TRANSCRIPT OF PROCEEDINGS
OF THE INDIANA ELECTION COMMISSION
PUBLIC SESSION AGENDA

Hearing heard on the 23rd day of February, 2018,
at the Indiana Government Center South, 402 W.
Washington Street, Conference Room B, before the
Indiana Election Committee.

A Stenographic Record By:
Craig Williams, CSR, RPR
Notary Public
Stenographic Reporter
In the Matter Of:

Indiana Election Commission Public Session Agenda

TRANSCRIPT OF HEARING

February 23, 2018
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APPEARANCES

INDIANA ELECTION COMMISSION:

BRYCE H. BENNETT
Chairperson

KAREN CELESTINO-HORSEMAN
Proxy for Vice Chairman Anthony Long

MEMBER SUZANNAH WILSON OVERHOLT

MEMBER ZACHARY F. KLUTZ

INDIANA ELECTION DIVISION STAFF:

BRAD KING
Co-Director

ANGIE NUSSMEYER
Co-Director

MATTHEW R. KOCHVAR
Co-General Counsel

DALE SIMMONS
Co-General Counsel
(Time noted: 1:35 p.m.)

CHAIRPERSON BENNETT: I call this meeting of the Indiana Election Committee into session on Friday, February 23rd, 2018, to order. The following members of the commission are present:

Myself, Bryce Bennett, Chair. We have Karen Celestino-Horseman, Proxy for Vice Chairman Anthony Long, who just joined us. Member Suzannah Overholt is here, and Member Zachary Klutz. The Indiana Election Division Staff, we have Co-Directors Brad King and Angela Nussmeyer, and we have Co-General Counsels Dale Simmons and Matthew Kocheva.

Our court reporter today is Craig Williams from Connor Reporting. Before we begin today's proceedings, I want to remind everyone on behalf of the court reporter to identify yourself when you begin to speak, spell your name when identifying yourself, speak clearly, and do not speak at the same time as others.

DOCUMENTATION OF COMPLIANCE WITH OPEN DOOR LAW

CHAIRPERSON BENNETT: At this time I'd request Mr. King and Ms. Nussmeyer to confirm that the commission meeting has been properly noticed as required under the open door laws.
CO-DIRECTOR KING: Mr. Chairman, members of the Commission, the notice for this meeting was posted in accordance with the Indiana Open Door Law.

CHAIRPERSON BENNETT: Thank you.

I now recognize Mr. King and Ms. Nussmeyer to present minutes of the January 5th, 2018 Indiana Commission meeting.

APPROVAL OF JANUARY 5, 2018 COMMISSION MINUTES

CO-DIRECTOR KING: Mr. Chairman, members of the Commission. The January 5th, 2018 minutes were reviewed by Co-Director Nussmeyer and myself and are presented to you with our recommendation for your approval.

CHAIRPERSON BENNETT: Is there a motion to approve these minutes as presented?

MEMBER KLUTZ: So moved.

CHAIRPERSON BENNETT: We have a motion. Is there a second?

VICE CHAIR CELESTINO-HORSEMAN: Second.

CHAIRPERSON BENNETT: We have a second. Is there any discussion?

Hearing none, all in favor, say aye.

All opposed, say nay.

The ayes have it, and the motion to approve
the minutes is adopted. We will sign the
minutes.

CANDIDATE CHALLENGE PROCEEDINGS

CHAIRPERSON BENNETT: We'll now move
forward to the adoption of candidate challenge
hearing procedures. In the past, the Commission
has followed procedures for conducting candidate
challenge hearings, and I move that the
Commission use the following procedures today:

When each candidate challenge is called,

the hearing will begin by recognizing the
Election Division staff to provide information
about the documents provided to the Commission
members, including candidate challenge forms and
the notice given to the candidate and
challenger. Unless there is objection, the
documents provided to the Commission by the
Election Division will be entered into the
record of this meeting.

After the Election Division staff completes
its presentation, the challenger will be
recognized first. The challenger or the
challenger's authorized representative, if
written authorization has been filed with the
Election Division, may present their case for no
more than five minutes unless the Commission
votes to allow additional time to the presenter.
Commission members may ask questions during
a presentation, but the time spent answering
these questions will not be counted against the
presenter's time. The Election Division may
signal the chair when the presenter's time is
up.

If the presenter offers additional
documents or other physical evidence not
previously received by the Commission, then the
original must be provided to the Election
Division, that would be Dale Simmons, to
preserve for the record.

The candidate or the candidate's authorized
representative, if written authorization has
been filed with the Election Division, will be
recognized following the last presentation by a
challenger. The candidate may present their
case for no more than five minutes unless the
Commission votes to allow additional time for a
presenter.

Following the presenter by a challenger,
the candidate may cross-exam the challenger.
Following the presentation by a candidate, a
challenger may cross-exam the candidate. The cross-examination in all cases is limited to two minutes, unless the Commission votes to allow additional time.

The cross-examination must be limited to questions regarding statements made by the presenter. Following presentation by the candidate, the challenger may present a rebuttal of no more than two minutes.

The Commission may dismiss the cause of any challenger who has failed to appear to testify before the Commission.

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

IEC MEMBER KLUTZ: Second.

CHAIRPERSON BENNETT: Is there any objection by Commission members to these procedures?

Hearing none, is there any further discussion?

Hearing no discussion, all in favor, say aye.

All opposed, say nay.

The ayes have it, and the motion is
approved.

Everyone present who plans to testify before the Indiana Election Commission regarding any matter today, including campaign finance and voting system matters, please stand for the administration of the oath.

(All prospective people intending to testify before the Indiana Election Commission stood and were jointly sworn in.)

CHAIRPERSON BENNETT: We will now begin consideration of candidate challenges. I remind everyone to please identify themselves before you begin, please.

EARL HARRIS, JR.

Cause No. 2018-6

CHAIRPERSON BENNETT: The first challenge we will address is the challenge to Earl Harris, Jr. And that is Cause No. 2018-6 in the matter of the challenge to candidate Earl Harris, Jr., candidate for the Democratic Party nomination for state representative in District 2. The Election Division has provided a copy of the candidate filing challenge form with attachments, a copy of the notice given in this matter, and an appearance entered on behalf of
the candidate Mr. Chin, identified as Scott Chinn on behalf of the candidate.

At this time I would recognize Rosa Maria Rodriguez, challenger, for a presentation.

MS. RODRIGUEZ: Good afternoon. I'm not familiar with the setting, so where do I stand, I sit?

CHAIRPERSON BENNETT: You're perfect where you are. You may sit if you'd like.

MS. RODRIGUEZ: I would prefer. Thank you so much.


May I continue?

CHAIRPERSON BENNETT: Yes, you may.

MS. RODRIGUEZ: Hello, my name is Rosa Maria Rodriguez. On May the 8th, 2016, I had submitted a candidate's filing challenge on Earl Harris, Jr. I stand before you today because the same matter of challenge criteria in 2016 still is present today. I am requesting a full and analytical detailed investigation on all proof that I submitted in 2016. This same documentation stands active today.

Candidate Earl Harris, Jr. for State
Representative, Second District, as I stated
before, has maintained his voter registration.

2. He's voted in the North Township
District Precinct 30 of which he is not a
resident.

3. On or about January 6th, 2016, and
January 11, 2018, Mr. Harris filed for candidacy
for State Representative, Second District.

Whereas, Mr. Harris did not and does not live in
the state of Indiana Second District. He did
not live in the Indiana Second District in the
2016 Indiana election. He does not presently
live there, which makes him ineligible to run in
this present election as representative for
Second District.

Furthermore, Mr. Harris continues to
permanently live here in Indianapolis.

I recognize that under the laws of Indiana,
Harris is entitled to a presumption that his
voter registration and his running for Indiana
State Representative was lawful. I know all
relevant evidence that has been submitted and
circumstances must be taken into account,
including the knowledge and intent of the voter
and candidate.
I ask the Indiana Election Commission if there's even a smidgen of a doubt in your mind, as it is in the minds of many of the residents that live in the Second District, that Earl Harris, Jr. is representing and have confirmed that he does not live in the Second District. I ask that you take very seriously the evidential proof I have submitted and that you look out for the best interests of the constituents of the Second District.

Subject to prosecuting authorities proving all of the required elements beyond reasonable doubt, either or both of these actions constitute violations to the Indiana Election Code. It is important for you to know that the voters, the constituents in the state of Indiana and especially those in the Second District deserve to know the truth.

I recognize Mr. Harris' rights to procedure, due process, including a full opportunity to rebut the proof before you today. But again, there is room for possible violations of the law. I implore you not to reject the requests of an investigation and obtain the truth so all are held accountable for their
actions and by the law.

I'm not asking this for myself but rather for the voters, the constituents of the Second District and to hold everyone accountable, because we work for them regardless who wins.

In the interest of promoting the highest possible level of confidence in the election process and this Election Commission, your endeavors to speak the truth to elevate credible candidates to represent the voters in our state and it is upon you. To allow circumventing the law, they stated ignorance is not acceptable. To permit a candidate, regardless of who they are or who they are related to, to run for office when the residency is questionable is not acceptable. It cannot be allowed to continue. The voters in Indiana Second District, and even throughout the state of Indiana, know the truth about politicians. Even those that walk in the halls --

CHAIRPERSON BENNETT: One minute remaining.

MS. RODRIGUEZ: -- they know the truth.

The voters in Second District deserve to be treated with dignity and with respect. And giving candidates that forthright and just by
giving us the assurance that their representatives are truthful of the residency and actions because we vote for them, we owe them to do the right thing.

I provided factual evidence taken from inserts of Mr. Harris' very own Facebook page accounts showing his continuous living in Indianapolis. I have proven evidence of Mr. Harris' homestead. I felt that on June 15th, 2016, ignorance of the law was superseded and laws of Indiana were circumvented.

CHAIRPERSON BENNETT: Thank you, Ms. Rodriguez, your time is up. You might want to stay there during cross-examination.

Mr. Chinn, I recognize you.

MR. CHINN: No questions at this time, Mr. Chairman.

Any questions from the Commission?

VICE CHAIR CELESTINO-HORSEMAN: Yes, sir.

QUESTIONS BY VICE CHAIR CELESTINO-HORSEMAN:

Q So when Mr. Harris moved to 4114 Butternut Street in Chicago, Illinois, did he take the homestead exemption for that home as well?

A No, he kept the homestead exemption here in
1  Indianapolis, though.
2  Q  So if he kept the homestead exemption in
3  Indianapolis, because he considers -- oh, I see
4  what you are saying. So he kept it here and did
5  not --
6  A  Yes, until June 14th.
7  Q  June 14th of 20- --
8  A  2016.
9  Q  And that would have been after he filed?
10  A  Yes.
11  Q  So now we just received these, so I haven't had
12  a chance to go through everything.
13  A  That's okay.
14  Q  So can you tell me what other documentation you
15  have in here that shows that he's living in
16  Indianapolis?
17  A  If you look at his Facebook, you will see a
18  timeline that I -- on the inserts of the
19  Facebook that continues his living here and just
20  visiting East Chicago. During the time of the
21  election, what he did is he would appear for
22  activities and then return back. I believe in
23  March of 2016 he then changes the address of his
24  business, but the business is still here.
25  MEMBER WILSON OVERHOLT: If I might,
Ms. Horseman.

EXAMINATION,

QUESTIONS BY MEMBER WILSON OVERHOLT:

Q Ms. Rodriguez, under the law, though, the residence requirement is that it's for one year prior to the election residing in the House District, one year prior to the election. Everything you submitted is what you submitted to your prior challenge.

A Right.

Q And your timeline stops in 2016, which is obviously more than a year before this election. Do you have any evidence that you're claiming that supports your argument?

A I do. All you have to do is get on your phone, go on Facebook --

Q No, that's not my job, that's your job.

A I understand that.

Q What evidence do you have for the election -- and sorry, Counselor, I assume we're talking about the election in November, not the primary. So the time period that is at issue is actually November of 2017, whatever day in November is a year before the election, through November of 2018. That's when he has to have residency. Do
1 you have anything --
2 A And I can get that. I don't have it here
3 because I didn't go --
4 Q This is your chance.
5 A Okay. But my argument still stands, that at the
6 conception, he was planted in East Chicago. And
7 if you look at the minutes of June 15th, you
8 will see that he says that his father passed
9 away on the 23rd. On the 26th, 27th, because he
10 filed his registration on the 27th, that him and
11 his mother came down here, grabbed some clothes
12 and then went back.
13 Q But again, that time period isn't relevant here.
14 So you've answered my question, you don't have
15 any evidence to present to us today?
16 A Not at this time, no.
17 EXAMINATION,
18 QUESTIONS BY VICE CHAIR CELESTINO-HORSEMAN:
19 Q Just to make sure that I'm clear, so Mr. Harris
20 filed for office when his father died, right,
21 2015?
22 A Yes, he ran for office.
23 Q And that was a special election that he was
24 elected?
25 A No, I'm sorry, I stand corrected. His mother
took over the end of the candidacy, then
Mr. Harris filed during the election for the
next election.
Q So his first filing then was in 2016?
A Yes.
Q Is that right, 2016 or 2017?
A No, 2016.

MEMBER WILSON OVERHOLT: The one at issue
is 2018.
Q Okay, so now I understand. That was before, the
2016, and the Commission said no.
A What occurred was that at the time I didn't know
that Mr. Harris did not live in East Chicago. I
found out after the election, actually a week
after. And so that's when my efforts were to
attempt to expose him.

But, even after -- and I believe that the
Commission circumvented the law because at the
time my argument was the homestead, that he
continued having the homestead. Their answer to
me was that they did not want to disenfranchise
the voter. So I'm thinking, okay, I can
understand that, for whatever reason, and I
really don't know the reason. And he admits
that he changed his homestead the day before we
came here before the Commission.

VICE CHAIR CELESTINO-HORSEMAN: So, in
other words, as Commissioner Overholt said, his
homestead exemption, everything had been
changed --
A The day before.
Q -- by 2017, the year before this November
election, going back to November of last year,
everything had been changed?
A Yes. And even put that aside, Mr. Harris does
not live in East Chicago.

CHAIRPERSON BENNETT: Can I just ask then.
You need to understand the relevant time period
is November 2017 to November 2018. Unless you
have some evidence of residency after November
2017, that's the only thing relevant in my mind
at this point.

MS. RODRIGUEZ: And I understand it, and
you have to understand I figured all this was
going to happen, and that's okay. But you have
to understand that I as a resident, I had to
bring it forward. Even if I walk away empty,
handed, that's okay. The residents know and
that is enough. My duty was to report that
Mr. Harris does not live in my community. And
for him to continue representing it is illegal
and the voters will have that choice.
CHAIRPERSON BENNETT: Anything further, any
further evidence?
MS. RODRIGUEZ: No, not at this time.
CHAIRPERSON BENNETT: At this time, I would
recognize counsel for Mr. Harris. And you have
no cross-examination; is that correct?
MR. CHINN: I don't.
CHAIRPERSON BENNETT: So you may be
excused.
MS. RODRIGUEZ: Thank you.
MR. CHINN: Thank you, Mr. Chairman,
members of the Commission. For the record, my
name is Scott Chinn, I'm a lawyer at Faegre
Baker Daniels Law Firm and I'm here today
representing Representative Earl Harris, Jr.
If I might, members of the Commission, the
Commission decided this question, as I think you
now know, after listening to some testimony from
the challenger and reflecting on the answers to
your own questions. The Commission decided this
question on 2016. It's a challenge to the
candidacy now for the 2018 cycle based on
residency brought by the same challenger. It's
against the same candidate. The allegations are the same. The evidence is the same. I think you've now had testimony before you that there's no new evidence of anything that was raised in 2016.

We filed earlier this week a motion for summary ruling in this matter on the basis of collateral estoppel, the idea that this Commission has decided this exact question in 2016 based on the same evidence, the same allegations.

I did not put a certified copy, but I took the liberty of looking up the minutes from that proceeding, June 15th of 2016, and with reference to page 64 of those minutes.

Mr. Chairman, I'd be happy -- again not a certified copy, but just for the record I'd be happy to present this exhibit and hand it to Mr. Simmons, if I may. They're the minutes of your previous meeting on June 15th, 2016.

So on page 64 of those minutes, the reflection of this Commission's vote to deny the challenge under the identical circumstances that are presented here. In our motion for summary ruling filed earlier this week, we asked the
1  Commission to take administrative notice of its
2  prior decision in 2016 and would ask for a
3  denial of the challenge on that basis
4  without (inaudible).
5  
6  Now, I certainly will reserve the right if
7  you decide that's not proper under the
8  circumstances to ask Mr. Harris a few questions.
9  But I think under the circumstances and given
10  especially the fact that the challenger had an
11  opportunity to be heard to determine whether
12  there was any new evidence or any new
13  allegations whatsoever, and it's clear that
14  there are not. I would put that motion squarely
15  in front of the Commission.
16  
17  CHAIRPERSON BENNETT: Thank you. Now, when
18  you say that it's the same case, are you saying
19  that because there was no new evidence presented
20  here today?
21  
22  MR. CHINN: Well, it means all the elements
23  of collateral estoppel. So you have the same
24  parties, right, the same circumstances, the same
25  allegations.
26  
27  CHAIRPERSON BENNETT: The circumstances are
28  a little different because there's been more
29  time elapsed.
MR. CHINN: Well, okay, but it's a
different election cycle, and that's why I
didn't object to her putting on her evidence. I
didn't stand up and object her putting on the
evidence. She had the opportunity to present
any new evidence whatsoever. But the parties
are the same, the circumstances are the same,
except for the new election cycle. So under the
doctrine of collateral estoppel, the challenge
must be denied with no new evidence. In fact,
if you look at her filing --

CHAIRPERSON BENNETT: That's the key, no
new evidence.

MR. CHINN: No new evidence at all. If you
look at her filing and compare it to the filing
last time, it's virtually the same stack of
papers, and I think Ms. Overholt mentioned that
the timeline stops in 2016.

VICE CHAIR CELESTINO-HORSEMAN: Was she
correct when she said that at that meeting they
said the challenge was brought after the
election, but the concern of the Commission was
not to disenfranchise the voters because it was
brought after the election, so it seems to me
this is a different circumstance than bringing
it before the election.

MR. CHINN: I think the minutes speak for themselves.

VICE CHAIR CELESTINO-HORSEMAN: I haven't seen them.

MR. CHINN: I understand. But that's why I'm asking the Commission to take notice of its own prior ruling, because I think the minutes speak for themselves that the Commission decided fully on the merits to deny the merits of the challenge after full testimony from both sides.

There was a very voluminous evidentiary record dealing with all of the residence issue.

MEMBER WILSON OVERHOLT: I understand your argument. I think because of the requirement that it's a one-year residency, there's a one-year residency requirement prior to each election, so I think we understand that we ruled on this issue with respect to the 2016 election.

I think with respect to the 2018 election, because of the fact that the residency requirement was kind of this roll-in -- I would read it as a roll-in requirement, so I think in terms of the notion that collateral estoppel applies because of a ruling with respect to
2016, I don't see that that ruling can impact us with respect to 2018, knowing that the evidence -- but knowing also that it's a new time frame that applies, 2016 evidence is not relevant to this election.

CHAIRPERSON BENNETT: I agree with your context, but again back to the point of no new evidence.

MEMBER WILSON OVERHOLT: Right, right. I mean, we can resolve the issue, I don't know we can resolve it based on our 2016 ruling.

VICE CHAIR CELESTINO-HORSEMAN: Right now I am inclined to deny the motion and then also deny the challenge.

CHAIRPERSON BENNETT: Is that your motion?

VICE CHAIR CELESTINO-HORSEMAN: Yes, I'll make it a motion, deny the motion and deny the challenge.

CHAIRPERSON BENNETT: Is there a second?

MEMBER KLUTZ: I'll second that.

CHAIRPERSON BENNETT: There's been a motion and a second.

All in favor, say aye.

All opposed, say nay.

The ayes have it, the motion passed to deny
MR. CHINN: Thank you, Mr. Commissioner.

CHAIRPERSON BENNETT: Next we move to consideration of --

I'll move for a vote on a straight denial of the challenge, just so the record is clear.

So I move that the challenge be denied. Is there a second to that?

VICE CHAIR CELESTINO-HORSEMAN: Second.

CHAIRPERSON BENNETT: Any discussion?

Hearing none, the motion of the challenge to deny, say aye.

Opposed, say nay.

The ayes have it, the motion carried, challenge denied.

CHERYL ASHLEY-ROBBINS CHALLENGE

Cause No. 2018-7

CHAIRPERSON BENNETT: We'll now move on to the Cheryl Ashley-Robbins challenge, Cause No. 2018-7, In the Matter of the Challenge to Candidate: Cheryl Ashley-Robbins, Candidate for the Democratic Party State Representative, District 33.

The Election Division has been provided a copy of the candidate challenge form, a copy of
the notice given in this matter, and I would
recognize challenger Fred Davis for a
presentation.

MR. VONDERSAAR: My name is Harlan,
II. I'm the counsel on behalf of Fred Davis.
You guys have the evidence currently?
We are presenting this petition under
3-8-2-7-4A. As you can see in the back of the
information we gave you, the last primary
election Ms. Robbins voted as a Republican. And
if you look at Section 3 of the CAN-2, she made
a note on that for her affiliation of "the most
recent primary election which I voted was the
primary held by the party which I claim
affiliation above." So you can see that that is
inconsistent with her CAN-2. So we are
petitioning for a challenge for her removal.

CHAIRPERSON BENNETT: Any questions by any
Commission members?

VICE CHAIR CELESTINO-HORSEMAN: The county
chair did not --

MR. VONDERSAAR: No, we spoke with them and
they did not sign any forms and there were no
forms submitted.
CHAIRPERSON BENNETT: Any other questions by the Commission?

MEMBER WILSON OVERHOLT: I would like to reserve further questions after we hear from the candidate.

CHAIRPERSON BENNETT: Okay. I recognize the candidate.

MR. BILBREY: I'm here on behalf of Cheryl Ashley-Robbins. I'm her campaign committee chairman, Kristopher Bilbrey, 318 South Meridian Street, Winchester, Indiana.

CHAIRPERSON BENNETT: Can you spell your last name?


Can I read a statement?

CHAIRPERSON BENNETT: If it fits within your time slot.

MR. BILBREY: Sure. Ms. Ashley-Robbins has been a citizen that has opposed action taken by the mayor of Winchester, now a candidate for the same seat in this last year. Ms. Ashley-Robbins is retired from Anchor Glass, which is a facility in Winchester in which she has been a
strong Democrat union supporter for the time
that she worked there.

Ms. Ashley-Robbins is 62 years old and has
grown up in a strong Democrat family and has
lived those values through her adult life. When
Ms. Ashley-Robbins began talking about running,
we spoke with many different citizens in and
around -- Democrat voters, Republican voters and
Independent voters -- in District 33. Because
it was very clear that the voters of
District 33, Jay County, Randolph County and a
small portion of eastern Delaware County, wanted
a choice besides Mr. Byrum.

Voters especially in Winchester and
Randolph County have been aware but it's
trickled over that there have been major issues
with Mr. Byrum as mayor, and they are worried
about that as the candidate for State
Representative.

Mr. Byrum in his leadership position has
been at odds with his citizens, his council, and
has had issues with communication and
transparency, having at least two if not more
public access complaints and at least two or
three open door violations.
On February 27th, 2017, elected prosecutor of Randolph County stood up in a BZA hearing on the record and stated that he was concerned that the mayor of Winchester through submitting a loan application to the IHCPA could possibly result in any fraudulent transaction. Through all of these issues over the last year, year and a half, the citizens have become concerned and Ms. Ashley-Robbins decided to run.

CHAIRPERSON BENNETT: You have 30 seconds left.

MR. BILBREY: Okay. The problem is, she denies that -- she did not vote in the 2016 primary. We have the signatures here. And also the reason that she did not ask the chairman is we had word that the chairman was going to deny her the right to run because how she had treated the candidate and not because she was not a Democrat. I have a recorded phone conversation from Mr. Davis where he states exactly that after all this happened. On the 17th of this month he stated in a conversation that he would have denied her the right to run due to the fact that she has been critical of the candidate. We knew that beforehand going into this, and then
he admitted to that afterwards. That to me is a
perversion of the policies and the procedures
and not what that is. It's weaponizing this
procedure in order to pave a smooth way for his
handpicked candidate.

CHAIRPERSON BENNETT: Thank you. Your time
is up.

Any questions from the Commission?

MEMBER WILSON OVERHOLT: Yeah, I have a
couple. So you said that you have -- you made
it sound as if you have something in front of
you that would somehow demonstrate that she did
not vote in -- are you saying that
Ms. Ashley-Robbins didn't vote in 2016 primary?

MR. BILBREY: She's stating that she did
not. And we pulled the voter registration, the
signature cards from the Randolph County Clerk's
office, and there is a question of her
signature --

MEMBER WILSON OVERHOLT: It's not the
signature card, what we would actually need to
see would be the poll book. Proving a negative
is kind of a hard thing to do when we have
something that would prove in the affirmative.

You said you have something showing that she did
not somehow vote in that primary in 2016.

MR. BILBREY: I don't know how I would prove that she didn't other than we're calling into question --

MEMBER WILSON OVERHOLT: Do you have a sworn statement from the candidate that she did not vote in the 2016 primary?

VICE CHAIR CELESTINO-HORSEMAN: Let's take it another way. Let's say she didn't vote in the 2016 primary. The law says that she has to -- "candidate is considered to be affiliated with a political party only if any of the following applies: The most recent primary election in Indiana in which the candidate voted was a primary election party held by the party with which the candidate is claiming affiliation."

So that means she had to vote at some time in the most recent primary as a Democrat. And according to this history that we have here, she hadn't voted in a primary since -- they don't have anything listed on here since 2002.

MR. BILBREY: Yes, ma'am.

VICE CHAIR CELESTINO-HORSEMAN: I mean, the law is very, very clear. And I certainly
appreciate anybody who jumps in the process and
wants to get involved. But you either have to
vote in the primary or have the consent or
approval of the county chairman. So you don't
have either one of those.

MR. BILBREY: May I ask a question to kind
of -- so if someone does not have that and the
law states that they need to ask the party
chair, what's the policy in that situation? Is
there something that states what is the grounds
that they make the decision? Because people do
that all the time. There are people that poll,
vice versa, and run all the time, and party
chairs generally -- and my understanding is
they're trying to determine if they kind of hold
and espouse -- you know, if as a Republican, I
poll a Democratic ballot in the primary and then
I want to run, the Republican chairman is trying
to determine if yes, I actually hold Republican
values and I'm true to the Republican Party,
such, that's what they're trying to make it the
basis on.

VICE CHAIR CELESTINO-HORSEMAN: I'll cut to
the chase for you. Each one of the parties has
rules that are on the state party website,
Republican and Democrat. So if you want to go
and see how they're guided by that, I would
suggest that you go there and take a look at
that. But that's outside of this. I mean, the
bottom line is that legally I just don't see
anything here that supports her to be able to do
this.

CHAIRPERSON BENNETT: Any other questions
by the Commission?

MEMBER WILSON OVERHOLT: No.

CHAIRPERSON BENNETT: Is there a motion?

VICE CHAIR CELESTINO-HORSEMAN: I make a
motion to grant the challenge.

MEMBER WILSON OVERHOLT: I second.

VICE CHAIR CELESTINO-HORSEMAN: Is that
improper phrasing?

CHAIRPERSON BENNETT: Motion to grant the
challenge.

Is there anything that the challenger would
like to say?

MR. VONDERSAAR: No.

IEC MEMBER HORSEMAN: Should I make it more
clear? I'll make a motion that Ms. Cheryl
Ashley-Robbins, based upon the challenge, is not
allowed to be on the ballot. Is that more
CHAIRPERSON BENNETT: I will close the public hearing at this point and call for a vote. All those in favor of upholding the challenge, say aye.

All opposed, say nay.
The ayes have it, the challenge is upheld.

Thank you kindly.
The Election Division is now directed to amend the certified list of primary candidates to indicate the name of this candidate is not to be printed on the ballots.

JIM HIATT

Caused No. 2018-8

CHAIRPERSON BENNETT: The next hearing will be in consideration of Cause No. 2018-8 In the Matter of the Challenge of Jim Hiatt, Candidate for the Democratic Party Nomination for State Representative, District 34. The Election Division has been provided a copy of the candidate filing challenge form and a copy of those in this matter.

At this time, I recognize the challenger Alice Bennett for a presentation.

MR. VONDERSAAR: Thank you. Again, my name
is Harlan Vondersaar, representing Ms. Bennett.

We are filing our petition on the same cause as our last petition, Section 3-8-2-7-4A, and our evidence, we have submitted the Delaware County Board of Registration voting record for Mr. Hiatt. And as you can see, in 2016, it is an R next to the primary vote.

And as again on the CAN-2 form under Section 3, the box checked "the most recent primary election in Indiana which I voted was a primary held by the party in which I claim affiliation above."

That is all.

CHAIRPERSON BENNETT: Thank you.

MEMBER WILSON OVERHOLT: Mr. Chairman, I don't see a certification on this. There's a stamp but I don't see anything indicating that this is a true and accurate copy. It makes me a little nervous because there's a lot of handwritten information. I guess that's a point that the Commission can consider, but I would point out that it does not appear to be a certified copy, and it is not clearly marked as --

CHAIRPERSON BENNETT: What about the
receipt stamp in the corner?

MEMBER WILSON OVERHOLT: Well, that's received from the Secretary of State. I don't know what that -- it looks like a stamp from the Board of Voter Registration, it looks like it was received from the Election Division as part of this challenge, I would presume. I guess that's an evidentiary matter for the Commission to consider.

CHAIRPERSON BENNETT: Are there any other questions?

VICE CHAIR CELESTINO-HORSEMAN: Do you have with you, sir, anything that's certified or anything?

MR. VONDERSAAR: No. It was our impression that it is certified. I don't know how Randolph County handles their -- or, sorry, how Delaware handles their forms.

CHAIRPERSON BENNETT: Any cross-examination?

MR. HIATT: No, sir, I have no questions.

VICE CHAIR CELESTINO-HORSEMAN: I have a question for you, sir. Did you vote Republican in the 2016 primary?

MR. HIATT: I did.
VICE CHAIR CELESTINO-HORSEMAN: Thank you for being honest, sir, I appreciate it.

MR. HIATT: I would like to address that when I have the opportunity.

CHAIRPERSON BENNETT: Now is the time.

MR. HIATT: Is this my part of the presentation?

CHAIRPERSON BENNETT: Yes.


Mr. Chairman, Commissioners, Election Committee staff and Dr. Bennett. Thank you for allowing me to make this presentation to you. Please grant me a little bit of patience because I don't have a suit on, I'm representing myself. I have had some people help me do this, but I am not really good at it.

I am Jim Hiatt, Registered Pharmacist, Community Mental Health Care Pharmacy Director, Certified Forensic Investigator and a long-time Deputy Coroner from Muncie, Indiana.

I don't have a deep history of political engagement, but I feel I've been called to run for a seat in the Indiana House on account of the tragic, almost unbelievable number of
deaths, ruined lives and devastated families due
to the opiate and methamphetamine drug problem.
It's rampant in my community, as in many others,
and these are issues that I have to deal with in
my practice on a daily basis.
In the past couple weeks I've had quite an
education in the abstract and metaphysical world
of the Indiana election law that the legislation
basically created and you oversee.
Now, I can totally empathize with
Lieutenant Governor Doctor Chancellor lifelong
Republican Sue Ellspermann upon her rude
awakening that, notwithstanding evidence to the
contrary, under Indiana Code 3-8-2-7,
Dr. Ellspermann was not a Republican like she
thought. No, she was a Democrat.
As you know, application of the Indiana
Code 3-8-2-7 is the subject to more than nine
out of ten candidate challenges, much like the
one you just heard, and hours and hours of
commission hearings. Former Commission Chairman
Tom Wheeler said on the record in 2010 that the
General Assembly pushed that statute through to
address the problem of stealth candidates in I
believe Lake County, and that the statute really
needed to be interpreted by the courts. And the
Indiana Court of Appeals did that after the
loser in the Ellspermann case appealed.
The Ellspermann case is on the books as
good common law. Except if you look at the
legislative history of that code, it has been
amended at least four times since Ellspermann
case.

To get to my point, under the law, which I
respect --

CHAIRPERSON BENNETT: I'll give you at
another minute. You're over now.

MR. HIATT: Okay. As a result of the
ballot I voted in 2016 in the primary, my
affiliation with the Democratic Party ended and
I officially became a Republican. By law, I've
been a Republican since the first Tuesday in May
of 2016.

Before I was given one to fill out and file
at the Secretary of State's office a few weeks
ago, I had never seen a CAN-2 form. So I want
to tell you sincerely that I made an unknowing
honest mistake on my CAN-2 form, and based on my
life experience that I marked that I was a
Democrat on the Candidate-2 form. I forgot I
voted on the Republican Party ballot in the 2016 primary, and as a result of that I was not a Democrat, I was a Republican.

I have had supporters assisting to do everything I can, short of hiring David Brooks or Tom John, which I can't afford, to be on this year's primary election ballot. To correct my mistake, earlier today I filed amendments to my campaign filing and the House Economic interest disclosure. I prepared and respectfully offer to you -- could I offer this into evidence, sir?

CHAIRPERSON BENNETT: You may.

MR. HIATT: The original is on the top, copies are below. Do I give copies to individuals now?

CO-DIRECTOR KING: I'll pass them on.

MR. HIATT: I would like to give one to his counsel, please.

I submit to you my corrected CAN-2 accurately showing my Republican Party affiliation. I humbly ask is this council, I beg, I pray, or request that the Commission entertain a motion that my corrected filing be accepted, as has been in some cases in the past. I believe this corrected CAN-2, if accepted,
addresses Dr. Bennett's complaint. And since no candidate entered the Republican Party, the CAN-2 correction does not abridge another candidate's challenge rights, and since I voted in their last primary, the Republican Party can't really object.

Thank you for your consideration in this matter, and I do have a bottle of champagne in the car for Dr. Bennett so she and her candidate could joyfully celebrate her primary election in May.

CHAIRPERSON BENNETT: Thank you. Any questions?

VICE CHAIR CELESTINO-HORSEMAN: So can you come back and amend this?

CHAIRPERSON BENNETT: Let's ask legal opinion on that.

CO-GENERAL COUNSEL SIMMONS: No, our view is you can only -- we're bound by statute to not accept any filing after the deadline. We do accept amended declarations before the deadline, because the deadline has not passed. So if you will see amended declarations in our files, it's because they're tendered before the deadline.

But after the deadline, the legislature has not
given us any discretion. As a matter of fact, it's our administerial duty to deny these filings.

VICE CHAIR CELESTINO-HORSEMAN: Is there a Republican running for the seat?

MR. HIATT: No, ma'am.

VICE CHAIR CELESTINO-HORSEMAN: Can the Republican county chairman then name him as a candidate?

CO-GENERAL COUNSEL SIMMONS: Yes, after the primary there is a period in which the parties can fill their ballot vacancies if they had no candidate run in the primary up until noon, June 30th.  

MR. HIATT: I understand it, but I believe that is incorrect. There are cases on file. For instance, there was a gentleman by the name of Colonel in 2016 that this commission allowed him to amend his application after the fact to eliminate part of his name, so this commission does have the power to allow that, sir. I can get you that record and probably other ones where that has happened.

VICE CHAIR CELESTINO-HORSEMAN: It was a name change?
MEMBER WILSON OVERHOLT: That's a little bit different than party affiliation.

MR. HIATT: The same thing exists, though, ma'am.

CHAIRPERSON BENNETT: I think we've heard all the evidence and testimony that we need. We have a legal opinion from counsel.

DOES THE DEMOCRATIC COUNTERPART --

CO-GENERAL COUNSEL KOCHEVAR: I concur, and I will add on one small item. I do know that in Indiana Code 3-8-7 -- the section escapes me at this time -- there is a provision that if you do file a CAN-2, run in the primary, win the primary, you can change your legal name if you have a legal name change. That is specific in state law that I would only note against anything else. That's the only thing I know of in the whole scheme of election law through one cycle where something could be changed that was stated on the CAN-2.

But I will concur in full with Mr. Simmons his opinion for filing CAN-2s in the primary and our deadlines that we have to --

CHAIRPERSON BENNETT: We have no discretion to --
CO-GENERAL COUNSEL KOCHEVAR: I will say that I know of nothing in the Indiana Election Code allowing the commission to have such discretion.

CHAIRPERSON BENNETT: I'll close the public hearing and ask if there's a motion you'd like to make.

VICE CHAIR CELESTINO-HORSEMAN: Is there anything you want to give us that you've just been handed?

MR. HIATT: No, there are several cases that I had looked up that --

VICE CHAIR CELESTINO-HORSEMAN: So I'm going to --

CHAIRPERSON BENNETT: Did you want to make a motion?

MEMBER KLUTZ: I'll make a motion and grant the challenge.

VICE CHAIR CELESTINO-HORSEMAN: I will second the motion. And I would also like to encourage you to go back to your party chairs and then you can run.

CHAIRPERSON BENNETT: We have a motion and second. All in favor, say aye.

Opposed, say nay.
The challenge is granted.

The Election Division is directed to amend
the certified list of primary candidates to
delete the name of this candidate and is not to
be printed on the ballot.

ROSEMARY KHOURY

Cause No. 2018-9

CHAIRPERSON BENNETT: We'll next move to
the consideration of Cause No. 2018-9, In the
Matter of Challenge to Rosemary Khoury,

Candidate for the Democratic Party Nomination
for Judge of the Madison Circuit Court No. 3.
The Election Division was provided a copy of the
candidate challenge form, and a copy of the
notice given in this matter.

At this time I will recognize the
challenger, James Randolph Willis, for a
presentation.

MR. WILLIS: May I pass these out to the
Commission, sir?

CHAIRPERSON BENNETT: Yes, sir.

MR. WILLIS: There's a copy for all the
Commission members and counsel.

My name is James Randall Willis, I live in
1 W-I-L-L-I-S.
2 I file this challenge today challenging
3 both Rosemary Khoury's residency, candidacy and
4 also her right to vote in Madison County.
5 I would ask if Rosemary's counsel is going
6 to call any witnesses, I'd ask for a separation
7 of witnesses at this time.
8 MS. CRAWFORD: May I respond?
9 CHAIRPERSON BENNETT: Do you have any
10 witnesses?
11 MS. CRAWFORD: I may call Rosemary Khoury
12 as a witness.
13 MR. WILLIS: I don't think we'd have to
14 separate her.
15 CHAIRPERSON BENNETT: Yes, she's your
16 client, correct?
17 MS. CRAWFORD: Yes.
18 CHAIRPERSON BENNETT: Nobody except her?
19 MS. CRAWFORD: No.
20 CHAIRPERSON BENNETT: Motion is granted.
21 MR. WILLIS: Thank you, I appreciate that.
22 Mr. Chairman, members of the council, I do
23 not offer this challenge with any animosity
24 towards Ms. Khoury or with any malice
25 aforethought.
My first issue is that Ms. Khoury doesn't meet the candidate requirements under Indiana law for a circuit court judge election in Madison County under 3-8-1-16. I have offered evidence to that fact, and my first exhibit says that under 3-8-1-16 that a candidate, and that's very specific, must reside in the circuit and also be admitted to the practice of law in the state. No doubt that Rosemary has been admitted to the practice of law in the state, but she does not reside in the circuit.

If we look at the dates when the -- and if there's any ambiguity in this about when judges can take office, look at the date when the statute and constitutional provision were written. The state constitution provision was written in 1970, and it says that a judge shall reside within the circuit and be admitted to the practice of law. In 1986 the state statute was clarified, was written after the last constitutional upgrade, and the statute expands the requirement for holding the office of circuit court judge by adding a candidate for the office.

Since the statute was written after the
constitution, it seemed that the legislature
needed to expand the language to include
candidates rather than those elected to office.
I'm sure you are all aware of the Charlie
White case and that the Democrat's challenge
denied due to untimeliness. I believe that we
have timeliness here with this challenge, and
that if we allow judges that were elected to
reside outside the county, we'd have no way to
unseat them, if we allowed candidates to do
that. Once the election is over, we would force
the will of the voters because they have cast
their ballots for that judge.
VICE CHAIR CELESTINO-HORSEMAN: Can I ask
you a question? By the way, I'm very familiar
with the Charlie White case.
MR. WILLIS: Good, I'm glad.
VICE CHAIR CELESTINO-HORSEMAN: I would
like to ask our counsel down there, the
provision of law upon which he is relying that
he handed out to us says that the candidate for
judge of a circuit court must reside in the
circuit upon taking office. Unlike the other
candidate offices, it's not where you have to
live in the district for a year, but upon the
date that you are sworn in you have to be a resident. Is that correct?

CO-GENERAL COUNSEL KOCHEVAR: When I look upon taking office and when I read the statute, which I believe you're referring to Indiana Code 3-8-1-16, it makes a reference back to the state constitution, Article VII, Section 7, which we seem to have the same meaning upon taking office, I've always viewed that as being elected, being qualified, and then assuming office at the statutorily appropriate time.

VICE CHAIR CELESTINO-HORSEMAN: So what our counsel is saying is that unlike the other candidates that you heard argue here today, in the case of a judge they don't have to reside in that district or that county until they take office, which is when they're sworn in.

MR. WILLIS: I would contest that, I would contest that because of the very specific language a "candidate," not an "officeholder."

And I think that the legislature expanded that language to allow a candidate to run for that office that may not be admitted to the bar yet but knowing they would be by the time they take office. And this provision was directed at
those candidates that would allow them to run
even though they were not members of the bar but
would be admitted to the practice of law in
Indiana by the time they took office. That's
how I would interpret that code, because of the
semicolon in the language which creates two very
independent clauses.

MEMBER WILSON OVERHOLT: I think one of the
rules of statutory construction is that you
attempt to give whole meaning to the words in
the statute equal meaning, to the extent
possible. What you are asking us to do is kind
of a tortured reading of the statute. I know it
uses the term candidate, but it talks as a
candidate for office has to meet the
requirements upon taking office.

And I, in my view anyway, the pretty clear
intent, surprisingly clear intent to me of the
legislature would be that the candidate, that
it's once candidate is sworn in and becomes a
judge is when they are required -- they could
move into the county a minute before taking the
oath of office, but they just have to be a
resident of that district, that circuit upon
being sworn in.
VICE CHAIR CELESTINO-HORSEMAN: Let me ask the question. Does the Republican counsel --
CHAIRPERSON BENNETT: I'd be interested, Dale, of your view of the statute.
CO-GENERAL COUNSEL SIMMONS: Yes, I read it the same way, upon taking office. There are several different ways you have to pay attention to the particular office and the way it's described. Some folks who run for election don't have to be a resident until election.

Some say upon taking office, others require a year before the election. So each of those you have to give meaning to, and I read it the same way as Matthew, my co-counsel.
CHAIRPERSON BENNETT: We know your contention and argument in that regard. Do you have anything else you want to say?
MR. WILLIS: Secondly, I challenge her voter registration in Madison County as not being a resident of the county.
VICE CHAIR CELESTINO-HORSEMAN: Is she registered to vote?
MR. WILLIS: To my knowledge, she is registered to vote in Madison County.
VICE CHAIR CELESTINO-HORSEMAN: Do you have
proof of that?

MR. WILLIS: I have.

CHAIRPERSON BENNETT: Which document number

is that?

MS. CRAWFORD: I don't have a copy of the

exhibits, and I would request a copy.

CHAIRPERSON BENNETT: Do you have extras?

MR. WILLIS: There are copies in there for

counsel.

MS. CRAWFORD: Do you need it? If you need

it --

VICE CHAIR CELESTINO-HORSEMAN: I can share

with you.

MS. CRAWFORD: Thank you.

MR. WILLIS: Yes, Rosemary, Ms. Khoury

became a registered voter in Madison County on

or about June 8th of 2016, is when her -- and I

think that Ms. Khoury, her counsel will attest

to that fact under oath.

CHAIRPERSON BENNETT: We're shuffling

papers here. What fact are you talking about?

MR. WILLIS: The fact that I'm talking

about is that Ms. Khoury did register to vote in

Madison County in 2016.

VICE CHAIR CELESTINO-HORSEMAN: Her voter
registration, what address is claimed?

MR. WILLIS: Her address is claimed as

2105 Arrow Avenue.

VICE CHAIR CELESTINO-HORSEMAN: So do you have anything to show that she's not living at 2105 Arrow Avenue?

MR. WILLIS: Absolutely. The documents that I turned in to you there at this time make that claim.

CHAIRPERSON BENNETT: What document are you referring to? Can you identify the document you're referring to?

MR. WILLIS: Let's go with Willis 6, which is the settlement agreement, in the pre-dissolution of marriage.

VICE CHAIR CELESTINO-HORSEMAN: Is that 2011?

MR. WILLIS: Yes.

CHAIRPERSON BENNETT: How does this relate to 2016?

MR. WILLIS: Because she was awarded the property at 7353 Layman Road in the divorce, and she is sole owner of that property.

MEMBER WILSON OVERHOLT: That's six-and-a-half years ago.
MR. WILLIS: And she still maintains that residence.

MEMBER WILSON OVERHOLT: Where is your proof of that?

Actually he has a tax bill in here from Madison County where the tax bills are sent to that Layman Street address.

MR. WILLIS: You asked for voter registration, and I have that here.

Ms. Khoury maintains a homestead exemption on the property at 7353 Layman Avenue in Indianapolis.

CHAIRPERSON BENNETT: Is that document that you just handed Ms. Horseman, is that in the packet of information for us?

MR. WILLIS: That's the voter registration.

VICE CHAIR CELESTINO-HORSEMAN: That's Madison County registration.

MR. WILLIS: I also submitted Willis Exhibit 9. Willis Exhibit 9 lists from -- it's from in.gov that Ms. Rosemary Farid Khoury from the Madison County prosecutor's office, the Indiana roll of attorneys, attorney of record lists her address as 7353 North Layman Avenue, but gives the city of Anderson and the zip code
of Indianapolis at 46250.

Now, by law she's required to update that information, give truthful information so that she can be emailed or what have you.

The tax records from the property at 2105 Arrow Avenue, upon which there is also a homestead exemption, those tax records are mailed to 7353 North Layman Avenue in Indianapolis, Indiana. And the point that I'm trying to make is, that she never abandoned this residence, when she stated that she moved to the Arrow Avenue residence, that that's still her residence. And she has a significant financial motivation to maintain the residence in Indianapolis, because in the divorce decree, part of the property settlement, her ex-husband, Paul Khoury, is ordered in the divorce decree to make the payments on that property for as long as her and the children live in that house.

And we can see in Willis Exhibit 13 that Rosemary Khoury and Mary Hamer, according to this property tax document, they're both listed at 7353 North Layman Avenue. Mary Hamer being Rosemary's mother.

CHAIRPERSON BENNETT: Can you wrap it up?
1 I think you've gone well over your five minutes.
2 MR. WILLIS: I apologize, sir. Let me have one minute to close here, if you would, grant me one thing.
3 If I was here to challenge Rosemary Khoury on her ability to run as a Marion court judge, based upon the fact that I believe she lived at 2105 Arrow Avenue, which she says she does, the evidence before you listing the property addresses and legal documents and legal things that she needs to take care of, would convince all of you unanimously that she lived at 7353 Layman Road.
4 That's the case that we -- if we stand this case on its head, we see that Rosemary Khoury does indeed live at the Layman Street address, and the address on Arrow Avenue was manufactured in order for her to run for public office.
5 Thank you for your consideration.
6 CHAIRPERSON BENNETT: All right, thank you.
7 At this time I would recognize Rosemary Khoury or her attorney for presentation.
8 MS. CRAWFORD: Thank you. First of all, I would like to, if I need to, have additional time, I would request to reserve some time to
call Rosemary if I need to as a witness.

At this time I would move to dismiss the challenge. First of all, on the first statute of 3-8-1-16, I believe it states, as the commission members have pointed out, it only concerns when she moves into office, so that one is not ripe yet. It's not an issue and should be dismissed.

On the issue of 3-8-1-1, which concerns her candidacy, first of all, I'm not certain that that even applies to circuit court judges. It states in the statute that it concerns certain local offices, state offices, and you have to reside in the district where the people you want to represent. Judges do not represent anyone. They preside over cases. So I'm not certain that 3-8-1-1 even applies. But if it does, on the face of the code says that she needs to have a voter registration. That's been placed in front of you, she has a voter registration which shows that she resides at the Arrow Avenue address.

She ran for judge in 2016. No challenge came forward. She's maintained her residence in Madison County since that time, and --
VICE CHAIR CELESTINO-HORSEMAN: So she ran in 2016 and was elected?

MS. CRAWFORD: No, she was not, she did not win that election. But she ran and there was no challenge. She was registered at that time.

She remains registered.

VICE CHAIR CELESTINO-HORSEMAN: So then my question, Mr. Kochevar, is this. If a candidate, let's say worst-case scenario, since I don't know voter registration laws, does that keep someone from being a candidate? Because if they're not required to reside in the county until the day they take office for purposes of barring them from being on the ballot, can you do that on the basis of an illegal voter registration?

CO-GENERAL COUNSEL KOCHEVAR: That is an interesting question. I would say that based on how I understand Article VII, Section 7, and again 3-8-1-16, and I would premise this as may -- because while I am an attorney, I'm not a judge, I don't have the power to officially say what statute that is, that would be the court's -- based on my understanding is that you have to meet these qualifications to be circuit
judge when you assume office, which my
understanding that earliest point would be the
January after the election.
But I also do want to state clearly for the
record that having a illegal voter registration
would be something for a court of law to
determine, as that would seem to imply that
potential criminal wrongdoing was made.
CHAIRPERSON BENNETT: I've got a question
for our Republican counterpart in legal issues.
Does the statute in question apply to judges,
local offices?
CO-GENERAL COUNSEL SIMMONS: Mr. Chairman,
3-8-1-1 applies to judges. It's the use of the
term local office. And I know that that
particular term is some source of confusion for
particular candidates, but it is defined in
election code very clearly, and it's defined in
3-5-10-29, and it includes a circuit office, so
it would include a circuit judge.
The requirements read, one to be a
registered voter of the election district by the
deadline for filing the declaration, which would
have been noon, February 9th, applies on its
face.
CHAIRPERSON BENNETT: Thank you.

VICE CHAIR CELESTINO-HORSEMAN: Well, excuse me, but 3-8-1-1, Section A, says this section does not apply to a candidate for any of the following offices -- oh, judge of the city court, judge of county court. So by expressly exempting -- okay.

MS. CRAWFORD: I don't know how the two can exist together, if the circuit court judge doesn't have to live in the district until they've actually won the election, then I don't know how you can simultaneously require that they have a valid registration for that area. So I think they conflict. And I think when they conflict, certainly the more clear construct of 3-8-1-1 says exactly what the circuit court judge needs to do.

CHAIRPERSON BENNETT: Anything else you want to present?

MS. CRAWFORD: So I guess on my motion to dismiss, I move to dismiss the challenge. But in the event that is not granted, I would like to call Rosemary as a witness.

CHAIRPERSON BENNETT: Is there a motion with regard to the pending motion to dismiss,