12 Congressman Banks himself has 1st Amendment
13 rights to run for office. Additionally, this
14 challenge seeks to deprive the 3rd District voters
15 a choice and a voice in their own representation.
16 Third, this challenge itself is an attempt to
17 undermine democracy.

18 We respectfully request this commission to
19 deny the challenge and allow the voters of the
20 3rd District to be allowed to choose their
21 representative and allow them to -- and allow Jim
22 Banks to stay on the ballot. Thank you.

23 CHAIRMAN OKESON: You've got 2 minutes.

24 MR. CALKINS: Yeah. I'm not at all saying
25 that Jim Banks was part of the people that were

1 rioting in front of the Capitol. What I am saying
2 is he was part of --

3 CHAIRMAN OKESON: This is a period of 2-minute
4 cross-examination which is to be related to the
5 remarks made by Mr. Mullin.

6 MR. CALKINS: Okay. Was Jim Banks part of the
7 Green Bay sweep? Was he part of Peter Navarro's --

8 CHAIRMAN OKESON: That was not part of
9 Mr. Mullin's remarks.

10 MR. CALKINS: -- Green Bay sweep?

11 CHAIRMAN OKESON: Your questions, as we have
12 for everybody else, have to be limited to the
13 remarks and the testimony provided by Mr. Mullin.
14 I don't recall him saying anything about Green
15 Berets.

16 MS. CELESTINO-HORSEMAN: No, Green Bay sweep.

17 CHAIRMAN OKESON: I know. Do you have
18 anything directed to Mr. Mullin's opening comments?

19 MR. CALKINS: No.

20 CHAIRMAN OKESON: Okay. Do you have a
21 rebuttal of any sort?

22 MR. MULLIN: No, no. Thank you.

23 CHAIRMAN OKESON: Any further rebuttal on your
24 part?

25 MR. CALKINS: Yes. That's where I'm going to

1 bring this up, if I can. I'm not talking about
2 participation in the actual riot in the Capitol,
3 people on the outside busting the windows. I'm
4 talking about what happened behind the scenes with
5 a hundred Congressmen and Senators in our country.
6 They wanted to overturn it. This was a quote from
7 Peter Navarro. This was on national news. This is
8 his quote: "The scheme of the Green Bay sweep, and
9 I swear that they were close to executing it if it
10 weren't for the gosh darn violent insurrection
11 attempt carried out by the Trump supporters, but
12 that's what we planned on running with and the
13 ultimate goal of sending the election results of
14 the six states back to the statehouses where
15 Republican legislatures would expect the overturn
16 of the results."

17 They wanted to steal the election. They
18 wanted to turn over the results and make Trump
19 president.

20 CHAIRMAN OKESON: Those statements were also
21 not made under oath; correct?

22 MR. CALKINS: What's that?

23 CHAIRMAN OKESON: Those statements were also
24 not made under oath; correct?

25 MR. CALKINS: These were statements that I

1 actually heard him state in public on the
2 television. I heard him say that myself.

3 CHAIRMAN OKESON: They were not under oath?

4 MR. CALKINS: What's that?

5 CHAIRMAN OKESON: He was not under oath?

6 MR. CALKINS: He was not under oath.

7 CHAIRMAN OKESON: Anything further?

8 MR. CALKINS: No. That's it.

9 CHAIRMAN OKESON: I'm going to close the
10 public hearing on Cause No. 2022-10. Any
11 discussion?

12 MS. CELESTINO-HORSEMAN: Constitutionally, I
13 have to. All right. As an attorney who practices
14 constitutional law, I've got to tell you I thought,
15 in reading this, that it was really interesting to
16 think about because there's very little law on
17 insurrection. If I understand your theory, you're
18 saying that the equivalent of an insurrection was
19 trying to not certify President Biden's election
20 and trying -- and the equivalent of taking the
21 election from the duly elected candidate; is that
22 right?

23 MR. CALKINS: That's correct.

24 MS. CELESTINO-HORSEMAN: Do you know of any
25 case law or anything that says that that's what

1 insurrection means? Because typically when you
2 think of an insurrection, you're thinking --

3 MR. CALKINS: There is no case law, ma'am,
4 that I have found. All that I have found is the
5 legal definition of, and that's what I started
6 with, the legal definition of what an insurrection
7 is. It doesn't say that it has to be a violent
8 insurrection, just a support in the change of
9 government.

10 CHAIRMAN OKESON: Has Jim Banks been found
11 guilty of insurrection in any court of law in the
12 country or anywhere else that you're aware of?

13 MR. CALKINS: No. He has not been charged --

14 CHAIRMAN OKESON: Do you have any other
15 evidence other than what you've already --

16 MR. CALKINS: There have been people who have
17 been charged with insurrection.

18 CHAIRMAN OKESON: Do you have any other
19 evidence other than what you've already offered?

20 MR. CALKINS: No.

21 MS. CELESTINO-HORSEMAN: Do you have -- the
22 other thing I found, though, intriguing was that,
23 do you have any case law where it's been
24 interpreted that -- because the constitutional
25 provision also says if you give aid or comfort.

1 MR. CALKINS: Correct.

2 MS. CELESTINO-HORSEMAN: And aid is a pretty
3 broad word. Do you have any case law or anything
4 that says that the refusal and the fight against
5 certification inflamed the people and encouraged
6 them to commit an insurrection? Do you have
7 anything like that?

8 MR. CALKINS: I think that's being reviewed
9 right now in the courts in North Carolina.

10 VICE CHAIRMAN OVERHOLT: And my view is
11 that -- I mean, from what you're talking about,
12 whether you agree or not or I agree or not, people
13 trying to kind of use the legal process, the legal
14 system to challenge the election, which is very
15 different from --

16 MR. CALKINS: Absolutely.

17 VICE CHAIRMAN OVERHOLT: -- the normal, again,
18 what I would --

19 MR. CALKINS: When I heard --

20 VICE CHAIRMAN OVERHOLT: Aren't we discussing?

21 CHAIRMAN OKESON: This isn't a time to speak.

22 VICE CHAIRMAN OVERHOLT: Yeah. I think that
23 this is very different, in my mind, from what
24 happened on January 6th at the Capitol itself and
25 what I would perceive the definition of

1 insurrection is.

2 CHAIRMAN OKESON: I'm prepared to make a
3 motion. Without respect to the regrettable mark in
4 history that that date will hold for us as
5 Americans, I find no sufficient evidence of any
6 kind to suggest that James Banks is guilty of
7 insurrection and therefore should be removed. I
8 would make a motion that the challenge be denied.
9 Is there a second?

10 MS. PYLE: I would second.

11 CHAIRMAN OKESON: Any further discussion,
12 questions?

13 Motion to deny the challenge. All those in
14 favor signify by saying "Aye."

15 VICE CHAIRMAN OVERHOLT: Aye.

16 MS. CELESTINO-HORSEMAN: Aye.

17 MS. PYLE: Aye.

18 CHAIRMAN OKESON: The "ayes" have it.

19 MS. CELESTINO-HORSEMAN: Mr. Chairman, yeah, I
20 want to explain my vote. I'm voting to dismiss the
21 challenge because there's lack of evidence. I have
22 no opinion as to whether Congressman Banks
23 participated in an insurrection or not.

24 VICE CHAIRMAN OVERHOLT: Uphold.

25 MS. CELESTINO-HORSEMAN: Uphold -- no, to

1 dismiss the challenge.

2 VICE CHAIRMAN OVERHOLT: Sorry. It's the
3 opposite of the way we do things in court.

4 CHAIRMAN OKESON: The challenge is denied.
5 The Election Division is directed to include the
6 name of James Banks on the certified list of
7 candidates to be printed on the ballot. Thank you.

8 MR. MULLIN: Thank you. And I'd like to,
9 before I leave, thank the Commission for your
10 service to Indiana.

11 CHAIRMAN OKESON: Duly noted.

12 We'll now hear Cause No. 2022-05, in the
13 matter of the challenge to Thomas Bookwalter,
14 candidate for Republican Party nomination for
15 United States Representative, District 4, and Cause
16 No. 2022-14, in the matter of the challenge to
17 Thomas Bookwalter, candidate for Republican Party
18 nomination for United States Representative,
19 District 4.

20 I understand that Mr. Eckert has yielded his
21 time to Mr. Irby, the challenger. Since these two
22 cases appear again to be substantially identical,
23 can I get consent to consolidate?

24 MS. PYLE: Consent.

25 CHAIRMAN OKESON: Consent given --

1 MS. CELESTINO-HORSEMAN: Consent.

2 VICE CHAIRMAN OVERHOLT: Sorry. Consent.

3 CHAIRMAN OKESON: -- in the matter to
4 consolidate.

5 Opening remarks. Mr. Irby, please state your
6 name and spell it for the court reporter.

7 MR. IRBY: My name is Gregory Irby, I-r-b-y,
8 and I am a resident of the 4th Congressional
9 District. I won't take up your time. Short and
10 simple today.

11 Indiana Code 3-8-2-7 requires that a candidate
12 in the primary either meet one of two requirements,
13 two previous elections in that primary or get a
14 waiver from the party chair. It is my
15 understanding and we have submitted evidence that
16 neither has happened with Mr. Bookwalter, so I
17 would respectfully request the Commission uphold
18 the challenge.

19 CHAIRMAN OKESON: Thank you. You have
20 2 minutes of cross-examination to Mr. Irby -- I
21 hope I'm saying that right -- Mr. Irby's opening
22 comments. Would you like that?

23 MR. BOOKWALTER: No, it's not necessary.

24 CHAIRMAN OKESON: Okay. Would you like your
25 7 minutes?

1 MR. BOOKWALTER: Yes, please.

2 CHAIRMAN OKESON: Please state your name and
3 spell it for the court reporter.

4 MR. BOOKWALTER: Do I need to give you these?

5 CHAIRMAN OKESON: Just a second, please.

6 MR. BOOKWALTER: My name is Charles
7 Bookwalter, last name B-o-o-k-w-a-l-t-e-r.

8 CHAIRMAN OKESON: And you have some --

9 MR. BOOKWALTER: Yes. I thought the panel was
10 smaller. I have six.

11 CHAIRMAN OKESON: That's okay. Will you just,
12 for the record, state the nature of this
13 information.

14 MR. BOOKWALTER: That's an affidavit that was
15 given to the county chair and supporting documents
16 for my argument today.

17 CHAIRMAN OKESON: Okay. Go ahead.

18 MR. BOOKWALTER: Including DD214 and other
19 documents showing my affiliation and support of the
20 Republican Party. So I prepared a statement I'll
21 just read to keep under the 7 minutes.

22 I'm here because I did not vote in the 2020
23 GOP primary. I did not vote in the '20 primary
24 because I did not have anyone to vote for. And by
25 that I mean my congressional rep and President

1 Trump ran unopposed.

2 In addition, the GOP chair for Boone County,
3 where I reside, refused to certify that I'm a party
4 member despite my having provided her with an
5 affidavit detailing my lifelong support for the
6 party and of living its best core values. Please
7 see the attached letter and affidavit, and I'd like
8 to highlight some of those points.

9 CHAIRMAN OKESON: And for the record -- this
10 won't count against your time -- this is your own
11 affidavit?

12 MR. BOOKWALTER: Yes.

13 CHAIRMAN OKESON: Okay. Signed by you?

14 MR. BOOKWALTER: It was emailed and
15 delivered -- it was notarized, emailed, and
16 hand-delivered to the party chair before the
17 decision was made.

18 CHAIRMAN OKESON: Okay.

19 MR. BOOKWALTER: I've voted Republican in
20 nearly every general election since 2000. I worked
21 on Republican Party candidate campaigns while
22 attending Indiana University. I've been a
23 sustaining member of the party since 2002, and you
24 can see the documents on there that support that.

25 I served in the Army Special Forces as a Green

1 Beret due to a request from President Bush. I
2 completed two combat rotations and earned a Bronze
3 Star for Distinguished Service in Combat. I home
4 school my three daughters and serve at our church.
5 I invested in my community building commercial real
6 estate and a restaurant franchise and provide jobs
7 in my district. There is no question that I'm a
8 Republican.

9 The GOP chair acknowledged my conservative
10 bona fides, encouraged me to seek a different
11 office, and suggested that I wait until 2024. She
12 said she would not provide the certifications
13 because I have not voted in two primaries. She
14 also stated her support for the incumbent and
15 questioned why I would want to primary him.

16 I filed the CAN-2 notwithstanding I cannot
17 check either of the boxes indicating compliance
18 with IC 3-8-2-7. I received two challenges from
19 two GOP officials from my district. Neither
20 alleges that I'm not a Republican, and they did not
21 challenge my candidacy for Republican Party
22 delegate, only my candidacy for U.S. Congress.
23 Please see the attached CAN-37. The committee can
24 and should construe this as an implied
25 certification of my party membership because that

1 is the only way you can enforce IC 3-8-2-7 in a
2 constitutional manner. The only basis they allege
3 is that I did not strictly comply with IC 3-8-2-7.

4 The Wyatt case says that you must construe the
5 election laws to promote franchisement and
6 enfranchisement and that strict compliance to the
7 statute is not required unless the statute says
8 that compliance is essential to a free and fair
9 election, which IC 3-8-2-7 is not. IC 3-8-2-7 also
10 has to be interpreted consistent with federal
11 constitutional law.

12 Anderson v. Celebrezze is the seminal case on
13 ballot access restriction. Anderson v. Celebrezze
14 says where you impair ballot access, you impair
15 voting rights. Ballot access and voting rights are
16 at the core of the First Amendment. That is
17 because voters can assert their preferences only
18 through candidates or parties they vote for. The
19 right to vote is heavily burdened if that vote may
20 be cast only for major party candidates at a time
21 when other parties or candidates are, quote,
22 clamoring for a place on the ballot. The exclusion
23 of candidates also burdens voters' freedom of
24 association because an election campaign is an
25 effective platform for the expression of views on

1 issues of the day, and a candidate serves as a
2 rallying point for like-minded citizens.

3 Substantial infringements on ballot access are
4 subject to strict scrutiny. Anderson v. Celebrezze
5 also says it is essential to a democracy that
6 candidates be able to run on relatively short
7 notice to respond to important issues. These
8 important issues are exactly why I'm running. The
9 last two years have seen the greatest loss of
10 freedom in our lifetime, and our Republican
11 leadership has been silent.

12 You can't enforce this law in an
13 unconstitutional way any more than a service member
14 could follow an unlawful order. We all know that
15 you would not enforce this law if it said that
16 women or minorities couldn't vote. If you
17 interpret 3-8-2-7 strictly so as to bar my
18 candidacy, you are implementing a four-plus-year
19 waiting period for candidates that aren't primary
20 voters. You don't have to be a constitutional
21 scholar to know that's a substantial burden on
22 ballot access and voting rights.

23 In the 2020 challenge hearing, this Committee
24 disqualified James Peters based on the one primary
25 rule. In that hearing, Mr. Klutz told Mr. Peters

1 no harm done, you can just run in the next
2 election. Well, that didn't happen because the
3 legislature made the one-primary rule the
4 two-primary rule. This is creating democracy where
5 only professional politicians can get on the
6 ballot. Who is to say that, by 2024, the
7 legislature won't go back and write 3-8-2-7 into a
8 three-primary rule. Anderson v. Celebrezze says
9 that's unconstitutional and it's an
10 unconstitutional system.

11 Voters can only express their preferences
12 through candidates. On average, only 20 percent of
13 Hoosiers vote in the primary. When you have a
14 system where sometimes only 12 percent of voters
15 vote in the primary and the system excludes viable
16 candidates from the primary because they are not
17 two-time primary voters, you are creating a cycle
18 of disenfranchisement. When professional
19 politicians run unopposed, there is no reason to
20 vote in the primary. Then when the professional
21 politicians create a crisis, which they always do,
22 citizens have no recourse. Justice delayed is
23 justice denied.

24 Regarding equality under the law, the Indiana
25 GOP chair for Madison County apparently provided

1 certification of party membership for Evan
2 McMullin, who will challenge the incumbent
3 Republican, Mike Gaskill, for nomination to Indiana
4 Senate District 25. I'm almost done.

5 CHAIRMAN OKESON: You're fine.

6 MR. BOOKWALTER: Finally, there is an issue of
7 notice. The two-primary rule was passed in 2021
8 and are effective in 2022. I was qualified to run
9 in 2018 and 2020 by virtue of voting in the 2016
10 primary. I have had no opportunity to vote in a
11 primary since the two-primary rule was passed and
12 signed into law. In the 2020 hearing, Mr. Kochevar
13 stated that IC 3-8-2-7 does not imply an obligation
14 of good faith on the county party chairs. Well, of
15 course, it does. The legislature can't get around
16 the Constitution --

17 (Timer)

18 MR. BOOKWALTER: -- by delegating an
19 unconstitutional act. I'm here today to ask you --

20 CHAIRMAN OKESON: That's the bulk of your
21 time.

22 MR. BOOKWALTER: I have one sentence.

23 CHAIRMAN OKESON: By consent?

24 VICE CHAIRMAN OVERHOLT: Consent.

25 MS. CELESTINO-HORSEMAN: Consent.

1 MS. PYLE: Consent.

2 CHAIRMAN OKESON: Go ahead. Sorry. Just
3 trying to follow the time.

4 MR. BOOKWALTER: Yes, sir. I am here today to
5 ask you to not violate the Constitution. There is
6 no question that I am a Republican, and the county
7 chair should have signed my certification. Again,
8 no one has filed any objection to my candidacy as a
9 GOP delegate, and I will be on the ballot this
10 primary as a delegate to the Republican Party.

11 CHAIRMAN OKESON: Thank you.

12 For the record, Mr. Irby --

13 MR. IRBY: I have no questions, Mr. Chairman.

14 CHAIRMAN OKESON: No cross-examination. Do
15 you have any rebuttal?

16 MR. BOOKWALTER: No.

17 CHAIRMAN OKESON: All right. I'm going to
18 close the public hearing on the causes 2020-05 and
19 2022-14. Any discussion or questions by the
20 Commission?

21 MS. CELESTINO-HORSEMAN: One question. I just
22 have to say I found it -- and, like I said,
23 Mr. Bookwalter, we have to follow the law and the
24 law says you had to vote in two primaries or get a
25 letter, and you had opportunities to vote in those

1 primaries in 2016, 2018, 2020. But anyway --

2 MR. BOOKWALTER: I can let you finish, but I
3 want to correct the record that, as of 2016, I was
4 eligible to run for office.

5 MS. CELESTINO-HORSEMAN: The law changed, and
6 if you had voted, I'm saying --

7 CHAIRMAN OKESON: That's already part of the
8 record in your statement. We've closed the public
9 hearing.

10 MS. CELESTINO-HORSEMAN: But I just have to
11 say I was kind of surprised when I looked at the
12 evidence that was submitted by the challenger. And
13 it's from the GOP database, and it lists him as a
14 Republican, a weak Republican, but it calls him a
15 Republican. So I just wanted you to know that
16 that's in there. I don't know whether that got in
17 there by accident, but it was in both challenges.
18 So I just wanted to let you know I thought it was
19 interesting.

20 MS. PYLE: Just to respond to that briefly, I
21 also have access to that database, and how it
22 labels people isn't always right. If people
23 haven't voted for a long time, it goes based off of
24 their age and their gender, and it says typically
25 that person -- me as a 30-year-old female, it calls

1 me a swing voter, even though I have a voting
2 record. But if I didn't have a voting record, I
3 would be swing. It doesn't take everything into
4 account here. So I just wanted to make that
5 clarification.

6 MS. CELESTINO-HORSEMAN: And I agree with you.
7 It's not an official record. What you have
8 submitted as evidence is not an official record,
9 and so I agree with that. But it's a piece of
10 paper that says he's a weak Republican. I just
11 thought it was interesting.

12 CHAIRMAN OKESON: Well, the evidence, as I
13 understand, that's been submitted is that you've
14 only -- and you've agreed to it, you've only voted
15 in one primary.

16 MR. BOOKWALTER: Yes, but --

17 CHAIRMAN OKESON: And what I hear you saying
18 is that you disagree with the state statute.

19 MR. BOOKWALTER: Well, yes, of course, I do,
20 and I think it's unconstitutional. But what I'm
21 asking the Committee right now and, based on what
22 you said is that you can't change the law, I'm not
23 necessarily asking you to change the law right
24 here, right now. I'm asking you to see that I am
25 being withheld from --

1 CHAIRMAN OKESON: You're asking us to vote
2 against the law and put you on the ballot.

3 MR. BOOKWALTER: I'm asking you to hold the
4 county chairs accountable to not hold candidates
5 off the ballot because they're not --

6 (Crowd noise)

7 CHAIRMAN OKESON: That's not in our purview
8 here, though.

9 MR. BOOKWALTER: There is an implied
10 certification that I'm a Republican, and based on
11 conversations, based on the affidavit, she made it
12 clear that she did not want me to be on the ballot
13 because she did not want me to primary Jim Baird.

14 CHAIRMAN OKESON: Number one, and probably
15 most importantly, let me thank you for your service
16 to the country. It should not go without stating,
17 so thank you.

18 Number two, whether I agree or disagree with
19 the rightness or wrongness of what the General
20 Assembly over across the street at the Statehouse
21 has decided is not for me to say. Agree or
22 disagree, that's the threshold. You didn't meet
23 it. Your fight is over there maybe.

24 MR. BOOKWALTER: But if they passed a law that
25 said minorities or women couldn't vote, I guarantee

1 you would make the decision right here, right now.

2 CHAIRMAN OKESON: If they passed that law, I
3 probably wouldn't serve on this commission.

4 MR. BOOKWALTER: Exactly. So why would you do
5 it for a case like this?

6 (Crowd noise)

7 CHAIRMAN OKESON: Hold on.

8 MR. BOOKWALTER: Now is the opportunity, sir.

9 CHAIRMAN OKESON: I appreciate the argument
10 that you're making. Unfortunately, I don't have a
11 foundation by which to agree with you on it.

12 And with that, I'm ready to provide a motion
13 to uphold the challenge. Is there a second?

14 MS. PYLE: I would second.

15 CHAIRMAN OKESON: Having a second, any further
16 conversation or questions?

17 Hearing none, all those in favor of upholding
18 the challenge signify by saying "Aye."

19 VICE CHAIRMAN OVERHOLT: Aye.

20 MS. CELESTINO-HORSEMAN: Aye.

21 MS. PYLE: Aye.

22 CHAIRMAN OKESON: The "ayes" have it. The
23 challenge is upheld. The Election Division is
24 directed not to include Thomas Bookwalter on the
25 certified list of primary candidates sent to the

1 county election boards and indicate the name of
2 this candidate not to be printed on the ballot.

3 Thank you for your time.

4 Moving to the next case, we will now hear
5 Cause No. 2022-06 in the matter of the challenge to
6 Mark Powell, candidate for Democratic Party
7 nomination for United States Representative,
8 District 6. The Election Division has provided
9 copies of the Candidate Filing Challenge and
10 accompanying forms and materials in your binder.

11 I recognize the challenger, Amanda
12 Stevenson-Holmes. Is that correct?

13 MS. STEVENSON-HOLMES: That is correct.

14 CHAIRMAN OKESON: Could you spell that for the
15 court reporter.

16 MS. STEVENSON-HOLMES: Amanda, A-m-a-n-d-a,
17 Stevenson, S-t-e-v-e-n-s-o-n, dash Holmes,
18 H-o-l-m-e-s.

19 CHAIRMAN OKESON: Okay. You have 7 minutes.

20 MS. STEVENSON-HOLMES: Thank you. I am the
21 chair of the Johnson County Democratic Party, and I
22 am challenging Reverend Mark Powell, the candidate,
23 because he defies Indiana Code 3-8-2-7, which I
24 have provided additional files. Under the 2022
25 Indiana Election Administrator's Manual, it states:

1 "Further, candidates seeking to run as a Democratic
2 or Republican candidate must have either 1)
3 selected the ballot of the political party they
4 claim affiliation with the last two Indiana primary
5 elections the candidate voted; or be certified as a
6 member of the party by the county chair in the
7 county where the candidate resides."

8 In your previous packet, my filing, in 2020,
9 Reverend Powell pulled a Democratic ballot, and in
10 2018, he pulled a Republican ballot. And, of
11 course, I defer to this election board, but I
12 thought it worth noting that in yesterday's Johnson
13 County Election Board meeting, they did vote
14 unanimously to invalidate the candidacies to other
15 rolls for Reverend Powell on the county ballot
16 yesterday. And I did receive that confirmation
17 letter that I do have copies of for you.

18 CHAIRMAN OKESON: Valerie.

19 MS. CELESTINO-HORSEMAN: Was that due to
20 party, not having -- same basis?

21 MS. STEVENSON-HOLMES: It was based on Rule 8
22 of the Indiana Democratic Party Rule, subsection A,
23 which states that the candidate supports the
24 purposes of the party.

25 That concludes my argument, my statements.

1 Thank you very much for listening.

2 CHAIRMAN OKESON: Thank you.

3 Mr. Powell, would you like 2 minutes of
4 cross-examination relative to the statements that
5 she's made?

6 REV. POWELL: Yes. I'm Reverend Powell.

7 CHAIRMAN OKESON: Please spell that.

8 REV. POWELL: Reverend, R-e-v, period, Mark,
9 M-a-r-k, J, period, Powell, P-o-w-e-l-l.

10 CHAIRMAN OKESON: Thank you. Go ahead.

11 REV. POWELL: I do have a question for the
12 chairwoman. And she cites the Democratic Party in
13 disqualifying me to run for the most glorious
14 office of precinct committeeman. And my question
15 is: Why does she make that case and what sin have
16 I committed?

17 VICE CHAIRMAN OVERHOLT: Well, why don't you
18 raise -- she raised that, I guess. We don't -- the
19 issue of precinct committeeman isn't even something
20 before us today. I mean, if we could -- and both
21 of you, you tendered this information, but we ought
22 to really be sticking to the issue of your
23 candidacy for the U.S. Representative for the
24 6th District --

25 REV. POWELL: And I agree.

1 VICE CHAIRMAN OVERHOLT: -- and I would
2 request that you do that, if that's all right,
3 Mr. Chairman.

4 CHAIRMAN OKESON: Yes.

5 REV. POWELL: And before I even mention that,
6 I just want to thank you, Mr. Chairman and members
7 of the Commission, for your service to our state
8 and to its citizens.

9 Question I bring that up is that it's the same
10 issue that she brings forward today for this
11 office, the office of U.S. Representative to
12 Congress.

13 CHAIRMAN OKESON: Hold on a second. I don't
14 mean to cut your time. So you have no further
15 cross-examination?

16 REV. POWELL: I do, yeah. And that is: What
17 is the sin that I committed against the Democratic
18 Party?

19 MS. STEVENSON-HOLMES: You -- excuse me. The
20 candidate, Reverend Powell, defies Indiana Code Law
21 3-8-2-7. I do not describe it as a sin. I
22 describe it as a law.

23 CHAIRMAN OKESON: You've already established
24 your challenge.

25 MS. STEVENSON-HOLMES: Thank you.

1 REV. POWELL: What's the law.

2 MS. CELESTINO-HORSEMAN: Sir, did you see the
3 challenge before you came today?

4 REV. POWELL: I'm just asking her now.

5 MS. CELESTINO-HORSEMAN: No. I'm asking you,
6 did you see the challenge before you came today?

7 REV. POWELL: I got a little peek at it.

8 MS. CELESTINO-HORSEMAN: I think the challenge
9 states the law in there, doesn't it?

10 MS. STEVENSON-HOLMES: It references Indiana
11 Code 3-8-2-7, which references the Indiana primary
12 elections the candidate voted in, be certified as a
13 member by the party county chair or they must have
14 voted -- selected the ballot of the political party
15 they claim affiliation with in the last two Indiana
16 primary elections. And our candidate has only done
17 so once.

18 REV. POWELL: Yes. I voted for myself for
19 Congress along with 10,000 other Democrats. And my
20 question is to the chairwoman: That is the current
21 law that is under question today of how you can
22 fulfill that law. And isn't it true, Madam
23 Chairwoman --

24 CHAIRMAN OKESON: Excuse me. Will you two
25 take your conversation further back in the room so

1 that I can hear, please.

2 UNIDENTIFIED SPEAKER: We'll be quiet. Sorry.

3 REV. POWELL: Isn't it true, Madam Chairman,
4 that I --

5 (Timer)

6 CHAIRMAN OKESON: I'll afford you another few
7 seconds.

8 REV. POWELL: I tried to pursue a conversation
9 with you on multiple occasions starting in November
10 of 2021; is that not correct?

11 MS. STEVENSON-HOLMES: That is correct.

12 CHAIRMAN OKESON: So that's the end of your
13 2 minutes for cross-examination. Would you now
14 like your 7 minutes for your remarks to state your
15 case?

16 REV. POWELL: Of course, because it looks like
17 I might be having more time to watch Netflix than
18 run for Congress coming up here. And that's fine
19 and good because that's the way the law is written.
20 And if we're going to follow the law by the letter
21 of the law, then you have to do what you're going
22 to have to do today. And I understand that, and I
23 appreciate your effort being here listening.

24 My point is, having worked in the Michigan
25 House of Representatives earlier in my life as

1 chief of staff to Associate House Speaker and
2 Policy Committee Chairman, I know how laws are
3 written. Now you're here to execute that law.
4 But, again, I think Mr. Bookwalter makes a good
5 point. What allows the legislature to carry on
6 like it did last year where, in the dark of night,
7 on a whimsical note, added this type of hardship to
8 a number of candidates, myself included, who ran in
9 2020 as a Democrat and received nearly 10,000
10 Democratic votes. And now I'm not a Democrat.

11 I'd like to put a number of items into the
12 record. This item is the county chairman of
13 Johnson County who said -- let me just read this --
14 that "Mark J. Powell is a member of the above-named
15 party," Democrat, "in good standing." That's
16 Exhibit A.

17 Exhibit B is my contribution to an
18 up-and-coming woman candidate, Andrea Hunley, who
19 is running for the state Senate this year, a
20 hundred-dollar donation.

21 This is Exhibit C. These are four receipts
22 that I have, because I'd like to see a woman
23 president, to Amy Klobuchar's campaign for
24 President of the United States in 2020. Those
25 were -- that was distributed in four \$25 donations.

1 It was \$100. They probably do that so that they
2 can have more contributions.

3 And finally, Exhibit D, which is my exhibit
4 to -- which is my exhibit of a cash donation to the
5 Stonewall Democrats of South Central Indiana, which
6 they write to me "Thank you for helping to advance
7 the LGBTQI plus equity and representation in south
8 central Indiana."

9 I don't agree with everything that everybody I
10 gave money to, not everything. You know, I just
11 might not like the way somebody combs their hair or
12 the policy of how -- that they might have. But I
13 still contribute to it because I'm a Democrat. And
14 I've tried to make this case, but you know what,
15 there's a political opposition to my policies. I'm
16 a more conservative Democrat. I'm a more
17 libertarian Democrat, and I believe that we should
18 have that type of a debate within the party.

19 And, again, two years ago, I was on the ballot
20 and received nearly 10,000 Democratic votes. If I
21 was not a Democrat, those people would not have
22 voted for me. If I was not a Democrat, I might
23 have gotten a handful because of the way I part my
24 hair. However, 10,000 Democrats voted for me.

25 And this opportunity is disenfranchising those

1 and many more Democrats in the 6th Congressional
2 District, which is even more conservative than the
3 9th, because I have to deal with some of the folks
4 in Bloomington, and let me tell you, when you're
5 dealing with that blue bubble, you got a lot on
6 your hands.

7 So let me just say this, and I appreciate your
8 time, and I know where this is going, so, again, I
9 appreciate your effort and your work. And I would
10 like to get this on the record because '24 is just
11 around the corner. My 2022 Democratic
12 congressional campaign is dedicated to the memory
13 of Jessica Doty Whitaker. Jessica, a 24-year-old
14 mother and eldercare assistant, was assassinated on
15 July 4th weekend, 2020. Why was she murdered in
16 cold blood in Indianapolis? She was white and said
17 to a BLM supporter "All lives matter."

18 You see Jessica was with her fiancée, who is
19 Hispanic; his friend, who was Hispanic; and his
20 girlfriend, who was like the 44th president, both
21 black and white. The assassin waited on a bridge
22 overlooking the canal. As Jessica's group passed,
23 shots rang out, and she was mortally wounded by a
24 shot to the head. As a pastor, I comforted the
25 family. The family wanted action in finding the

1 killer, and they asked me to help. They knew my
2 experience in government, and they knew of my
3 empathy for what occurred.

4 I personally called Senator Young's and
5 Congressman Pence's office, and the senator did
6 call Jessica's mother, Leni, to offer condolences.
7 But asking to assist us deal with the FBI as this
8 was, in our view, a hate crime fell on deaf ears.
9 For far too long, Washington has ruled by big money
10 and powerful interests. And these elected folks of
11 both parties forget who they are supposed to work
12 for, and that is the citizen.

13 If I'm nominated by the Democratic Party
14 May 3rd and elected on November 8th, I will
15 continue to bulldog this assassination
16 investigation until the killer is found. Before
17 almighty God, I swear to help find her assassin.
18 Her parents deserve that. Her four-year-old son
19 deserves that. I also pledge to make sure that
20 American middle class is cared for in my Our Fair
21 Share Program.

22 So please pray for Jessica Doty Whitaker's
23 family and friends and for my candidacy as we
24 remember Jessica and the millions of Americans
25 affected by mindless violence. I am a Christian

1 Democrat within the Democratic Party. I am
2 pro-faith, pro-freedom, pro-gun rights, pro-life,
3 and pro-America. I am against communists,
4 socialists, racists, globalists --

5 (Timer)

6 REV. POWELL: -- and all those other kind of
7 folks. I have a few more minutes if you'd like to
8 extend that.

9 CHAIRMAN OKESON: Does anyone want to extend
10 for one minute by consent?

11 VICE CHAIRMAN OVERHOLT: No, thanks.

12 CHAIRMAN OKESON: I'm sorry. I don't get
13 consent.

14 REV. POWELL: That's okay. I understand.

15 CHAIRMAN OKESON: Two minutes to
16 cross-examine?

17 MS. STEVENSON-HOLMES: No, thank you.

18 CHAIRMAN OKESON: Any rebuttal?

19 REV. POWELL: Yes. I wish that there was more
20 of a rebuttal because what this is here is a
21 kangaroo court. I appreciate your service on the
22 kangaroo court. I mean, you make it look like
23 you're doing it just like they did yesterday in
24 Franklin.

25 MS. CELESTINO-HORSEMAN: Is this rebuttal,

1 Mr. Chairman?

2 REV. POWELL: I appreciate your legalese, and
3 I just want to state for the record, as a hospice
4 chaplain, I would always say to folks before I left
5 them, because I never knew if I was going to see
6 them again, God loves you very much. He sent me
7 here today to tell you that, and he sent you here
8 today to hear that. So please pray for me, I'll
9 pray for you, and we'll both be better off.

10 God love you. God bless America. And
11 hopefully in '24 I'll make the two. Thank you.

12 CHAIRMAN OKESON: Thank you. With that, I'll
13 close the public hearing on Cause No. 2022-06. Any
14 questions or discussion?

15 MS. CELESTINO-HORSEMAN: I move that the
16 challenge be upheld.

17 CHAIRMAN OKESON: Okay. Is there a second?

18 VICE CHAIRMAN OVERHOLT: Second.

19 CHAIRMAN OKESON: I have a motion to uphold
20 the challenge with a second. Any further questions
21 or conversation or discussion?

22 Hearing none, all those in favor of upholding
23 the challenge signify by saying "Aye."

24 VICE CHAIRMAN OVERHOLT: Aye.

25 MS. CELESTINO-HORSEMAN: Aye.

1 MS. PYLE: Aye.

2 CHAIRMAN OKESON: The "ayes" have it. The
3 challenge is upheld. The Election Division is
4 directed not to include Mark J. Powell on the
5 certified list of primary candidates sent to the
6 county election boards and to indicate the name of
7 this candidate is not to be printed on the ballot.
8 Thank you.

9 MS. STEVENSON-HOLMES: Thank you.

10 CHAIRMAN OKESON: Next cause, 2022-11 in the
11 matter of the challenge to Zach Smith, candidate
12 for Republican Party nomination for United States
13 Representative, District 6. The information is in
14 your tab provided by the Election Division.

15 I recognize Beth Boyce, the challenger, for
16 her 7-minute presentation.

17 MS. BOYCE: Good afternoon. Thank you all.

18 CHAIRMAN OKESON: Please state your name and
19 spell it for the court reporter.

20 MS. BOYCE: Oh, I'm sorry. Yes. My name is
21 Beth Boyce. It's B-e-t-h, last name B-o-y-c-e.

22 My name is Beth Boyce, and I am a registered
23 voter in Johnson County. I am also the chairman of
24 the Johnson County Republican Party. The challenge
25 filed against Mr. Smith is very simple. Mr. Smith

1 doesn't meet either requirement in Indiana
2 Code 3-8-2-7, which sets forth the standard for
3 determining the political party affiliation for a
4 Democrat or Republican candidate who files a
5 declaration of candidacy for primary election.
6 Mr. Smith doesn't meet either requirement. He has
7 no primary vote history in Indiana and never
8 received a certification from a Republican county
9 chair in his county of residence. Thank you.

10 CHAIRMAN OKESON: Mr. Smith, would you like
11 2-minutes of cross-examination?

12 MR. SMITH: No.

13 CHAIRMAN OKESON: You may have your opening
14 remarks.

15 MR. SMITH: What's that?

16 CHAIRMAN OKESON: Would you like to make some
17 remarks?

18 MR. SMITH: Sure. My name is Zach Smith.
19 It's Z-a-c-h, S-m-i-t-h. I do not dispute that I
20 do not have either one of these requirements. One
21 of the main reasons is I lived in the state of Ohio
22 up until the beginning of last year. I grew up in
23 Indiana, grew up in the town I live in now, moved
24 back with my wife.

25 CHAIRMAN OKESON: Welcome back.

1 MR. SMITH: Thank you. Glad to be back. I
2 attempted to get the certification. I contacted
3 the county chairperson, and she told me that I
4 would not be certified unless I had voted in two
5 previous primaries. So I would like to point out
6 that there is a flaw in this statute that if I --
7 so if I voted in the two primaries, there's no need
8 to get the certification in the first place. So
9 it's got to be either/or. I asked for a meeting,
10 wasn't granted a meeting, wasn't granted any way to
11 plead my case to her that I'm a member of the party
12 and that I should be certified.

13 That's all I have to say about that and, you
14 know, reiterate what other people have said before.
15 I feel like this law is unconstitutional, and if
16 this is a government for, of, and by the people,
17 the people should decide, not a committee.

18 CHAIRMAN OKESON: We're not, right? So we're
19 following the law that was established across the
20 street by duly elected representatives by the
21 voters.

22 Would you like 2 minutes of cross-examination?

23 MS. BOYCE: No.

24 CHAIRMAN OKESON: You want rebuttal?

25 MR. SMITH: No.

1 CHAIRMAN OKESON: I'm going to close the
2 public hearing on Cause No. 2022-11. Any
3 questions?

4 I mean, I'm glad you've come back to Indiana,
5 and I welcome your interest in running for office.
6 I didn't make the laws.

7 MR. SMITH: I know. As long as they don't
8 keep making it, you know, the three-primary rule,
9 I'll be back.

10 CHAIRMAN OKESON: Don't forget about going
11 over there.

12 With that, I'll consider a motion.

13 MS. PYLE: I would move to uphold the
14 challenge.

15 CHAIRMAN OKESON: I'll second it. There's a
16 motion to uphold and a second. Any discussion?

17 Hearing none, all those in favor signify by
18 saying "Aye."

19 VICE CHAIRMAN OVERHOLT: Aye.

20 MS. CELESTINO-HORSEMAN: Aye.

21 MS. PYLE: Aye.

22 CHAIRMAN OKESON: The "ayes" have it. The
23 challenge is upheld. The Election Division is
24 directed not to include Zach Smith on the certified
25 list of primary candidates sent to the county

1 election boards and indicate that the name of this
2 candidate not be printed on the ballot. Thank you.

3 MS. BOYCE: Thank you.

4 CHAIRMAN OKESON: Okay. Next, Cause
5 No. 2022-26, Marsili v. Dhahir. Am I pronouncing
6 that right?

7 MR. DHAHIR: Yeah.

8 CHAIRMAN OKESON: In the matter of the
9 challenge for Adnan H. Dhahir, candidate for
10 Democratic Party nomination for United States
11 Representative, District 8. Refer to your binder
12 for any information from the Election Division.

13 I now recognize Thomasina Marsili, the
14 challenger, for presentation.

15 MS. MARSILI: My name is Thomasina Marsili,
16 T-h-o-m-a-s-i-n-a, last name Marsili, M-a-r-s, as
17 in Sam, -i-l-i.

18 CHAIRMAN OKESON: Go ahead.

19 MS. MARSILI: I have these papers for you. I
20 would like to -- in full closure, I am an elected
21 precinct committee person in Montgomery Precinct in
22 Owen County, I am the elected Owen County chair,
23 and I am the elected 8th District Congressional
24 chair for the Democratic Central Committee.

25 What is being brought before you today is not

1 necessarily the voting record of Mr. Dhahir. The
2 last two primaries of which he has voted in is 2006
3 and 2008, both of which he voted in a Democratic
4 primary. What is at question currently is why
5 Mr. Dhahir decided to be on the Democratic ballot
6 whatsoever. He has stated, even as of this
7 morning, which is in these papers, come all
8 Republicans for this challenge.

9 Mr. Dhahir is being asked to be placed on a
10 Democratic ballot. I hold dear and sacred to that.
11 We have a process in this election, and this
12 election process, we have multiple ballots that he
13 could be on. The Republican, which he could reach
14 out to the Martin County chair and ask to be placed
15 on that ballot, which he did not. He could also,
16 after our primary process is over, go as an
17 independent because in Indiana we have a lot of
18 people that like to ride the middle.

19 However, during this election process, what he
20 is saying is, I want to run as a Democrat because
21 it's easier, because I voted as a Democrat, not
22 because my values align with that party. And in
23 this process, we need to question ourselves, are we
24 going to allow that? Are we going to allow the
25 fact that someone has filed as a Democrat and is

1 vocally and in public admitting that he is a
2 Republican be on a Democratic ballot?

3 To that, I yield. Thank you for your time.

4 CHAIRMAN OKESON: Thank you. Would you like
5 2 minutes of cross-examination?

6 MR. DHAHIR: No, no.

7 CHAIRMAN OKESON: Go ahead.

8 MR. DHAHIR: My name is Adnan Dhahir. It's
9 A-d-n-a-n, D-h-a-h-i-r. I was born in
10 Indianapolis, raised a United Methodist, and the
11 only Middle Eastern thing about me is my name. I
12 sound like a country hillbilly, and I realize that.

13 The facts are simply these: By statute, my
14 last two primaries voting has to be the same party
15 as I'm declaring. And I've only voted in two
16 primaries, and I voted Democrat in both. I have
17 taken the stance to choose pro-life because my
18 district in the majority chooses pro-life, just as
19 Frank McCloskey did when he won this district as a
20 Democrat years ago. So to have anyone define my
21 platform is just outrageous. The statute is simply
22 this, and my Facebook posts or anything or my
23 ideology platform-wise should not dictate my
24 eligibility, plain and simple.

25 And that's all I have to say. Thank you.

1 CHAIRMAN OKESON: Would you like to
2 cross-examine on any of the comments he's made?

3 MS. MARSILI: So this morning whenever you
4 called on Republicans to come support you, can you
5 tell me more about that?

6 MR. DHAHIR: Well, I'll tell you what, I --
7 okay. Last night -- I haven't even been -- I
8 didn't even receive a letter. Mr. Peter Priest,
9 who is going to come up next, thank God he called
10 me. Okay? I haven't got one ounce of sleep
11 because I'm piping mad. And I've also heard that
12 there's somebody fitting her description going
13 around Owen County saying that a Middle Eastern guy
14 shouldn't be in Washington, D.C.

15 MS. MARSILI: If you would like me to show you
16 my Muslim tattoo.

17 MR. DHAHIR: I don't need to see anything. So
18 I'm not going to answer any more questions, plain
19 and simple. The statute is the statute, and here's
20 the facts. I have nothing else to say.

21 MS. MARSILI: So in closing, what stance is
22 this? The gentleman has admitted that he is
23 running as a Republican on social media. He is
24 using Republicanism as a tactic and running on the
25 Democratic ballot. I have no issues fighting my

1 Republican counterparts in the general election.
2 We shouldn't have to do it in the primary. Because
3 I pose to you this: What happens when the Trump
4 Democrats that had voted in the Republican primary
5 go on the ballot and get on a Republican primary
6 and then as soon as they win as Republicans in
7 these small towns, what happens when they switch
8 back over to Democrats immediately?

9 MR. DHAHIR: I want rebuttal to this. One
10 thing, she is the district chair. She has taken --

11 MS. NUSSMEYER: Ma'am.

12 MS. CELESTINO-HORSEMAN: Excuse me.

13 Mr. Chair, I can't hear what he's saying.

14 CHAIRMAN OKESON: Excuse me. Let's keep the
15 background chatter so we can get this on the
16 record.

17 MR. DHAHIR: And to have a meeting and to
18 fully endorse Ray McCormick, who is not in here,
19 there's only three candidates in here, she's
20 intending to give Democrats not one choice in the
21 primary.

22 MS. MARSILI: That is not --

23 MR. DHAHIR: That is your intention by
24 challenging this, plain and simple.

25 MS. MARSILI: First and foremost --

1 MR. DHAHIR: And --

2 CHAIRMAN OKESON: Hold on.

3 MR. DHAHIR: And it's hard for me -- I'm going
4 to be honest with you. It is very hard for me to
5 accept someone that's supposed to be in charge of
6 our district not to get one ounce of support. Her
7 vice president told me this morning that he
8 suggested that Peter and I get introduced to their
9 group before they made a vote. They didn't even
10 offer to invite us.

11 By siding with her, you are not only giving
12 her the only choice on the Democrat ticket, but
13 you're not allowing the American people to speak
14 their will. And the simple fact of my position is,
15 I'm a representative of the people. And I can
16 assure you, if elected, that I will not let any
17 party dictate my voting. And if I should happen to
18 vote with the Republicans on an issue, it's because
19 the will of my people dictated my vote. Thank you.

20 CHAIRMAN OKESON: All right. With that, I'm
21 going to close the public hearing on Cause
22 No. 2022-26. Any questions?

23 VICE CHAIRMAN OVERHOLT: Well, I don't have
24 any questions because I think the record is pretty
25 clear. I mean, there's no dispute that he's met

1 the statutory requirement. The thing is that I can
2 understand the frustration, but I think that's
3 where the electoral process comes in. And the
4 State has set forth this requirement that everyone
5 knows by now because we've been talking about it
6 for a long time, but it's that --

7 CHAIRMAN OKESON: Today alone.

8 VICE CHAIRMAN OVERHOLT: Yeah. Either you
9 vote in the past two primaries of the party that
10 you're seeking to be affiliated with or you've got
11 the certification of the party chair. I think the
12 legislature built that in so that, if there's a
13 dispute like this, that it's the voting record and
14 not the certification. It's one or the other. You
15 don't have to have both. And the statutory
16 requirements --

17 CHAIRMAN OKESON: Like the gentleman who moved
18 here from out of state who doesn't have a prior
19 record, so the county chair would have said okay.

20 VICE CHAIRMAN OVERHOLT: Exactly. He could
21 have run if his county chair would have said okay.

22 MR. DHAHIR: What's --

23 CHAIRMAN OKESON: No.

24 MS. CELESTINO-HORSEMAN: First of all, I do
25 want to tell you that the records for the Election

1 Division show your address is 6555 U.S. 50; right?

2 MR. DHAHIR: Yes.

3 MS. CELESTINO-HORSEMAN: Okay. UPS says they
4 left it at your premises.

5 MR. DHAHIR: I did not receive it.

6 MS. CELESTINO-HORSEMAN: I just didn't want
7 you to think that that had not been done.

8 MR. DHAHIR: I was literally alerted to this
9 meeting at about 8:00 p.m. last night by fluke,
10 truthfully.

11 MS. CELESTINO-HORSEMAN: So secondly, just
12 because someone calls themselves a member of a
13 party doesn't mean they believe in the party ideals
14 or commitments or platforms or whatever. So, you
15 know, when you say that Democrats have to have a
16 choice, they have a choice. What I think this lady
17 is saying is that you don't share those same ideals
18 that make somebody a Democrat. Now, I don't know
19 whether it's true or not, but I think that's what
20 she's saying.

21 So, ma'am, I would just refer to you. I agree
22 with Suzannah here. It's not a basis for the
23 Commission to do anything.

24 MS. MARSILI: I appreciate that. And just to
25 set the record straight since this is --

1 CHAIRMAN OKESON: We're done with the public
2 hearing matter, so you can't enter anything on the
3 record.

4 MS. CELESTINO-HORSEMAN: But you can take it
5 to the party.

6 MS. MARSILI: We have and --

7 MS. CELESTINO-HORSEMAN: Yeah, Reverend
8 Powell.

9 CHAIRMAN OKESON: So with that, I think we're
10 probably ready for a motion. Is someone ready to
11 give it?

12 VICE CHAIRMAN OVERHOLT: Yeah. I would move
13 that we deny the challenge.

14 CHAIRMAN OKESON: Is there a second?

15 MS. CELESTINO-HORSEMAN: Second.

16 CHAIRMAN OKESON: Having a motion and a
17 second, is there any further discussion?

18 Hearing none, all those in favor of denying
19 the challenge signify by saying "Aye."

20 VICE CHAIRMAN OVERHOLT: Aye.

21 MS. CELESTINO-HORSEMAN: Aye.

22 MS. PYLE: Aye.

23 CHAIRMAN OKESON: The "ayes" have it. The
24 challenge is denied, and the Election Division is
25 directed to include the name of Adnan Dhahir on the

1 certified list of candidates to be placed on the
2 ballot.

3 Next cause, 2022-27, Priest -- is it Priest?

4 MR. PRIEST: Yes, sir.

5 CHAIRMAN OKESON: Priest v. Marsili in the
6 matter of challenge to E. Thomasina Marsili,
7 candidate for Democratic Party nomination for
8 United States Representative, District 8. The
9 Election Division has provided the information in
10 your binders.

11 Will you two, please -- I hate to do this.
12 Will you just switch tables really quick.

13 MS. CELESTINO-HORSEMAN: No, she's the --

14 MS. MARSILI: I'm the challenger.

15 CHAIRMAN OKESON: This isn't right. I said
16 that wrong. I said it wrong. It's the challenge
17 of Peter Priest, candidate for Democratic Party.

18 MR. KING: Priest is being challenged.

19 CHAIRMAN OKESON: Right. I didn't say it
20 right. Let me correct the record. Cause
21 No. 2022-27, in the matter of Peter Priest for the
22 Democratic Party nomination for United States
23 Representative, District 8.

24 Okay. I recognize Ms. Marsili.

25 MS. MARSILI: Thank you so much. Once again,

1 Thomasina Marsili, T-h-o-m-a-s-i-n-a, last name
2 Marsili, M-a-r-s, as in Sam, -i-l-i.

3 Once again we have a situation, Mr. Priest has
4 an amazing Democratic record. He has voted since
5 well before we could even calculate the votes on
6 VAN. He has an amazing record of voting for
7 Democrats. The unfortunate part is, even in the
8 new evidence that I am also presenting, he is
9 literally calling himself a Republican once again.
10 That I have issue with.

11 It is our civic duty as peoples in this body
12 to realize a primary is for the parties. The
13 general election is for all other parties to join
14 in. Right? Your independents, we have one
15 candidate our board is voting for. And this is my
16 challenge to that. We can go by primary voting or
17 we can challenge this in the fact that he is saying
18 he is a Democrat by voting as a Democrat, but
19 outwardly in public, even to the chairs of the
20 Central Committee, is writing emails stating, "I
21 wanted to run as a Republican."

22 And to that I would also state that in our
23 meeting on Sunday, all of the same evidence was
24 given to our Central Committee, which is compiled
25 of 21 county chairs, 21, who voted unanimously.

1 Was not my motion. I run the meetings as the
2 chair. It was a motion from Knox County, a second
3 from Parke County, and it was a unanimous consent
4 to endorse Ray McCormick. It was not just me.

5 So with that, you've heard my argument in
6 this, and I will yield to Mr. Priest for his
7 rebuttal.

8 CHAIRMAN OKESON: Mr. Priest, you have
9 2 minutes of cross-examination for anything
10 Ms. Marsili said.

11 MR. PRIEST: Sure. Did you check the voting
12 record system before you filed this?

13 MS. MARSILI: Yes.

14 MR. PRIEST: So you knew beforehand that I
15 passed the test, the voting law --

16 MS. MARSILI: Could you be more clear on your
17 question, please.

18 MR. PRIEST: Did you receive emails and texts
19 from me trying to contact you to discuss my
20 candidacy?

21 MS. MARSILI: Could you be more specific.

22 MR. PRIEST: Did you receive any emails from
23 me that said I'm running for Congress and I'd like
24 to talk?

25 MS. MARSILI: Yes, three days before I filed

1 that.

2 MR. PRIEST: Okay. So what qualifies you to
3 choose who District 8 can vote for? What wisdom or
4 personal experience makes your judgment good enough
5 to choose which candidates should be on the ballot?

6 MS. MARSILI: I don't get that. I can
7 challenge it as a voter, though.

8 MR. PRIEST: Yeah, but you're here as a
9 representative of the party. You are here --

10 MS. MARSILI: I'm here as a voter. That's who
11 files the challenges.

12 MR. PRIEST: No, no, no. You filed on a piece
13 of paper that said "From the desk of Thomasina,
14 Democrat Chair."

15 MS. MARSILI: Uh-huh.

16 MR. PRIEST: You're not filing as an
17 individual. You're filing as a member of the
18 party, and you're trying to --

19 MS. MARSILI: Did you have a question, sir?

20 MR. PRIEST: I'm sorry. You're right. I do
21 have -- so, again, what, again, was it that
22 qualifies you to determine that I am not a Democrat
23 now?

24 MS. MARSILI: Once again, the information that
25 you also received in your packet, which would be

1 the fact that you are -- and writing to my chairs
2 and to myself, you also emailed me, in paragraph 8
3 you will find that it says "I wanted to run as a
4 Republican, but I did not qualify." This is a
5 repeat. You call yourself Pete the RINO.

6 (Timer)

7 MS. MARSILI: Republican in name only.

8 CHAIRMAN OKESON: So the cross-examination
9 period has ended. Would you like to make some
10 comments or opening remarks?

11 MR. PRIEST: Yes, I do.

12 CHAIRMAN OKESON: Go ahead.

13 MR. PRIEST: I have a written statement that's
14 in your package. The package also includes
15 screenshots from the website that she has had
16 access and was able to view beforehand, and it also
17 includes on the last page, the only page that
18 probably really ever matters, which is that I have,
19 in fact, voted seven times since '92 in the
20 Democratic primary, zero times as a Republican in a
21 Republican primary.

22 Okay. On Monday, February 7th, I had an
23 amicable 15-minute phone conversation with Ray
24 McCormick, the first announced Democratic Party
25 candidate for U.S. House of Representatives in

1 Indiana's 8th Congressional District. On Thursday,
2 Marsili filed a challenge to my candidacy with the
3 Election Commission without ever speaking to me,
4 without responding to my previous email requests
5 for a phone call. Marsili filed the challenge in
6 her capacity as a political party official on
7 letterhead stating "From the Desk of the Thomasina
8 Marsili, 8th Democratic Congressional District
9 Chair," claiming five pages of evidence.

10 She's been touring Indiana using Democratic
11 Party resources, endorsing Ray McCormick of
12 Vincennes without mentioning that Adnan, from
13 Shoals, and I, from Terre Haute, are both on the
14 ticket also. I say her challenge is a frivolous,
15 meanspirited tactic that covers up her
16 unprofessional and possibly fraudulent behavior.
17 She was negligent or incompetent in fact checking.
18 She failed to exercise due diligence in
19 establishing the Twitter account was related to the
20 candidate. She submitted a bunch of Tweets.
21 They're not mine.

22 Right, yeah. She tortured logic to smear a
23 man's reputation, all while undermining both
24 democratic with a small D and Democratic with a big
25 D ideals. She failed to address the only legal

1 basis for such a challenge, which is the voting
2 record. Her submission didn't mention that. She
3 did not tell you in her original filing that I
4 voted seven times as a Democrat in the primary.

5 Okay. So I have never Tweeted anything. The
6 Tweets appear to be those of my father, a retired
7 humanities professor from Rose-Hulman. He was also
8 president and CEO of Trade Frontiers, an
9 international Christian tourism agency. I'd like
10 to call him an ambassador of American culture to
11 Russia as well as an ambassador of Russian culture
12 to America. He took students over there many, many
13 times and brought Russian travelers over here. And
14 it is, in fact, part of that how I met my Russian
15 wife out in the audience here.

16 Right. In her package, she quotes one of
17 those Tweets and tries to claim this is a reason
18 that you can't have me on the ticket here. It
19 says -- she implies it's wrong to attend a
20 demonstration against bribery, corruption, backroom
21 deals, and higher taxes. So I guess in a way I'd
22 like to ask, is it the Democratic Party position to
23 support and defend bribery, corruption, backroom
24 deals, and higher taxes? What's her point? This
25 was a blind man asking for a ride to Washington

1 and, yeah, asking for help. And, again, this is
2 not my Tweet, but let me say for the record I am
3 unequivocally against bribery, corruption, backroom
4 deals, and higher taxes on the overtaxed. I'm
5 also -- I also believe helping the blind is better
6 than making fun of them.

7 Another one of the Tweets she puts in there,
8 she condemns a Christian man for religious --
9 accuses him of religious xenophobia because he has
10 the audacity to Tweet "Is Islam a peaceful
11 religion? If so, why do all these Mideastern
12 uprisings or evolutions begin after Friday
13 prayers?" So she called that religious xenophobia.
14 She probably meant Islamophobia. But, again,
15 what's that got to do with anything?

16 The freedom of religion and religious
17 expression does not mean we must all hold other
18 people's religion to be as good as our own. It
19 means more that we don't interfere with their
20 choice of religious expression. There's nothing
21 wrong with questioning somebody else's religious
22 beliefs, and there's nothing wrong with them
23 questioning yours. Xenophobia, on the other hand,
24 is a dislike or prejudice against people of other
25 countries. In the packet, I have more words in

1 there about all the travel and things my dad has
2 done in living in France, traveling to India. I
3 feel like it was important to bring him up because
4 in a public document she tries to slam him, and I
5 object to this.

6 One of the other Tweets in there was a quote
7 from a Tweet where she made sure that she had to
8 spell out Vladimir Lenin's first name, which wasn't
9 listed in the Tweet but, you know, just to make
10 sure that anybody doesn't know who Lenin is, the
11 Russian guy. I don't know if this was just to
12 attack me.

13 CHAIRMAN OKESON: Would you permit me to be
14 rude for just a second? In the interest of time,
15 you've made your case; right?

16 MR. PRIEST: Well, okay. Let me just finish
17 the last few paragraphs then, and that is this: I
18 request a full accounting of all resources already
19 given to the Ray McCormick for Congress campaign or
20 its affiliates by the Indiana Democratic Party, the
21 8th INDems, its affiliates, Thomasina Marsili, or
22 its associates. I request equal access to all the
23 donor and volunteer data already given to or to be
24 given to Ray McCormick by the same parties. And I
25 furthermore ask that Thomasina Marsili be

1 sanctioned for inappropriate use --

2 CHAIRMAN OKESON: Okay. So we can't do any of
3 that stuff, right.

4 MR. PRIEST: Okay. So you can't take any
5 actions when someone comes here and wastes your
6 time? She knows -- she knew I am fully qualified.

7 CHAIRMAN OKESON: I am all about having time
8 wasted today, but I just want to make sure you
9 understand you're here defending a challenge from
10 her as to whether or not you can be on the ballot.
11 All of that, my humble opinion, is not really
12 germane to that fact.

13 MR. PRIEST: Sure. And my dad's experience
14 and travels isn't germane either, but I wanted to
15 take the time because I am disgusted with that.

16 CHAIRMAN OKESON: I appreciate that. Would
17 you like to both yield your rebuttals and
18 cross-examinations? Say yes.

19 MR. PRIEST: Okay.

20 CHAIRMAN OKESON: All right. With that, I'm
21 going to call the public hearing on Cause
22 No. 2022-27 to a close. Any discussion or
23 questions?

24 Someone care to make a motion?

25 VICE CHAIRMAN OVERHOLT: I move to deny the

1 challenge.

2 CHAIRMAN OKESON: There's a motion. Is there
3 a second?

4 MS. CELESTINO-HORSEMAN: I second.

5 CHAIRMAN OKESON: We have a second. Any
6 discussion?

7 Hearing none, all those in favor of denying
8 the challenge signify by saying "Aye."

9 VICE CHAIRMAN OVERHOLT: Aye.

10 MS. CELESTINO-HORSEMAN: Aye.

11 MS. PYLE: Aye.

12 CHAIRMAN OKESON: The "ayes" have it. The
13 challenge is denied. The Election Division --

14 (Crowd noise)

15 CHAIRMAN OKESON: Hey, I need to get this on
16 the record. All right. -- is directed to include
17 the name of Peter Priest on the certified list of
18 candidates to be printed on the ballot.

19 Next case, 2022-21 in the matter of -- oh, we
20 have two. Okay. Sorry. Kesvormas?

21 MR. KESVORMAS: Yes.

22 CHAIRMAN OKESON: Kesvormas v. Oake, 2022-21,
23 candidate for Republican Party nomination for State
24 Representative, District 20, as well as Stevens v.
25 Oake, Cause 2022-29, in the matter of Heather Oake,

1 candidate for Republican nomination for Indiana.

2 Consent to combine these cases since they are
3 eerily similar. Consent?

4 VICE CHAIRMAN OVERHOLT: Consent. Sorry.

5 CHAIRMAN OKESON: We've got consent. With
6 that, as with all the other cases, the Election
7 Division has provided this information in our
8 binders.

9 I will recognize Dave Kesvormas.

10 MR. KESVORMAS: Yes. For the record, I'll
11 state I'm Dave Kesvormas. I'm the Starke County
12 Republican chairman.

13 CHAIRMAN OKESON: Would you spell your name,
14 please. Sorry.

15 MR. KESVORMAS: K-e-s-v-o-r-m-a-s.

16 CHAIRMAN OKESON: As well Allen Stevens.

17 MR. STEVENS: Yes. Allen Stevens, LaPorte
18 County Republican chair, A-l-l-e-n, S-t-e-v-e-n-s.

19 CHAIRMAN OKESON: And 7 minutes for the two of
20 you, please, to make your cases. Go ahead.

21 MR. KESVORMAS: Section 3 of the CAN-2 form,
22 State Form 46439 Election Division, gives two
23 choices for the candidate's two most recent primary
24 elections. Candidate indicated she meets
25 requirements of having two primaries listed with

1 the Republican Party. Review of her voting record
2 shows that in 2020 primary she has a Republican
3 vote, and in 2016 it is listed as unknown.

4 CHAIRMAN OKESON: Okay.

5 MR. KESVORMAS: With that statement saying I'm
6 signing on the last page of that same declaration
7 of candidacy certifying that all is -- the
8 information is true and correct.

9 CHAIRMAN OKESON: So you're asserting that you
10 can only verify she voted in one primary?

11 MR. KESVORMAS: Yeah. And I've not been
12 asked -- this is the first time I've seen the
13 candidate, so I've not been asked to sign off as
14 the chairman on her candidacy.

15 CHAIRMAN OKESON: Do you have anything you'd
16 like to add?

17 MR. STEVENS: First off, I'd like to thank the
18 Commission for their time today. You guys are
19 really earning your \$50.

20 CHAIRMAN OKESON: I waived it.

21 MR. STEVENS: Again, Allen Stevens, LaPorte
22 County Republican Party chairman. I think we can
23 hear a lot of different things in this proceeding
24 right now about this, that, or the other thing, but
25 I think the only thing that this commission really

1 has purview to rule on is IC 3-8-2-7, and that's
2 two primary votes for the party or the chairman's
3 certification. And there are neither in this
4 situation.

5 CHAIRMAN OKESON: Thank you.

6 Would you like 2 minutes of cross-examination
7 on their comments?

8 MS. OAKE: No. I'll cover it in mine.

9 CHAIRMAN OKESON: Okay. Go ahead.

10 MS. OAKE: My name is Heather Oake, O-a-k-e.

11 So according to the 2022 candidate guide, on
12 page 11, to seek a nomination in the May 3, 2022,
13 primary election, a candidate must belong to the
14 Democratic or Republican Party. One way this is
15 determined is by the political party ballot
16 requested by the candidate in the two most recent
17 primary elections in Indiana the candidate voted.

18 I checked the two-primary box when filing for
19 state rep because I did request a Republican ballot
20 in 2020 and 2016. I believe -- well, I know the
21 reason why they're contesting me is because of that
22 2016 unknown, which I have as Item 1 in there.
23 This is something I have no control over.

24 I lived in Starke County at the time, one mile
25 from the polling place. I specifically remember

1 voting in the 2016 primary. I was going to vote
2 for Ben Carson, but since he dropped out, I voted
3 for Donald Trump. I even spoke about this to my
4 mom, and she has attested to that discussion. See
5 Item No. 2. I have her attestation that I did vote
6 and I told her that I did.

7 I didn't even look at my voter file when I
8 decided to run for state rep because I knew that I
9 voted in two Republican primaries. But when I was
10 looking over my walking list for LaPorte County,
11 which I have that attached too, I searched my name
12 and saw this discrepancy on my voter file.

13 I then went to Starke County to get their
14 walking list, and I also inquired about what the
15 "U" meant on my voter file. The Starke County
16 Clerk said it meant unknown, and she printed it for
17 me. I asked why would it be there, and she said
18 she didn't know and the person that inputted the U
19 no longer worked there, which her name is in there
20 who inputted the U.

21 When I got home, I called a poll worker that I
22 knew from Starke County, Tina Baughman, and she
23 didn't know why unknown would be there either. My
24 campaign manager contacted a poll worker, Vonda
25 Olson, that she knew from Marshall County, and she

1 also didn't know why it would be there but said she
2 believed it would have been error due to a
3 distraction on the poll worker's part. My campaign
4 manager also called the county clerk from Marshall
5 County, Deborah VanDeMark, and she didn't know why
6 unknown would be listed. So she did a search and
7 found an unknown in Marshall County, but it was
8 someone like myself that transferred in from Starke
9 County.

10 I know I voted Republican in 2016 primary, but
11 I have no control over what is put into my voter
12 file. And I would never have thought to check my
13 file to make sure that a U wasn't mistakenly listed
14 since I would say most voters don't even know that
15 exists. There are two options that can be picked
16 when voting in the primary, and that is Republican
17 or Democrat. If a poll worker forgot which one was
18 requested, then it should be corrected by the
19 county instead of entering in a U. This could
20 easily be done by reaching out to the voter.

21 If I am to be penalized for something I have
22 no control over, then how can it be said that my
23 vote counts. I did what I was supposed to do, and
24 I voted in two Republican primaries. I requested
25 two Republican ballots. I have always voted

1 Republican, so I had no reason to question myself.

2 If we can't rely on accurate information to be
3 entered, then do we need to start taking pictures
4 of our ballots and videotaping our voting
5 experience or, better yet, signing a form for
6 verification of how we voted? When running for a
7 political seat is determined by information entered
8 into your voter file, that puts a lot of pressure
9 on the poll workers and county staff. What
10 profession has a hundred percent accuracy rate?
11 I'm a nurse, and I know that even something as
12 serious as medical care does not have a hundred
13 percent accuracy rate.

14 It turns out that Starke County had 99
15 unknowns listed in their walking list that we
16 received. That's Item 3. If there could be
17 anything listed besides D for Democrat or R for
18 Republican, shouldn't this be transparent to the
19 voters ahead of time? Shouldn't there be a list of
20 all the codes and what they mean and why they would
21 be listed?

22 In conclusion, I voted Republican in 2016 and
23 2020 primary, and according to Indiana
24 Code 3-8-1-1.1, if a candidate filing error is made
25 by an election division or a circuit court clerk,

1 the error does not invalidate the filing.
2 Shouldn't the same be said for errors by poll
3 workers or county clerks? Isn't there potential
4 for them to make errors too?

5 I am attesting that I voted Republican in
6 2016. I was at the polls, and that U even attests
7 to that. Otherwise, nothing would be there. If
8 there is any doubt on where my allegiance is,
9 please review Items 4 through 9, which show my
10 involvement in the Republican Party.

11 Number 4 is my LaPorte County GOP membership
12 receipts plus donations for 2021 and 2022.

13 Item No. 5 is the LaPorte GOP meeting minutes
14 and newsletters that I receive via email.

15 Item No. 6 is the emails from the LaPorte
16 County chair when I asked to go to the candidate
17 school and it was full, but then he
18 automatically -- there was a cancellation. He
19 automatically put me in.

20 Item No. 7 is an email from the county chair
21 and a list showing that I am appointed by him
22 precinct committeeman over Springfield 3.

23 Item No. 8 is a sign-in sheet for my state rep
24 announcement party that him and his wife went to
25 and signed on the line. They came to my

1 announcement party.

2 And lastly, Item No. 9 is emails regarding the
3 GOP Christmas party that I helped out with.

4 Thank you very much. If you have any other
5 questions...

6 CHAIRMAN OKESON: Would you like 2 minutes of
7 cross-examination?

8 MR. STEVENS: No. I'm just going to say I've
9 got no doubt Heather is a good Republican, but she
10 does not meet the requirements of 3-8-2-7.

11 UNIDENTIFIED SPEAKER: She voted.

12 (Crowd noise)

13 CHAIRMAN OKESON: Listen, this is not an open
14 gallery. All right?

15 MR. STEVENS: I appreciate her and her
16 husband. Yeah, they've given money to the party.
17 They've been good. They're an appointed precinct
18 person. But they do not meet the requirements of
19 3-8-2-7. And this is -- your job isn't to conclude
20 whether I think she's a good Republican or I don't
21 think she's a Republican. Your job is to act on
22 the law.

23 CHAIRMAN OKESON: Well, so but you did just
24 submit for the record that you do think she's a
25 good Republican, did you not?

1 MR. STEVENS: I don't think she's a
2 qualified --

3 CHAIRMAN OKESON: That's not what I asked you.
4 You just said she's a good Republican. We can read
5 that back. That was your comment.

6 MR. STEVENS: That was.

7 MS. PYLE: I guess would she be considered a
8 Republican in good standing, is the question.

9 MR. KESVORMAS: I can answer that. According
10 to the new rules that were amended in 9/21 of last
11 year, she is not by not meeting the two
12 requirements of having two voted primaries.

13 CHAIRMAN OKESON: Well, hold on a second. So
14 first of all, I'm going to close the public hearing
15 matter on this case and we'll move into the
16 discussion, so go ahead.

17 VICE CHAIRMAN OVERHOLT: Actually, this is for
18 staff because this, to me, is different from these
19 other ones, which I regret because we're all
20 getting tired, but anyway, this is different
21 because I've never seen this unknown ballot type.
22 I mean, it's a primary.

23 CHAIRMAN OKESON: How does that happen?

24 VICE CHAIRMAN OVERHOLT: In Indiana, it's R or
25 D. There's no other ballot type. And so we've got

1 Ms. Oake sitting here saying that she requested a
2 Republican ballot. Unknown, I mean, she has to
3 have asked for Republican or Democratic ballot.
4 She is stating under oath that she asked for a
5 Democrat ballot. Unknown --

6 MR. STEVENS: Republican.

7 VICE CHAIRMAN OVERHOLT: Sorry, sorry. I'm so
8 used to talking about Democrats.

9 MS. OAKE: It's okay.

10 VICE CHAIRMAN OVERHOLT: Sorry, sorry, sorry.
11 Anyway, she requested a specific party ballot,
12 which happened to be Republican. I mean, no one
13 else here can dispute that. This unknown, I don't
14 see how -- the record is clear she voted in the
15 primaries. She has to request a ballot. Unknown
16 isn't a type of ballot. She's saying under oath as
17 a Republican. To me, that means she meets the
18 qualification.

19 I'd like to hear from the staff, I mean, where
20 does this unknown ballot type come from when there
21 is not such a thing in Indiana?

22 MR. KOCHEVAR: I'm happy to attempt to answer
23 that question first, Mr. Chairman.

24 CHAIRMAN OKESON: Go ahead.

25 MR. KOCHEVAR: So the unknown, at least what

1 we have in law currently is Indiana Code
2 3-10-1-31.3, which generally is a requirement that
3 after, in this case, every -- really after every
4 election, you have to update the voter's vote
5 history in their SVRS record if they voted in that
6 election, including in the primary which primary
7 ballot they requested and was marked on the poll
8 list.

9 Now, we, definitely Co-Director Nussmeyer and
10 others, can state we've known in the past that,
11 especially on a paper poll list, sometimes a
12 mistake is made that is not captured on the poll
13 list for whatever reason, and so, thus, under
14 subsection A, it provides that, one, it applies to
15 the primary within an election district where there
16 is more -- where more than one political party has
17 nominees, so Democrats, Republicans going at the
18 same time, for instance.

19 It provides, in part, a voter of a political
20 party is not recorded on the poll list, as required
21 under Section 24 -- that's 3-10-1-24 -- shall be
22 shown as the voter's registration record as having
23 cast an unknown ballot in that primary. So that's
24 what this particular law right here, the unknown is
25 because there wasn't anything indicating on the

1 poll list which ballot the candidate requested in
2 that particular election. But as it's been noted,
3 matters have been put on the record under oath
4 attesting to what primary ballot was requested in
5 that election.

6 CHAIRMAN OKESON: Well, certainly it's a gray
7 area. Co-Counsel?

8 MS. WARYCHA: Yeah. I would agree with what
9 Co-Counsel Kochevar said, and I would say that we
10 do have cases where, at times, poll workers,
11 especially when it was paper poll lists before
12 e-poll books, they just didn't write whether it was
13 Republican or Democrat and then --

14 CHAIRMAN OKESON: Something got missed.

15 MS. WARYCHA: Yes.

16 MS. CELESTINO-HORSEMAN: Mr. Chair?

17 CHAIRMAN OKESON: Sure.

18 MS. CELESTINO-HORSEMAN: We've been discussing
19 earlier evidence, and what you've come forward with
20 is evidence saying she's listed as an unknown, and
21 you're saying this makes her unqualified. But the
22 rule, the law says while it says she had to vote
23 Republican in the last two primaries, it doesn't
24 say how that is to be proven. And the unknown
25 neither establishes it one way or another.

1 And she has come in with evidence showing that
2 she requested that ballot. I mean, you have
3 nothing to show that she requested anything but a
4 Republican ballot with the poll person who should
5 have recorded it and everything. So, you know, I
6 think Suzannah is right. This is a very different
7 situation.

8 CHAIRMAN OKESON: It is not consistent with
9 the majority of cases we've dealt with today where
10 it's been pretty clear cut. I don't know how to
11 resolve it. I'd take a motion.

12 MS. CELESTINO-HORSEMAN: I would move that --
13 sorry.

14 CHAIRMAN OKESON: Go ahead. You can make a
15 motion.

16 MS. CELESTINO-HORSEMAN: I would move that the
17 challenge be dismissed.

18 CHAIRMAN OKESON: Challenge be denied. Is
19 there a second?

20 MS. PYLE: I would second that.

21 CHAIRMAN OKESON: Okay. There's a second.
22 Any further conversation?

23 MS. PYLE: Just to note I respect your due
24 diligence as county chairs in trying to abide by
25 the law, but I think it's pretty clear that the

1 burden is on you as the challenger to show that she
2 didn't poll two primary Republican votes, and I
3 don't think we have that.

4 CHAIRMAN OKESON: All those in favor signify
5 by saying "Aye."

6 VICE CHAIRMAN OVERHOLT: Aye.

7 MS. CELESTINO-HORSEMAN: Aye.

8 MS. PYLE: Aye.

9 CHAIRMAN OKESON: I say nay and only because,
10 and I'll say this for the record, the opposite's
11 actually true. Right? There's just no proof
12 either way. However, noting that, three to one
13 motion, I believe, carries.

14 MR. KING: Yes.

15 CHAIRMAN OKESON: So unfortunately or
16 fortunately, depending on your view, the challenge
17 is denied. The Election Division is directed to
18 include the name of Heather Oake on the certified
19 list of candidates to be printed on the ballot.

20 MR. STEVENS: In the past, the county's
21 election board threw this same thing out.

22 CHAIRMAN OKESON: So the hearing is closed.

23 Next matter, 2022-13 in the matter of the
24 challenge to Maurice Oakel Fuller, candidate for
25 Democratic Party nomination for Indiana State

1 Representative, District 25.

2 Is it pronounced --

3 MS. PICKELL: Pickell. Can I --

4 CHAIRMAN OKESON: Hold on a second.

5 MS. NUSSMEYER: He submitted a continuance.

6 CHAIRMAN OKESON: I didn't know about that.

7 MS. WARYCHA: About three hours before the
8 hearing started.

9 CHAIRMAN OKESON: Keeping consistent with
10 today's record on a previous case, we, in the final
11 hours, have been given a request to continue. I
12 move that that motion to continue be denied. Is
13 there a second?

14 MS. PYLE: Second.

15 CHAIRMAN OKESON: All those in favor signify
16 by saying "Aye."

17 VICE CHAIRMAN OVERHOLT: Aye.

18 MS. CELESTINO-HORSEMAN: Aye.

19 MS. PYLE: Aye.

20 CHAIRMAN OKESON: The "ayes" have it. Please
21 note for the record that Mr. Fuller is not here.

22 Would you like to make any opening remarks?

23 MS. PICKELL: Yes.

24 CHAIRMAN OKESON: Please spell your name.

25 MS. PICKELL: My name is Ericka, E-r-i-c-k-a,

1 middle name Boatwright, B-o-a-t-w-r-i-g-h-t, my
2 last name is Pickell, P-i-c-k-e-l-l.

3 I'm here today as the Democratic chair of
4 Boone County, and, honestly, this is just about his
5 address and where he's registered to vote. I
6 have -- he's registered to vote in Cass County at
7 1278 North County Road 900 West in Logansport,
8 Indiana. And I'm just challenging on the basis of
9 IC 3-8-1-14 that he has not resided in the new
10 House District 25.

11 MS. CELESTINO-HORSEMAN: So the question is
12 that he is supposed to have resided in the district
13 for a certain amount of time before you run, and
14 they drew a new house district so he's now in a
15 different district and he hasn't resided there for
16 that time period.

17 MS. PICKELL: Correct, correct.

18 CHAIRMAN OKESON: Does that summarize the
19 essence of your argument?

20 MS. PICKELL: Yes.

21 CHAIRMAN OKESON: Thank you. With that, I'm
22 going to call the public hearing on Cause
23 No. 2022-13 to a close. Any discussion or question
24 for Ms. Pickell?

25 Entertaining a motion.

1 VICE CHAIRMAN OVERHOLT: I move to uphold the
2 challenge.

3 CHAIRMAN OKESON: Is there a second? I'll
4 second it. We have a motion and a second.

5 Hearing no discussion, the motion to uphold,
6 all in favor signify by saying "Aye."

7 VICE CHAIRMAN OVERHOLT: Aye.

8 MS. CELESTINO-HORSEMAN: Aye.

9 MS. PYLE: Aye.

10 CHAIRMAN OKESON: The "ayes" have it. The
11 challenge is upheld. The Election Division is
12 directed not to include Maurice Fuller on the
13 certified list of primary candidates sent to the
14 county election boards and indicate that the name
15 of this candidate not be printed on the ballot.

16 MS. PICKELL: Thank you.

17 CHAIRMAN OKESON: Okay. I move that we go to
18 a five-minute recess, coming back at 5:50 p.m. in
19 this same location.

20 All those in favor signify by saying "Aye."

21 VICE CHAIRMAN OVERHOLT: Aye.

22 MS. CELESTINO-HORSEMAN: Aye.

23 MS. PYLE: Aye.

24 (Recess taken.)

25 CHAIRMAN OKESON: All right. We're back in

1 session. Cause No. 2022-12, Painter v. Ellington,
2 in the matter of challenge to Jeff Ellington,
3 candidate for Republican Party nomination for
4 Indiana State Representative. I recognize that
5 Paul Mullin again has entered an appearance for
6 Mr. Ellington. Ms. Painter has designated
7 Mr. Bruce Borders as her representative in the
8 matter.

9 I recognize Mr. Borders. You have 7 minutes.

10 MR. BORDERS: Thank you. I appreciate that.
11 At the front of the binders that you got, you'll
12 see a confidential investigator surveillance and
13 research report done by Tina Skirvin of Trace
14 Investigations, summary basically on page 1.

15 The investigations revealed that the Ellington
16 primary residence is most likely at 680 West That
17 Road in Bloomington. We completed approximately
18 20 hours of surveillance during a five-day period
19 of Ellington's two properties in Bloomington and
20 Bloomfield. While one personal vehicle has
21 occasionally been observed at 760 West Main Street
22 in Bloomfield, a second personal vehicle has
23 remained at the Bloomington address throughout the
24 duration of the investigation. Both vehicles
25 display a state representative license plate.

1 The warehouse at 760 West Main Street in
2 Bloomfield has been observed day and night, and
3 during day and nighttime hours, identical lighting
4 remained on both during the day and night. Neither
5 Jeff nor his wife, Hope, were ever observed inside
6 or outside the warehouse. Note social media
7 reveals that the couple have a dog, yet there was
8 no sign of walking or taking a dog out for any
9 purpose. The only activity witnessed was by two
10 men driving a Phoenix Demolition truck. These men
11 were seen on three occasions at the Bloomfield
12 warehouse. The men were not seen carrying
13 materials or tools during any of the instances.
14 When asked a general question about demolishing old
15 homes, one of the men quickly replied with, "Jeff
16 lives here now." See the surveillance summary.
17 We'll share that.

18 During one surveillance, Lindsey Ellington,
19 Jeff's daughter, and her fiancé, who currently
20 reside in Illinois, visited with the Ellington
21 family at the Bloomington residence. Both personal
22 vehicles that display a state representative
23 license plate were seen at the Bloomington
24 residence during this visit.

25 I'm going to jump on down to the comment about

1 the two men with the Phoenix Demolition truck.
2 It's down about the middle of page 2. It says
3 Investigator Skirvin talked with one of the men.
4 When asked the general question of does Phoenix
5 Demolition tear down and haul away old houses, the
6 man replied abruptly with, "Jeff lives here now."

7 Returned to 760 Main Street in Bloomfield at
8 approximately 8:30 p.m. on Friday, February 4th.

9 In addition to the two Ellington trucks, there was
10 a white Mercedes GLK350 SUV. Then down below, it
11 says this vehicle is registered to Jeffrey and Hope
12 Ellington. Note, however, that the Indiana
13 official registration record reflects that this
14 license plate is registered to a 1977 red Mercedes
15 Benz, not to the white Mercedes GLK350. On down,
16 it says surveillance concluded at 11:05 p.m. No
17 movement within or outside of the warehouse was
18 observed. Lights remained on at the time of
19 departure.

20 Then back to the Bloomington property at the
21 bottom of page 2. Arrived at approximately
22 2:40 p.m. to 680 West That Road in Bloomington,
23 Indiana. The white Mercedes GLK350 SUV with state
24 representative license plate 30 was present along
25 with, No. 2 on page 3 at the top of it, a black

1 Lexus LS430 four-door sedan with state
2 representative license plate 130 registered to
3 Jeffrey Roger Ellington. Note, however -- and we
4 do have certified copies from the BMV -- the
5 official registrant record for this license plate
6 is registered to a 1972 black Oldsmobile Cutlass
7 Supreme.

8 And basically the rest of that, through
9 page 4, has to do with the times they visited and
10 the fact that the entire time they were there at
11 the property in Bloomfield they never saw Jeff or
12 Hope Ellington, and they never saw -- other than
13 the two men who had the Phoenix Demolition truck,
14 which is registered to Jeffrey Ellington, they
15 never did see anyone other than them, and they
16 never saw them carrying in or out material.

17 On page 5, at the bottom of it, summary of
18 research, property records. Ellington owns
19 property located in Monroe County at 680 West That
20 Road in Bloomington. The property address reflects
21 the same as the property owner address, 680 West
22 That Road in Bloomington, and we also have attached
23 a parcel information and tax bill for that
24 property. All right.

25 And then just below that, on the bottom of

1 page 5, Ellington also owns property located in
2 Greene County at 760 Main Street, Bloomfield.
3 Verification was obtained from Kathy at the Greene
4 County Auditor's Office on February 10, 2022, that
5 there was not a homestead exemption or any
6 deductions listed for this property. The location
7 address is listed as 760 North Main Street;
8 however, the ownership address is listed as 680
9 West That Road in Bloomington. We also have a
10 property card for that.

11 Secretary of State filings on page 6 at the
12 top. Of the various businesses Ellington currently
13 owns or has owned in the past, only one is
14 registered with the Indiana Secretary of State,
15 Walnut Street Courtyard, LLC. Mrs. Ellington is
16 the registered agent with an address of 680 That
17 Road, Bloomington, Indiana 47403.

18 And then J.R. Ellington Tree Experts, if you
19 go to their website -- and we've got a reference to
20 it -- the website for J.R. Ellington Tree Experts
21 does not list Bloomfield as an area that's served.

22 All right. And then if you go -- the next
23 section which we have tabbed out is an interview
24 with Steve Corbin, the owner of Feed Store Beer
25 Company, which is next door. I enter that as

1 evidence as well. And down towards the bottom of
2 the page, the third-to-the-last paragraph, it says
3 Steve openly revealed that he does not feel as if
4 the Ellingtons live in the warehouse full-time.
5 Steve and Jeff talk with each other fairly
6 regularly. Steve was surprised when Jeff told him
7 they were going to live in the warehouse. The
8 warehouse is rigged with thousands of single-pane
9 windows. He admitted that it does not have ideal
10 living conditions.

11 And if you go to the next page, it's the State
12 of Indiana certification of BMV record,
13 registration plate 30, plate type SR -- that means
14 state representative, I understand, because I have
15 one of those as well -- VIN number. And then this
16 is a certified copy from the State of Indiana, and
17 if you go to the vehicle that plate is registered
18 to, go on to the next page, page 2 of that, it is
19 registered to a 1977 Mercedes Benz 450SL, and it is
20 red in color, not the 2015 Mercedes Benz that
21 they're claiming.

22 Then if you go to the next page that says "For
23 Licensed Investigator Purposes Only," it shows that
24 the 2015 Mercedes Benz is not registered to the
25 Ellingtons, and I have a letter following that from

1 Tina Skirvin of Trace Investigations. And it says
2 the white Mercedes Benz that holds the state
3 representative license plate of 30 is not
4 registered with the Indiana BMV. I find no
5 registration for a white Mercedes Benz under Jeff
6 or Hope Ellington. In addition, I find no
7 registration for a black Lexus LS40.

8 And then if you go to the next page, State of
9 Indiana certification of BMV record, registration
10 plate No. 30, plate type SR, which means state
11 representative, it has a VIN number. Go to the
12 next page after that, and it shows that that state
13 representative's plate -- sorry. I'm going to grab
14 a drink. I'm talking fast.

15 CHAIRMAN OKESON: You're just making use of
16 your time.

17 MR. BORDERS: Thank you. And it belongs to a
18 1972 Oldsmobile Cutlass Supreme, black. And I will
19 read Indiana Code --

20 (Timer)

21 MR. BORDERS: I'm not done. Sorry.

22 CHAIRMAN OKESON: Well, that's the extent of
23 your time.

24 By consent, would you like to offer any
25 further?

1 MS. CELESTINO-HORSEMAN: Consent.

2 VICE CHAIRMAN OVERHOLT: That's fine.

3 CHAIRMAN OKESON: We'll give you 2 more
4 minutes.

5 MR. BORDERS: Thank you. Indiana Code Title
6 9, subsection 9-18.1-4-5 says "A vehicle required
7 to be registered under this article may not be used
8 or operated on a highway if the vehicle displays
9 any of the following: A license plate belonging to
10 any other vehicle."

11 And the reason I'm sharing this, I've had
12 people say what's that got to do with residency. I
13 think it has to do with integrity. All right? My
14 vehicles are titled to my wife and I, and they are
15 on the proper vehicles. And I think this shows
16 basically a behavioral thing.

17 And then if you go to the cards that we have,
18 the property cards, what's interesting to me as
19 well, if you go on to the payment history on his
20 taxes, the taxes on this, quote/unquote, home that
21 he's so proud of -- and I apologize, I'm being a
22 little snarky with that, and I'm sorry for that --
23 but the taxes were not paid until January 10th of
24 2022 on the building in Bloomfield. And my point
25 is, if that's your home and that's the place that

1 you're claiming that you're so proud of, why would
2 you wait until basically -- the taxes are due, I
3 believe, what, by November 10th? And so we're
4 looking at December, January, waiting two more
5 months to pay your taxes. And on the vehicles, I
6 have no idea, you know, what -- the investigator
7 said she has never seen anything like that.

8 Then following I have the domestic limited
9 liability company, Walnut Street Courtyard, LLC.
10 680 That Road in Bloomington is the principal
11 office address. We have conversations. Here's one
12 from Angie Jacobs. She said, I had a conversation
13 with Hope Ellington on Monday, January 21, 2022.
14 And in part of this, she says during the
15 conversation she brought up redistricting, meaning
16 Hope, and told me that her husband, Jeff,
17 Mr. Ellington, had asked them, I think she said,
18 the Speaker and/or Representative Steuerwald to
19 keep their home in the district with Greene
20 County -- I think that's what she said -- and if
21 they didn't do so, they would move. Since that
22 wasn't done with redistricting and they didn't
23 think the new district was winnable for him, she
24 said they had to move with the redistricting.

25 (Timer)

1 MR. BORDERS: Sorry. Thank you.

2 CHAIRMAN OKESON: Two minutes of
3 cross-examination to the remarks Mr. Borders made.

4 MR. MULLIN: Sir, do you know how many
5 vehicles Representative Ellington owns?

6 MR. BORDERS: I do not.

7 MR. MULLIN: Sir, do you know how many
8 properties Representative Ellington owns?

9 MR. BORDERS: I do not.

10 MR. MULLIN: Do you know how many of
11 Representative Ellington's vehicles are for his
12 businesses as opposed to personal use?

13 MR. BORDERS: I do not.

14 MR. MULLIN: Sir, do you know how many of his
15 vehicles are salvaged vehicles not requiring a
16 title?

17 MR. BORDERS: I do not, and I don't see what
18 that means -- what that has to do with anything. I
19 have actually the vehicle I drove up in is --

20 CHAIRMAN OKESON: It's his period.

21 MR. BORDERS: I'm sorry.

22 MR. MULLIN: And then, sir, am I correct
23 you're also on the ballot in the newly drawn House
24 District 45?

25 MR. BORDERS: Actually, yes, but I didn't have

1 to move to be in District 45.

2 MR. MULLIN: That's all. Thank you.

3 CHAIRMAN OKESON: Okay. Would you like --

4 MR. MULLIN: Thank you. My name is Paul
5 Mullin. I'm joined today from my office with Emily
6 Stuart-Fehr. I represent Jeff Ellington. Jeff is
7 a candidate for newly drawn House District 45. He
8 is currently the incumbent and the representative
9 in District, what is going away, 62.

10 The allegations against Representative Jeff
11 Ellington are false, and they are politically
12 motivated by a faction that wants to remove the
13 decision by the voters to be able to select their
14 representative. We ask that the challenge against
15 him fail and that he remain on the ballot and allow
16 the voters to make a decision.

17 I wrote here in my notes because I was
18 anticipating you were going to hear allegations
19 that he doesn't satisfy the residency requirement,
20 but you didn't hear that. Indiana Code 3-8-1-14
21 provides the residency requirement for a candidate
22 for office of Representative in the General
23 Assembly. It's very straightforward. One is you
24 have to be a U.S. citizen. He is. Two, you have
25 to have resided in the state for at least two years

1 and in the house district for at least one year
2 before Election Day. And he will have satisfied
3 this -- and we'll demonstrate this momentarily. He
4 will have satisfied this by Election Day
5 November 2022. And the last requirement is be at
6 least 21 years of age by taking office. He is.

7 Indiana Code on the residency requirement,
8 which is what this hearing is about, it does not
9 list anything about auto registration or where
10 businesses are placed.

11 So as I mentioned, he's currently the
12 representative for District 62 and is now a
13 candidate for the newly drawn House District 45.
14 House District 45 includes Bloomfield.
15 Representative Ellington has resided at 760 West
16 Main Street, Bloomfield, Indiana, for a time period
17 that well exceeds the one-year requirement, the
18 one-year residency requirement, and we'll
19 demonstrate this momentarily through testimony and
20 exhibits and ask that the committee find that the
21 complainant has failed to meet their burden and the
22 case be dismissed.

23 Election Day is November 8, 2022. So to
24 satisfy his residency requirement, Representative
25 Ellington will have needed to live in the new House

1 District 45, which Bloomfield is in, since
2 November 8, 2021, or before. That's the
3 dispositive question, not where his autos are
4 registered.

5 With the balance of our time, we will
6 demonstrate that Representative Ellington does
7 satisfy IC 3-8-1-14 with exhibits and testimony.
8 And with the committee's permission, I'd like to
9 call Representative Ellington as a witness and ask
10 some questions.

11 CHAIRMAN OKESON: If it's part of your
12 7 minutes, you can do whatever you want.

13 MR. MULLIN: All right. Sir, what year were
14 you elected?

15 CHAIRMAN OKESON: Excuse me. Before you go,
16 were you here early enough to be administered the
17 oath?

18 MR. ELLINGTON: Yes, I was.

19 CHAIRMAN OKESON: Okay. State your name.

20 MR. ELLINGTON: Jeff Ellington, J-e-f-f,
21 E-l-l-i-n-g-t-o-n.

22 MR. MULLIN: Representative Ellington, what
23 year were you elected?

24 MR. ELLINGTON: I was caucused in 2015 and
25 elected through the election process in '16 and

1 there since.

2 MR. MULLIN: And do you now reside in the new
3 House District 45?

4 MR. ELLINGTON: I do.

5 MR. MULLIN: And have you -- as of Election
6 Day 2022, will you have resided there for over one
7 year?

8 MR. ELLINGTON: I have.

9 MR. MULLIN: And is Bloomfield, Indiana, in
10 House District 45?

11 MR. ELLINGTON: It is.

12 MR. MULLIN: And presently where do you
13 reside?

14 MR. ELLINGTON: In a big four-story commercial
15 building that I purchased in 2018. We've been
16 redoing it ever since. And that's 760 West Main
17 Street.

18 MR. MULLIN: Bloomfield, Indiana?

19 MR. ELLINGTON: Bloomfield, Indiana.

20 MR. MULLIN: And who do you live there with?

21 MR. ELLINGTON: My wife, Hope.

22 MR. MULLIN: And how long have you owned this
23 property?

24 MR. ELLINGTON: Owned it since 2018, I think
25 around September 2018.

1 MR. MULLIN: And did the two of you make this
2 your primary residence in early October 2021?

3 MR. ELLINGTON: Yes. We started spending the
4 night there October 1st, that weekend of the Apple
5 Festival.

6 MR. MULLIN: All right. And since October 1,
7 2021, through the present, how often, characterized
8 in your own words, have you stayed at the
9 Bloomfield property?

10 MR. ELLINGTON: I have three businesses in
11 Bloomington, so when I'm not working on the inside
12 of the home, I drive there to do estimates, get the
13 crews going, to repair stuff. Also in Bloomington
14 I have a 24-hour horse stable there that has
15 somebody that lives on site and takes care of the
16 horses, but I also have to go there and help
17 sometimes.

18 And then for the middle of October, we drove
19 back quite often to Bloomington because my wife's
20 father was getting ready to pass away, and he was
21 living there at 680 West That Road. And he passed
22 away October 26th.

23 MR. MULLIN: Since early October 2021 to the
24 present, would you characterize the amount of time
25 that you've slept at the Bloomfield property as

1 almost nightly?

2 MR. ELLINGTON: Almost nightly, yes.

3 MR. MULLIN: Is 760 West Main Street,
4 Bloomfield, Indiana, your true, fixed, permanent
5 home and principal establishment?

6 MR. ELLINGTON: It is.

7 MR. MULLIN: And has that been true since at
8 least early October 2021?

9 MR. ELLINGTON: It has.

10 MR. MULLIN: And when you are absent from --
11 like you are now, when you are absent from 760 West
12 Main Street, Bloomfield, Indiana, is it your
13 intention to return there?

14 MR. ELLINGTON: It is and have.

15 MR. MULLIN: All right. And I would like to
16 go through exhibits. We've provided exhibits to
17 the committee. They're in front of you. I have
18 made a table of contents. However, some exhibits
19 we collected today, and I've added those as well.
20 And we'll roll through these as quickly as
21 possible.

22 Exhibit A I'd like to take your attention to.

23 If I may, I would like to go ahead and move
24 for an additional 2 minutes.

25 CHAIRMAN OKESON: Grant 2 minutes by consent?

1 MS. PYLE: Consent.

2 VICE CHAIRMAN OVERHOLT: Consent.

3 MR. MULLIN: Thank you.

4 Referring to Exhibit A, at the top is a "Filed
5 October 18, 2021"?

6 MR. ELLINGTON: Yes.

7 MR. MULLIN: And is this a notice of change of
8 use of property receiving a homestead exemption?

9 MR. ELLINGTON: Yes.

10 MR. MULLIN: And at the bottom, does it list
11 your previous address as the Bloomington address?

12 MR. ELLINGTON: It does.

13 MR. MULLIN: And does it also say at the
14 bottom "No longer primary residency"?

15 MR. ELLINGTON: Yes.

16 MR. MULLIN: And at the bottom, that your
17 signature with the date October 18, 2021?

18 MR. ELLINGTON: Yes.

19 MR. MULLIN: Okay. Referring to Exhibit B, is
20 this your voter registration?

21 MR. ELLINGTON: It is.

22 MR. MULLIN: And does this demonstrate that
23 your address is 760 West Main Street, Bloomfield,
24 Indiana?

25 MR. ELLINGTON: Yes.

1 MR. MULLIN: And is this your signature dated
2 October 20, 2021?

3 MR. ELLINGTON: Yes.

4 MR. MULLIN: Looking at Exhibit C, is this a
5 printout from the Secretary of State's website?

6 MR. ELLINGTON: Yes.

7 MR. MULLIN: And does it demonstrate that your
8 address for voting purposes is 760 West Main
9 Street?

10 MR. ELLINGTON: Yes.

11 MR. MULLIN: And it says starting October 20,
12 '21; is that correct?

13 MR. ELLINGTON: Yes.

14 MR. MULLIN: In Bloomfield, Indiana?

15 MR. ELLINGTON: Yes.

16 MR. MULLIN: Exhibit D, is this a copy of your
17 driver's license?

18 MR. ELLINGTON: It is.

19 MR. MULLIN: And at the bottom, does it say
20 "Iss.," presumably issued, October 21, 2021?

21 MR. ELLINGTON: It does.

22 MR. MULLIN: And does it list your home
23 address as 760 West Main Street, Bloomfield,
24 Indiana?

25 MR. ELLINGTON: It does.

1 MR. MULLIN: 47424?

2 MR. ELLINGTON: Yes.

3 MR. MULLIN: All right. This one's
4 interesting. Sir, this is a -- is this a fire call
5 sheet from Greene County?

6 MR. ELLINGTON: It is.

7 MR. MULLIN: And was this created by the
8 Greene County first responder Sheriff's Department?

9 MR. ELLINGTON: Came right through central
10 dispatch to the sheriff's department.

11 MR. MULLIN: And they came to your house on
12 November 1, 2021; correct?

13 MR. ELLINGTON: They did, yes.

14 MR. MULLIN: And then at the bottom, it says
15 "Comments," and am I correct this was entered in by
16 the fire department?

17 MR. ELLINGTON: Yes.

18 MR. MULLIN: Does it say, when the fire
19 department entered, Jeff Ellington advised he and
20 his wife now live here and they do have a wood
21 stove?

22 MR. ELLINGTON: Yes. It was on a smoke alarm
23 fire call. They thought the building was on fire.

24 MR. MULLIN: And that's Exhibit E.

25 MR. ELLINGTON: And they met me at the front

1 door.

2 MR. MULLIN: And then I'd like to refer you to
3 Exhibit F, which is a letter from Julia Bartlow.
4 Who is that?

5 MR. ELLINGTON: That's the Greene County party
6 chair.

7 MR. MULLIN: The letter speaks for itself, but
8 does it include a sentence in here that says "We
9 welcomed them," them being you and your wife, "as
10 full-time residents, from a neighbor perspective,
11 at the beginning of October 2021, and Jeff
12 registered to vote as a Greene County resident
13 October 20, 2021"?

14 MR. ELLINGTON: Yes.

15 MR. MULLIN: And I would, I guess, add the
16 remainder, the balance of our exhibits, they're
17 utilities. I'll represent to you that it
18 demonstrates that he pays Duke Utility natural gas
19 at the Bloomfield residence, water and sewage at
20 the Bloomfield residence, Comcast at the Bloomfield
21 residence, repairs to the Bloomfield residence.
22 His wife, there's a Postal Service change of
23 address for the Bloomfield residence, and this is
24 all well before November 1, 2021, voter
25 registration as well as bank records that he

1 resides there.

2 And that, the evidence coupled with his
3 testimony, we believe, demonstrates --

4 (Timer)

5 MR. MULLIN: -- that his residency is in
6 Bloomfield in the new house district and he meets
7 residency requirements as provided in Indiana Code,
8 and we ask that you find in our favor. Thank you.

9 CHAIRMAN OKESON: Okay. You have 2 minutes to
10 cross-examine only relative to what's been provided
11 here.

12 MR. BORDERS: Yes. One of the statements that
13 was mentioned earlier, and I could stand slightly
14 corrected, but I believe the attorney for
15 Mr. Ellington commented that District 62 no longer
16 existed or something along those lines. District
17 62 absolutely exists. And did you say that, sir?

18 MR. MULLIN: The lines changed. The new maps
19 were drawn.

20 MR. BORDERS: Okay. All right. But it still
21 includes the home on That Road. Okay.

22 The other thing is, just because somebody -- I
23 guess what I'm hearing is a preponderance of
24 statements that just because somebody says, okay,
25 I've changed my voter registration address, I've

1 changed this document, I've changed that document,
2 and yet when you see, for example, the vehicles, I
3 mean, you can see by -- I'm sorry.

4 No. I'm done with cross-examination. My
5 apologies.

6 CHAIRMAN OKESON: Do you have any rebuttal?

7 MR. MULLIN: My only rebuttal is that we
8 entered evidence that supports what the legal
9 requirements are. He's met the legal requirements,
10 both code and case law, and we ask that he remain
11 on the ballot. And then one last comment.

12 MR. ELLINGTON: I'd just like to say that I'm
13 a little unique. A lot of people drive hours to go
14 work at a nice job. I've got three businesses at
15 my business. I've got employees that work for me.
16 They drive vehicles. I've got five and six cars.
17 I've got eight cars at my building in Bloomfield.
18 I've got five or six big trucks that I use back and
19 forth. My son, my daughter, my future son-in-law,
20 and my workers, they grab my cars and move them and
21 take them. And I do have some salvage vehicles
22 that's still waiting on paperwork from the BMV to
23 get the original title back. Thank You.

24 CHAIRMAN OKESON: Yeah.

25 MR. ELLINGTON: Thank You.

1 CHAIRMAN OKESON: Two minutes for rebuttal?

2 MR. BORDERS: Yeah. I mean, the bottom line
3 is this: Quite frankly, I find it amazing that --
4 I do a lot of property rehabs myself. In fact,
5 I've probably rehabbed about 120 properties. And
6 the bottom line is -- and Greene County is my home.
7 That's my life and my home. I go through
8 Bloomfield all the time, and we're constantly going
9 over to Lowe's in Bloomington or Menard's in
10 Bloomington to buy building materials, or ABC
11 Supplies. And the bottom line is, I see no signs
12 of life there. Occasionally we'll see a truck that
13 basically has his campaign logo on it. There's
14 typically an Ellington tree trimming truck that's
15 placed out there. But nearly never is there a
16 personal vehicle out there.

17 And I know one day when the Republicans were
18 gathering and we were talking at the Statehouse
19 about the new districts, he was very upset. And
20 what drew my attention to it was whenever he had
21 made the statement, he or his wife or both of them,
22 on a Facebook post or one of the posts they were on
23 social media that --

24 MR. MULLIN: I guess I'll object to the
25 introduction. Go ahead.

1 MR. BORDERS: I'm sorry?

2 CHAIRMAN OKESON: Continue.

3 MR. BORDERS: All right. That the bottom line
4 was they weren't running from District 62 because
5 they -- something about that Monroe County/Brown
6 County firewall will never be breached by a
7 Democrat. I think that's almost exactly the
8 statement on it. And so when I saw that, I
9 thought, wait a minute, this isn't the same state
10 representative that I heard throwing a fit at the
11 Statehouse about his new district and so forth.

12 And I think the bottom line is that, at that
13 point, they were looking to -- just scrambling to
14 find an address that was in the new District 45
15 that he considered friendly territory. But the
16 bottom line is that the evidence, I think, strongly
17 supports, and if you look at the photos as well --

18 (Timer)

19 MR. BORDERS: -- that he does not live there.

20 CHAIRMAN OKESON: With that, I'm going to
21 close the public hearing on Cause No. 2022-12.
22 Questions, comments?

23 Co-Counsel, what's the law say about your
24 residency? He's got a driver's license, voter
25 record. Are those indeed things that establish

1 residency in Indiana?

2 MS. WARYCHA: I don't see anything about
3 driver's license, but there is a presumption
4 regarding residency in 3-5-5-6. 3-5-5 generally
5 covers residency, but 3-5-5-6, I'll just read it
6 here: "A person can rebut these presumptions by
7 demonstrating intent to reside in another precinct
8 or conduct taken to implement that intent; B, an
9 individual who makes a statement regarding the
10 residence of an individual under the penalties of
11 perjury is presumed to reside at the location
12 specified by the individual as of the date of
13 making the statement."

14 So I point that out as a relevant statute for
15 you to look at. I don't see anything as far as
16 with driver's license. There is statute that says
17 that residence can't be in more than one precinct
18 or in and out of state. That's 3-5-5-3.

19 CHAIRMAN OKESON: Could getting a driver's
20 license and your voter registration be construed as
21 intent?

22 MS. WARYCHA: I would say that it could, yes.

23 CHAIRMAN OKESON: Anything to add, Brad?

24 MR. KING: No, Mr. Chair, members of the
25 Commission. I concur with my counsel's analysis of

1 3-5-5.

2 CHAIRMAN OKESON: Co-Counsel Kochevar,
3 anything you want to add?

4 MR. KOCHEVAR: I believe my counterpart,
5 Co-Counsel Valerie, has stated it very well. 3-5-5
6 is where we all look to for the different
7 presumptions of residency. And also to your
8 question, I also agree that getting a driver's
9 license, changing property records, what have you,
10 all can go towards intent. But I agree with the
11 statements that have been made by staff of the
12 Election Division here.

13 CHAIRMAN OKESON: I've got to say you've found
14 some things that make this very weird.

15 MR. BORDERS: I know. Bad habit.

16 CHAIRMAN OKESON: Let me retract that. Weird
17 is not the way I want to say that. This is
18 unusual. But, you know, I mean, I'm inclined to
19 see the evidence as that he created intent to call
20 that his residence and has utility bills and
21 driver's license and voter registration that all
22 say he lives there.

23 With that, I guess I will offer a motion --

24 MS. CELESTINO-HORSEMAN: Can I ask a question
25 of counsel and the directors?

1 CHAIRMAN OKESON: Sure. Go ahead.

2 MS. CELESTINO-HORSEMAN: There was just
3 something I was reading here on that presumption
4 that Valerie was talking about. It says Sections 7
5 through 17 of this chapter establish presumptions
6 regarding the residency of a person in a precinct.
7 He has not been challenged for living in a
8 precinct, so do these presumptions apply?

9 CHAIRMAN OKESON: Are you asking me? I have
10 no idea.

11 MS. WARYCHA: I would take that and I would
12 say yes, 3-5-5 is the standards that we use for
13 determining residency --

14 MR. KOCHEVAR: Yes.

15 MS. WARYCHA: -- for an election district.

16 MR. KOCHEVAR: I'm sorry to butt in there.

17 MS. WARYCHA: No. You're fine.

18 MR. KOCHEVAR: I do agree with Valerie on
19 this. Also, I would just refer you over to
20 3-5-5-1, which is the purpose, stating the purpose
21 of the chapter, which, in part, says "The chapter
22 shall be used to determine the residency of the
23 following: 2, a candidate."

24 So the different presumptions that are
25 mentioned in here are just different ways that one

1 can either show they reside in a certain location
2 for candidacy purposes or to rebut any statement of
3 residency that has been made.

4 MS. CELESTINO-HORSEMAN: Typically I would
5 agree with you, except for they didn't have to
6 include the language "residency of a person in a
7 precinct." They could have just said challenging
8 residency. And then when they talk about person
9 holding elected office, that could be a precinct
10 committee person too, which challenging a precinct
11 would work. But that's -- I mean, I'm just -- I
12 don't want to beat on it.

13 CHAIRMAN OKESON: Well, you know, the license
14 plate thing, while somewhat disturbing -- I guess I
15 would make a motion to deny the challenge. Is
16 there a second?

17 MS. PYLE: I will second that motion.

18 CHAIRMAN OKESON: Any discussion?

19 Hearing none, all those in favor of denying
20 the challenge signify by saying "Aye."

21 VICE CHAIRMAN OVERHOLT: Aye.

22 MS. CELESTINO-HORSEMAN: Aye.

23 MS. PYLE: Aye.

24 CHAIRMAN OKESON: The "ayes" have it. The
25 challenge is denied. The Election Division is

1 directed to include the name of Jeff Ellington on
2 the certified list of candidates to be printed on
3 the ballot.

4 MR. BORDERS: Thank you for your time.

5 MR. MULLIN: And, again, I'd like to thank
6 everybody at the table for your service.

7 CHAIRMAN OKESON: Next, Cause No. 2022-22,
8 Holtz v. Rainey in the matter of the challenge to
9 Amy Rainey, candidate for Republican Party
10 nomination for Indiana State Representative,
11 District 49. Please refer to your binders for
12 information.

13 I recognize the challenger.

14 MR. HOLTZ: My name is Dan Holtz, last name
15 H-o-l-t-z, Elkhart County Republican chairman. I
16 was hoping to greet you all with good afternoon,
17 but I think I have to say good evening.

18 I didn't hire any special -- any private eyes,
19 so it will at least be short.

20 CHAIRMAN OKESON: I'll state for the record
21 that just because you're afforded 7 minutes doesn't
22 mean you have to use them all.

23 MR. HOLTZ: Right. Well, I'm familiar with
24 the statute. I know that it's new. I understand
25 that it allows two methods for someone to qualify.

1 I would simply add that, in conversations with
2 Republican officeholders in Elkhart County,
3 precinct committeemen in Elkhart County, people
4 that have attended our events for a long time, I
5 have asked them what their feelings are about this
6 rule, and the preponderance is that the requirement
7 under subsection A presents to the citizens in this
8 state a three-inch hurdle race and they have to
9 jump over the hurdle twice.

10 By that I don't mean to be flippant. I just
11 mean that we -- the opinion that I received is that
12 it is an easy requirement to meet. And therefore,
13 I have in this instance not provided a certificate
14 to exempt Requirement A, and the filer did not meet
15 the requirement under A.

16 CHAIRMAN OKESON: Would you like to
17 cross-examine?

18 MS. RAINEY: Yes.

19 CHAIRMAN OKESON: You're limited to questions
20 only related to the comments he's just made.

21 MS. RAINEY: Yes. My name is Amy Rainey,
22 R-a-i-n-e-y.

23 And the question I have, on your CAN-1 form in
24 Item No. 6, can you read for us what you included
25 as part of your challenge?

1 MR. HOLTZ: No. I don't know.

2 CHAIRMAN OKESON: Did you reference the CAN
3 challenge in your opening remarks?

4 MR. HOLTZ: No.

5 MS. RAINEY: Okay. I'll make that a part of
6 my statement.

7 CHAIRMAN OKESON: Would you like to move to
8 that next?

9 MS. RAINEY: Yes, I would. I would like to
10 thank the Election Commission for the opportunity
11 to respond to this challenge. On the CAN-1 form
12 submitted by Dan Holtz on February 11th, Mr. Holtz
13 stated "Ms. Rainey has not voted in 2 Republican
14 primaries."

15 When I completed the CAN-2 form to declare my
16 candidacy, I did not claim affiliation with the
17 Republican Party based upon my primary voting
18 history. I claimed affiliation with the Republican
19 Party based upon my 2022 membership in the Elkhart
20 County Republican Party. That certification is
21 attached to my CAN-2 as required.

22 The challenge is invalid and should be denied
23 for the following reason: The only fact leading
24 Mr. Holtz to believe that I am an ineligible
25 candidate is that I had not voted in two Republican

1 primaries. First of all, that's factually
2 incorrect. Second of all, the evidence submitted
3 shows that Mr. Holtz was aware that I had voted in
4 two primaries. And, thirdly, on my CAN-2 form,
5 that is not the box I checked to confirm my
6 affiliation with the Republican Party.

7 CHAIRMAN OKESON: Do you have proof that you
8 voted in two Republican primaries?

9 MS. RAINEY: I voted in a Republican primary
10 in South Carolina and in Indiana.

11 MS. CELESTINO-HORSEMAN: But you don't have
12 any proof of the South Carolina?

13 MS. RAINEY: I do, yes.

14 CHAIRMAN OKESON: It doesn't matter.

15 VICE CHAIRMAN OVERHOLT: Yeah. The statute is
16 Indiana.

17 CHAIRMAN OKESON: So you acknowledge that you
18 have not voted in two Indiana Republican primaries?

19 MS. RAINEY: In two Indiana primaries, yes,
20 which is why when I --

21 CHAIRMAN OKESON: Nor do you have the
22 exemption or a certification from the county chair?

23 MS. RAINEY: Well, I'm literally a card
24 carrying member of the Elkhart County GOP.

25 CHAIRMAN OKESON: But you don't have something

1 from the county chair?

2 MS. RAINEY: Is there a certain form that's
3 required for the certification?

4 CHAIRMAN OKESON: I don't know how you get
5 that, but the county chair has not granted you
6 anything that says you're in good standing as a
7 Republican to run in a Republican primary; correct?

8 MS. RAINEY: I'm a card carrying member of the
9 Elkhart County Republican Party, and I'm also
10 listed on their website as a sponsor. On the
11 official Elkhart County GOP website, I am listed as
12 a sponsor along with two Indiana Senators as well
13 as an elected county councilman.

14 MS. CELESTINO-HORSEMAN: But you don't have a
15 written certification from the county party chair
16 that certifies you can run as a Republican; right?

17 MS. RAINEY: I have the evidence that I
18 presented.

19 MS. CELESTINO-HORSEMAN: Not that. Just you
20 don't have a written -- you didn't file a written
21 certification; right?

22 VICE CHAIRMAN OVERHOLT: Well, she filed this
23 thing saying that she's --

24 MS. RAINEY: I filed the evidence that I had
25 available.

1 MS. CELESTINO-HORSEMAN: Okay. But it's not
2 certification. I mean, I don't doubt you're
3 Republican. The statute --

4 CHAIRMAN OKESON: What specifically does the
5 statute say? It's either two Republican primaries
6 or?

7 MS. CELESTINO-HORSEMAN: Last two primaries
8 they voted in; right?

9 MS. WARYCHA: Okay.

10 CHAIRMAN OKESON: I'm not doubting your sense
11 of being a Republican. That's not really what's at
12 stake.

13 MS. WARYCHA: 3-8-2-7, "A statement of the
14 candidate's party affiliation. For purposes of
15 this subdivision, a candidate is considered to be
16 affiliated with a political party only if any of
17 the following applies: The two most recent primary
18 elections in Indiana in which the candidate voted
19 were primary elections held by the party with which
20 the candidate claims affiliation. If the candidate
21 casts a nonpartisan ballot at an election held at
22 the most recent primary election in which the
23 candidate voted, a certification by the county
24 chairman under Clause B is required.

25 "B) The county chairman of the political party

1 with which the candidate claims affiliation and the
2 county in which the candidate resides certifies
3 that the candidate is a member of the political
4 party."

5 MS. RAINEY: I think the question here is what
6 counts as certified. I am literally a card
7 carrying member of the Elkhart County Republican
8 Party. The Elkhart County chair is --

9 CHAIRMAN OKESON: Excuse me just a second,
10 though. Read that again, certification from the
11 county chair.

12 MS. WARYCHA: Yes.

13 MS. PYLE: Is your card signed?

14 MS. RAINEY: It came with a card that
15 contained the signatures, yes.

16 CHAIRMAN OKESON: His signature, the county
17 chair's signature?

18 MS. RAINEY: As far as I'm aware.

19 MS. WARYCHA: It says a certification by the
20 county chairman under Clause B, and then I'll just
21 repeat it again, "The county chairman of the
22 political party with which the candidate claims
23 affiliation in the county in which the candidate
24 resides certifies that the candidate is a member of
25 the political party."

1 CHAIRMAN OKESON: You did send her a note
2 saying thank you for your dues.

3 MR. HOLTZ: No, I didn't.

4 CHAIRMAN OKESON: No, you did not.

5 MR. HOLTZ: Our secretary signs thank-you
6 cards to people.

7 And I think earlier in this hearing we have
8 all heard people say they wish the legislature was
9 clearer or they don't like what they wrote. I
10 don't necessarily like what they wrote, but that's
11 what they wrote, and she does not comply.

12 CHAIRMAN OKESON: Go ahead. I'm sorry. I
13 interrupted you.

14 MS. RAINEY: Yeah. So I -- without the law
15 being clear as far as what I need to provide, I am
16 just a citizen trying to run for office for the
17 first time. I have read the rules that apply to
18 me. I have tried to comply with the process to the
19 best of my ability. And the forms that I submitted
20 are true and accurate, as far as I am aware. I was
21 not aware that his secretary was signing things on
22 his behalf.

23 MS. CELESTINO-HORSEMAN: Did you want to enter
24 anything into evidence?

25 MS. RAINEY: So I do have some evidence for

1 conversations that we have had about my status and
2 affiliation as a Republican. During those
3 conversations -- and I do actually have one of
4 those conversations taped -- he confirmed that he
5 would allow me to run for other seats, just not
6 this particular seat. In the first conversation I
7 had, he said, "You're not my pork chop yet. I'll
8 need you to prove that to me." In other words, if
9 I was going to vote how he wanted to, he would
10 allow me to be on the ballot.

11 CHAIRMAN OKESON: What's the legality of a
12 recorded statement like that?

13 MS. PYLE: Just one person knows.

14 MS. RAINEY: I have transcripts of that here
15 as well.

16 MS. WARYCHA: Are you ready to enter them in?
17 Are these all the same?

18 MS. RAINEY: They are. The transcript of a
19 call is the last item entered. I had tried via
20 email and via text to say what additional
21 information would --

22 CHAIRMAN OKESON: Do you dispute the veracity
23 of this conversation?

24 MR. HOLTZ: I don't know yet. Unlike a court
25 of law where you have to tell people you have

1 evidence --

2 (Crowd noise)

3 MS. CELESTINO-HORSEMAN: Mr. Chair, could you
4 please instruct everyone to be quiet. It's really
5 hard to follow this and look at this.

6 CHAIRMAN OKESON: I'm about ready to have you
7 out.

8 MR. HOLTZ: Is that under Item F?

9 MS. RAINEY: Item F, I believe, yeah, the last
10 one.

11 CHAIRMAN OKESON: Yes.

12 MS. RAINEY: And if you look at page 3, you
13 will see that there's a confirmation that, if I
14 would run for Elkhart County clerk, Elkhart County
15 recorder, something of that nature, that deference
16 would be given.

17 MS. PYLE: I'll also note, I guess, on page 2,
18 that he said, "Without a voting record I want to
19 make sure that you're" --

20 MS. RAINEY: Yes. And if you go to the third
21 page, he confirms that "Do send me your South
22 Carolina voting record and your Indiana voting
23 record and I'll take that into account." And I did
24 provide those to him via email, which is Exhibit B.

25 CHAIRMAN OKESON: I would say, although this

1 doesn't really look good for you Mr. Holtz, it
2 doesn't necessarily constitute, in my opinion, a
3 certification. Just in an effort to be consistent
4 with how we've applied things throughout the day.

5 MR. HOLTZ: Right. I'm looking at her South
6 Carolina --

7 CHAIRMAN OKESON: Hold on a second. Dan, hold
8 on. Mr. Holtz, she's still on her time.

9 MR. HOLTZ: Okay. Sorry.

10 MS. RAINEY: Yeah. I think when we're talking
11 about consistent -- consistency with how things
12 have been applied today, the only challenge issue
13 was based upon my two primaries. That is not how I
14 claimed affiliation on my form.

15 CHAIRMAN OKESON: Does that conclude your
16 statement?

17 MS. RAINEY: Yes.

18 CHAIRMAN OKESON: Would you like
19 cross-examination, Mr. Holtz?

20 MR. HOLTZ: Yeah, I would.

21 CHAIRMAN OKESON: Okay. You have 2 minutes.

22 MR. HOLTZ: Amy, I'm looking at your voting
23 history from South Carolina.

24 MS. RAINEY: Yes.

25 MR. HOLTZ: Could you point out to me where it

1 says that you had a Republican ballot?

2 MS. RAINEY: I believe it's on the following
3 page at the top, in the header.

4 MR. HOLTZ: 2/17/16?

5 MS. RAINEY: I believe so, yeah.

6 MR. HOLTZ: Okay. I acknowledge that. I had
7 not seen that before.

8 CHAIRMAN OKESON: Anything else?

9 MR. HOLTZ: I don't believe that I have
10 behaved in any way disrespectful. What I respect
11 are people that have participated in the process.

12 CHAIRMAN OKESON: So this is a
13 cross-examination of what she --

14 MR. HOLTZ: Okay. I understand. I
15 understand.

16 CHAIRMAN OKESON: Do you have any questions
17 for her based on what she said?

18 MR. HOLTZ: Why did you not tell me that you
19 were recording me?

20 MS. RAINEY: I was not recording you. Someone
21 else provided me the recording.

22 CHAIRMAN OKESON: That changes things.

23 MS. CELESTINO-HORSEMAN: That's a different
24 story. Someone else was recording your
25 conversation that was not a party to the

1 conversation?

2 MS. RAINEY: They were not a party to the
3 conversation, no.

4 MR. HOLTZ: Can you tell me how that recording
5 was made then?

6 MS. CELESTINO-HORSEMAN: Wait a minute. Stop.

7 CHAIRMAN OKESON: So do we want to give that
8 back, that section of it?

9 MS. CELESTINO-HORSEMAN: Can I move to strike
10 this piece of evidence?

11 VICE CHAIRMAN OVERHOLT: I don't want to know
12 anything else about it.

13 MS. CELESTINO-HORSEMAN: I don't either. This
14 is totally illegal.

15 CHAIRMAN OKESON: We have a motion to strike.
16 Is there a second?

17 VICE CHAIRMAN OVERHOLT: Second.

18 CHAIRMAN OKESON: Second. Any further
19 conversation?

20 Motion to strike that information or testimony
21 and records, all those in favor signify by saying
22 "Aye."

23 VICE CHAIRMAN OVERHOLT: Aye.

24 MS. CELESTINO-HORSEMAN: Aye.

25 MS. PYLE: Aye.

1 CHAIRMAN OKESON: The "ayes" have it. It
2 comes out. I don't know how you want to do that.

3 All right. I'm going to close the public
4 hearing on Cause No. 2022-22.

5 I do have a quick question for you. Have you,
6 in the past, ever had to certify someone as a
7 Republican who hadn't met this threshold? I guess
8 this law is new, isn't it?

9 MR. HOLTZ: It is new, and that is why I -- I
10 did not want to form an opinion on my own. As I
11 said in my remarks, I discussed it with active
12 Republican officeholders and precinct committeemen.

13 CHAIRMAN OKESON: In any way, shape, or form,
14 what I hear you saying is you deny any attempt for
15 which to certify her outside of having the two
16 prior Republican primary votes.

17 MR. HOLTZ: That's correct.

18 CHAIRMAN OKESON: Anybody want to make a
19 motion? Any questions? I may cut it off. I don't
20 know where else there is to go.

21 MS. CELESTINO-HORSEMAN: Well, there is --
22 okay. Your challenge on the basis of primaries
23 held by the party, she didn't vote in two of them,
24 but that's not the box she checked on her CAN-2.
25 What she checked on her CAN-2 is that she said the

1 county chairman has certified her. So what she's
2 saying is that her certification comes in the way
3 of that card or something like that.

4 And, you know, I sympathize with you, but I
5 don't know that card is a certification from the
6 chair that says yes, we'll support you for running
7 for office.

8 MS. RAINEY: Short of anything in the law that
9 tells us what that is, I guess that's up to
10 interpretation, which --

11 CHAIRMAN OKESON: That's fair.

12 VICE CHAIRMAN OVERHOLT: But I would say that
13 the statute does say that it's supposed to be a
14 certification, whatever that means, signed by the
15 county chair. And granted, I'm not a handwriting
16 expert, but in looking at the signature on the
17 challenge form, compare it to the little note in
18 the card, it's not his signature.

19 MS. RAINEY: Yeah. I looked at that as well,
20 and it looks like three different types of
21 handwriting even on the CAN-2, so I had a hard time
22 with that.

23 MR. HOLTZ: May I address that?

24 MS. CELESTINO-HORSEMAN: Well, I want to get
25 something procedurally straight. So you're

1 challenging on the basis she didn't vote the last
2 two primaries as a Republican.

3 MR. HOLTZ: And that I did not.

4 MS. CELESTINO-HORSEMAN: And she has responded
5 with, well, I was certified by the county chair.
6 So I guess the question is, number one, you have
7 raised that, and you've shown that she didn't vote
8 in the last two primaries in Indiana as that way.

9 And you have -- didn't file a written
10 certification from the chair.

11 MS. RAINEY: Yes. He could have --

12 CHAIRMAN OKESON: And he's on record saying he
13 did not certify her.

14 VICE CHAIRMAN OVERHOLT: Right. If what
15 you're looking for is -- I mean, her defense to the
16 challenge was that that wasn't the basis for her
17 candidacy, it was the certification, but the
18 evidence before us, in my mind, does not support
19 the fact that she had the certification. So I
20 think that defense fails, in my mind.

21 MS. RAINEY: Yeah. He could have and should
22 have said that "I do not confirm that she's
23 affiliated with a party" on his challenge form, but
24 he did not include that.

25 MS. PYLE: But, I guess, every time I've been

1 in court and I've done a wrong code cite, they just
2 say you're right. We aren't going to take that.
3 You said this is fraud. Even though you used wrong
4 code cite, it's still going forward as fraud.

5 So that's kind of what I'm seeing here is,
6 yeah, he maybe didn't put the thing that you
7 checked there, but I don't see any evidence that
8 says that we've got a certification there either.

9 MS. RAINEY: Yeah. And then we balance that
10 with it being very difficult to interpret what
11 certification means as just a standard citizen.

12 CHAIRMAN OKESON: He's the challenger, though,
13 and it's his job to bring proof. And his proof is
14 that she neither, A, has voted in two previous
15 primaries or, B, has what he would constitute as a
16 certification.

17 With that, I'm going to make a motion to
18 uphold the challenge. Is there a second?

19 MS. PYLE: Second.

20 CHAIRMAN OKESON: Any discussion?

21 Hearing none, all those in favor signify by
22 saying "Aye."

23 VICE CHAIRMAN OVERHOLT: Aye.

24 MS. CELESTINO-HORSEMAN: Aye.

25 MS. PYLE: Aye.

1 CHAIRMAN OKESON: The "ayes" have it. The
2 challenge is upheld. The Election Division is
3 directed not to include Amy Rainey on the certified
4 list of primary candidates sent to the county
5 election boards and indicate the name of this
6 candidate not be printed on the ballot. Thank you.

7 MS. RAINEY: Thank you.

8 MR. HOLTZ: Thank you.

9 CHAIRMAN OKESON: Cause No. 2022-18, Ring v.
10 Hammitt, in the matter of the challenge to Curt
11 Hammitt, candidate for Republican Party nomination
12 for Indiana State Representative, District 52.

13 All right. I recognize the challenger for
14 7-minute presentation. Again, reminding you that
15 just because you have them doesn't mean you have to
16 use them. Go ahead.

17 MR. RING: My name is Richard Ring, R-i-n-g.
18 I am the DeKalb County Republican chairman. I have
19 now been chairman for two terms. I am also the
20 District 30 vice chair.

21 I am challenging Mr. Hammitt based on the fact
22 that he has not voted in the past two Republican
23 primaries. This is similar, unfortunately, to
24 something that you did earlier in that he did vote
25 in the 2016 Republican primary, but the 1999, which

1 was the one before that, it was listed as unknown.
2 I did not put in that particular packet this
3 information, but if we go back even further, all
4 but one are listed as unknown, all the way back to
5 1992. You don't have '92 through '98 there.

6 I will say that the Indiana State Voter
7 Registration System run by the Secretary of State's
8 office is the official record, and this is what we
9 have to go by. And at the time that these
10 candidacies were filed, I had no protest or no
11 question about that. And my clerk in the --
12 elections clerk in the county office, in the county
13 clerk's office, did not call me to let me know that
14 there was not two. And they did that based on the
15 fact that Mr. Hammitt was allowed to sign up down
16 here to run for representative because he did also
17 sign up to run for delegate. And he was removed on
18 Wednesday by a unanimous vote of our election
19 board, the two Republicans and the Democrat,
20 because he did not have their required two
21 Republican primaries.

22 That is the information that I have. I have
23 discussed it with my counterparts in District 52,
24 the state representative district in Steuben
25 County, the Steuben County chair and the Noble

1 County chair, because this district covers small
2 pieces of both of those counties. Neither one of
3 these people have ever heard of Mr. Hammitt. I
4 have no -- I am not familiar with Mr. Hammitt. I
5 did sign a number of certifications over the course
6 of the sign-up period allowing people to get on the
7 ballot. I've refused one. But I was never asked.
8 I have had no contact with him until we met at the
9 election board on Wednesday.

10 CHAIRMAN OKESON: Was it his that you refused?

11 MR. RING: No, it was not. He has never
12 contacted me, and we have no record of ever having
13 him participate or ever having donated anything to
14 the DeKalb County Republican party. We also did a
15 search on the national donor list and we found
16 nothing there.

17 So I say that he is not -- does not meet the
18 qualifications. Part of the packet are the
19 Republican Party rules for the primary, and the
20 primary is a party election. As was brought up in
21 previous things here, everyone will have a chance
22 to run in November if that's what they want to do.
23 If they want to run as an independent, they can do
24 that in November. That's where that constitutional
25 thing comes in play. The primary is a party

1 election, and it should be controlled by the
2 parties.

3 CHAIRMAN OKESON: Thank you.

4 Would you like cross-examination?

5 MR. HAMMITT: Yes, I would.

6 CHAIRMAN OKESON: Your questions are only
7 relevant to the things that he just provided in
8 testimony.

9 MR. HAMMITT: Yes, I know. Do you need my
10 sheets first?

11 CHAIRMAN OKESON: Is that part of your
12 cross-examination?

13 MR. HAMMITT: Yes. I will cross-examine.

14 Mr. Ring, if you could take these papers here.
15 On page 1 -- oh, and I have two packets here.
16 Yeah. On page 1, for the record, your challenge to
17 remove me from the ballot because the last two
18 primaries in Indiana in which I voted were not
19 Republican. On page 7, there's a copy of my voting
20 record. Could you read the 1998 primary ballot
21 type listed here.

22 MR. RING: The '98, it does show Republican.
23 The '99 shows unknown.

24 MR. HAMMITT: I didn't ask that. I just said
25 '98.

1 On page 8, could you read the 2016 primary
2 election ballot type listed there.

3 MR. RING: It does show Republican.

4 MR. HAMMITT: How many Republican primaries is
5 that?

6 MR. RING: That is two.

7 MR. HAMMITT: That is two. Do you have
8 evidence to prove that these two primary voting
9 records stating Republican are not Republican?

10 MR. RING: I am not disputing the one that is
11 listed as 1998. I disputed the one that's listed
12 as 1999, which is unknown.

13 MR. HAMMITT: So when I --

14 MR. RING: So you did not vote in primaries in
15 '08, '10, '12, '14, '18, and '20. Doesn't show me
16 that you're a very strong Republican.

17 MR. HAMMITT: That is not the issue. That
18 would be Part B. Part A is that I voted in two
19 primary elections. That is what you put on your
20 challenge, and so that is what you must stick to.

21 MR. RING: The two most recent, the two most
22 recent being --

23 CHAIRMAN OKESON: Hold on. It's his time.

24 MR. HAMMITT: Actually, so when I actually
25 voted in Indiana --

1 (Timer)

2 MR. HAMMITT: -- in a partisan primary, my
3 voting record reads that I voted Republican in two
4 Republican primaries.

5 CHAIRMAN OKESON: So your two minute
6 cross-examination is over. Would you like to go
7 into your statement?

8 MR. HAMMITT: Yes, I would. Members of the
9 election board, my name is Curt Hammitt, Indiana
10 resident for over 35 years. I'm on the May 2022
11 Indiana primary ballot running for state
12 representative.

13 There is a constitutional -- there are
14 constitutional and party rules set to lawfully
15 declare candidacy for a primary in Indiana. I did
16 do my research before I filed, and I made sure I
17 was qualified. The rules and qualifications set
18 forth by the Constitution and the Indiana Code are
19 not in question here today, except for Mr. Ring
20 alleging he claims for a fact that my two most
21 recent primaries in Indiana in which I voted were
22 not Republican.

23 On Form -- and if you take a look at page 2,
24 on Form 46439, my declaration of candidacy for the
25 primary nomination of 2022, I checked the first box

1 on No. 3 stating the two most recent primary
2 elections in Indiana in which I voted were
3 primaries held by the party with which I claim
4 affiliation above.

5 If you take a look at page 3, please note that
6 I signed this document verifying the truthfulness
7 of what box I checked. I am also sitting here --
8 I'm not standing -- sitting here under oath today
9 to testify to the truthfulness of my declaration.

10 If you take a look at page 5, Indiana Code
11 3-8-2-7 reads a statement of the candidacy party
12 affiliation. For the purpose of this subdivision,
13 a candidate is considered to be an affiliated with
14 a political party only if the following applies:
15 Two most recent primary elections in Indiana,
16 primary elections held by the party or candidate
17 claims affiliate.

18 If you take a look at page 7 and 8, the voting
19 record I provided for you, the record which we have
20 already looked at, lists my two most recent
21 primaries in the state of Indiana which I actually
22 voted Republican, 1998 and 2016. The challenger
23 himself has already agreed today and we can all
24 agree that my voting record shows the two most
25 recent primaries in Indiana which I voted were

1 Republican.

2 If you take a look at page 11, my team and I
3 interviewed -- or contacted the Jay County Circuit
4 Court clerk, and he testified in this document that
5 "This is to inform you that your voting record in
6 Jay County says that you voted in the 1998 primary,
7 and it shows you voted Republican. Then in the
8 1999 primary, it lists you as unknown. The voting
9 records were converted to electronics around this
10 time, and I believe I was not the clerk or did I
11 work for the clerk's office during the conversion.
12 I am thinking that the conversion may not have
13 recorded your voting history at the time due to
14 circumstances that are unknown." And that goes
15 along with the rest of those before that.

16 My team also contacted Cassie Hammond of Adams
17 County election -- or clerk's office, and you have
18 that there on page 10. And she also did not know
19 what unknown meant.

20 Now, if you take a look at page 9 -- am I
21 going too fast?

22 MS. PYLE: We like fast.

23 MR. HAMMITT: If you take a look at page 9,
24 you will note that I am registered there in
25 Pennville. That is my -- that was my Jay County

1 home, Pennville, Indiana. Now, my team and I also
2 contacted Steve Howe, who was the Republican county
3 chair in the 1990s, and he testified -- and I do
4 have this on a text, but I do not have this in
5 written form because he just gave this to us --
6 that Pennville did not have primary elections. So
7 there was no way for me to even vote primary in
8 Pennville because they did not have primary
9 elections because Pennville is only a village of
10 less than 700.

11 So when I actually voted in a primary, my
12 voting record reads the partisan party I voted.
13 That is Republican. There is nothing more to see
14 here. Mr. Ring's allegations are hearsay at best,
15 and he brought no evidence to prove his challenge.
16 I fully complied with the rules of this candidacy.

17 MR. RING: I would still contend that the
18 official record --

19 CHAIRMAN OKESON: Is this cross-examination?

20 MR. RING: I still contend that the official
21 record is the Secretary of State's office, and
22 they're showing a primary election with an unknown
23 for '99. And during that same conversion time that
24 you're claiming in 1998 is when it shows
25 Republican. So if it worked in '98, why didn't it

1 work in '99?

2 MR. HAMMITT: What does unknown mean?

3 CHAIRMAN OKESON: It means unknown.

4 MR. HAMMITT: It means unknown. It doesn't
5 say --

6 MR. RING: It means the official record is
7 unknown. There is no proof that it was Republican.

8 CHAIRMAN OKESON: Any rebuttal?

9 MR. HAMMITT: Yes. I mean, if it's unknown,
10 it could be unknown that I voted Republican. It
11 could be unknown I didn't vote. I mean, I voted
12 Republican in '98. I voted Republican in '16. Why
13 would I not vote Republican in '99 if that is what
14 Mr. Ring is --

15 MR. RING: All you had to do was pick up the
16 phone and call me.

17 CHAIRMAN OKESON: All right. I'm going to
18 allow that to be your rebuttal. I'm going to close
19 the hearing on matter 2022-18. Any questions or
20 discussion?

21 MS. CELESTINO-HORSEMAN: So no more new
22 evidence at this time can be entered; correct?

23 CHAIRMAN OKESON: That's correct.

24 MS. CELESTINO-HORSEMAN: All right. You
25 presented evidence that says it's unknown how you

1 voted, and so there is no proof in the clerk's
2 office or the state system that he voted Republican
3 in the most recent two primaries.

4 MR. RING: That is correct.

5 MS. CELESTINO-HORSEMAN: Your response is
6 that, well, that unknown doesn't matter because I
7 voted Republican in the year before that one, but
8 that's not what the law says. So you have
9 presented -- so that unknown means that for some
10 reason, probably because of the conversion, it
11 wasn't entered as to what ballot you drew, Democrat
12 or Republican. You had the opportunity tonight to
13 come here and present evidence. I didn't even hear
14 you say you voted Republican in that election where
15 it's marked unknown. You didn't come out and say
16 that in your testimony tonight.

17 MR. HAMMITT: I said that I couldn't -- it's
18 impossible for me to have voted in 1999.

19 MS. CELESTINO-HORSEMAN: So in 1999, why would
20 it -- because that's the Pennville thing?

21 MR. HAMMITT: Yeah.

22 MS. CELESTINO-HORSEMAN: So Pennville in
23 Indiana?

24 MR. HAMMITT: Pennville, Indiana.

25 MS. CELESTINO-HORSEMAN: So they don't have

1 state legislators, they don't have governor, they
2 don't have secretary of state?

3 MR. HAMMITT: 1999's an off-year election.

4 MS. CELESTINO-HORSEMAN: But they still have
5 primaries. I mean, you still have primaries.

6 MR. HAMMITT: Not in small municipalities.

7 MS. CELESTINO-HORSEMAN: I'd like the
8 co-director to address that, Mr. Chair.

9 CHAIRMAN OKESON: Sure. Go ahead.

10 MS. NUSSMEYER: Well, I might actually defer
11 to my colleague because his legislative history
12 back to '99 will probably be better than mine, but
13 it is possible for small towns to have a primary
14 election. I just don't know where the law stood in
15 1999, if that was permissible or not.

16 MR. KING: Mr. Chairman, members of the
17 Commission, thanks to my counterpart, Co-Director
18 Nussmeyer. Yes, the law in 1999 is essentially
19 unchanged as it stands the law today in that, in
20 towns with a census population of under 3,500, the
21 town has an option to adopt a primary. But
22 generally in small towns there are party
23 conventions if there are contests within the same
24 party for a nomination slate.

25 CHAIRMAN OKESON: Yeah.

1 MR. KING: And so there are many
2 municipalities in Indiana in those odd numbered
3 years, '99, et cetera, that did not conduct
4 primaries.

5 MS. CELESTINO-HORSEMAN: So do you have a
6 statement, notarized under-oath-type statement from
7 that Pennville?

8 MR. HAMMITT: From Steve Howe?

9 MS. CELESTINO-HORSEMAN: Yeah. Did I miss
10 that email?

11 CHAIRMAN OKESON: He said that he has a text
12 from him affirming that.

13 MR. HAMMITT: Yeah.

14 MS. CELESTINO-HORSEMAN: So you didn't put any
15 evidence.

16 CHAIRMAN OKESON: Well, this seems -- remind
17 me going back to earlier today. This reminds me of
18 the Oake case where in the Oake case we had one
19 primary known and one primary unknown.

20 MS. CELESTINO-HORSEMAN: Right. And she
21 testified that she voted Republican, and he's not
22 said that. And he said he can't say that because
23 he didn't vote in the primary. But he could have
24 gone back to the clerk and gotten a certified
25 statement, some kind of evidence.

1 MR. HAMMITT: I did go to the clerk.

2 MS. PYLE: Number 11.

3 MS. CELESTINO-HORSEMAN: That doesn't address
4 Pennville, does it?

5 VICE CHAIRMAN OVERHOLT: Wait, wait, wait.
6 But doesn't unknown -- this is for staff. If the
7 voter record says anything, so like when it -- so
8 does that mean -- well, it must. So since it says
9 unknown for the 1999 primary election, does that
10 mean that the voter showed up and took a ballot at
11 a primary election?

12 CHAIRMAN OKESON: Which would contradict
13 whether they had a primary.

14 VICE CHAIRMAN OVERHOLT: Well, that's why I'm
15 raising that, because it looks to be like -- well,
16 I guess I don't --

17 CHAIRMAN OKESON: So Co-Counsel?

18 MS. WARYCHA: I think you're looking for me to
19 give you that code cite again of 3-10-1-31.3, a
20 record of voter whose political party is not
21 recorded on a poll list, and then I'll just read
22 you the highlights.

23 VICE CHAIRMAN OVERHOLT: Actually, no, that's
24 not what I'm asking. What I'm asking is -- well,
25 let me ask it this way. I guess I'm doing my

1 cross-examination of staff. So voter record, like
2 if we pull up my voter record, is it going to show
3 every single election in the state regardless of
4 whether I voted?

5 MS. WARYCHA: No.

6 VICE CHAIRMAN OVERHOLT: Okay. That's my --
7 so if a year -- if an election is reflected here,
8 or on anyone's voter record, that means the voter
9 showed up at that election and requested a ballot?

10 MS. WARYCHA: Yes.

11 VICE CHAIRMAN OVERHOLT: So that means for
12 1999 -- so the fact that it says 1999 primary
13 election means that he showed up somewhere, I guess
14 in Pennville, somewhere in Jay County, and got a
15 ballot during the primary is what this record
16 means?

17 MS. WARYCHA: I believe that to be correct.

18 VICE CHAIRMAN OVERHOLT: Okay. Do you agree
19 with that?

20 MS. NUSSMEYER: I would, but I would add that
21 the statute that Kochevar mentioned actually was
22 not -- it looks like it was introduced in 2013. I
23 don't know if there was similar language in
24 statute, but I would note that the Statewide Voter
25 Registration System did not exist prior to 2004.

1 Is that correct?

2 MR. KING: Mr. Chairman, yes, December of
3 2005. And you're correct that prior to the 2013
4 legislation that was cited, Indiana law was silent
5 with regard to the impact of an unknown vote.

6 VICE CHAIRMAN OVERHOLT: But that's still not
7 my question. So if I did not vote last year -- and
8 for the record, I did, but if I hadn't voted last
9 year -- I'm already at a loss. We didn't have to
10 vote last year, thank goodness. 2020, so if I
11 hadn't voted in 2020, my record wouldn't have a
12 2020 on here?

13 MS. WARYCHA: Correct.

14 MR. KING: Correct.

15 CHAIRMAN OKESON: What I take the vice chair
16 to be asking, in my opinion, is, if it showed up in
17 1999 as an unknown, it means there was an election
18 in which he requested a ballot; they simply don't
19 know what the outcome of that ballot was,
20 Republican or Democrat.

21 MS. PYLE: And we are seeing it goes from '99
22 to 2008 and we know there was an election in there,
23 so he didn't pull a ballot, I'm guessing.

24 CHAIRMAN OKESON: I still think this goes back
25 to very similar to the Oake case, though.

1 VICE CHAIRMAN OVERHOLT: I guess my point --
2 I'm sorry. So my point was that she had --

3 CHAIRMAN OKESON: He stated there wasn't an
4 election, and you're saying how did you pull a
5 ballot if there wasn't an election.

6 VICE CHAIRMAN OVERHOLT: Right. And she
7 testified affirmatively that she did vote and that
8 she voted Republican, and Mr. Hammitt did not say
9 that. He's disputing whether there was an
10 election. He hasn't said that there was -- so I
11 think that is -- in my mind, that's a distinction.

12 MR. HAMMITT: I didn't say there wasn't a
13 vote.

14 CHAIRMAN OKESON: The hearing on the matter is
15 closed. You can't offer any more testimony on it.

16 All right. Whether his memory is correct or
17 not about 1999, it's still the same as the Oake
18 case in that you have nonconsecutive. So he's
19 stating there wasn't a primary. This record is
20 only stating that there likely was a primary that
21 didn't record whether he voted Democrat or
22 Republican. The next eligible date in his voting
23 record and the one prior to that were both
24 Republican.

25 MS. PYLE: I mean, I do agree with Suzannah

1 that there's a distinction here between this and
2 the Oake case, but I also -- yeah, looking at the
3 '98, I mean, it's at least a little persuasive that
4 it could have potentially been a Republican ballot.

5 CHAIRMAN OKESON: Want to make a motion?

6 MS. PYLE: I would move to deny the challenge.

7 CHAIRMAN OKESON: We have a motion to deny the
8 challenge. Is there a second? I'll second it.

9 All those in favor signify by saying "Aye."

10 MS. PYLE: Aye.

11 CHAIRMAN OKESON: Nay?

12 VICE CHAIRMAN OVERHOLT: Nay.

13 MS. CELESTINO-HORSEMAN: Nay.

14 CHAIRMAN OKESON: So the motion fails. The
15 challenge is upheld.

16 MR. KING: Mr. Chairman, when one motion
17 fails, another member can offer another motion.
18 You need to have exhaustion of administrative
19 remedies.

20 CHAIRMAN OKESON: So the motion to uphold the
21 challenge fails.

22 MS. PYLE: I said deny.

23 CHAIRMAN OKESON: Sorry. The motion to deny
24 failed.

25 VICE CHAIRMAN OVERHOLT: So I would move to

1 uphold the challenge.

2 CHAIRMAN OKESON: Okay.

3 MS. CELESTINO-HORSEMAN: Second.

4 CHAIRMAN OKESON: There's a second. Any
5 discussion?

6 Hearing none, all those in favor signify by
7 saying "Aye."

8 CHAIRMAN OKESON: Aye.

9 VICE CHAIRMAN OVERHOLT: Aye.

10 MS. CELESTINO-HORSEMAN: Aye.

11 MS. PYLE: Nay.

12 CHAIRMAN OKESON: Three to one the "ayes" have
13 it. The challenge is upheld. The Election
14 Division is directed not to include Curt Hammitt in
15 the certified list of primary candidates sent to
16 the county election boards and to indicate the name
17 of this candidate not be printed on the ballot.

18 MR. RING: Thank you.

19 CHAIRMAN OKESON: Cause No. 2022-17, Leonard
20 v. Carver, in the matter of the challenge to Meghan
21 Carver, candidate for Republican Party nomination
22 for Indiana State Representative, District 53.
23 Information is in your binders.

24 The Commission recognizes Beverly Gard,
25 challenger, for presentation. Please state your

1 name and spell it for the court reporter.

2 MS. GARD: Beverly, B-e-v-e-r-l-y, Gard,
3 G-a-r-d.

4 CHAIRMAN OKESON: Go ahead.

5 MS. GARD: Thank you, Mr. Chairman and members
6 of the Commission. I sympathize with you all.
7 I've been on a number of commissions myself over
8 the years. This should be relatively quick, I
9 hope. Mr. Leonard is seriously ill, and his doctor
10 did not want him to appear.

11 CHAIRMAN OKESON: Yeah. Let me note for the
12 record that Mr. Leonard had filed to have Beverly
13 Gard on his behalf.

14 MS. GARD: Yes. So I'm representing
15 Mr. Leonard today. And Mr. Leonard met with
16 Ms. Carver in October, and she said she wanted to
17 run for state representative in District 53 but she
18 understood that she did not meet the
19 qualifications. She had a letter that she asked
20 him to sign supporting her candidacy. Mr. Leonard
21 felt that he needed to do some research, and they
22 decided to meet again in November.

23 Mr. Leonard found out that Ms. Carver had
24 registered to vote in Hancock County in 2004. She
25 had voted in one Republican primary, which was in

1 2016. So that was one primary out of nine general
2 elections that she had voted Republican. The rest
3 she had not voted in at all. Also, there were four
4 municipal elections that had occurred, and she had
5 not voted in any of those as well.

6 So when Mr. Leonard met with Ms. Carver again
7 in November, he told her that they had searched the
8 state portal. Apparently she had been registered
9 to vote in Hendricks County. They checked that.
10 They even checked Marion County and found no record
11 of her having voted another Republican primary. He
12 indicated to her if she had produced another
13 Republican primary that was valid, he would have
14 been glad to sign the letter, but she didn't.

15 CHAIRMAN OKESON: Okay. Thank you.

16 Would you like 2 minutes of cross-examination
17 limited on to her statements.

18 MS. CARVER: Yes. Okay.

19 Hi. I've not met you before. So you're
20 saying that Mr. Leonard has been able to locate my
21 vote history clear back to 1988 in Indiana?

22 MS. GARD: No, no, to 2004.

23 MS. CARVER: Okay. I -- so --

24 MS. GARD: And actually that's the vote
25 history you gave him.

1 MS. CARVER: Okay. So he has not been able to
2 locate my vote history back to 1988 and prove that
3 I do not have two Republican primaries?

4 MS. GARD: It showed that you had not voted in
5 any Republican primary.

6 MS. CARVER: What didn't?

7 MS. GARD: The state portal and the
8 investigation to --

9 MS. CARVER: So he did find my vote history?
10 Because I would love to have my vote history.

11 MS. CELESTINO-HORSEMAN: Do you need a copy of
12 the exhibit?

13 MS. NUSSMEYER: That's not it.

14 MS. GARD: You gave him the vote history --

15 MS. CARVER: Yes, Hancock County back to 2004.

16 MS. GARD: -- back to 2004.

17 MS. CARVER: I'm asking before that. Did he
18 find my vote history before that?

19 MS. GARD: He indicated that they had talked
20 with Hendricks County, Marion County, and searched
21 the state portal and found no record of you having
22 voted another Republican primary. He did not say
23 that he had not -- that there was no vote history.
24 He didn't say either way. He just said they found
25 no record of you having voted in a Republican

1 primary.

2 MS. CARVER: But then also no record of me not
3 having voted in Republican primaries?

4 MS. GARD: Well, if there's no vote, I don't
5 think we're trying to prove a negative here.

6 MS. CARVER: According to the rule of law, you
7 have the burden of proof, so that's why I'm asking.
8 If he has my vote history that proves that I have
9 not voted in two Republican primaries, I would like
10 to see that.

11 (Timer)

12 CHAIRMAN OKESON: So your 2-minute
13 cross-examination is up. You can proceed with your
14 opening statements.

15 MS. CARVER: All right. Thank you. Good
16 evening. I appreciate your endurance in still
17 being here. So, yes, Meghan Carver, M-e-g-h-a-n.
18 C-a-r-v-e-r.

19 There is nothing in the law or on the form
20 requiring that I submit proof of my two primaries.
21 My attestation is all that is required. According
22 to the rule of law, the challenger or the
23 petitioner has the burden of proof. So the county
24 chair is bringing the challenge that I did not vote
25 in two Republican primaries. The burden of proving

1 that is on him. I have been a registered voter in
2 Indiana since approximately 1988. Because he has
3 not provided any proof to substantiate his
4 allegation, then his challenge should be dismissed.

5 When I learned of the new two-primary rule, I
6 did not even know that a voter could get a copy of
7 their vote history. Historically votes have been
8 anonymous and the actual vote not tied to the
9 voter. There is no mechanism by which a private
10 citizen can maintain evidence of their voting. But
11 out of good faith, I investigated. I was curious.

12 So last October I did go through the Hancock
13 County election office for a copy of my history. I
14 was shocked that they had anything at all just
15 because I thought that voting was completely
16 private. It did go back to 2004, which is when I
17 would have been -- we moved into Hancock County at
18 the very end of 2002, so 2004 probably would have
19 been my first election there. But I thought it was
20 incomplete.

21 I am a mother, and mothers tend to remember
22 things, remember events in time based on the age of
23 their children. And I remember specifically
24 carrying a baby in an infant carrying in to vote,
25 placing that infant carrier on the floor in order

1 to complete the ballot. That would have been a
2 primary because all of my children that have been
3 born in Hancock County have been born in late fall
4 or winter. The baby in the carrier was heavy, and
5 I was glad to put the carrier down for that few
6 minutes of voting.

7 Also in October, I emailed the Marion County
8 Board of Voter Registration, where I was registered
9 to vote between approximately 1988 and 1997.
10 Michele Cash, chief deputy, emailed "Unfortunately,
11 the state's digital records do not go back that
12 far. The records you have received from Hancock
13 County are the extent of your registration records
14 in Indiana." So that indicated to me approximately
15 16 years of my vote history has either been
16 destroyed or lost.

17 I didn't want to give up there. I didn't
18 think that the recordkeeping could be that
19 incomplete, so I drove over to Hendricks County,
20 where I was registered to vote between
21 approximately 1997 and 2004. My husband and I
22 lived two blocks from my parents during that time.
23 My mom and dad always encouraged voting in
24 primaries because that determines your candidates
25 for the fall election.

1 Also, in the mid to late '90s, during that
2 time, neither my parents nor my husband and I had
3 Internet in our homes, and so it wasn't always easy
4 to research candidates. They did not have
5 websites. My mother would call a family friend
6 there in Brownsburg. He's the man who built their
7 condominium as well as the house we were living in
8 in Brownsburg, and he had become a friend of my
9 parents. He was a Republican, much more involved
10 in local politics than we were, and so she would
11 ask him who to vote for.

12 Anyway, in November, just this past November,
13 I drove back to Hendricks County to locate my vote
14 history. Jen Grider in the voter registration
15 office took down my details. She went to the
16 basement to search boxes but only found my voter
17 registration card. So she emailed me on
18 November 9th "I have exhausted all of my resources
19 by looking through boxes of registrations and
20 surveying registrations one by one thinking that
21 maybe there was a possibility of a misfiling, and I
22 am still unable to locate a registration with a
23 vote history."

24 She also checked under my maiden name, even
25 though I had already been married by the time I

1 moved to Hendricks County. I asked her if there
2 was anything more I could do or provide. I offered
3 to come help her look. Of course, they're not
4 going to let a private citizen in to look at the
5 records, but I was willing. She replied on
6 November 15th "The old system was flawed and,
7 unfortunately, had more room for human error."

8 Hendricks County did find my husband's vote
9 history during that time, and it shows for him a
10 Republican primary in 2000. And I bring that up
11 because I am the more political of the two of us,
12 and I was always the one to make sure that he got
13 out and voted. So it's inconceivable that he would
14 have voted in a primary in 2000 and I did not.

15 Finally, yesterday, in a challenge hearing for
16 my candidacy as state delegate, the same basis, the
17 two Indiana primary rule, the Hancock County
18 Election Board, made up of two lawyers -- they were
19 the Republican and the Democrat -- and the clerk
20 recognized that the county chair has the burden of
21 proof. They decided unanimously that the county
22 chair had not met his burden of proof and upheld my
23 candidacy. They asked me under oath if I had ever
24 voted in any election other than Republican. I
25 thought it was interesting that the Democrat was

1 particularly interested in that. And my answer was
2 no, I have always voted Republican, not even --
3 what was that? Operation Chaos, you know,
4 Republicans vote for the Democrats in the primary
5 or the Tea Party in 2010, I have always firmly
6 believed that Republicans need to stay unified, and
7 I have not voted in any other than a Republican
8 primary.

9 So based on the challenger's lack of evidence
10 that I have not voted in two Republican primaries,
11 I respectfully ask that you dismiss the challenge.
12 And I'm sorry. I completely forgot. I have copies
13 of the emails, my husband's vote history, the
14 things I referenced, if you want them. I have five
15 for commissioners.

16 MS. WARYCHA: I paused it, but it was about to
17 go off.

18 CHAIRMAN OKESON: Okay. You have 2 minutes of
19 cross-examination limited to her testimony.

20 MS. GARD: Primarily just to make a couple of
21 points. Private citizens can search for voter
22 records. I've been registered to vote in Hancock
23 County for more than 50 years, and I can go back --
24 and I have done it -- and look at my vote history
25 for all of those years. Your vote history is not

1 confidential. Whether you had asked for a
2 Republican ballot or a Democrat ballot is public
3 record. It's not confidential.

4 CHAIRMAN OKESON: Any rebuttal?

5 MS. CARVER: I'm glad you have yours. I wish
6 I had mine. Was there a question there?

7 MS. GARD: No, other than Mr. Leonard had said
8 that he would be glad to sign your form if you
9 could prove that you had voted in two Republican
10 primaries, but the fact that you had been
11 registered to vote in Hancock County for 18 years
12 and had only voted in one primary was of concern.

13 MS. CARVER: Okay. I don't recall Mr. Leonard
14 being willing to sign the form at all. I met with
15 him because he wanted to meet, and I thought, if
16 I'm going to meet with him, I'll ask him to sign
17 the certification and that can just end all of
18 this. And at that point in time, he was hung up on
19 whether or not I was a Republican in good standing.
20 He wanted to change the definition of in good
21 standing, which I'm not sure is really relevant
22 here because the challenge is based on the two
23 primaries.

24 MS. GARD: I would like to make a comment
25 about the Hancock County Election Board meeting,

1 which was yesterday, that Ms. Carver referenced.

2 CHAIRMAN OKESON: You're in the 2 minutes of
3 your cross-examination, so you can ask her about
4 it, if you'd like.

5 MS. GARD: Okay. It's my understanding from
6 talking to people that were involved yesterday with
7 the hearing and observed it that the election board
8 really hadn't done their homework on this. They
9 had never been presented with this question before.
10 When it was one primary, it was simple. It's not
11 so simple when it's two primaries --

12 (Timer)

13 MS. GARD: -- and there was just a great deal
14 of confusion.

15 CHAIRMAN OKESON: Okay. So your time is up.
16 You have 1 minute of rebuttal.

17 MS. CARVER: Okay. The form, "The two most
18 recent primary elections in Indiana in which I
19 voted were the primaries held by the party with
20 which I claim affiliation above," and "I certified
21 that the information in this declaration of
22 candidacy is true and complete and that I meet the
23 specific requirements of this office."

24 Mr. Leonard has not proven that that is not
25 true, and since he brings the challenge, he has the

1 burden of proof.

2 CHAIRMAN OKESON: So I do see one primary
3 vote, and the records go back to 2004, nothing
4 before that. So which election prior to that are
5 you --

6 MS. CARVER: Well, I believe, I voted in
7 either the 2004 or 2006, possibly both primaries.
8 That was based on carrying the baby in the infant
9 carrier and the child who was born at the end of
10 November in 2003, so that would have been the 2004
11 primary.

12 (Timer)

13 CHAIRMAN OKESON: That's your rebuttal time.
14 I asked you a question, though, so I guess --

15 MS. CARVER: I'm sorry. I thought I was
16 answering a question.

17 CHAIRMAN OKESON: You were. You are.

18 MS. CARVER: I also had a child born on
19 Christmas Day 2005, so that would have been the
20 2006 primary. I'm sorry. What was the other part
21 of your question? Which primaries?

22 CHAIRMAN OKESON: Well, you show the last
23 primary voted in was 2016. There's nothing that
24 shows it in '6, '4, or '5 in the voting records.
25 You're saying under oath that you did vote in those

1 primaries?

2 MS. CARVER: I believe so, and then --

3 CHAIRMAN OKESON: You believe so or you did?

4 MS. CARVER: -- also in Hendricks County,
5 which they don't have any of my records. So I'm
6 not responsible for maintaining the vote history.
7 I know what I remember, and if they go down to the
8 basement and search and can't find it...

9 CHAIRMAN OKESON: Right.

10 VICE CHAIRMAN OVERHOLT: Could staff kind of
11 inform us as to -- because it does seem odd because
12 the other histories we've seen tonight go back
13 further, and I don't know -- I mean, if someone has
14 a voting history before 2004, is there a reason
15 that it wouldn't be reflected?

16 CHAIRMAN OKESON: So I'll close the public
17 hearing as far as --

18 VICE CHAIRMAN OVERHOLT: Sorry.

19 CHAIRMAN OKESON: -- yeah, for 2022-17. And
20 then, yes, please.

21 MR. KOCHEVAR: Either one of us can answer
22 that.

23 MS. NUSSMEYER: Go ahead.

24 MR. KOCHEVAR: I only just really jump in to
25 answer this here because I looked it up during the

1 last hearing. So while I'm searching for that,
2 under the statewide voter registration law, so
3 3-7-26.3 established the requirements when the
4 system was set up. That included, one, entering in
5 every registered voter in a particular county at
6 that time and also including uploading the vote
7 history that that county would have had going back
8 ten years from the time they began entering in that
9 information.

10 So in this particular case, wherever the
11 candidate was registered to vote, the requirement
12 would have only been placed on that county to enter
13 in that information. I cannot speak to if, back in
14 the '90s, early 2000s, before SVRS, different
15 counties used to make copies and send over old
16 voter registration information when a candidate
17 moved. I don't ever recall that, but I defer to
18 others who were practicing election law
19 administration at that time, Brad King.

20 And so that's why it is possible, when you
21 look at her record in SVRS, you only have, most
22 likely, information that was entered in by the
23 Hancock County Circuit Court clerk, who is the
24 voter registration official, because that's who had
25 the requirement to enter in that information.

1 Every other county would have been on paper, of
2 which, by this time, most likely can be, must have
3 been destroyed under our retention laws. So that's
4 generally what I have on that from me specifically.

5 CHAIRMAN OKESON: Valerie?

6 MS. WARYCHA: Yes, I agree with Matthew.

7 MR. KING: Mr. Chairman, members of the
8 Commission, I can add that, prior to the
9 implementation of the Statewide Voter Registration
10 System, there was no linkage between any of the
11 counties. It was, in fact, entirely on paper and
12 not even on computer in some counties until the mid
13 to late 1990s. And so it is entirely possible that
14 whatever paper record might establish vote history
15 from prior to 2004 was destroyed in accordance with
16 the record retention statutes, 3-10-1-31, that have
17 been referenced by Mr. Kochevar.

18 MS. NUSSMEYER: And if I may just add to the
19 comments. I agree with our colleagues. The
20 retention schedule is 22 months. So a county would
21 keep the poll lists -- so if you vote in a primary
22 election, right, you're asked which party do you
23 want to vote in, Democratic or Republican. Those
24 poll lists are then maintained for a period of
25 22 months, and at that point the counties are able

1 to destroy them.

2 So it's very plausible that Hancock County
3 would not have those poll lists or other
4 information because 2004 was 18 years ago, which is
5 far in excess of the 22-month retention schedule
6 found in federal and state law.

7 CHAIRMAN OKESON: Any questions, comments?

8 MS. PYLE: I have comments.

9 CHAIRMAN OKESON: Make them.

10 MS. PYLE: Okay. I guess we've had unknowns
11 here for two other cases that were, like, we're not
12 sure, this could be somebody's error or this could
13 be on you. I find this one distinguishable because
14 there are two things that I'm not sure about. I'm
15 not sure if you voted, and I'm not sure if you
16 pulled a Republican ballot. At least in those last
17 two cases, I know that there was a vote there. So
18 I guess that's why I would find it distinguishable
19 between my votes in the other two cases.

20 MS. CELESTINO-HORSEMAN: I agree with Litany.
21 However, I also recognize what Ms. Carver is
22 saying, and that is the burden is on the
23 challenger. And they have presented -- I'm
24 sorry -- no proof of anything regarding her voting
25 history. She's the one who brought forward

1 something that raises the questions that we're
2 looking at, but you didn't establish the prima
3 facie case to be rebutted, I don't believe. And I
4 think that is a problem. You know, Mr. Leonard,
5 maybe he looked at the records or something, but I
6 don't know what he did.

7 MS. GARD: She actually gave us the records
8 from Hancock County.

9 MS. CELESTINO-HORSEMAN: But what records are
10 those?

11 CHAIRMAN OKESON: Yeah. So she did provide
12 us --

13 MS. GARD: She had the opportunity to vote --

14 CHAIRMAN OKESON: So we do have this.

15 MS. GARD: She had the opportunity to vote in
16 nine primaries, and she only voted in one.

17 CHAIRMAN OKESON: So I would say I would kind
18 of amend, Karen, what you said to say they have
19 provided evidence.

20 MS. CELESTINO-HORSEMAN: Yeah. Yes, they
21 have.

22 CHAIRMAN OKESON: Ms. Carver is suggesting it
23 is incomplete.

24 MS. CARVER: Who has provided what evidence?

25 MS. CELESTINO-HORSEMAN: They have provided

1 the evidence -- have you seen this? Would you like
2 to take a look at it? Which I think it's the same
3 information that's on the record you provided.

4 MS. CARVER: Right. This is Hancock County.

5 MS. CELESTINO-HORSEMAN: Yeah. So they did
6 present evidence that you did not -- there's only a
7 record of you voting in one Republican primary, and
8 there's no evidence -- you think you voted in 2005
9 or 2006, was it?

10 MS. CARVER: 2004, 2006.

11 MS. CELESTINO-HORSEMAN: 2004, 2006. Well,
12 2006 doesn't show anything, nor does 2004. It just
13 shows that you voted in the general. So it doesn't
14 show that you voted in the primary, nor does 2006
15 show that you voted in the primary.

16 MS. CARVER: Right. But I am not the record
17 keeper. That's up to the county.

18 MS. CELESTINO-HORSEMAN: Right, but --

19 MS. CARVER: There are messed up records all
20 over the state. I'm not the first person to say
21 today my record is incomplete, and I know I won't
22 be the last.

23 MS. CELESTINO-HORSEMAN: Right. But you have
24 testified that you think you voted one of those
25 two years because you put your baby down to rest

1 your arm. And, I mean, I can see them missing out
2 on one, but they usually don't miss out on two, I
3 mean, especially 2006 when the new system had been
4 implemented. Right?

5 MS. NUSSMEYER: Yes, correct.

6 MS. CARVER: I also testified that in 2000,
7 back in Hendricks County, who no longer has my
8 records, voting in a primary.

9 MS. CELESTINO-HORSEMAN: Right. But that
10 would -- the most recent ones, we don't have any
11 evidence that you voted in a primary. That's the
12 problem, other than the one in 2016.

13 CHAIRMAN OKESON: So she's provided
14 evidence --

15 MS. CARVER: I'm not the one -- I'm sorry.

16 CHAIRMAN OKESON: She's provided evidence that
17 says you do not meet the standard, and your --

18 MS. CARVER: What evidence?

19 MS. CELESTINO-HORSEMAN: That voting record.

20 MS. CARVER: Where is my voting record?

21 MS. CELESTINO-HORSEMAN: You just showed us
22 that.

23 MS. CARVER: That's only Hancock County. I've
24 been registered to vote since 1988.

25 MS. PYLE: Since 2006, it's statewide.

1 MS. CARVER: Right. Okay. So if I had a
2 primary in 2000, then that would be the other
3 primary.

4 VICE CHAIRMAN OVERHOLT: But a few minutes
5 ago -- I'm sorry. I guess this could go back and
6 forth forever, but I think up until now your
7 testimony was that you thought it was either the
8 2004 or the 2006 primary. And the system, I mean,
9 I understand your older record seems to have
10 disappeared, but from your own testimony, it seems
11 like, if you did, in fact, vote in primaries in '04
12 and '06, they should be reflected here. And quite
13 frankly, it causes me to -- looking at this, I kind
14 of question how often you vote in primaries.

15 So it's hard to -- I mean, so you have offered
16 your testimony that you think you have voted in
17 prior primaries, and we have to weigh that.

18 MS. PYLE: So I find this distinguishable from
19 the other two that were unknowns, so I'm going to
20 move to uphold the challenge.

21 CHAIRMAN OKESON: There's a motion. Is there
22 a second? I'll second it.

23 All those in favor to uphold the challenge
24 signify by saying "Aye."

25 VICE CHAIRMAN OVERHOLT: Aye.

1 MS. CELESTINO-HORSEMAN: Aye.

2 MS. PYLE: Aye.

3 CHAIRMAN OKESON: Aye.

4 The "ayes" have it. The motion carries.

5 MS. CARVER: May I ask a question?

6 CHAIRMAN OKESON: The Election Division is
7 directed not to include Meghan Carver on the
8 certified list of primary candidates sent to the
9 county election boards and indicate the name of
10 this candidate is not to be printed on the ballot.
11 Sorry.

12 MS. CARVER: So you're penalizing me for the
13 State not having my records?

14 CHAIRMAN OKESON: We've already voted on the
15 matter.

16 MS. CARVER: But that's the conclusion, then.

17 CHAIRMAN OKESON: The next case, okay, Cause
18 2022-23, Hiday v. Carie. I've been told Mr. Hiday
19 is not here. Given that there's no challenger, if
20 you prefer, we can simply rule on the matter.

21 MS. CARIE: Does that mean it's dismissed? I
22 don't know how any of this works. I'm very sorry,
23 but I'm really new to politics.

24 CHAIRMAN OKESON: You don't have to respond to
25 anybody. They didn't indicate on their challenge

1 form the reason for their claim to challenge you.

2 MS. CARIE: Yeah. Honestly, I had no idea
3 why --

4 CHAIRMAN OKESON: Would you state your name
5 for the record.

6 MS. CARIE: I'm sorry. My name is Heather
7 Carie. It's spelled H-e-a-t-h-e-r. My last name
8 is C-a-r-i-e.

9 I honestly am not completely sure why I'm
10 here. I never received any official notification.
11 I found out on social media.

12 MS. WARYCHA: Mr. Chairman, I do have the
13 documentation from UPS that the notice was
14 delivered.

15 MS. CARIE: Do you know what day that was,
16 because I've been checking the mail every day?

17 CHAIRMAN OKESON: I mean, there's nothing for
18 you to really respond to at this point.

19 MS. CARIE: Okay. So it's dismissed?

20 VICE CHAIRMAN OVERHOLT: I would move --

21 CHAIRMAN OKESON: So we'll close the hearing
22 on Cause No. 2022-23. Is there a motion?

23 VICE CHAIRMAN OVERHOLT: -- to deny this
24 challenge.

25 MS. PYLE: Second.

1 CHAIRMAN OKESON: Hearing no conversation, the
2 challenge is upheld.

3 MS. PYLE: Denied.

4 CHAIRMAN OKESON: Or, sorry, denied. The
5 Election Division is directed to include the name
6 of Heather Carie on the certified list of
7 candidates to be printed on the ballot.

8 MS. CARIE: Thank you. I'd like to just
9 make -- could I make one statement?

10 CHAIRMAN OKESON: It won't be --

11 MS. CARIE: I just want to say, because I've
12 heard a lot of other people saying this today, I
13 actually have proof from the Madison County voter
14 registration that a decade of my voter records are
15 missing.

16 CHAIRMAN OKESON: Thank you.

17 MS. CARIE: Thank you very much.

18 CHAIRMAN OKESON: Thank you for your patience.

19 MS. CARIE: Sorry for your very long day.

20 CHAIRMAN OKESON: You too.

21 The next cause number is 2022-03, Lowery v.
22 Kinser, in the matter of the challenge to Myra
23 Kinser, candidate for Republican Party nomination
24 for Indiana State Representative, District 62.

25 I recognize the challenger. Ms. Lowery,

1 please state your name and spell it.

2 MS. LOWERY: Amanda Lowery, A-m-a-n-d-a,
3 L-o-w-e-r-y.

4 CHAIRMAN OKESON: Go ahead.

5 MS. LOWERY: Thank you guys for your time
6 today to consider this challenge. My name is
7 Amanda Lowery. I'm the Jackson County Republican
8 Party chairman, and I also serve as the 9th
9 Congressional District vice chair.

10 I have filed a candidate challenge against
11 Myra Kinser, Republican candidate for State
12 Representative, District 62. IC 3-8-1-14 provides
13 that "A candidate for the office of representative
14 in the General Assembly must (1) be a United States
15 citizen; (2) have resided in the state for at least
16 two years and in the house district for at least
17 one year before the election; and (3) be at least
18 21 years of age upon taking office, as provided in
19 Article 4, Section 7, of the Constitution of the
20 State of Indiana."

21 Myra Kinser Pfaff and her husband, James "Jim"
22 Pfaff, lived in Woodland Park, Colorado, from
23 May 26, 2019, until at least April 16, 2021.
24 During this time, they owned and operated a
25 business in Woodland Park called Fit Nutrition

1 Depot. Myra lived in Colorado during this time
2 running the day-to-day operations of Fit Nutrition
3 Depot. Myra and her husband, Jim, lived in a
4 camper at the Bristlecone Lodge in Woodland Park,
5 Colorado. Jim ran for, and was elected to, a
6 Woodland Park City Council seat on April 7, 2020.

7 Myra worked at Fit Nutrition Depot until it
8 closed in February of 2021. Jim Pfaff resigned
9 from Woodland Park City Council on April 16, 2021,
10 amidst a recall effort against him. On April 15,
11 2021, Myra attended his final council meeting at
12 Woodland Park and staunchly defended her husband
13 and her residency in Woodland Park. I have
14 provided the transcript of Myra's statement from
15 that meeting with the candidate challenge provided
16 to you. I also have a video of Myra making these
17 statements for you to view today.

18 CHAIRMAN OKESON: Okay.

19 (Video plays)

20 (Timer)

21 MS. WARYCHA: Mr. Chairman, I will tell you
22 that I probably let that go an extra minute or two
23 because I forgot the timer when I was messing with
24 the audio.

25 CHAIRMAN OKESON: Is there anything more on

1 there that --

2 MS. WARYCHA: I apologize.

3 MS. LOWERY: Not really on the video, but if I
4 could have a few more minutes.

5 VICE CHAIRMAN OVERHOLT: You could have cut
6 the video short.

7 MS. LOWERY: Sorry.

8 CHAIRMAN OKESON: We'll give you 1 more minute
9 by consent.

10 MS. PYLE: Consent.

11 MS. CELESTINO-HORSEMAN: Consent.

12 VICE CHAIRMAN OVERHOLT: Consent.

13 MS. LOWERY: IC 3-5-5-9 states "If a person is
14 physically present within another state with the
15 intention of remaining in the other state for an
16 indefinite time as a place of residence, a person
17 loses residency in Indiana, even if the person
18 intends to return at some time."

19 Myra Kinser's time line in Colorado is clear.
20 There are 24 pages of documents submitted with this
21 challenge, newspaper articles, social media posts,
22 and transcripts from footage of Woodland Park
23 Council meetings clearly demonstrate that Jim and
24 Myra Pfaff lived and worked in Colorado from 2019
25 to 2021. We heard from the candidate in her own

1 words that they lived in Colorado. They chose
2 Woodland Park, Colorado, as their home. They were
3 not inhabitants of Indiana two years next preceding
4 the 2022 general election.

5 Myra Kinser was physically present in Colorado
6 living, working, and defending her residency there
7 from May 2019 until just ten months ago. Based on
8 her statements, her actions, and evidence I have
9 presented to the Commission today, I believe that
10 Myra Kinser lost her residency in Indiana pursuant
11 to IC 3-5-5-9 --

12 (Timer)

13 MS. LOWERY: -- and fails to meet the
14 requirements to be a state representative. Thank
15 you.

16 CHAIRMAN OKESON: You have 2 minutes to
17 cross-examine based on the testimony that she
18 provided.

19 MS. KINSER: So I just want to ask you, I am a
20 native of Bloomington, and how would I -- I have
21 never voted in Colorado. Have you checked on my
22 voting record? Have you checked on who owned the
23 business in Colorado?

24 MS. LOWERY: I have --

25 MS. KINSER: Have you done all your homework

1 on that?

2 MS. LOWERY: I have checked your voter
3 registration record in Colorado, and I have checked
4 your business registration in Colorado, yes.

5 MS. KINSER: Okay. I have never, ever -- my
6 name is not on Fit Nutrition intentionally. Okay?
7 I have never voted anywhere -- Washington, D.C.,
8 where my husband was the chief of staff, I have
9 never voted there. I never voted anywhere else
10 except Indiana. I am a lifelong native of
11 Bloomington, Indiana. I am town, I am gown, and
12 wild horses could not have dragged me away from
13 being a native and a resident of Indiana. That is
14 my home. I own a home. And for you to come back
15 and say that I am not a resident of Indiana is very
16 offensive to me.

17 I know that I made some pretty bold
18 statements, but you would too if your husband, who
19 actually was a resident of Colorado at one point in
20 time -- and, by the way, did you know that Jim and
21 I got married in 2014?

22 MS. LOWERY: I did know that, yes.

23 MS. KINSER: Okay. So that was the first time
24 I had gotten married. I dedicated my life to the
25 Hannah House Maternity Home in Bloomington,

1 Indiana. In 1895, William Lowe Bryan created that
2 house on College Avenue.

3 CHAIRMAN OKESON: Is there a question you're
4 cross-examining on?

5 MS. KINSER: Well, I'm just saying, do you
6 understand my history in Bloomington? Do you
7 understand --

8 MS. LOWERY: Yes. I am familiar with your
9 history in Bloomington, yes.

10 MS. KINSER: Okay. There is no way on God's
11 green earth that I would ever be a resident of
12 Colorado. I absolutely had the intent of spending
13 time with my husband.

14 (Timer)

15 MS. KINSER: And I'm going to leave it at
16 that.

17 CHAIRMAN OKESON: Okay. You're afforded some
18 testimony.

19 MS. KINSER: Okay. Well, thank you very much.
20 I know it's been a really long day, and I want to
21 go home too, so I'm going to try to make this
22 really super short.

23 But I think there's been quite a bit that came
24 out on the video. I didn't expect the video
25 tonight, but that's fine. I think this is a good

1 process, and I appreciate everyone just hanging in
2 there with me. But so as was said in the video --
3 I'm just actually going to read it just because I'm
4 really tired. I've been here all day.

5 My name is Myra Kinser, a lifelong resident of
6 Monroe County, located in Bloomington, Indiana. I
7 grew up in a small lake town, in Smithville, if
8 you're familiar with it, Smithville, Indiana,
9 8 miles south of Bloomington. Monroe County has
10 been my residence my entire life. I am a native of
11 Monroe County and a graduate of Indiana University.
12 I have lived, voted, done business, and maintained
13 my residency there my entire life. I purchased my
14 family homestead, which you heard in the video was
15 a part of our family since 1940, in 1998, which is
16 located at 3600 East Cleve Butcher Road in
17 Bloomington, Indiana.

18 So I gave you some attached materials here
19 this evening. There are some exhibits that I'm
20 going to have you take a look at. I always went
21 home, always got my driver's license at home, never
22 once in any other state in this country have I ever
23 gone outside the state of Indiana, and I want to
24 make that very clear. I have always had my
25 residence here, and I have a lot of family in

1 Monroe County. My last name, Kinser Pike is named
2 after my family, and I take a lot of pride in my
3 family. And, yes, I love my husband, and at one
4 point, you know, he was a resident of Colorado.
5 And he also is a native of Bloomington -- or of
6 Indiana. He was born in Greenwood.

7 But anyways, I just want to say emphatically
8 that, yes, I went out there, I was participating,
9 but I went back and forth, and my intent was to
10 always return home, and I did return home often.

11 So for your review, I've attached my driver's
12 license, my car registration, my homestead property
13 deduction, and my voting record. It's my entire
14 voting record from the time I first started voting
15 in the '90s, so you have that in your possession.
16 I also have a statement. I don't know that we'll
17 get to it, but it's from my husband. We got it
18 notarized. He talked about the situation. So I
19 guess I'll just leave it at that. And I also have
20 employment in the state of Indiana here too. So,
21 you know, if you want to see my W-2 from last year,
22 you're welcome, but I just didn't want to throw
23 everything at you. But that's all I have to say
24 right now.

25 CHAIRMAN OKESON: Thank you.

1 Any cross-examination based on the testimony
2 she just provided?

3 MS. LOWERY: I do not.

4 CHAIRMAN OKESON: Rebuttal? There's nothing
5 really to rebut.

6 MS. KINSER: No, there's no rebuttal.

7 CHAIRMAN OKESON: I'll bring the public
8 hearing on the matter, Cause No. 2022-03, to a
9 close. Discussion?

10 VICE CHAIRMAN OVERHOLT: Well, my observation
11 is that -- so Ms. Lowery, in your testimony,
12 indicated that Ms. Kinser had returned to Indiana
13 ten months ago.

14 MS. LOWERY: Correct, approximately.

15 VICE CHAIRMAN OVERHOLT: So the requirement,
16 it's not that she live in Indiana for the two years
17 immediately preceding the election. People correct
18 me if I'm wrong. The requirement is that she lived
19 in Indiana a total of two years, one of those years
20 being the year immediately preceding the election.

21 So by your own testimony, it would seem to me
22 that, as long as Ms. Kinser remains in the state of
23 Indiana through the election, that she'll satisfy
24 the requirement of the one year prior to the
25 election. And I don't hear you disputing her

1 testimony that she has spent at least another year
2 in the state of Indiana. So in my mind, it seems
3 like there's -- unless I am misunderstanding the
4 law, it doesn't seem like there's --

5 MS. WARYCHA: So 3-8-1-14 is where it
6 discusses representative in the General Assembly.
7 "A candidate for the office of representative in
8 the General Assembly must (1) be a United States
9 citizen at the time of election; (2) have resided
10 in the state for at least two years and in the
11 house district for at least one year before the
12 election; and (3) be at least 21 years old upon
13 taking office, as provided in Article 4, Section 7,
14 of the Constitution of the State of Indiana."

15 MS. CELESTINO-HORSEMAN: So are you saying
16 that she's -- are you agreeing that she returned a
17 year before the election or are you saying she's
18 never returned?

19 MS. LOWERY: I would agree that she will meet
20 the one-year requirement, but I do not believe that
21 she meets the two-year requirement. In the Indiana
22 Constitution it states that it must be the one year
23 next preceding and two years next preceding the
24 election.

25 MS. CELESTINO-HORSEMAN: So she had to come

1 back two years before the election?

2 MS. LOWERY: I believe so.

3 CHAIRMAN OKESON: Co-Counsel?

4 VICE CHAIRMAN OVERHOLT: So --

5 MS. WARYCHA: "Before the election" is --

6 VICE CHAIRMAN OVERHOLT: Oh, okay. Sorry.

7 MS. LOWERY: The Constitution is a little more
8 clear.

9 CHAIRMAN OKESON: Hold on.

10 MS. WARYCHA: "Before the election" is defined
11 in 3-8-1-1.7. "As used in this chapter, 'before
12 the election' refers to a general, municipal, or
13 special election."

14 VICE CHAIRMAN OVERHOLT: So she has to have
15 been in the state, residing in the state, for
16 two years immediately preceding the election and in
17 the house district for one year?

18 MS. KINSER: Can I talk?

19 VICE CHAIRMAN OVERHOLT: Wait. Is that it?

20 MS. WARYCHA: That is how I understand the
21 statute.

22 MS. CELESTINO-HORSEMAN: So what date would
23 she have had to be the latest?

24 VICE CHAIRMAN OVERHOLT: So that would be
25 November of 2020. And she was in Colorado clearly

1 saying that she lived there in --

2 CHAIRMAN OKESON: She used the term "reside."

3 VICE CHAIRMAN OVERHOLT: Reside. April 15th
4 of last year was when that meeting --

5 MS. KINSER: I called it home because it was
6 my temporary home. My real home is Indiana.

7 That's what --

8 MS. CELESTINO-HORSEMAN: This is one of those
9 situations where she has presented documentation
10 that she has attested to under penalties of perjury
11 that we are supposed to draw a presumption that
12 that's where she lives, her driver's license and
13 that type of thing.

14 MS. PYLE: Although I will note that her
15 driver's license was issued November 16th of '21 --

16 MS. CELESTINO-HORSEMAN: But she's got two
17 copies.

18 MS. PYLE: -- which that's not a full year.

19 MS. KINSER: I put both copies.

20 MS. PYLE: Oh, okay. My mistake.

21 MS. CELESTINO-HORSEMAN: And then we have this
22 tape where she says that.

23 What year did your husband run for City
24 Council of Woodland Park?

25 MS. KINSER: I think it was -- you know, I

1 don't recall. Like 2020 or 2019 or something like
2 that.

3 MS. CELESTINO-HORSEMAN: Did you vote for him?

4 MS. KINSER: No. I've never voted anywhere
5 else. I've only voted in Indiana. And I would
6 come back and forth to Indiana. I did not stay out
7 there. Although I said that in that video, I was
8 back and forth. I have a huge family in
9 Bloomington, and I have a home that is mine and
10 Jim's now.

11 CHAIRMAN OKESON: So were you misleading to
12 the folks in Colorado or are you misleading to us
13 right now?

14 MS. KINSER: No. I don't think I was
15 misleading to either one.

16 CHAIRMAN OKESON: I'm just saying you stated
17 what you did with --

18 MS. KINSER: Yeah, I did. I mean, I did stay
19 there, but I came home often. I maintained my home
20 in -- everybody in Woodland Park knew that I had a
21 home in Indiana and that I loved it. I didn't make
22 that --

23 CHAIRMAN OKESON: Well, I've closed the public
24 hearing on this. I think we're drifting into --

25 MS. CELESTINO-HORSEMAN: Isn't there another

1 presumption of your immediate family?

2 VICE CHAIRMAN OVERHOLT: Presumption about
3 where your immediate family resides?

4 MS. CELESTINO-HORSEMAN: So your husband was a
5 Colorado resident; correct?

6 MS. KINSER: At one point, yeah.

7 MS. WARYCHA: Do you want the statute on
8 immediate family?

9 MS. CELESTINO-HORSEMAN: Yeah.

10 MS. WARYCHA: It's 3-5-5-11, "Location of
11 immediate family as residence. The place where a
12 person's immediate family resides is the person's
13 residence unless the family residence is a
14 temporary location for the person's immediate
15 family or for transient purposes."

16 MS. CELESTINO-HORSEMAN: Immediate family
17 would be husband.

18 CHAIRMAN OKESON: Is an RV a temporary
19 residence?

20 VICE CHAIRMAN OVERHOLT: Not according to --

21 MS. NUSSMEYER: Mr. Chairman, if I might too,
22 just for your decision-making. Just to piggyback
23 on Co-Counsel's comments, 3-5-5-0.5 defines
24 immediate family for purposes of this chapter,
25 which says an individual's immediate family

1 includes the spouse, children, stepchildren,
2 parents, or grandparents of the individual, if
3 that's helpful to you. I don't know that it is,
4 but there you go.

5 CHAIRMAN OKESON: Well --

6 MS. CELESTINO-HORSEMAN: So where do you file
7 your income taxes?

8 MS. KINSER: In Indiana.

9 MS. CELESTINO-HORSEMAN: Where does your
10 husband file his?

11 MS. KINSER: Well, he's a resident here now
12 too. We're completely back here. But he's filed
13 in Colorado at times.

14 MS. CELESTINO-HORSEMAN: So you don't file
15 joint?

16 MS. KINSER: No, we haven't at times.

17 MS. CELESTINO-HORSEMAN: At times, but when he
18 filed in Colorado, you did not file jointly; is
19 that what you're testifying to here today?

20 MS. KINSER: Well, I'd have to refer to him
21 about it. I really honestly -- I just got married
22 in 2014. I've just kind of been enjoying life with
23 my new husband, so I don't know how --

24 MS. CELESTINO-HORSEMAN: It's been
25 eight years. He's not new anymore.

1 MS. KINSER: Well, he's not new anymore, but
2 it's been really wonderful. We just took our RV
3 out there, and I live life, and I just want to come
4 home and run for state rep to serve my state.

5 CHAIRMAN OKESON: So the challenger has
6 offered some evidence that she did not meet the
7 time line, and I'm not necessarily hearing that
8 refuted.

9 VICE CHAIRMAN OVERHOLT: Right.

10 MS. CELESTINO-HORSEMAN: Well, I think,
11 though, she has said she -- she said she had to be
12 back here by, what, November 1st, or a little after
13 that, of 2020? She had to be back here by then?

14 VICE CHAIRMAN OVERHOLT: This in Colorado was
15 April of 2021.

16 CHAIRMAN OKESON: My presumption is when you
17 provided testimony in Colorado you were sworn in
18 under oath as well.

19 MS. KINSER: (Nods head.)

20 CHAIRMAN OKESON: I make a motion that the
21 challenge is upheld. Is there a second?

22 MS. PYLE: Second.

23 CHAIRMAN OKESON: Any further discussion?

24 Hearing none, all those in favor signify by
25 saying "Aye."

1 VICE CHAIRMAN OVERHOLT: Aye.

2 MS. PYLE: Aye.

3 CHAIRMAN OKESON: Aye.

4 MS. CELESTINO-HORSEMAN: No.

5 CHAIRMAN OKESON: The "ayes" have it. The
6 challenge is upheld. The Election Division is
7 directed not to include Myra Kinser on the
8 certified list of primary candidates sent to the
9 county election boards and indicate the name of
10 this candidate is not to be printed on the ballot.
11 Thank you.

12 Next case, Waddell v. McClure, Cause
13 No. 2022-07, in the matter of challenge to James R.
14 McClure, Jr., candidate for Republican Party
15 nomination for Indiana State Representative,
16 District 71.

17 Is McClure here? McClure? Going once, twice,
18 three times.

19 The record will reflect that Mr. McClure is
20 not present. Given that, would you like to use
21 your time or --

22 MR. WADDELL: I'll just very briefly.

23 CHAIRMAN OKESON: State your name.

24 MR. WADDELL: Josh Waddell, W-a-d-d-e-l-l.
25 This is a very, very direct challenge, and as

1 someone that's also been here since 1 o'clock, I
2 appreciate the virtue of brevity.

3 I have the voter profile from the Clark County
4 Clerk of Courts for Mr. McClure indicating that he
5 voted in every Democratic primary since 1992 and
6 has not voted in any Republican primary, has not
7 obtained county chairman approval.

8 CHAIRMAN OKESON: Thank you. I'm going to
9 close the public hearing on the cause, Case
10 No. 2022-07.

11 Is there any discussion?

12 MS. PYLE: I'll move to uphold.

13 CHAIRMAN OKESON: I have a motion to uphold
14 the challenge. I'll second it. Any discussion?

15 Hearing none, all those in favor signify by
16 saying "Aye."

17 VICE CHAIRMAN OVERHOLT: Aye.

18 MS. CELESTINO-HORSEMAN: Aye.

19 MS. PYLE: Aye.

20 CHAIRMAN OKESON: The "ayes" have it. The
21 challenge is upheld. The Election Division is
22 directed to not include James R. McClure, Jr., on
23 the certified list of primary candidates sent to
24 the county election boards and indicate the name of
25 this candidate is not to be printed on the ballot.

1 Thank you.

2 MR. WADDELL: Thank you.

3 CHAIRMAN OKESON: Cause 2022-28, Duckworth v.
4 Whitley, and 2022-25, Beck v. Whitley, in the
5 matter of challenge to --

6 MS. CELESTINO-HORSEMAN: This is our last one;
7 right?

8 UNIDENTIFIED SPEAKER: Yes, it is.

9 CHAIRMAN OKESON: Challenge Whitley for --
10 what office is this? State Representative,
11 District 77.

12 Consent to combine these given that they are
13 on substantially identical grounds.

14 VICE CHAIRMAN OVERHOLT: Consent.

15 MS. PYLE: Consent.

16 CHAIRMAN OKESON: Consent.

17 We have Ali Bartlett and Joseph Beck?

18 MR. DUCKWORTH: Mike Duckworth.

19 CHAIRMAN OKESON: Duckworth. All right.
20 State your name.

21 MR. DUCKWORTH: My name is Michael Duckworth,
22 M-i-c-h-a-e-l, D-u-c-k-w-o-r-t-h. I'm currently
23 the chairman of the Vanderburgh County Republican
24 Central Committee.

25 I'm here today because I want to exercise the

1 fact that Mr. Whitley has not met the requirements
2 for candidacy for state legislature, District 77,
3 in accordance with IC 3-8-2-7. I have a record
4 here that's been obtained from the Vanderburgh
5 County Election Office that shows that there's only
6 been one primary voted by Mr. Whitley, and he has
7 not received a waiver from myself. So he has not
8 met the requirements of that state statute.
9 Therefore, I would ask you to refuse his efforts to
10 run for that office.

11 CHAIRMAN OKESON: Thank you. Do you have
12 anything to add, Ms. Bartlett?

13 MS. BARTLETT: I apologize. I'm just here as
14 counsel.

15 CHAIRMAN OKESON: You have 2 minutes of
16 cross-examination related to the statements he just
17 made.

18 MR. WHITLEY: Okay.

19 CHAIRMAN OKESON: Would you like to?

20 MR. WHITLEY: Yes, I would like to do that.

21 CHAIRMAN OKESON: Start your questions.

22 MR. WHITLEY: Do I get to speak?

23 CHAIRMAN OKESON: After you're done with your
24 cross-examination.

25 MS. CELESTINO-HORSEMAN: Do you want to waive

1 your cross and just go to your --

2 MR. WHITLEY: Yeah. It's been a long day.
3 There's no -- let's keep it short and simple.

4 CHAIRMAN OKESON: Okay. Go ahead.

5 MR. WHITLEY: Well, I want to -- I want to --
6 I thought she was asking do I want to skip this
7 cross-examination.

8 CHAIRMAN OKESON: She did.

9 MS. CELESTINO-HORSEMAN: Yeah, skip the cross
10 and go into your --

11 MR. WHITLEY: Statement?

12 CHAIRMAN OKESON: Yes.

13 MR. WHITLEY: Okay. Awesome. My bad. Okay.
14 My name is Gabe Whitley from Evansville, and I'm
15 here to represent myself being challenged in
16 today's hearing.

17 It has been brought to my attention that the
18 Vanderburgh County Republican chairman, Mike
19 Duckworth, from Vanderburgh County has challenged
20 me due to Indiana's new unconstitutional state
21 code. IC 3-8-2-7-4 states that must have voted in
22 two previous primaries. I ask that you as, you
23 know, our board dismiss these challenges for the
24 following reasons: First, in the Indiana
25 Constitution, Article 4, Section 7 supersedes

1 Indiana Code 3-8-2-7-4, have voted in two previous
2 primaries to run for state rep. Indiana
3 Constitution Article 4, Section 7 says no person
4 shall be a senator or a representative at the time
5 of his election that is not a citizen of the United
6 States nor who has not been for two years next
7 preceding his election inhabitant of this state and
8 for one year next preceding his election inhabitant
9 of the district in which he may be chosen.
10 Senators shall be at least 25 and representatives
11 at least 21 years of age.

12 I meet the constitutional requirements to run
13 for office that is necessary. If the Vanderburgh
14 County Republican Party and the Indiana Republican
15 Party and the Democrats want their Indiana
16 Code 3-8-2-7-4 to be official and not violate the
17 Indiana Constitution, it needs to be approved in
18 two separate General Assembly elections and then
19 approved by the voters for it to be constitutional.
20 Currently, this violates our Indiana Constitution,
21 and the state -- the General Assembly established
22 this law illegally without the due process, like I
23 said above. And --

24 CHAIRMAN OKESON: I don't mean to be rude.

25 MR. WHITLEY: Go ahead. Oh, you're okay.

1 It's been a long day.

2 CHAIRMAN OKESON: But you're making a similar
3 argument that has been made a few times before, and
4 while there might be some level of empathy or
5 sympathy for your case, we're not here to change
6 Indiana statute, and that's really what I hear you
7 asking us do.

8 MR. WHITLEY: I mean, what I'm hearing from
9 you guys, what I have accumulated since 1:30 p.m.,
10 that you guys have previously and continuously
11 violated the Indiana Constitution, Article 4,
12 Section 7.

13 CHAIRMAN OKESON: Then I would suggest that
14 your remedy is in a court of law.

15 MR. WHITLEY: Okay. Then we will take it to
16 court. And then what will happen after we were
17 denied, everybody that was denied candidacy? When
18 we take it to court, what would happen then? Who
19 would be held accountable? What would happen then?

20 CHAIRMAN OKESON: I don't have a crystal ball,
21 so I guess you'd have to wait and see.

22 MS. PYLE: That's for a judge.

23 MR. WHITLEY: So would the election board be
24 at fault for that when we take it to court and find
25 out --

1 CHAIRMAN OKESON: I don't presume to know what
2 a court would decide. Do you have anything further
3 you'd like to offer?

4 MR. WHITLEY: No. I'm okay with that. Yeah,
5 I'm okay with that.

6 CHAIRMAN OKESON: Okay. I just -- I don't
7 mean to be rude.

8 MR. WHITLEY: No. It's been a long day.

9 CHAIRMAN OKESON: You're going to make an
10 argument that we've heard half a dozen times today,
11 and we're going to be consistent.

12 MR. WHITLEY: Oh, yeah. I assume that you
13 guys --

14 CHAIRMAN OKESON: We may not have done a lot
15 today other than that.

16 MR. WHITLEY: No, no. Your guys's job is to
17 uphold your donors and your guys's unlawful and
18 unconstitutional --

19 CHAIRMAN OKESON: No.

20 MS. PYLE: Not donors.

21 MR. WHITLEY: No, no. I'm right. I'm right.
22 And that's why you guys are going to protect that
23 Indiana Code.

24 MS. CELESTINO-HORSEMAN: Mr. Chair, may I tell
25 him, as a lawyer who practices constitutional law,

1 why what he's saying is wrong?

2 CHAIRMAN OKESON: Go ahead.

3 MS. CELESTINO-HORSEMAN: We don't have a
4 choice because there's a law that says this is what
5 you have to do. We have no authority to make a
6 constitutional determination as to whether it
7 infringes upon any of your constitutional rights.

8 MR. WHITLEY: And I understand that. I
9 understand that.

10 MS. CELESTINO-HORSEMAN: Let me finish. And
11 so what he's saying to you, our chairman is saying
12 to you, is that if you want to make that challenge,
13 you need to take it to court and get an order from
14 a court, a declaration that that statute is
15 unconstitutional. But don't sit there and tell me
16 or these people, after we've been spending all day
17 working on this and trying to be fair, that we're
18 sitting here protecting somebody's interest and
19 money because we are not.

20 MR. WHITLEY: Public opinion would display
21 differently and the court records as well.

22 MS. CELESTINO-HORSEMAN: Why don't you stop
23 while you're ahead.

24 MR. WHITLEY: Okay. You got it.

25 CHAIRMAN OKESON: Anything else?

1 MR. DUCKWORTH: I just would respectfully
2 request that the Commission rule him ineligible for
3 this candidacy. Thank you.

4 CHAIRMAN OKESON: I'm going to close the
5 public hearing on the matter. Is there a motion?

6 MS. PYLE: I would move to uphold the
7 challenge.

8 UNIDENTIFIED SPEAKER: Can I ask a question?

9 CHAIRMAN OKESON: No. Is there a second?

10 VICE CHAIRMAN OVERHOLT: Second.

11 UNIDENTIFIED SPEAKER: Actually I held my hand
12 up for an oath that I was to testify with him, so I
13 have a question.

14 CHAIRMAN OKESON: You're not a part of these
15 proceedings.

16 UNIDENTIFIED SPEAKER: Why aren't I?

17 CHAIRMAN OKESON: Are you a candidate? Are
18 you a challenger?

19 UNIDENTIFIED SPEAKER: I'm a candidate.

20 CHAIRMAN OKESON: In this cause?

21 MR. WHITLEY: No, he is not.

22 CHAIRMAN OKESON: Then, no.

23 I have a challenge to uphold -- a motion to
24 uphold the challenge. I have a second. Any
25 discussion?

1 Hearing none, all those in favor signify by
2 saying "Aye."

3 VICE CHAIRMAN OVERHOLT: Aye.

4 MS. CELESTINO-HORSEMAN: Aye.

5 MS. PYLE: Aye.

6 CHAIRMAN OKESON: The "ayes" have it. The
7 challenge is upheld. The Election Division is
8 directed to not include Gabe Whitley on the
9 certified list of primary candidates sent to the
10 county election boards and indicate that the name
11 of this candidate not be printed on the ballot.

12 With that, that concludes the business of the
13 Indiana Election Commission for today. Is there a
14 motion to adjourn?

15 VICE CHAIRMAN OVERHOLT: So moved.

16 CHAIRMAN OKESON: Second.

17 All those in favor signify by saying "Aye."

18 VICE CHAIRMAN OVERHOLT: Aye.

19 MS. CELESTINO-HORSEMAN: Aye.

20 MS. PYLE: Aye.

21 CHAIRMAN OKESON: We're adjourned. Thank you
22 all.

23 (The Indiana Election Commission Public
24 Session was adjourned at 8:16 p.m.)

25

1 STATE OF INDIANA

2 COUNTY OF HAMILTON

3 I, Maria W. Collier, a Notary Public in and
4 for said county and state, do hereby certify that the
5 foregoing public session was taken at the time and
6 place heretofore mentioned between 1:43 p.m. and
7 8:16 p.m.;

8 That said public session was taken down in
9 stenograph notes and afterwards reduced to typewriting
10 under my direction; and that the typewritten
11 transcript is a true record of the public session.

12 IN WITNESS WHEREOF, I have hereunto set my
13 hand and affixed my notarial seal this 7th day of
14 March, 2022.

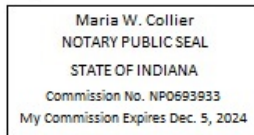
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Maria W. Collier

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21 My Commission expires:
22 December 5, 2024

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23 Job No. 169097

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