

Indiana Election Commission

Minutes

April 8, 2026

Members Present: Beth Boyce, Chairman of the Indiana Election Commission (“Commission”); Suzannah Wilson Overholt, Vice Chairman of the Commission; Karen Celestino-Horseman, member; John Westercamp, 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; Mr. Joe McLain, Indiana Election Division.

Others Attending: James Bopp, Jr.; Samantha DeWester; Alexandra Wilson.

1. Call to Order:

The Chairman called the April 8, 2026 meeting of the Commission to order at 11:00 a.m. EDT 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 Collier, Stewart Richardson Deposition Services, which is incorporated by reference into these minutes. The following scrivener’s errors are corrected:

Page 44, line 1, delete “big” and insert “not the Big”.

Page 53, line 12, after “statewide”, insert “or”.

Page 99, line 10, delete “Lindsay” and insert “Angie”.

The Commission adjourned its meeting at 1:13 p.m. EDT.

Respectfully submitted,



J. Bradley King
Co-Director



Angela M. Nussmeyer
Co-Director

APPROVED:



Beth Boyce, Chairman

In the Matter Of:
INDIANA ELECTION COMMISSION PUBLIC SESSION

Transcript of Proceedings

April 08, 2026



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2 INDIANA ELECTION COMMISSION
3 PUBLIC SESSION
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7 Conducted on: April 8, 2026
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11 Conducted at: Indiana Government Center South
12 402 West Washington Street, Conference Room B
13 Indianapolis, Indiana
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16 A Stenographic Record by:
17 Maria W. Collier, RPR, CRR
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24 STEWART RICHARDSON & ASSOCIATES
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APPEARANCES

INDIANA ELECTION COMMISSION:

Beth Boyce - Chairman

Suzannah Wilson Overholt - Vice Chairman

John Westercamp - Member

Karen Celestino-Horseman - Member

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 BOYCE: Okay. This meeting of the
2 Indiana Election Commission is called to order.
3 The following members of the Commission are
4 present: Chairman Beth Boyce; Suzannah Wilson
5 Overholt, Vice Chairman; Member Karen
6 Celestino-Horseman; and Member John Westercamp.

7 Indiana Election Division staff, we have our
8 co-director Brad King. Co-Director Angie Nussmeyer
9 is here. She just stepped away for a minute.
10 She'll be back shortly. We have our co-general
11 counsels, Matthew Kochevar and Valerie Warycha.
12 Our court reporter is here today, Maria Collier
13 with Stewart Richardson Reporting.

14 Before we continue the meeting, I want to
15 remind everyone on behalf of our court reporter to
16 identify yourself when beginning to speak, spell
17 your name when identifying yourself, speak clearly,
18 and do not speak at the same time as others.

19 First up, we want to document the compliance
20 with our Open Door Law, so I request that the
21 co-directors confirm that the Commission meeting
22 has been properly noticed as required under the
23 Open Door Law.

24 MR. KING: Madam Chairman, members of the
25 Commission, Bradley King, co-director of the

1 Election Division. On behalf of myself and
2 Co-Director Nussmeyer, we certify that notice was
3 given of this meeting in compliance with the Open
4 Door Law.

5 CHAIRMAN BOYCE: Thank you. Next we will
6 approve the February 25, 2026, Indiana Election
7 Commission minutes. I recognize the co-directors
8 to present the minutes of this meeting.

9 MR. KING: Madam Chairman, members of the
10 Commission, on behalf of myself and Co-Director
11 Nussmeyer, we recommend that the Commission approve
12 the minutes of February 25, 2026, as presented.

13 MS. CELESTINO-HORSEMAN: I have a question.

14 CHAIRMAN BOYCE: Sure.

15 MS. CELESTINO-HORSEMAN: Are these the minutes
16 where we previously heard the same challenge or
17 were those after?

18 MR. KING: Madam Chairman. Yes, Commissioner,
19 that was one of the proceedings included at the
20 February 25, 2026, meeting.

21 MS. CELESTINO-HORSEMAN: In light of the
22 subject matter of this -- in light of the subject
23 matter and the nature of what has come back to us
24 and given the potential of contempt charges and all
25 this if it's not handled a certain way, I would

1 like to hold on the approval of the minutes until
2 after we do some things here to see because it
3 could be we may want to redact serious portions of
4 those minutes before we pass them as to follow the
5 law in the state of Indiana. So if we could just
6 wait until the end of this meeting to do it.

7 CHAIRMAN BOYCE: So is that a motion?

8 MR. KING: Madam Chairman, if I could respond,
9 and I'll be happy to defer to our counterparts.

10 This is not -- no motion has been made yet to
11 approve these minutes. Instead, what I understand
12 the Commissioner to be suggesting is an amendment
13 to the agenda to move this item to the end
14 following the conclusion of the other business on
15 the agenda.

16 MS. CELESTINO-HORSEMAN: That's why Mr. King
17 is paid the big bucks, exactly.

18 MR. KING: So that would then be in the form
19 of a motion from the Commissioner.

20 MS. CELESTINO-HORSEMAN: Yes.

21 MR. KING: That would then require the
22 discussion at the conclusion.

23 CHAIRMAN BOYCE: So maybe just to clarify for
24 the minutes, if that's okay, what your motion is.

25 MS. CELESTINO-HORSEMAN: My motion is that we

1 move the approval of the minutes of the meeting of
2 February 25, 2026, to the end of the agenda.

3 CHAIRMAN BOYCE: There's a motion. Is there a
4 second?

5 VICE CHAIRMAN OVERHOLT: Second.

6 CHAIRMAN BOYCE: Any discussion? Hearing
7 none, all in favor say "aye."

8 Aye.

9 VICE CHAIRMAN OVERHOLT: Aye.

10 MS. CELESTINO-HORSEMAN: Aye.

11 MR. WESTERCAMP: Aye.

12 CHAIRMAN BOYCE: Opposed say "nay."

13 The "ayes" have it, and the motion to amend
14 the agenda is adopted.

15 Next we will deal with some campaign finance
16 matters. The Commission will now consider
17 ratification of settlement agreements regarding
18 campaign finance violations. I recognize the
19 co-directors to present these orders.

20 MR. KING: Madam Chairman, members of the
21 Commission, on behalf of Co-Director Nussmeyer and
22 myself, we have reviewed the settlement agreements
23 that reflect payments by campaign finance
24 committees pursuant to orders imposing penalties on
25 those committees. The committees are agreeing to

1 the settlement without admitting liability or
2 violation of campaign finance law. We recommend
3 your ratification of these settlement agreements.

4 CHAIRMAN BOYCE: Okay. Those were included in
5 our binders. Is there a motion to ratify the
6 campaign finance settlement agreement as presented?

7 VICE CHAIRMAN OVERHOLT: So moved.

8 CHAIRMAN BOYCE: Is there a second?

9 MR. WESTERCAMP: Second.

10 CHAIRMAN BOYCE: Any discussion?

11 Hearing none, all in favor say "aye."

12 VICE CHAIRMAN OVERHOLT: Aye.

13 MS. CELESTINO-HORSEMAN: Aye.

14 MR. WESTERCAMP: Aye.

15 CHAIRMAN BOYCE: Opposed say "nay."

16 The "ayes" have it, and the motion to ratify
17 the settlement agreements is adopted.

18 Next we're going to authorize the use of the
19 Commissioners' signature stamps. Is there consent
20 by each member to authorize Election Division staff
21 to use the member's signature stamp on any
22 documents approved at this meeting?

23 VICE CHAIRMAN OVERHOLT: Consent.

24 MR. WESTERCAMP: Consent.

25 MS. CELESTINO-HORSEMAN: Consent.

1 CHAIRMAN BOYCE: Each member having consented,
2 it is so ordered.

3 Next we will move to the administration of the
4 oath. If any person plans to testify at today's
5 meeting, please stand for the administration of the
6 oath. And I recognize Matthew Kochevar to
7 administer the oath.

8 MR. KOCHEVAR: All those who plan to testify
9 before the Indiana Election Commission, please
10 raise your right hand, say "I do" after recitation
11 of the oath.

12 Do you solemnly swear or affirm, under the
13 penalties of perjury, that the testimony you are
14 about to give to the Indiana Election Commission is
15 the truth, the whole truth, and nothing but the
16 truth? Please say "I do."

17 ALL: I do.

18 CHAIRMAN BOYCE: Thank you. Okay. We will
19 now have the reconsideration of Gallant v. Wilson,
20 Cause No. 2026-16. The next item on the agenda for
21 today's meeting is the reconsideration of Cause
22 No. 2026-16 in the matter of the challenge to
23 Alexandra Wilson, candidate for the Republican
24 Party nomination for Indiana State Senate
25 District 38.

1 We have received a Court Order in this matter
2 remanding to the Indiana Election Commission for
3 consideration of whether the candidate is
4 disqualified pursuant to Indiana Code 3-8-1-5. As
5 I understand it, the Court Order directs the
6 Commission to, and I quote, consider Wilson's
7 notice of expungement and whether her candidacy
8 disqualified in light thereof.

9 Therefore, I move that the Commission grant
10 each party five minutes to present new evidence and
11 that the candidate go first. Is there a second?

12 MR. WESTERCAMP: Second.

13 CHAIRMAN BOYCE: Discussion?

14 VICE CHAIRMAN OVERHOLT: Yes. One issue I
15 would like to raise is that -- I'm going to use the
16 term that was also in the Court Order that
17 referenced a change of circumstance. I am -- under
18 Indiana law, Indiana law, you know, is very clear
19 in terms of discussion of consideration of -- not
20 consideration of, but discussion of expungements.
21 There's been a change of circumstances recognized
22 by the Court that, in my mind, means that the
23 criminal conviction on which this challenge was
24 initially raised is no longer, shall I put it, a
25 valid consideration of this Commission.

1 And it would seem to me -- I think it would be
2 good to try to reign in -- the purpose of my
3 comment, quite frankly, is I would like to lay
4 ground rules so that both sides understand that
5 very limited -- the very limited consideration
6 we're giving today, which is whether the candidate
7 can be -- there's any basis for disqualifying her
8 at this point, and to remind everyone the basis for
9 the challenge was a criminal felony -- an alleged
10 felony conviction on her record.

11 That has been addressed at this point, quite
12 frankly, so the sole issue is whether -- in my
13 mind, whether there's any basis for
14 disqualification that in terms of getting into we
15 shouldn't be discussing the alleged felony
16 conviction, any of the factual underpinnings of
17 that, or subsequent proceedings, quite frankly,
18 related to that conviction because that conviction,
19 again, for our purposes no longer exists.

20 I'm not sure how to phrase that as an
21 amendment. So I think if we could reach some
22 agreement in terms of -- because I have concerns,
23 as Commissioner Celestino-Horseman raised. I mean,
24 I think there are issues too in terms of the record
25 before us in terms of the minutes. My thought is

1 actually the minutes regarding this particular
2 challenge from February probably need to be sealed
3 or we need to figure out some way to address those
4 but then also to try to make sure that in this
5 proceeding today that we don't end up having a lot
6 on the record that really shouldn't be in the
7 record in the first place, and if it is, it needs
8 to be not part of a public record.

9 MS. CELESTINO-HORSEMAN: I mean, there are --
10 the first approach that we could take is as
11 Suzannah has said, which is that the only issue
12 before us is does this expungement lead to the
13 disqualification of the candidate because the
14 challenge was presented as this candidate is
15 disqualified. So I guess you could say does this
16 expungement bear upon that, and if it does, is that
17 a yes or no. I mean, that's a pretty simple
18 proceeding, and it certainly, certainly, I think,
19 protects the record.

20 The question of whether we should do it is out
21 of our hands. We have a Court Order that has
22 instructed us to do this, and unless we want to be
23 held in contempt of court, and I certainly don't,
24 then we are to give this reconsideration.

25 So if we limit it to that very simple

1 question, then we're fine. If we can't limit it to
2 that very simple question, then we are going to
3 need to go through and make a whole set of ground
4 rules because, quite honestly, I'm not even going
5 to get out of my mouth what level -- I don't even
6 want to say that word "conviction" because it
7 doesn't exist in terms of this. Having dealt with
8 sealed records and everything, this is gone. This
9 is no longer in existence.

10 And that is -- when you look at the
11 disqualification statute and its exceptions for
12 exemption and such, that is what happens because,
13 if you've been disqualified -- I mean, if you've
14 got an expungement and someone wants to bring a
15 disqualification challenge against you and they say
16 I know this for a fact, they have no means of
17 proving it. That's the whole point of it. That's
18 why they make an exception for people who have had
19 records expunged. You can now run.

20 Plus, there is a statute that says it's a
21 Class C infraction and can lead to contempt if you
22 discriminate against a person who has an
23 expungement. In other words, if you take an action
24 based upon that known knowledge and they have an
25 expungement, you can then become subject to a

1 Class C infraction.

2 So we either limit this to just the very
3 simple question or we are going to have to sit here
4 and then go through and take a look -- we're going
5 to have to draw some ground rules because, as an
6 officer of the court myself, I'm very protective of
7 my law license, and I don't want to have to sit
8 there if the board -- you know, the disciplinary
9 commission calls me in and wants me to explain why
10 I was held in contempt of court for something. I
11 don't want to come close to that.

12 And I'm sure these officers of the court feel
13 the same way, so I think we need some guidelines.
14 And I personally believe that, given the extensive
15 language and provisions regarding expungement, the
16 different things, we shouldn't even be saying there
17 is an expungement. That should not even be out
18 there, but we have no recourse on that. So --

19 CHAIRMAN BOYCE: And, I mean, that's why we're
20 here, because the Court has ordered us to be here.
21 So as I previously mentioned, I think we all
22 certainly share the same concerns, but I think it's
23 incumbent upon us to allow the parties to have some
24 time to speak. Of course, the counsel for the
25 party involved is here, so I think, as I kind of

1 moved earlier, I think that each side should be
2 given five minutes.

3 MS. CELESTINO-HORSEMAN: Before they do,
4 though, I think we have to put down ground rules.
5 They can't discuss anything, none of the facts or
6 anything that relate that came before, nothing
7 that, a fact or statement or anything, comes out of
8 or is related to whatever it was that prompted this
9 expungement. They can't bring that up and we can't
10 hear it. So I think we need to lay some ground
11 rules then before those remarks begin.

12 MR. WESTERCAMP: We have an adversarial
13 system. The parties are here. The parties are
14 represented by counsel. I'd like to hear the
15 argument of the parties before deciding anything
16 and hear what they have to say.

17 MS. CELESTINO-HORSEMAN: Courts do it all the
18 time. Courts, they say you can make a motion in
19 advance, motion in limine, to have certain
20 testimony, certain things not discussed because of
21 the basis of something like this, because it gets
22 into privilege, because it's protected by law,
23 because it's irrelevant, whatever. You can do
24 that, and that's how we're sitting here today.

25 So I think -- I am not comfortable going

1 forward and allowing discussion of this stuff
2 publicly knowing that it's under seal, knowing that
3 a court has reviewed it and declared it to be under
4 seal. And so, I mean, to fulfill the Court's order
5 that we have in front of us, we don't have to have
6 that kind of discussion.

7 The simple issue is, there's been a challenge
8 made to the qualification of this candidate to be
9 on the ballot. Consider this expungement, does it
10 play a role in this, does this expungement
11 disqualify her, does this expungement say she
12 shouldn't be disqualified. That's the simple
13 question that we have in front of us, but if we go
14 into the other, then I think we need to lay down
15 rules and say we can't discuss this stuff.

16 CHAIRMAN BOYCE: Go ahead.

17 MR. KING: Madam Chairman, members of the
18 Commission, to speak to the procedural aspects that
19 are under consideration by the Commission, I
20 believe that the Chairman made a motion, but there
21 was not yet a second to that motion.

22 MR. WESTERCAMP: I seconded it.

23 VICE CHAIRMAN OVERHOLT: There was a second.

24 MR. KING: Then if there was a second, then
25 the proper approach would be to propose an

1 amendment reflecting the concerns raised by
2 discussion of the Commission.

3 VICE CHAIRMAN OVERHOLT: So, I mean, I would
4 amend -- because I agree allowing argument. I
5 would propose an amendment to that motion so that
6 the argument be limited to the issue of whether the
7 candidate is disqualified from being a candidate in
8 light of the notice of expungement, meaning so the
9 notice of expungement, that that means there would
10 be no discussion of the circumstances, underlying
11 facts related to the action that was the subject of
12 the expungement.

13 MS. CELESTINO-HORSEMAN: I'll second that
14 motion for amendment. And then I'll add the
15 caveat, what we're saying is this is a purely legal
16 discussion regarding the law.

17 MR. WESTERCAMP: I don't think we should limit
18 the arguments of the parties before we've even
19 heard what the arguments of the parties are.

20 CHAIRMAN BOYCE: Okay. So there's been a
21 motion and a second and then an amendment and a
22 second.

23 MS. CELESTINO-HORSEMAN: And a clarification,
24 as regards your comments, you would fling the door
25 wide open so anything they want to say can be

1 discussed, whether it was something that was
2 already dealt with in the February 25th hearing,
3 whether it has to do with facts arising to a record
4 that is -- a document that has been sealed and
5 those facts come out of it? I mean, that is what
6 you are advocating for?

7 MR. WESTERCAMP: What I am advocating for is
8 an open administrative procedure. There's all
9 kinds of laws that apply to everyone in this room,
10 and I don't think it's necessary to recite any
11 number of them before we hear the arguments of the
12 parties, who are both represented by officers of
13 the court.

14 MS. CELESTINO-HORSEMAN: So are you going to
15 then seal this whole proceeding after it's
16 finished? Because if the door is open -- I'm just
17 trying to play in reverse here. If the door is
18 open that anybody can throw out anything that has
19 been sealed, we now, as a state agency, don't we
20 have an obligation to make sure that that
21 information cannot be disseminated as such? And if
22 this proceeding is being recorded by the news media
23 and then the video is going out, aren't we now just
24 throwing it open completely to everybody?

25 I mean, I really do think this is a -- we're

1 in a first-of-a-kind situation here, we really are,
2 without or without the challenge. We have been --
3 dealing with this and this kind of thing, it's
4 never been done before, and that is why I think we
5 need to be very, very cautious. I, for one, truly
6 do not want to be the one who some court holds up
7 and says, now, you did this wrong, you need to be
8 held in contempt, or whatever. And so I'm just
9 asking and making clear, that is your position?

10 MR. WESTERCAMP: My position is that we
11 shouldn't weigh in on the issues before they're
12 presented by the parties and their counsels and
13 they've made their arguments, which we haven't
14 heard from both sides at this point.

15 VICE CHAIRMAN OVERHOLT: I would just -- so
16 this is Indiana -- and I know you're an attorney
17 and everything, but Indiana Code 35-38-9-10, I
18 would encourage everyone, every member of the
19 Commission, to review this before proceeding.

20 MR. WESTERCAMP: Are we voting now or is there
21 more discussion?

22 CHAIRMAN BOYCE: So there's been a motion and
23 a second and an amendment and a second.

24 MR. KING: Madam Chairman, under ordinary
25 parliamentary procedure, a motion to amend takes

1 precedence over the main motion. So Commissioner
2 Celestino-Horseman's motion takes precedence over
3 the main motion.

4 CHAIRMAN BOYCE: So we need to vote on the
5 amendment first.

6 MR. KING: Correct.

7 CHAIRMAN BOYCE: Okay. Would you mind --

8 MS. CELESTINO-HORSEMAN: I'm not the one who
9 made it.

10 VICE CHAIRMAN OVERHOLT: I'm the one who made
11 the motion.

12 CHAIRMAN BOYCE: Oh, I'm sorry.

13 VICE CHAIRMAN OVERHOLT: So my motion was to
14 amend the proposal. So I'm not changing that the
15 parties each have five minutes to argue. My
16 proposed amendment was that the argument be limited
17 to the issue of whether the notice of
18 expungement -- or sorry -- whether the -- sorry.
19 I'm trying to rephrase it, but it would be limited
20 to the issue of whether the candidate is
21 disqualified in light of the notice of expungement.

22 CHAIRMAN BOYCE: Okay. And then --

23 MS. CELESTINO-HORSEMAN: Second.

24 CHAIRMAN BOYCE: Okay. I apologize for that
25 confusion. So we have a motion and a second

1 relating to how this proceeds. All those in favor
2 say "aye."

3 VICE CHAIRMAN OVERHOLT: Aye.

4 MS. CELESTINO-HORSEMAN: Aye.

5 CHAIRMAN BOYCE: Opposed say "nay."

6 MR. WESTERCAMP: No.

7 CHAIRMAN BOYCE: Nay.

8 MR. WESTERCAMP: Nay.

9 MS. CELESTINO-HORSEMAN: So now we go back to
10 the original motion to give each side five minutes.

11 CHAIRMAN BOYCE: Right. So now we're back to
12 the original motion, which was my motion to grant
13 each party five minutes to present new evidence and
14 that the candidate would go first. Is there a
15 second?

16 MR. WESTERCAMP: Second.

17 CHAIRMAN BOYCE: So we have a motion and a
18 second to allow each side five minutes. All those
19 in favor say "aye."

20 MR. WESTERCAMP: Aye.

21 CHAIRMAN BOYCE: Aye.

22 Opposed "nay."

23 VICE CHAIRMAN OVERHOLT: Nay.

24 MS. CELESTINO-HORSEMAN: Nay.

25 CHAIRMAN BOYCE: The motion fails.

1 VICE CHAIRMAN OVERHOLT: So my suggestion
2 would be --

3 CHAIRMAN BOYCE: Make some movement here.

4 VICE CHAIRMAN OVERHOLT: I know. I'm trying
5 to think. So I'm again looking at the judge's
6 order that was issued, and I suppose for purpose of
7 the record, I mean, this, I guess -- well, it's in
8 our record, but, I guess, to just make sure it's
9 clearly reflected in the minutes, that the
10 previous -- that after the February 25th hearing
11 where no action was taken on the challenge because
12 it was a two-two vote, that judicial review was
13 sought by the challenger that a court -- that was
14 in Clay Circuit Court.

15 As a result of that petition for judicial
16 review, the Clay Circuit Court issued findings of
17 fact, conclusions of law, and an order that was
18 signed on April 1st. And that is the order that
19 we've been referencing that remanded the matter
20 back to the Election Commission stating -- and this
21 is paragraph 19 of the order. That order stated
22 "Remand to the Indiana Election Commission is
23 appropriate because circumstances of the case have
24 changed. The Indiana Election Commission has not
25 had an opportunity to consider Wilson's notice of

1 expungement and whether her candidacy is
2 disqualified in light thereof."

3 What I wanted to point out is the paragraph
4 above that, paragraph 18, says "Petitioner has not
5 raised any other disqualifying defect in Alexandra
6 Wilson's candidacy."

7 My suggestion would be that perhaps we could
8 ask the challenger at this point whether any other
9 disqualifying defects in the candidacy are being
10 raised as a preliminary question before the
11 hearing.

12 MR. WESTERCAMP: I'm confused and, frankly,
13 kind of stymied by what's happened because due
14 process is a fundamental tenet of this republic,
15 and if we don't permit the parties and their
16 counsel to make arguments today, they have an
17 argument that this body has denied them due
18 process.

19 There are two members that voted to permit
20 these parties to make their cases, present the
21 issues, present the evidence, make their legal
22 arguments for the first time since the remand to
23 this Commission, and we can't get three people to
24 agree to that, and I don't know why. I think that
25 the parties will have a due process claim to appeal

1 if we don't give both of them some time. If it's
2 six minutes, five minutes, four minutes, I'm open
3 to whatever, but we need to permit the parties and
4 their counsel to make the arguments that they would
5 like to make, both sides.

6 CHAIRMAN BOYCE: And the person who received
7 the expungement is here represented by her counsel.

8 VICE CHAIRMAN OVERHOLT: I'm concerned because
9 there are legal -- I understand -- believe me, I
10 understand due process, I understand the
11 protections that apply, but I also understand all
12 the legal frameworks in which we are required to
13 operate. At this point, because I also think we
14 need to comply with the Court's order, I will
15 reconsider my vote, but I'm reserving --

16 CHAIRMAN BOYCE: Well, the Court Order asks us
17 to be here --

18 VICE CHAIRMAN OVERHOLT: Well, I know.

19 CHAIRMAN BOYCE: -- to consider the
20 expungement.

21 VICE CHAIRMAN OVERHOLT: Right. But we can
22 also operate within the framework that we decide to
23 impose. You all aren't willing to limit that
24 framework, but I will -- to make sure we can
25 proceed, I will reconsider my vote on your original

1 motion. But I am -- that does not mean that I will
2 not be raising the issues that I've identified as
3 we proceed today.

4 MR. WESTERCAMP: I move to reconsider the
5 Chairwoman's original motion to give each side
6 five minutes.

7 CHAIRMAN BOYCE: I second that.

8 MS. CELESTINO-HORSEMAN: Discussion?

9 CHAIRMAN BOYCE: Yes.

10 MS. CELESTINO-HORSEMAN: I am very
11 uncomfortable sitting here and going through this
12 doing what I believe is actual breaking the law
13 with full knowledge of the law. I cannot do that.
14 I understand due process. I litigate it all the
15 time, and it's usually on the side of plaintiffs.
16 And I know that due process says you get a right to
17 speak and a right to be part of a proceeding, and
18 we're offering them that.

19 But what we're also saying is that at the same
20 time we're going to offer you this to exercise your
21 due process, we are not going to encourage you to
22 break the law, we are not going to go against what
23 a court of law has ordered, and so therefore this
24 is our compromise that we do. Otherwise -- I've
25 never had this happen to me before, but otherwise,

1 I think if we go forward from this point, we are
2 breaking the law.

3 And I -- I mean, we have nothing to guide us.
4 Wouldn't it have been nice if the attorney generals
5 who advocated for this position would have been
6 available to advise us, but they declined to advise
7 us, specifically refusing to discuss with us things
8 like that that might come up and how we deal with
9 this judgment, so we don't even have that.

10 We are blazing new groundwork, and, quite
11 honestly, I do not want to stray into the area
12 where I can be held in contempt, where I might have
13 worse, and I'd much rather err on the side where we
14 grant the due process, we also protect the law,
15 enforce the law, and then we move forward. And if
16 we can't do that, I don't know -- I am
17 uncomfortable in this proceeding.

18 VICE CHAIRMAN OVERHOLT: So the comment I
19 would make is we have -- you're fortunate not to be
20 an attorney.

21 CHAIRMAN BOYCE: It's good and bad, you know,
22 depends on the day.

23 VICE CHAIRMAN OVERHOLT: Yeah. So we have
24 seven officers -- and I'm not counting who might be
25 in the audience, and I don't even want to know that

1 yet.

2 CHAIRMAN BOYCE: Just too many lawyers.

3 UNIDENTIFIED SPEAKER: Indiana and Illinois.

4 VICE CHAIRMAN OVERHOLT: I know, I know. In
5 terms of people officially involved in these
6 proceedings, we have seven officers of the court.
7 We are all actually, as officers of the court,
8 compelled to uphold the law, to follow the law. We
9 have obviously -- we've raised issues for
10 consideration by all the officers of the court
11 here.

12 I am willing, because I also -- because I file
13 petitions for judicial review, I mean, I do want to
14 make sure that we also at least consider this
15 issue. I would encourage, because, quite frankly,
16 as I said, I'm going to keep raising the issue,
17 and, quite frankly, I -- I don't like to use the
18 word assume. I am going to presume, not assume,
19 I'm going to presume that we start, that the
20 parties -- that we are all going to proceed and
21 will be complying with our legal obligations, but I
22 am prepared that if this goes -- if it appears that
23 there are issues being raised that should not be
24 raised, that are not properly being raised, and if
25 it looks like -- I'm going to encourage folks to

1 address this before anything comes into the record
2 that should not be in this record or that should
3 really be confidential.

4 But, quite frankly, one way to make sure none
5 of that comes in if we can't reach agreement up
6 here is that, you know, I may end up having to
7 leave too. I mean, at this point I'm willing to
8 presume that things are going to proceed in an
9 appropriate fashion. If that changes, I'll be
10 taking the position that Commissioner
11 Celestino-Horseman is taking and saying I can't
12 participate.

13 Now, I'm saying this to you now because, hint,
14 hint, maybe stick around a little bit and see.

15 MS. CELESTINO-HORSEMAN: I appreciate that.

16 MR. WESTERCAMP: I have two questions for my
17 fellow commissioners. Did any member of this
18 Commission consent to the Attorney General's
19 proposed order to the trial court remanding the
20 matter to the Commission?

21 MS. CELESTINO-HORSEMAN: No, we didn't see it.

22 MR. WESTERCAMP: So no from everybody. Has
23 any member of this Commission received any guidance
24 at all from the Office of the Attorney General
25 following the Court's order to remand?

1 VICE CHAIRMAN OVERHOLT: So, number one, if we
2 had -- you're asking --

3 MR. WESTERCAMP: I'm not asking you -- my
4 question is not what is the content of that. My
5 question is have you received guidance.

6 VICE CHAIRMAN OVERHOLT: The answer is no.

7 MS. CELESTINO-HORSEMAN: Well, and I think
8 that's the point. Isn't that what an attorney is
9 supposed to do, provide legal guidance and advice?
10 We have an order that, it's my understanding, they
11 drafted it, and I knew that was the position they
12 were going to take because I went to the hearing,
13 and I discussed afterwards they had indicated that
14 to me.

15 So I knew that, and I'm just -- I'm taken
16 aback that here, as an attorney, you get an order
17 for a client, now your client wants to know, gee,
18 what do we do with this, what's going to happen
19 with this, and you say I can't help you. No,
20 that's not the way it works. But we are -- thank
21 God, we've got a bunch of attorneys sitting --
22 well, maybe not thank God, but we've got a bunch of
23 attorneys sitting around here, so we probably need
24 to give this a shot and try to handle it.

25 MR. WESTERCAMP: There may be things that we

1 disagree on today. There are, right, but I wanted
2 to clarify the facts to understand if anyone had
3 authorized the action that was taken and if anybody
4 had received guidance. I have requested guidance.
5 I was not given guidance. I was refused guidance
6 from the Office of the Attorney General.

7 VICE CHAIRMAN OVERHOLT: At least it's equal
8 opportunity.

9 MR. WESTERCAMP: So I just wanted to know if
10 any other Commission member had been given that. I
11 thought maybe I was special, but clearly not.

12 VICE CHAIRMAN OVERHOLT: No, no. We thought
13 we were special.

14 MS. CELESTINO-HORSEMAN: Yeah. We didn't get
15 to read the briefs before they were filed. We
16 didn't get to see the proposed order. We didn't --
17 they didn't talk with us about anything. We're
18 their client but not really.

19 MR. WESTERCAMP: So we can all agree on that.

20 CHAIRMAN BOYCE: And I think -- do you have
21 something to add?

22 MR. KOICHEVAR: I don't know when at the end of
23 the discussion, definitely before the parties go,
24 but if you do proceed with approving the motion to
25 reconsider and then actually approving the motion

1 to give time and everything, just noting what's in
2 the statute that there is an expunged case, and the
3 expungement at Section 10 that was referred to,
4 subsection (i) says the expunged case and all
5 records filed in the case are confidential.

6 I will note that in previous Commission
7 meetings there have been offers by parties of
8 documents that we're not supposed to have.
9 February meeting, there was a confidential record
10 that was included in the documentation that was
11 struck from the record. And then 2024 there was, I
12 believe, something that was probably considered to
13 be wiretapped that the vice chair said, no, we're
14 not supposed to have that, and you struck it.

15 I would just that if something were to come
16 in -- if there's something possibly that comes in
17 that's confidential under state law, possibly the
18 motion to strike and having discussion on that may
19 be an appropriate motion to have before other
20 considerations need to be done, vis-a-vis a
21 Commissioner feeling the need to leave this
22 particular meeting.

23 MR. WESTERCAMP: Would it help my colleagues
24 on the other side to ask the parties if they have
25 any preliminary motions to make before arguments?

1 Would that help you?

2 MS. CELESTINO-HORSEMAN: Of course, I mean,
3 that always helps. But I think my concern is
4 procedurally, counsel stands up and says and, by
5 the way, convicted of this and gives information
6 about it, says what's contained in documents,
7 everything that have now been sealed and all that,
8 I mean, we don't get to make any ruling on that so
9 after it's all out of their mouth. And so it all
10 comes out anyway, and it's going out over TV around
11 the state. It's going out to the news media and
12 everything else.

13 So that is my concern with my esteemed
14 colleague's suggestion here with proceeding is that
15 we don't -- without dealing with it in advance, it
16 comes out. I mean, we could do it with the best of
17 intentions, but then we still have to wait until it
18 comes out.

19 VICE CHAIRMAN OVERHOLT: Well, I would say at
20 this point, so if we could --

21 CHAIRMAN BOYCE: There's been a motion to
22 reconsider and a second, the original motion, which
23 would allow each side, each party five minutes. So
24 I think at this point we need to vote on that. Go
25 ahead.

1 MR. KING: Madam Chairman, to clarify, on the
2 motion to reconsider.

3 CHAIRMAN BOYCE: Yes. I'm sorry if I said
4 that wrong.

5 Okay. So on the motion to reconsider the
6 original motion, all those in favor signify by
7 saying "aye."

8 MR. WESTERCAMP: Aye.

9 VICE CHAIRMAN OVERHOLT: Aye.

10 CHAIRMAN BOYCE: Aye.

11 Opposed "nay."

12 MS. CELESTINO-HORSEMAN: Nay.

13 CHAIRMAN BOYCE: Motion passes three to one.

14 Okay. Then we need to vote on the original
15 motion. So I will make the motion that I
16 originally made to grant each party five minutes to
17 present new evidence and that the candidate would
18 go first. Is there a second?

19 MR. WESTERCAMP: Second.

20 CHAIRMAN BOYCE: We have a motion and second.
21 All those in favor signify by saying "aye."

22 MR. WESTERCAMP: Aye.

23 CHAIRMAN BOYCE: Aye.

24 VICE CHAIRMAN OVERHOLT: I'm sorry. Was that
25 the five minutes?

1 CHAIRMAN BOYCE: Yeah.

2 VICE CHAIRMAN OVERHOLT: Aye.

3 CHAIRMAN BOYCE: And that the candidate would
4 go first.

5 VICE CHAIRMAN OVERHOLT: Yes.

6 CHAIRMAN BOYCE: Okay.

7 MS. CELESTINO-HORSEMAN: Why is the candidate
8 going first if they made the challenge?

9 CHAIRMAN BOYCE: I guess I felt like --

10 MS. CELESTINO-HORSEMAN: I'm being advised,
11 yes.

12 CHAIRMAN BOYCE: Yeah. Okay. So we have a --
13 hold on. Did we vote? I'm sorry.

14 MS. WARYCHA: No vote.

15 CHAIRMAN BOYCE: Okay. We have a motion and a
16 second on granting each party five minutes to
17 present new evidence and that the candidate would
18 go first. All those in favor signify by saying
19 "aye."

20 MR. WESTERCAMP: Aye.

21 CHAIRMAN BOYCE: Aye.

22 Opposed "nay."

23 VICE CHAIRMAN OVERHOLT: I'm sorry. Yeah,
24 that was an aye. Just reflect that I said "aye."

25 CHAIRMAN BOYCE: I don't know if she voted.

1 MS. CELESTINO-HORSEMAN: All right. I have --
2 okay. Now, here's another procedural --

3 CHAIRMAN BOYCE: Wait one second. I think the
4 vote is three to one.

5 VICE CHAIRMAN OVERHOLT: Did you vote no
6 against that motion?

7 CHAIRMAN BOYCE: You didn't vote.

8 VICE CHAIRMAN OVERHOLT: This was the five
9 minutes each side with the candidate to go first.

10 MS. CELESTINO-HORSEMAN: I'll give them two
11 minutes. Yeah. I'll vote for that one, yeah.

12 CHAIRMAN BOYCE: We said five, not two. Okay.
13 So the motion is adopted four to zero.

14 MS. CELESTINO-HORSEMAN: Now, here is a
15 procedural question.

16 CHAIRMAN BOYCE: Yes.

17 MS. CELESTINO-HORSEMAN: The candidate should
18 not be going first, and I'll tell you why. The
19 candidate should not be going first because she has
20 to be able to rebut what he says, and if he starts
21 going off into areas that's not allowed -- I mean,
22 if she feels that as a preemptive challenge she has
23 to address what he might say, now you're getting --
24 you're basically telling her she has to waive all
25 the protections she has against her.

1 MR. WESTERCAMP: As far as I'm concerned --

2 CHAIRMAN BOYCE: Well, we already voted.

3 MR. WESTERCAMP: As far as I'm concerned -- I
4 can't speak for anybody but myself -- we're
5 45 minutes into this meeting and we have finally
6 agreed that each side will have five minutes. And
7 I'm happy to let a full-throated advocacy of both
8 sides -- if more time is needed, I'm happy to grant
9 that.

10 MS. CELESTINO-HORSEMAN: I vote we give a
11 five-minute rebuttal. If she wants to stand and
12 say nothing, she says nothing, but then she gets to
13 go into rebuttal.

14 MR. WESTERCAMP: Is that a motion?

15 CHAIRMAN BOYCE: Is that a motion?

16 MS. CELESTINO-HORSEMAN: Yes.

17 CHAIRMAN BOYCE: Is there a second?

18 VICE CHAIRMAN OVERHOLT: I would second that.

19 CHAIRMAN BOYCE: Okay. So we have a motion
20 and a second to allow -- after the original five
21 minutes from each side, to allow for five minutes
22 of rebuttal. All those in favor signify by saying
23 "aye."

24 VICE CHAIRMAN OVERHOLT: Aye.

25 MS. CELESTINO-HORSEMAN: Aye.

1 MR. WESTERCAMP: Aye.

2 CHAIRMAN BOYCE: Aye.

3 Opposed "nay."

4 Okay. And in the original motion we allowed
5 the candidate to go first, so this is your --

6 MS. DeWESTER: Sure.

7 CHAIRMAN BOYCE: Valerie is going to time
8 this. We do need you to state your name, going
9 back to -- we talked about that a long time ago.
10 So you're familiar. State your name, spell your
11 name for the record, but you have five minutes.

12 MS. DeWESTER: Sure. Thank you. My name is
13 Samantha DeWester. It's S-a-m-a-n-t-h-a,
14 D-e-W-e-s-t-e-r. I represent Alexandra Wilson, who
15 is sitting here.

16 This is now our second time in front of you
17 guys and fourth tribunal. It's been a fairly
18 active month. And I will do exactly, precisely
19 what has been discussed here, is contain it to one
20 issue, which is exactly what the court order says
21 is that this is to be remanded for consideration of
22 that one issue.

23 As obviously you guys probably know, the Court
24 didn't reverse, strike down anything. So the
25 underlying vote from a month ago, two-two, still

1 stands. So, you know, absentee ballots have
2 already gone out. Early voting has started. The
3 expungement is just a mere piece of evidence that
4 makes it moot, right. You don't -- I know the
5 Court says that he wants you to consider that and
6 whatever consider means, right. But, honestly, I
7 don't -- if it's going to cause, wreak havoc, you
8 don't need to consider it. The vote still stands.
9 It's two-two. She remains status quo.

10 So I don't want to spend the next two hours --
11 or, well, ten minutes going back and forth when
12 literally the underlying vote still stands. It
13 wasn't changed, and he just wants you guys to
14 consider whether the expungement maybe opened
15 something else up in your mind or decision-making
16 ability.

17 So I'm fine with you guys just affirming the
18 prior decision because it's -- well, it's been
19 affirmed because he didn't reverse it, right,
20 procedurally speaking, so that just -- it doesn't
21 change. Yes, was the expungement done, yep, it
22 was. But if you guys don't think it matters at
23 this point and it's moot anyway, I guess, not
24 consider it or consider it and then not consider
25 it. I don't know, whatever you want to do with it.

1 But she obviously remains on the ballot per
2 the prior vote and per everything that we've
3 litigated thus far and all the early voting, and
4 removing her from a ballot is just simply not an
5 option. I read the brief filed by the petitioner
6 saying that we should spoil the ballots, remove her
7 from the ballot, spoil all the ballots, resend
8 them, have people come back and early vote. That's
9 nonsensical to me over this issue that is now
10 arguably moot.

11 So you could consider it or not. Obviously
12 the vote still stands. She's still on the ballot.
13 We would like to get this wrapped up just for peace
14 of mind and a piece of time. That's all we have.
15 Thank you.

16 VICE CHAIRMAN OVERHOLT: Do you have any
17 arguments regarding the issue of whether her
18 candidacy is disqualified or not as a result of the
19 notice of expungement?

20 MS. DeWESTER: So I guess I'll relate back --
21 I don't want to get into all the stuff that we
22 talked about previously that would be on the record
23 in the minutes of the prior hearing. All of my
24 arguments still stand. She absolutely should not
25 be disqualified, even without the expungement.

1 VICE CHAIRMAN OVERHOLT: Well, we don't need
2 to get into that.

3 MS. DeWESTER: Right. So, I mean, that's what
4 I'm saying. You guys -- the judge says consider
5 this if this is going to help facilitate a decision
6 or whatever he intended by that. But what he
7 certainly didn't say in his order is that he
8 reversed and remands and you guys need to
9 reconsider all of this all over again. It was,
10 hey, guys, here, just consider this. And it was
11 the only issue that the petitioner has brought up
12 to date.

13 VICE CHAIRMAN OVERHOLT: Are you asking us to
14 dismiss the challenge on the basis of mootness?

15 MS. DeWESTER: I mean, arguably, to me as a
16 lawyer, it is moot. What I don't want to keep
17 occurring is this circle of petitions for judicial
18 review and this is new evidence that came in at the
19 petition and then we're going to argue this over
20 and over in a circle into November, right.

21 It's up to you how you guys want. I think it
22 should be dismissed, as you guys did the first
23 go-round. It was two to two. It's status quo.
24 She's on the ballot. And that's why I'm saying,
25 quite frankly -- again, I'm not telling you to

1 ignore a court order. Consider it and then say
2 okay, regardless of that, we considered it, but the
3 prior vote still stands, and move on from there.

4 CHAIRMAN BOYCE: Any more questions?

5 MR. WESTERCAMP: I have a question actually.
6 So some offices require a signature requirement,
7 and let's say there's a candidate that filed a
8 declaration of candidacy timely and there weren't
9 sufficient signatures on the date of the
10 declaration of candidacy. If that candidate later
11 collected additional signatures, would they be able
12 to perfect their original declaration of candidacy?
13 Is there anyplace under state law that permits
14 that?

15 MS. DeWESTER: I would have to look. I mean,
16 there was quite some time --

17 MR. WESTERCAMP: I'm not aware of any. It
18 sounds like you're not aware of any either, but I
19 understand I'm putting you on the spot with this
20 hypothetical.

21 My analogous question is, let's assume -- I
22 know your -- I understand your position, Counsel,
23 but let's assume that we or a judge disagrees that
24 your client was disqualified at the time of the
25 declaration of candidacy. Is there any other

1 statutory authority that you can point to that
2 allows that declaration of candidacy to be
3 perfected ex post similar to the signature analogy
4 that I was giving before?

5 MS. DeWESTER: Right. My whole -- I guess the
6 whole reason in presenting an expungement is for
7 mootness. She was qualified already. You guys
8 already said that. She's still on the ballot. The
9 entire point is that it is moot. It is irrational,
10 as a lawyer and petitioner, to keep going on and on
11 and on and on wasting everyone's time and money,
12 and taxpayers most importantly, on an issue that is
13 moot.

14 Mootness is different than disqualification,
15 right. So she wasn't disqualified, never has been.
16 The expungement just says the entire thing is now
17 moot. And I understand the argument is, well, when
18 she was a candidate, I say -- this is what I say
19 when she's a candidate. You're a candidate when
20 you hold yourself out. It doesn't mean you have to
21 file in order to be a candidate. You're a
22 candidate regardless before, during, and after your
23 filing.

24 So that's why I said you guys can or cannot
25 consider it. I mean, that's up to you guys. But

1 my argument is I'm just asking to reaffirm -- I
2 mean, it's already out there. You can't change
3 your vote, I don't believe, today because you're
4 here for one certain thing.

5 So consider it or not. I don't care. I mean,
6 it's more of a thing for her. The issue is moot
7 going forward in anything that she does. It can't
8 be discussed. It can't be argued about. It can't
9 be sent in campaign ads. It can't be used against
10 her, like it has all over social media and all over
11 Terre Haute and whatnot. So that was the main
12 issue, so there are two totally different issues.

13 MR. WESTERCAMP: I appreciate the answer. I'm
14 giving you the opportunity to make an alternative
15 argument, if you wish to do so. Do you have an
16 alternative -- and I know you agree with the
17 premise of the question. I understand that. But
18 this is the alternative that I'm offering you. Is
19 there any statutory authority that allows anyone to
20 perfect their declaration of candidacy after the
21 date where she had filed? That's my -- and you may
22 say you don't want to make an argument or --

23 MS. DeWESTER: Well, actually, I probably can
24 answer that question. So the Hatch Act, I'm sure
25 you guys are aware of the little Hatch Act. It's a

1 big Hatch Act, right. I've been involved in cases
2 previous and I believe there's an appellate case
3 that states someone was challenged because they
4 worked for maybe a unit of policing that got most
5 of their salary through federal funding. You guys
6 have heard challenges regarding this.

7 However, when it went to the challenge and
8 thereafter, it was dropped because that person had
9 subsequently changed positions and was no longer
10 funded by federal funds. So it was no harm, no
11 foul; the issue has remedied itself, right. So
12 that person was allowed to run. And I don't have
13 it off the top of my head, but I know I've dealt
14 with that in different counties, and I believe
15 there is a case on point that discusses the Hatch
16 Act and how you remedy that, especially when a
17 challenge has been filed for a Hatch violation.

18 MR. WESTERCAMP: Thank you, Counsel.

19 MS. DeWESTER: You're welcome.

20 MS. CELESTINO-HORSEMAN: This thing about
21 candidacy, I mean, it is true that --

22 (Microphone issue.)

23 MS. CELESTINO-HORSEMAN: So on the day you
24 file the declaration of candidacy, you're a
25 candidate; correct?

1 MS. DeWESTER: I don't believe that is -- I
2 mean, yes.

3 MS. CELESTINO-HORSEMAN: You're subject to
4 disqualification, but you have filed to be a
5 candidate.

6 MS. DeWESTER: Sure.

7 MS. CELESTINO-HORSEMAN: And you remain a
8 candidate -- if you are fortunate to make it
9 through the primary, you remain a candidate all the
10 way through until after the general election;
11 correct?

12 MS. DeWESTER: True, yes.

13 MS. CELESTINO-HORSEMAN: So at any time you
14 can go in and file and amend paperwork. If you put
15 down the wrong address, wouldn't you want them to
16 know, if you had the wrong address on there, that
17 you can go in and correct that even on your
18 candidacy paperwork? Or subsequently, if you move,
19 you go in and let them know that your address has
20 changed.

21 MS. DeWESTER: Sure.

22 MS. CELESTINO-HORSEMAN: So changes of
23 circumstances and all that do occur with candidate
24 paperwork after you file that original declaration
25 of candidacy and after the period within which you

1 have to file a challenge and it be decided; right?

2 MS. DeWESTER: Sure. And campaign finance law
3 obviously is different than candidate election law,
4 similar but different, right. I mean, there are
5 campaign finance laws that, once you start holding
6 yourself out, you're telling people around town
7 you're going to run for something, you now are
8 subject to campaign finance laws and regulations
9 and whatnot. You haven't filed yet, but you're
10 still a candidate.

11 And that's what I've said about Mrs. Wilson is
12 that you're a candidate before filing, at filing,
13 and after filing. So to say that you're only a
14 candidate on one specific date, time, and period
15 and anything thereafter doesn't matter isn't
16 necessarily true. But, again, an expungement goes
17 to the mootness of an entire argument, not the
18 disqualification, because she was already qualified
19 to be on the ballot.

20 MR. WESTERCAMP: I'm sorry. I have one more
21 question for you it occurred to me that I should
22 have asked. Do you dispute that the snapshot that
23 we are supposed to be looking at for the purposes
24 of disqualification -- the disqualification statute
25 sets out many different reasons that a candidate

1 could be disqualified. Are we to look at the date
2 at which the declaration of candidacy was filed for
3 the purposes of that analysis?

4 MS. DeWESTER: I think the Court was vague and
5 just do you --

6 MR. WESTERCAMP: What's your position?

7 MS. DeWESTER: Well, I already said I don't
8 care if you guys consider it or not because, to me,
9 it's a mootness issue, and she's already qualified
10 to be on the ballot. And that's already been
11 decided. That's not going to be overturned. You
12 know, it was remanded back for one specific purpose
13 and issue only, to consider the expungement. My
14 guess is, well, the judge thinking, well, maybe the
15 other two will think that it's a good thing, and it
16 will be four to zero, whatever. I don't know that.
17 I'm just presuming, which is what he thought.

18 But, again, I guess whatever considered means,
19 if that means you want to look at, you know, the
20 date of filing or the expungement or whatever,
21 that's completely up to your discretion if you want
22 to consider that. But, again, I'm saying I don't
23 care whether you guys consider it or not because
24 she's already on the ballot, right.

25 MR. WESTERCAMP: So you don't dispute that the

1 timing we're supposed to look at this is supposed
2 to be the date of the filing?

3 VICE CHAIRMAN OVERHOLT: Well, I dispute that.

4 MR. WESTERCAMP: I understand. I'm asking --

5 VICE CHAIRMAN OVERHOLT: You're misstating the
6 law at that point, so I'd object to your
7 characterization of the law.

8 MR. WESTERCAMP: I'm not characterizing
9 anything. I'm asking her a question.

10 VICE CHAIRMAN OVERHOLT: Well, you're asking
11 does she dispute it, which would indicate --

12 MR. WESTERCAMP: I want to understand her
13 position, and it sounds like she's not disputing
14 that.

15 MS. DeWESTER: Well, I've already said a
16 candidate begins before, at, and after, right. So
17 I'm not saying only look at what they're asking you
18 to look at. Absolutely not. I'm saying that, when
19 a candidate files, obviously that's when certain --
20 the disqualification laws come into play and other
21 things, whatever, just by reading the law. But as
22 it relates to candidate, I'm just trying to figure
23 out how to answer what you're asking and how to
24 answer it appropriately so you get your answer.
25 Does that make sense?

1 I don't want to tell you what to look at, but
2 I know it doesn't matter as it relates to the
3 underlying vote. She's still on the ballot. She
4 is not disqualified. Expungement is just mere
5 mootness of any type of litigation going forward.

6 The judge could have easily just said I
7 affirm, carry on, move forward. And I wish he
8 would have done that because we wouldn't be sitting
9 here wasting everybody's time. But he just said,
10 hey, consider it just in case that may change
11 opinions or minds or maybe just put people on
12 public notice that it has been expunged, knock off
13 any talking about whatever, you know, running
14 around town, whatever.

15 But I don't know what "consider" means. I
16 guess just take into consideration whether you
17 think that it changes. You guys voted no. I mean,
18 I guess use whatever information you think if that
19 changes your vote. But if it doesn't, then she's
20 still on the ballot because the underlying vote is
21 still there, right.

22 So it's kind of -- I'm not trying to be
23 flippant when I say I don't care whether you do it
24 or not because she's still on the ballot. We're
25 just here to discuss whether you guys consider it

1 and whether you two now feel more comfortable
2 having her on the ballot, I guess.

3 MR. WESTERCAMP: Thank you, Counsel.

4 CHAIRMAN BOYCE: Any other questions?

5 MS. CELESTINO-HORSEMAN: So in listening to
6 the discussion about mootness and everything else,
7 so with this expungement going forward, does that
8 moot Mr. Bopp's appeal of trying to take an
9 additional appeal or continue in the other case?
10 Do you know? I'm curious about that point.

11 MS. DeWESTER: Well, I would think an
12 appellate court would say yes, it's moot. I mean,
13 if he wants to relitigate this saying a new issue
14 was brought up at the judicial review, we're going
15 back to the Commission, that's my guess what
16 they're going to do next just to keep this whole
17 cycle going. But if an appellate court, once they
18 finally get their hands on it, they're going to say
19 this is nuts, right.

20 If you look at any case law regarding election
21 law, especially after the election has passed and
22 things have gone on, they're not going to remove
23 someone from a ballot, you know, because of one
24 person's interpretation of the alternative
25 misdemeanors statute, what the disqualification

1 statute says. It's not going to happen.

2 You guys already cast your vote. Because they
3 don't like it and they went and appealed it, they
4 didn't prove anything. Otherwise, the judge -- I
5 mean, if the judge found that his client, who has
6 yet to speak at anything, said yes, this is how
7 this -- the holding of this Commission is going to
8 impact me, which is what -- that's what AOPA says.
9 You have to show Petitioner how the decision of
10 this Commission is going to impact you. Not been
11 had. It's all about Brenda Wilson and being
12 confused and voters aren't smart enough to figure
13 out there's two different Wilsons.

14 So the judge, if he felt that he had enough
15 basis, he would have said, yeah, I agree, reverse
16 it back. They were arbitrary, capricious,
17 erroneous, looked the law in the face and said we
18 don't care and we're going to still do this.
19 That's not what happened. But in the middle of
20 that, I think it's appropriate to let the Court
21 know that an expungement was done and that we can
22 keep belaboring this all day long in courts and
23 whatnot, but it is a moot issue going forward.

24 Now, will a petition for judicial review go up
25 again and say, well, here's a third fact that was

1 added on and it was information not known to us at
2 the time of the original thing and it was done and
3 so we're here we are, right. Here's the
4 information under AOPA. But we'll have to wait and
5 see.

6 MS. CELESTINO-HORSEMAN: And one follow-up. I
7 say one final thing, maybe.

8 MR. WESTERCAMP: We'll see.

9 MS. CELESTINO-HORSEMAN: Yeah. But on this
10 issue of having to do it, opposing counsel is
11 saying it should have been filed in this time
12 period and everything else. But in point of fact,
13 if someone had -- and maybe the staff can answer
14 because I really don't know. If someone had a
15 conviction that no one discovered until after the
16 time to file had been passed and they find out that
17 person has this, couldn't you still file for
18 disqualification of a person even after the primary
19 on the same basis?

20 MS. DeWESTER: You have to file it in court, I
21 believe, to challenge them, get them off the
22 ballot.

23 MR. KOICHEVAR: Yes. If it is discovered that,
24 for instance, a person is disqualified under
25 3-8-1-5 because of a discovery of a felony

1 conviction, there are a number of statutory
2 proceedings that can be had throughout the election
3 cycle. Coming off the top of my mind, let's say,
4 for instance, the person wins the nomination for
5 the general election. The first statutory
6 procedure would be in 3-8-7-28. The candidate
7 actually is required by law to withdraw. If not,
8 there are procedures available to other candidates,
9 I think also other party chairmen at the county
10 level where they can go into court and say, Judge,
11 here is the information they are disqualified.

12 If we were talking about a statewide state
13 legislative candidate and assuming that they hadn't
14 been challenged on this in the primary, for
15 instance, there's the challenge proceedings under
16 3-8-8, which is similar to this one except that the
17 Commission has to meet a whole lot sooner because
18 of the statutory proceedings there.

19 In addition, there is the possibility that, if
20 it is discovered after the election, it could be
21 grounds for an election contest. One ground for
22 filing an election contest, again, speaking to
23 state legislative offices, filed with the State
24 Recount Commission is that the candidate is not
25 qualified to hold that particular office. And

1 arguments can be made if that candidate should not
2 be able to proceed to assuming that office and that
3 the second-place candidate, if there is one, should
4 actually be declared the winner.

5 Obviously, and, I believe, Commissioner
6 Celestino-Horseman is well aware of that, there are
7 court precedents in regards to those post election
8 contests in regards to what can actually happen in
9 regards to candidate challenges that we don't need
10 to go into. The courts are very, very concerned
11 about overturning the will of the voters absent
12 fraud or some other things.

13 But those are just the survey of the different
14 procedures, different, I would say, remedies that
15 are possibly out there to address the question you
16 raised.

17 MS. CELESTINO-HORSEMAN: Okay. So if a
18 person -- let's say my hypothetical person, we
19 don't know that they committed a felony. Under the
20 definition that you are a candidate for challenge
21 under the disqualification statute and the only --
22 and that to be a candidate subject to that, that
23 occurs on the date of filing, is that what you're
24 saying? Date of filing through the date of the
25 challenge period run?

1 MR. WESTERCAMP: Are you asking me a question?

2 MS. CELESTINO-HORSEMAN: Yeah, because you
3 were -- I'm trying to get the definition.

4 MR. WESTERCAMP: Can you repeat your question.

5 MS. CELESTINO-HORSEMAN: Yeah. So this whole
6 thing about candidacy, and there seems to have been
7 some -- maybe I should bring it up with Mr. Bopp.
8 I'll bring it up with Mr. Bopp.

9 VICE CHAIRMAN OVERHOLT: Yeah.

10 CHAIRMAN BOYCE: For the sake of moving
11 forward. Thank you. Yeah.

12 Okay. Now we'll hear from Mr. Bopp.

13 MS. CELESTINO-HORSEMAN: And before Mr. Bopp
14 begins, I would suggest, Mr. Bopp, that you proceed
15 very cautiously. You've heard our concerns about
16 the facts and everything coming up about the
17 discussion and such. I want to hear from you on
18 this argument about the expungement and its
19 application to the disqualification statute, but I
20 will give you fair warning as well that I think any
21 discussion of any fact relating to that underlying
22 conviction, anything that brings up that, then --
23 and even saying that, well, this was a conviction
24 for this and the plea agreement said that or
25 anything like that is forbidden by the sealing of

1 this record and is not appropriate to bring up in a
2 public hearing like this.

3 So with that said, I look forward to spirited
4 discussion. We had a good one the last time you
5 were here.

6 MR. BOPP: Commissioner, thank you for that.
7 And you're a lawyer. I respect that you would
8 endeavor to comply with the Code of Professional
9 Conduct and any orders of any court. I would
10 appreciate it if you would offer me the same
11 consideration rather than trying to admonish me and
12 limit my representation of my client by what I
13 consider to be inherently threats, and I wish that
14 you would afford me the same consideration because
15 I consider my ethical responsibilities and my
16 obligation as an officer of the court to be
17 extremely serious. And I've practiced law for
18 53 years, and it's never been brought into
19 question. So thank you.

20 MS. CELESTINO-HORSEMAN: I don't mean it to be
21 taken that way certainly, not at all. But here's
22 my concern, and I have to put it on the record
23 again. My concern is, if that happens, I'm not
24 sure I can stay in the room. That is what I'm
25 saying to you. And so --

1 MR. BOPP: There is nothing in this order --

2 MS. CELESTINO-HORSEMAN: Not in this order,
3 sir. Not in this order.

4 MR. BOPP: No. There is nothing in the
5 expungement order --

6 CHAIRMAN BOYCE: I think at this point, let's
7 just keep it -- if you could please introduce
8 yourself for the record, and then we can start your
9 five minutes, please.

10 MR. BOPP: Thank you.

11 CHAIRMAN BOYCE: Thank you.

12 MR. BOPP: My name is James Bopp, Jr. I'm the
13 attorney for Jeffrey Gallant, who is challenging
14 the Wilson candidacy.

15 Let me start with, the matter is not moot.
16 It's not moot because there are numerous voters who
17 will, between now and Election Day, be voting these
18 ballots, and that with an order of the Court or
19 this Commission, that the Alexandra Wilson name can
20 be immediately deleted so that future voters do not
21 suffer confusion about which Wilson they are voting
22 for. So it is clearly not moot because there's
23 future action on these ballots to be taken by
24 voters.

25 Second, this matter was raised by Candidate

1 Wilson, the expungement order, at the hearing
2 before the Court, and I have submitted it as
3 Exhibit 1. I notice they haven't, so I'm not sure
4 how we can even talk about it, the expungement
5 order, because they haven't submitted it. But
6 the -- and the only pertinence that order would
7 have had on this case is if it would have expunged
8 a, quote, guilty plea to a felony, end of quote.

9 Under the statute, it's not -- the
10 disqualification is not based on a conviction, not
11 based on a conviction. It is based on a guilty
12 plea. And this is under D(3)(c). If in a guilty
13 plea hearing, the person pleads guilty --

14 MS. CELESTINO-HORSEMAN: I'm going to object
15 at this point to the rest of your --

16 MR. BOPP: -- to a felony --

17 THE REPORTER: I can only do one at a time,
18 please.

19 MR. BOPP: I'm making a legal argument about
20 the statute.

21 MS. CELESTINO-HORSEMAN: So we now are hearing
22 specific references about this particular action,
23 and so now I, once again, express my concern.

24 MR. WESTERCAMP: I think the concern has been
25 recorded for the record. At this point, I'd like

1 to hear Mr. Bopp's argument at this point.

2 MS. DeWESTER: But are we not containing it to
3 what the court order says? The Court ordered
4 consideration of an expungement only, not going
5 back in time to what the code says and --

6 MR. WESTERCAMP: This Commission has already
7 voted to give five minutes to the candidate, five
8 minutes to Mr. Bopp, and five minutes for rebuttal.
9 I would like to continue in regular order with the
10 plan that was agreed upon by this Commission.

11 CHAIRMAN BOYCE: Which you have how much time
12 remaining?

13 MS. WARYCHA: I stopped it at 2:57 remaining.

14 VICE CHAIRMAN OVERHOLT: I -- well, before we
15 proceed, though, under -- 35-38-9-10 says that in
16 an expungement case that -- this is subsection (i).
17 An expungement case and all documents filed in the
18 case becomes confidential when the Court issues an
19 expungement order.

20 So what Mr. Bopp was referencing, confidential
21 information, and we're in a public hearing that's,
22 I guess, being broadcast. I don't know if anybody
23 is listening to it. But I -- this is where I do --
24 I mean, the thing is that I don't -- there's no
25 reason -- in my mind, there's no reason for him to

1 talk about those matters. I guess as a Commission,
2 that's where we need to -- because according to the
3 statute, he's referencing what is considered
4 confidential information.

5 MR. WESTERCAMP: I'm confused because I
6 thought he was reading the statute.

7 CHAIRMAN BOYCE: He was citing the statute.

8 VICE CHAIRMAN OVERHOLT: Well, he was also --
9 well, but he is talking about the circumstances of
10 the case that is incorporated with the expungement
11 order.

12 MR. WESTERCAMP: I think we should proceed to
13 let him make his case as we've agreed at the
14 beginning of this. If a court wants to hold
15 Mr. Bopp in contempt, they're certainly able to,
16 but we're here today to hear the arguments of the
17 parties and their counsels and then vote, and
18 that's what I intend to do.

19 CHAIRMAN BOYCE: Me too. So I'd like for you
20 to continue, please.

21 MR. BOPP: Thank you.

22 MS. CELESTINO-HORSEMAN: Can you give my
23 colleague and I one minute in the process, please,
24 a hold for just a minute.

25 CHAIRMAN BOYCE: One-minute hold.

1 MR. BOPP: Do you wish me to proceed?

2 CHAIRMAN BOYCE: Yes, I do.

3 MR. WESTERCAMP: I do.

4 CHAIRMAN BOYCE: I'd like for you to proceed.

5 You all are certainly going to be able to ask
6 questions, but I would like him to proceed so we
7 can move on.

8 MR. BOPP: So --

9 MS. CELESTINO-HORSEMAN: All right. I just
10 want to make clear that I do not agree with this.
11 You all can agree with it. You probably condone
12 it. But for future proceedings in any court to
13 hold anyone in contempt, I want to make it very
14 clear on the record that I do not support this.

15 So please go on.

16 MR. WESTERCAMP: We're sitting here listening.

17 MS. CELESTINO-HORSEMAN: I know. Go ahead.

18 CHAIRMAN BOYCE: Please.

19 MR. BOPP: Thank you. So this is only
20 pertinent if it's pertinent to a guilty plea, a
21 guilty plea to a felony, which is, in our view, a
22 tactic -- a concession that that's what happened in
23 the underlying matter.

24 Now, second, the order. The order of
25 expungement applies to a whole list of people that

1 expunge or seal the record -- and that's on pages 2
2 through 5 -- and also, quote, including collateral
3 cases.

4 Now, what is a collateral case, because this
5 Commission and this matter of disqualification is
6 not in the list, okay, of people that are subject
7 to the expungement order, but collateral actions
8 are. And that's defined in 35-38-9-0.5, definition
9 of collateral action. It means an action or
10 proceeding, including an administrative
11 proceeding -- okay, we're here -- that is factually
12 or legally related to a, and then a series of
13 things, a conviction.

14 Well, this matter has nothing to do with a
15 conviction. It has to do, as the statute says, a
16 guilty plea of a felon to a felony. So this
17 expungement order does not prevent the use of that
18 document -- the documents which reveal -- and this
19 is -- I am talking about the two documents, the
20 plea bargain and the order of conviction.

21 MS. CELESTINO-HORSEMAN: Out of your mouth,
22 not mine.

23 MR. BOPP: I am talking about those, that
24 those are presented because they're evidence of a
25 guilty plea to a felony, not a conviction.

1 So this is a big red herring, and there is
2 nothing in the order that prohibits people from
3 talking about what has happened in the past. The
4 purpose of this is to seal and expunge records for
5 use in the future, all right, because it has
6 adverse collateral effects, these things have. And
7 this prevents those adverse collateral effects from
8 occurring because these records are no longer
9 public records for use in the future. That doesn't
10 mean they can't be used in this proceeding, in our
11 opinion.

12 Now --

13 CHAIRMAN BOYCE: Time.

14 MR. BOPP: -- the Court answered your
15 question, which is --

16 CHAIRMAN BOYCE: Mr. Bopp, your time --

17 MS. WARYCHA: The five minutes.

18 CHAIRMAN BOYCE: -- alarm went off. I
19 apologize.

20 MR. WESTERCAMP: I have a question for you,
21 Counsel. So am I to understand your argument
22 earlier about the exhibit or any part of your
23 argument to argue waiver of the issue by the
24 candidate? Are you arguing that the candidate has
25 waived either -- any evidence or any argument

1 related to this case? Could you clarify that.

2 Either by presenting evidence or not presenting
3 evidence, have they waived their argument?

4 MR. BOPP: Well, what I would say -- oh, I
5 understand your question now. Sorry.

6 Well, she has presented no evidence of an
7 expungement order. Okay? So how can you answer
8 the question that does the expungement order affect
9 the disqualification if there is no evidence of an
10 expungement order? So that's a failure of proof, I
11 think, by the candidate. The fact that it was
12 presented at the court doesn't make it --

13 CHAIRMAN BOYCE: I would ask then, why did you
14 submit it?

15 MR. BOPP: I didn't submit it for the record.
16 I submitted a brief.

17 MS. DeWESTER: With the exhibits.

18 MR. BOPP: The exhibit, I haven't introduced
19 that exhibit here. I attached the order as an
20 exhibit to my brief. That's a pleading. That's
21 not evidence.

22 MS. CELESTINO-HORSEMAN: So your brief is not
23 part of the record?

24 MR. BOPP: It's not evidence, ma'am.

25 MS. CELESTINO-HORSEMAN: I know. I'm talking

1 about your brief.

2 MR. BOPP: I'm saying something very specific.

3 MS. CELESTINO-HORSEMAN: For purposes up here,
4 our record consists of all documents that are file
5 marked and stamped.

6 MR. BOPP: It would be part --

7 MS. CELESTINO-HORSEMAN: This is not a court.

8 CHAIRMAN BOYCE: I'm not an attorney. This is
9 not a court.

10 MR. BOPP: See, there's all sorts of
11 pleadings, as we know, that are part of the, quote,
12 record because they're in the docket, but they are
13 not evidence. This is an evidentiary hearing.
14 There's been no presentation of an expungement
15 order. So what can you say about an order that has
16 not been introduced in evidence?

17 VICE CHAIRMAN OVERHOLT: Well, we have a court
18 order saying -- we have a court order that
19 clearly --

20 CHAIRMAN BOYCE: To the Commission.

21 VICE CHAIRMAN OVERHOLT: Sorry. The court
22 order specifically recognizes that there was a
23 notice of expungement, so we have that. And I
24 would have been just fine not seeing the order of
25 expungement because we aren't supposed to see it

1 anyway, but you submitted it. So I think we're --

2 CHAIRMAN BOYCE: Which I did sort of wonder,
3 is this what we're talking about where it says on
4 the top "Not Public Record"? I was wondering about
5 that.

6 MR. BOPP: Yes.

7 CHAIRMAN BOYCE: Again, I'm not an attorney,
8 but I wasn't sure why.

9 MR. BOPP: In other words, the order of
10 expungement is also subject to the expungement,
11 okay, because that would be counterproductive,
12 right. That would reveal that there was a
13 conviction that occurred before that had been
14 expunged. And the purpose of the statute is to
15 prevent this -- any knowledge that this ever
16 happened to be used in the future, okay.

17 And so in that respect, she's violated the
18 expungement order to the extent she has publicly
19 exposed the order of expungement because it's not a
20 public record. It is not to be --

21 VICE CHAIRMAN OVERHOLT: You did that.

22 CHAIRMAN BOYCE: But I got this from you.

23 MR. BOPP: Huh?

24 CHAIRMAN BOYCE: I got this from you.

25 MR. BOPP: Well, I got it from her. She

1 presented it in court and filed it in court.

2 CHAIRMAN BOYCE: Well, I think for the sake of
3 this, and I'm not trying to be argumentative, but
4 we received it from you.

5 MR. BOPP: I acknowledge that. Thank you.
6 And I'm just clarifying the record that I received
7 it from her during the court hearing when she
8 introduced that in the court hearing, okay. So she
9 has already publicly exposed the order of
10 expungement.

11 CHAIRMAN BOYCE: But I would say that here,
12 this isn't a court; this is an administrative
13 hearing. Those are facts that we don't know
14 because we're here to consider what the judge told
15 us to consider.

16 MR. BOPP: Well, I'm representing that to have
17 occurred, but I would add to the fact that I've
18 already argued that this proceeding is not subject
19 to the expungement order because it's first a
20 collateral matter, not where the people are
21 directly ordered, such as the State Police,
22 et cetera, et cetera, Department of Correction,
23 courts, various courts, et cetera. If it's
24 encompassed within the order, it's because it's a
25 collateral action. And, however, this matter is

1 not a collateral action because it has nothing to
2 do with a conviction. It has to do with a statute
3 that requires a guilty plea to a felony, not a
4 conviction. So --

5 MR. WESTERCAMP: Counsel, I'm going to ask you
6 the same questions that I asked the counterparty so
7 that you have the opportunity to answer it for me.
8 So certain declaration of candidacy requires
9 signature requirements in order to get on the
10 ballot. Are you aware of any statute that allows a
11 candidate to perfect the original filing to add to
12 the number of signatures after the date of the
13 declaration of candidacy?

14 MR. BOPP: No.

15 MR. WESTERCAMP: Okay. And analogously, are
16 you aware of any state authority that would permit
17 a candidate -- and I understand this is a contested
18 issue by the candidate, but assuming that state law
19 said the disqualification statute would have
20 eliminated the candidate from the ballot, are you
21 aware of any way that a candidate can perfect
22 declaration of candidacy after the date that it's
23 filed?

24 MR. BOPP: No, and particularly as to an
25 expungement.

1 MR. WESTERCAMP: Okay.

2 MR. BOPP: And that is because the -- you do
3 not consider a felony conviction that has been, has
4 been, expunged, right, under the statute. So "has
5 been" occurs -- in other words, the expungement had
6 to have occurred prior to becoming a candidate.

7 So when do you become a candidate? Well, the
8 Court has already decided that in paragraph 17. A
9 candidate is defined as one who has, quote, taken
10 the action necessary to qualify under Indiana law
11 for listing on the ballot, end of quote.

12 And, of course, under Indiana law, that is --
13 which is 3-8-2, that is filing a declaration of
14 candidacy, which is a CAN-2. So that --

15 MR. WESTERCAMP: Could you repeat that. We're
16 trying to follow --

17 CHAIRMAN BOYCE: Yeah. We're trying to find
18 what number?

19 MR. WESTERCAMP: Can you start that again and
20 tell us exactly what you're quoting so we can
21 follow along.

22 MR. BOPP: Yes.

23 MR. WESTERCAMP: Thank you.

24 MR. BOPP: Yes. The question is with respect
25 to the expungement has been made. In other words,

1 it has to precede an event, and the event under the
2 statute is becoming -- or being a candidate for
3 elected office. That's the event here, being a
4 candidate. When does that begin? Well, the Court,
5 in the remand order, okay, on page 3, paragraph 17,
6 said a candidate is defined, *inter alia*, as one who
7 has, quote, taken the action necessary to qualify
8 under Indiana law for listing on the ballot,
9 period, end of quote, citing to appropriate
10 statute.

11 Well, we know from 3-8-2, and now I'm reading
12 from page 3 of my brief, that filing a CAN-2, a
13 declaration of candidacy, is the beginning of being
14 a candidate for this particular office.

15 So all that goes to say that the expungement
16 would have had to occur prior to filing the CAN-2,
17 the declaration of candidacy, where Wilson became a
18 candidate. So statutorily, a subsequent
19 expungement order has no effect on the
20 qualification of the candidate when the candidate
21 began the candidacy, which is the filing of the
22 CAN-2. That's the point in time where the
23 expungement had to have already occurred, right.
24 It's not *ex post facto* as to that candidacy.

25 MR. WESTERCAMP: I have another question.

1 It's unrelated, but we were talking about this
2 court order here. In Section 19 of the order where
3 there is a remand, the Court says it's appropriate
4 because the circumstances of the case have changed.
5 There's no citation to any statute in AOPA showing
6 that this remand is appropriate. Do you object to
7 the remand to the Election Commission today?

8 MR. BOPP: No, because that's not within your
9 purview. If I would make such an objection, it
10 would have been to the Court who issued the order.
11 So I don't object to you considering it. I just
12 think, as you were citing paragraph 19, the
13 Indiana -- it says remand to the Indiana Election
14 Commission is appropriate because circumstances of
15 the case have changed.

16 And I think what he's referencing correctly is
17 this expungement order was presented, presented,
18 okay. The Election Commission has not had the
19 opportunity to consider Wilson's notice of
20 expungement and whether her candidacy is
21 disqualified in light of.

22 And the only answer to that question is that
23 the expungement order is irrelevant to whether or
24 not she's disqualified, and that is, is that the
25 expungement occurred after the filing of her

1 candidacy by filing a CAN-2, which is the trigger
2 point of her becoming a candidate. She had to be
3 qualified then. She is disqualified if she has an
4 existing felony conviction at that moment -- not
5 felony conviction. See, I made a mistake. Sorry.
6 Felony guilty plea at that moment, which she did
7 have a guilty plea of a prior felony at that
8 moment. All right? Those records were public
9 records at the time.

10 Now, if you interpret this any other way, this
11 is just -- think of the chaos, number one, the
12 audacious public policy that is being advocated
13 for. The legislature has made it crystal clear
14 they don't want felons who have pled guilty to a
15 felony running for office or assuming office
16 because, remember, the disqualification also
17 includes assuming office.

18 MS. CELESTINO-HORSEMAN: Unless they have an
19 expungement.

20 MR. BOPP: If you would permit --

21 MS. CELESTINO-HORSEMAN: Right?

22 MR. BOPP: If you would permit -- just a
23 minute. Let me finish my point, and I'm happy to
24 answer your question.

25 MS. CELESTINO-HORSEMAN: Okay.

1 MR. BOPP: If you would permit a subsequent
2 expungement days, weeks, months, years later, then
3 we have legalized felons running for office and
4 assuming office by that action of the Commission.

5 MS. CELESTINO-HORSEMAN: And we've already
6 done that.

7 MR. BOPP: And that is exactly what should not
8 occur and what the legislature sought to prevent.

9 MS. CELESTINO-HORSEMAN: So we have already
10 done that to an extent. If you have been convicted
11 of a felony, you cannot run for office if you have
12 a record of being convicted of a felony.

13 MR. BOPP: It doesn't say that.

14 MS. CELESTINO-HORSEMAN: But if a -- no, let
15 me finish, sir.

16 MR. BOPP: It says --

17 MS. CELESTINO-HORSEMAN: Let me finish, sir,
18 please. So if you then go and get it expunged, by
19 statute, then you can run for office. Your
20 conviction -- no, sir, let me finish, please.

21 MR. BOPP: In the future.

22 MS. CELESTINO-HORSEMAN: So if you go and get
23 it expunged, then you can run, and the
24 conviction --

25 MR. BOPP: In the future.

1 MS. CELESTINO-HORSEMAN: Let me finish. I
2 stopped interrupting you. Now, please.

3 MR. BOPP: I'm sorry. I'm sorry. My
4 apologies.

5 MS. CELESTINO-HORSEMAN: So you go and get an
6 expungement, and now you can run for office. It
7 doesn't say anywhere in there that you have to get
8 it as of the day of qualification. Did you find a
9 statute that states in there that you have to have
10 it as of the day of qualification? It does say --
11 well, no, qualification.

12 MR. BOPP: Yes. The disqualification statute
13 itself says that you are not disqualified if a
14 felony conviction has been expunged, which means
15 prior to filing the CAN-2.

16 MS. CELESTINO-HORSEMAN: Where does it say in
17 statute? Do you have a statute, sir, that
18 references the prior to filing a CAN-2? Do you
19 have a statute or a case that says -- and this
20 change was made a while ago. Do you have any legal
21 authority that says that you can't go back and get
22 the expungement after the fact?

23 It's like my example. Let's say someone runs
24 for office. They have a felony conviction. Nobody
25 knows about it. Then they go and get it expunged.

1 Somebody says, wait a minute, I knew about it. But
2 guess what, they can't get -- they're cleared and
3 now they have an expungement.

4 So do you have any legal authority, any case,
5 any statute, anything that says that the
6 expungement has to be in place at the time that you
7 filed your candidacy?

8 MR. BOPP: The English language of the
9 statute, which is 3-8-1-5(d), (d) it says a person
10 is disqualified from being a candidate, so, in
11 other words, it has to happen at the beginning.
12 And then if, under (c), in a guilty plea hearing
13 the person pleads guilty to a felony, that now --
14 and then (c) says a person is not disqualified if a
15 felony conviction has been expunged.

16 So the consideration of what would disqualify
17 you in (c) cannot be considered at the pertinent
18 time, ma'am, pertinent time, if it has been
19 expunged. And the pertinent time of being a
20 candidate, when does that begin? The Court has
21 already said that. It begins when you file your
22 declaration of candidacy.

23 MR. WESTERCAMP: With the intent to get some
24 illumination, I'm going to ask the reciprocal
25 question of my colleague because I think, to your

1 point, we're talking about IC 3-8-1-5, and if the
2 General Assembly had wanted it to be in effect at
3 any time without respect to the timing, would it
4 have said, instead of has been, ever? Would the
5 language have been something like that? Is that
6 what your position is?

7 MS. CELESTINO-HORSEMAN: Which provision?

8 MR. WESTERCAMP: The statute is 3-8-1-5.

9 MS. CELESTINO-HORSEMAN: What section?

10 MR. WESTERCAMP: I think in the brief it says
11 (c), but counsel just said (d). I just don't have
12 it in front of me. Do you have it? Does someone
13 have it?

14 VICE CHAIRMAN OVERHOLT: My reading of the
15 statute, I mean, being a candidate is a status.
16 You announce you're a candidate, you file for
17 candidacy, you're a candidate the entire time
18 you're in consideration for office. And the way I
19 read the statute, there's nothing that says at the
20 time you file, at the time you announce. So this
21 applies, in my mind, to the entire duration once
22 someone is a candidate because otherwise -- I mean,
23 the flip of this is someone applies for candidacy
24 and they go off the rails and they're convicted of
25 murder after they've filed for candidacy, and his

1 position is that it doesn't matter, they weren't
2 convicted at the time, they get to stay on the
3 ballot.

4 That's not what this says. If you are
5 convicted of one of these crimes, that you are
6 disqualified from being a candidate. And there's
7 case law out there that says, yeah, so there can be
8 a change in circumstance, that you may have been
9 qualified day one when you file. You can become
10 disqualified and have to be kicked off the ballot,
11 or you can't be -- we know logistically you can't
12 really, but anyway, you can't hold office because
13 you've been convicted of one of these things. It
14 doesn't matter if that happened after the magic
15 February whatever date it was.

16 MR. WESTERCAMP: Sir, is that -- I'm sorry. I
17 don't mean to interrupt you.

18 VICE CHAIRMAN OVERHOLT: No. That's my --

19 MR. WESTERCAMP: You had said that that's
20 Counsel's position. Counsel, is that your position
21 or do you have a response to my colleague's
22 statements?

23 MR. BOPP: No. There are other remedies for
24 future events, right. This event that is being
25 considered by this Commission today is whether or

1 not Wilson is qualified to be on the ballot, right?

2 And that is what the declaration of candidacy would
3 trigger.

4 Now, if she would commit a future felony, she
5 could be disqualified from assuming office under
6 this statute. If she committed a felony while in
7 office, there are other statutes that might be
8 applicable and remedies available.

9 The other point is this March 23rd
10 expungement --

11 VICE CHAIRMAN OVERHOLT: This is --

12 MR. BOPP: -- does allow her --

13 VICE CHAIRMAN OVERHOLT: I think --

14 MR. BOPP: -- does allow her to be a candidate
15 in the future, okay. But she will have to qualify
16 by whatever requirements there are at that time.
17 For instance, if she wanted to run next year for
18 mayor, okay, she would have to file during the
19 period where declarations of candidacy are allowed,
20 right. Here, while she could declare a candidacy,
21 she cannot declare a candidacy for 2026 Republican
22 primary election for Senate District 38 because the
23 period to file your declaration of candidacy has
24 expired.

25 MR. WESTERCAMP: Okay. Does anybody have any

1 other questions?

2 CHAIRMAN BOYCE: I think in order to move on,
3 we have allowed time for rebuttal, so I think we
4 need to move on.

5 MR. BOPP: Could I suggest one more thing?

6 CHAIRMAN BOYCE: Well, in your rebuttal, yes.

7 MR. BOPP: Oh, sorry.

8 CHAIRMAN BOYCE: Valerie, do you have it?

9 MS. WARYCHA: I'm on it.

10 CHAIRMAN BOYCE: You all have five minutes.

11 MS. DeWESTER: Okay. Just a couple of things,
12 but I'm not going to belabor this. I don't have
13 the burden of anything. The burden is on them.
14 And they didn't prove their burden the first time
15 or here. We are not here to discuss whether she's
16 qualified or not. That has already been
17 determined. She is qualified. By a two-to-two
18 vote, she's on the ballot, so that makes no sense.

19 Continuing to call her a felon in public and
20 on the record is doing nothing but defamatory
21 things to her, and I warned him before in open
22 court this will be used against them if they
23 continue to use those kind of words. She was never
24 convicted of a felony ever, ever, ever, ever, ever.
25 I don't care what document has check boxes. She

1 was never convicted. He knows that, we know that,
2 everyone in the world knows that, and continuing to
3 use it is intentional defamation per se. I'd look
4 that up.

5 And we are here only to talk about whether the
6 expungement changes, I'm guessing, the two of your
7 minds, and I'm guessing it doesn't. We revert
8 right back to the original decision, which is two
9 to two. We're not here to keep going back and
10 forth, the Indiana Code according to Jim Bopp
11 because what he is saying is not in code and not in
12 case law, for the most part, right.

13 We can only guess when someone becomes a
14 candidate. The order says one thing, one statute
15 says this, one says this, one says this. Let's put
16 them all together, and it's crystal clear that's
17 what the General Assembly meant. I can't begin to
18 guess what the General Assembly means by a lot of
19 laws that they pass, right. I don't have control
20 over that. And if they want to make something
21 crystal clear, they will do so. I'm pretty sure
22 that's very easy to do, and it hasn't -- nothing
23 has been changed.

24 So for people to interpret -- like, I keep
25 laughing that we keep -- we just jump right over

1 subsection (b), which says a felony means, under
2 this entire section, someone that was convicted of
3 a crime that would have a sentence longer than
4 365 days. It is a legal impossibility to be
5 convicted of a felony with the sentence that
6 Mrs. Wilson was given, which was that of a
7 misdemeanor, which was 365 days.

8 You don't need to go jumping down to, well, if
9 it was a guilty plea. No, we don't need to do any
10 of that stuff, that's certain. And this is the
11 circle of nonsense we've been on for a month and a
12 half now.

13 And I just ask that, please, like I said, you
14 can take her expungement into consideration whether
15 you want to or not. It's done. No one can talk
16 about it or say anything. I'm free obviously to
17 submit what I want to you guys, and there's a
18 reason I didn't submit that. The Court might have
19 it, but, again, I can't violate my own client's
20 thing. We submitted it as part of evidentiary
21 stuff, so I don't know why I would be held to
22 something about the expungement order.

23 So I just ask that we move on and acknowledge
24 the minutes of the last meeting that was a
25 two-to-two vote she stays on the ballot. We're not

1 here to decide anything outside of whether the
2 expungement moves the needle for you two on
3 disqualification.

4 CHAIRMAN BOYCE: Okay. You good?

5 MS. WARYCHA: Just a second.

6 MR. BOPP: Thank you.

7 MS. WARYCHA: Ready.

8 CHAIRMAN BOYCE: Go ahead. Five minutes.

9 MR. BOPP: My only point I'd like to make is I
10 think this is a very limited remand, and it is to,
11 as the Court said, to consider whether the
12 expungement affected the disqualification. I think
13 the only answer to that legally is no because the
14 expungement occurred after the applicable event,
15 which is the filing of the CAN-2, that the
16 expungement under the statute had to have occurred
17 before then for any guilty plea to a felony to be
18 considered.

19 And so I've prepared a motion. Sir.

20 MS. WARYCHA: I will take it.

21 MR. BOPP: Oh, I'm sorry.

22 CHAIRMAN BOYCE: Give it to Valerie.

23 MR. BOPP: Oh, well, thank you.

24 MS. WARYCHA: Uh-huh.

25 MR. BOPP: I didn't know how to present this.

1 MS. WARYCHA: It's okay.

2 MR. BOPP: So I think this is responsive to
3 the remand question that has been asked by the
4 Court, and that is -- which I recommend for you to
5 adopt. I move that the Indiana Election Commission
6 find that the expungement order was issued on
7 March 23, 2026, which is on the document itself,
8 and, of course, the Court ordered it at reference
9 at any date -- and the date is pertinent, okay,
10 extremely pertinent -- subsequent to Alexandra
11 Wilson beginning her candidacy on 20 -- for the
12 2026 Republican nomination for State Senate
13 District 38 on February 5, 2026, by filing her
14 declaration of candidacy, CAN-2. And, of course,
15 that's the other pertinent deadline which began her
16 candidacy and preceded -- that declaration preceded
17 the expungement order.

18 And, therefore, the expungement order has no
19 effect on whether or not Alexandra Wilson was
20 disqualified from being a candidate for the 2026
21 Republican nomination for Senate -- State Senate
22 District 38 under IC 3-8-1-5. So because it was
23 not -- had not occurred at the necessary time prior
24 to the beginning of the candidacy, it's just
25 irrelevant to the candidacy here, okay. It would

1 be pertinent to future candidacies, I understand,
2 and that's one of the purposes, but not to this
3 candidacy and her on the ballot for this office.

4 I think that addresses the specific question
5 that the Court is asking you to consider. Of
6 course, if you decided the opposite, that, you
7 know, expungements days, months, years later would
8 affect this candidacy filed on February 5th, then
9 you would need to consider that. But I don't think
10 you have to. As a matter of fact, I don't think
11 it's lawful for you to consider the expungement
12 that occurred afterwards. So that's my argument.

13 CHAIRMAN BOYCE: Okay. Questions? Thoughts?

14 VICE CHAIRMAN OVERHOLT: I guess I would --
15 I'm going to move that the challenge be denied,
16 dismissed. I think we said that back in February
17 because I do want to address the, I guess, the
18 circumstance identified by the Court and to make
19 clear that there is nothing in the statute -- and
20 also the court's order, I think, addresses this a
21 bit tangentially. There's nothing in the statute
22 that talks about disqualifications -- or the
23 grounds for disqualification applying only as of
24 the date of candidacy; that as far as the date that
25 someone files to be a candidate, that it is a

1 situation -- being a candidate is a status, as I
2 said earlier, from the time you, I guess, say I'm
3 going to run for office until the time it's
4 determined by the voting population whether you
5 succeed or not at whatever level; and that the
6 statutes that address qualification issues, there's
7 nothing that says that it's on the date you file.
8 Obviously on the date you file you should meet
9 those requirements, but those don't get lifted just
10 because you filed and then whatever you do or don't
11 do during the period of time while you're a
12 candidate doesn't matter. It clearly does matter
13 and court opinions make it matter.

14 So therefore, I mean, I would have voted this
15 way anyway, but I just wanted to address the legal
16 arguments that we've had. So, like I said, I move
17 to dismiss the challenge.

18 MS. CELESTINO-HORSEMAN: Can we include in
19 that, pursuant to our consideration back in
20 February, that after consideration of these
21 things -- because she's right, we have the prior
22 decision, and if we just sit here and say it
23 doesn't impact it, does that mean that it's all
24 limited to that --

25 MS. NUSSMEYER: I think Suzannah has a motion

1 on the floor that needs to be seconded before
2 discussion.

3 MS. CELESTINO-HORSEMAN: What was your motion?

4 VICE CHAIRMAN OVERHOLT: The motion was to
5 dismiss the challenge.

6 CHAIRMAN BOYCE: The original.

7 VICE CHAIRMAN OVERHOLT: I then gave an
8 explanation. Yeah. I mean, the challenge hasn't
9 changed. We didn't get a new challenge. It's the
10 same challenge. But it's to dismiss the challenge
11 and then I gave my explanation of the basis for
12 that.

13 MS. CELESTINO-HORSEMAN: So your motion is to
14 dismiss the challenge.

15 VICE CHAIRMAN OVERHOLT: Yes.

16 MS. CELESTINO-HORSEMAN: It's already been
17 dismissed.

18 VICE CHAIRMAN OVERHOLT: Well, no. Actually
19 there wasn't any --

20 CHAIRMAN BOYCE: Because we split.

21 VICE CHAIRMAN OVERHOLT: We split.

22 MS. CELESTINO-HORSEMAN: Our action --

23 CHAIRMAN BOYCE: There was no action taken.

24 MS. NUSSMEYER: We need a second in order to
25 preserve the discussion.

1 MS. CELESTINO-HORSEMAN: Okay. I'll second it
2 for discussion.

3 VICE CHAIRMAN OVERHOLT: Second the motion so
4 we can talk about.

5 MS. CELESTINO-HORSEMAN: Okay. We took an
6 action. We took a vote.

7 CHAIRMAN BOYCE: Sure.

8 MS. CELESTINO-HORSEMAN: And that vote was the
9 action, and that action had an impact, which then
10 lead to the appeal. So if we -- and it did. It
11 was the effect of keeping her on the ballot.

12 VICE CHAIRMAN OVERHOLT: I just want to
13 clarify that a two-two split actually is no action.

14 CHAIRMAN BOYCE: No action.

15 VICE CHAIRMAN OVERHOLT: The thing is -- well,
16 but no -- and it is perfectly appropriate to then
17 seek judicial review when a body -- either on an
18 action or failure to act. We failed to act the
19 previous time. So we can't -- so talking about a
20 difference -- in my mind, talking about a
21 difference from our -- I mean, if I were voting
22 differently than I did before, I'd want maybe more
23 explanation. But I am not moving to take any
24 action different -- well, sorry. There wasn't
25 action. This is a new -- they've had a new

1 hearing. That is my motion based on this hearing.

2 CHAIRMAN BOYCE: And a new motion.

3 VICE CHAIRMAN OVERHOLT: Right. But it's a
4 move to dismiss the challenge based on what we've
5 heard today. And I can clarify, because there is
6 not -- there is no basis for disqualifying the
7 candidate. We haven't disqualified the candidate.

8 MR. WESTERCAMP: This has been seconded?

9 VICE CHAIRMAN OVERHOLT: Yes, it was seconded.
10 I need to just shut up.

11 MR. WESTERCAMP: I think it would be helpful,
12 just for the purposes of a likely judicial review
13 afterwards, to just -- ordinarily we make summary
14 decisions with we vote and it's pretty clear where
15 we're at, but I think I'd like to clarify for the
16 record my opinion on this matter in a statement, so
17 if you'll just bear with me.

18 This case was originally heard by this
19 Commission on February 25th. On that date, the
20 Commission voted two to two concerning the
21 challenge to Alexandra Wilson's candidacy. I voted
22 that Alexandra Wilson should be removed from the
23 ballot consistent with state law.

24 Following the Commission's vote and final
25 order on this case, the challenger appealed the

1 decision of the Commission to a Clay County trial
2 court. The Indiana Attorney General represented
3 the Indiana Election Commission against the
4 challenger's appeal to the trial court. During
5 this litigation, the Indiana Attorney General's
6 Office, on its own initiative and without the
7 consent of the Indiana Election Commission, as we
8 previously discussed at the beginning of this
9 meeting, proposed to the trial court to remand the
10 matter to the Indiana Election Commission. The
11 trial court accepted the Attorney General's
12 proposal and remanded this case to the Indiana
13 Election Commission.

14 Neither the trial court nor the Indiana
15 Attorney General identified Indiana law that
16 supported the remand of this case to the Election
17 Commission. Indiana Code specifies when a court
18 can properly remand an administrative matter to the
19 agency. These circumstances are found at Indiana
20 Code Section 4-21.5-5-12. None of the
21 circumstances identified in the remand statute are
22 applicable nor have any of the parties asserted
23 that they are applicable today.

24 I have repeatedly requested legal advice from
25 the Indiana Attorney General's Office this week.

1 The chief deputy, Lori Torres, emailed me yesterday
2 refusing to provide any guidance to me. I
3 forwarded that refusal along to our attorney
4 general himself requesting guidance. I never
5 received the legal advice that I sought from the
6 attorney general or any of his deputies.

7 As such, the Attorney General's Office has
8 abandoned the Indiana Election Commission as a
9 client. As a result, it's not clear what the
10 Commission can do today to move this case forward.
11 I can't explain why the Attorney General's Office
12 is refusing to assist this Commission.

13 Accordingly, today I'm voting consistent with
14 my first vote, which is based on the evidence which
15 was available at the time of Alexandra Wilson's
16 filing of her declaration of candidacy and based on
17 the original evidence provided by the parties at
18 the hearing in February.

19 The Indiana Election Commission did not
20 consent to the Attorney General's proposed order
21 given to the trial court. Therefore, if this case
22 is appealed after our decision today, Indiana
23 courts should take notice that filings made by the
24 Indiana Attorney General's Office on behalf of this
25 Commission may or may not have been authorized by

1 this Commission, and the attorney general has
2 refused to provide any guidance to this
3 administrative body.

4 Voting in this election has already begun.
5 This Commission previously voted two to two. If
6 the vote remains two to two today, as I expect it
7 will, the question should be asked, in addition to
8 many other questions, what did the Attorney
9 General's Office hope to achieve through this
10 remand? I have asked the question. I am still
11 waiting for an answer, but the voters can't wait
12 anymore.

13 MS. CELESTINO-HORSEMAN: Well stated. Very
14 good. I have felt the same frustration in this
15 case and the same thing about how can you remand
16 back, what authority do we have. But we have a
17 court order and we had to do it.

18 CHAIRMAN BOYCE: That's why we're here.

19 MS. CELESTINO-HORSEMAN: But I agree with you
20 100 percent. Are we discussing now?

21 CHAIRMAN BOYCE: Yes.

22 MS. CELESTINO-HORSEMAN: My only thoughts, I
23 have some, right, is that I don't even -- this is
24 not a new decision. The old decision still stands
25 because, if we say this is a new decision, then

1 guess what, there was no evidence presented in the
2 old decision. There's no evidence today that there
3 was ever a conviction because, as you acknowledged,
4 you move forward from the date of the expungement.
5 We have moved forward from the date of the
6 expungement, and that expungement says there is no
7 evidence in front of us regarding anything. So but
8 having said that...

9 CHAIRMAN BOYCE: Do you have something to add?

10 MS. WARYCHA: I do. Mr. Kochevar --

11 MR. KOCHEVAR: You want to go first?

12 MS. WARYCHA: -- I think we have the same.

13 MR. KOCHEVAR: I want to see what my colleague
14 says first. I may have something else to add for
15 your consideration. I'm trying to think of a way
16 to make sure to provide advice and make sure I'm
17 not doing any legal arguments or saying anything
18 untoward to you. So I'll let Valerie go first.

19 MS. WARYCHA: Yeah. Mr. Kochevar and I have
20 talked about this. We have reviewed criminal code,
21 and my add, that maybe if you would like to add
22 something to your motion to exclude what Mr. Bopp
23 gave us from the record because Mr. Kochevar and I
24 did have some concerns about that being on the
25 public record.

1 VICE CHAIRMAN OVERHOLT: I was contemplating a
2 separate motion to address that. If you think we
3 need to address that as part of the -- I was going
4 to have a separate motion regarding the record
5 itself, but if you feel like we need to address
6 that first...

7 CHAIRMAN BOYCE: As one or separate.

8 MR. KOICHEVAR: I think it needs to be
9 addressed before you leave today.

10 MS. WARYCHA: Yes.

11 VICE CHAIRMAN OVERHOLT: Right. I wanted to
12 address that, but I was going to do that because I
13 think action with respect to record is different
14 from action on --

15 CHAIRMAN BOYCE: On the issue itself.

16 VICE CHAIRMAN OVERHOLT: -- the challenge.

17 MS. CELESTINO-HORSEMAN: The comments are kind
18 of like shutting the barn door after the horse is
19 out, isn't it? But I agree, you have to do
20 something.

21 MR. KOICHEVAR: My comment is on this, in
22 reviewing the -- all the matters and all the laws
23 regarding expungements in this matter, there is a
24 statute that's been referred to already today that
25 is Indiana Code 35-38-9-10, which in certain court

1 cases I've found they call it the discrimination
2 statute.

3 I would just say in your considerations -- and
4 I do have copies I printed off today if you would
5 like to read it -- I do suggest that you do review
6 subsections (b)(6), subsection (c), as well as
7 subsection (f), most importantly subsection (f), in
8 case that, based on your review of the facts, that
9 if there is an expungement here, would certain
10 potential acts constitute a noncompliance with the
11 statute. I'll say it that way.

12 MS. WARYCHA: Can you say that code again,
13 please.

14 MR. KOCHEVAR: I'm sorry. Yes. You know
15 what, I'm going to read that again because --

16 MS. WARYCHA: 35?

17 MR. KOCHEVAR: 35-38-9-10, subsections (b),
18 (c), and (f).

19 MR. WESTERCAMP: Could I suggest that we vote
20 on the matter that's before us, and then we take
21 up --

22 CHAIRMAN BOYCE: The challenge.

23 MR. WESTERCAMP: Yes. And then we vote on any
24 subsequent motions that any Commissioner has. My
25 only comment is, I'd be interested in hearing from

1 the parties if anyone has any objection to what
2 you're describing, but I don't want to talk about
3 that now. I want to just proceed with the voting.

4 MS. CELESTINO-HORSEMAN: Before that vote, did
5 you read that statute just to be sure? I think
6 that was offered, just to be sure.

7 MR. WESTERCAMP: Yes.

8 CHAIRMAN BOYCE: Okay. So there is a motion
9 and a second on the floor here, and the motion is
10 to -- if you don't mind just --

11 VICE CHAIRMAN OVERHOLT: To dismiss the
12 challenge.

13 CHAIRMAN BOYCE: And the second is to dismiss
14 the challenge. All those -- we will vote now. So
15 all those in favor say "aye."

16 VICE CHAIRMAN OVERHOLT: Aye.

17 MS. CELESTINO-HORSEMAN: Aye.

18 CHAIRMAN BOYCE: Opposed say "nay."

19 MR. WESTERCAMP: No.

20 CHAIRMAN BOYCE: Nay.

21 MR. WESTERCAMP: Nay.

22 CHAIRMAN BOYCE: Okay. No action is taken,
23 two to two on that issue.

24 VICE CHAIRMAN OVERHOLT: So then my other
25 motion, so this is with respect to the record. So

1 I would move that Exhibit 1 to the memorandum, the
2 challenger's memorandum of law that was filed on
3 April 7th, that Exhibit 1, that it -- well, this is
4 where the attorneys would help. I guess maybe
5 before I make the motion, what I want to --

6 MS. WARYCHA: We can redact it from the file.

7 VICE CHAIRMAN OVERHOLT: Okay. So I shouldn't
8 say remove it from the record, just have it be
9 redacted?

10 MS. WARYCHA: Yeah. I would say Matthew and I
11 fill a lot of public records requests, and that way
12 we're covered to redact that portion if we get a
13 public records request.

14 MR. WESTERCAMP: Do either of the lawyers for
15 this case have an objection to -- redacting, is
16 that what the suggestion is?

17 VICE CHAIRMAN OVERHOLT: Yeah. It's to redact
18 the entire document from the record.

19 MR. WESTERCAMP: Exhibit 1, is it?

20 VICE CHAIRMAN OVERHOLT: Yes.

21 MS. CELESTINO-HORSEMAN: I'd like to amend the
22 motion.

23 VICE CHAIRMAN OVERHOLT: Well, I haven't made
24 a motion yet. I was asking --

25 CHAIRMAN BOYCE: She's just talking.

1 VICE CHAIRMAN OVERHOLT: I was asking about it
2 because I'm hoping to get a motion where we don't
3 have to have a bunch of amendments, so I wanted to
4 try to have some maybe agreement.

5 MR. WESTERCAMP: It seems like Mr. Bopp has a
6 comment.

7 MR. BOPP: Yeah. I think the appropriate
8 thing would be to have it under seal because,
9 number one, you don't want to exclude the Court
10 from reviewing it, if they choose to, and that
11 would be perfectly appropriate for the Court to do.

12 But if you don't want it on the public record,
13 the way to do that -- and, of course, the
14 expungement statute provides for both expungement
15 and sealing, okay, you know, because they're not
16 real favorable to destroying records, but you can
17 seal them and make them not public. So I would
18 recommend that if you choose -- and I would have no
19 objection to you having that under seal.

20 MS. CELESTINO-HORSEMAN: I think we're talking
21 about the same thing, but I think what she was
22 saying is that, when they get the public records
23 request, redact is the appropriate term --

24 MS. WARYCHA: Under AOPA.

25 MS. CELESTINO-HORSEMAN: -- under AOPA. So

1 instead of saying under seal, you say put it under
2 redacted.

3 VICE CHAIRMAN OVERHOLT: But it's not redacted
4 in the normal sense of blacked out.

5 MR. BOPP: Oh, thank you for that.

6 MR. WESTERCAMP: So no objection?

7 MR. BOPP: Yeah. As long as it means it is
8 under seal because I don't think we can prevent the
9 Court from seeing it.

10 MR. WESTERCAMP: Are we all on the same page?

11 VICE CHAIRMAN OVERHOLT: I guess so. Are
12 there other parts that need to be redacted?

13 MS. CELESTINO-HORSEMAN: I would like to
14 expand your motion.

15 VICE CHAIRMAN OVERHOLT: It's not a motion
16 yet.

17 CHAIRMAN BOYCE: You didn't make a motion.

18 VICE CHAIRMAN OVERHOLT: I'm trying to reach a
19 resolution before we do a motion.

20 MR. WESTERCAMP: I think that's a good idea.

21 CHAIRMAN BOYCE: And I think we let Mr. Bopp
22 speak, so do you have any thoughts?

23 MS. DeWESTER: I do not, and I would actually
24 suggest you might as well just strike it from the
25 record. I mean, I didn't move for it, so I would

1 suggest it be stricken from the record in total.

2 MS. CELESTINO-HORSEMAN: But it still has to
3 stay.

4 VICE CHAIRMAN OVERHOLT: Because it's been
5 filed.

6 MS. CELESTINO-HORSEMAN: May I make a
7 suggestion that we have this whole record and the
8 minutes of the meeting and everything be gone
9 through by staff, either Matt and Valerie or Brad
10 and Lindsay or all four of them, and they go
11 through and show us whether or not they recommend,
12 how they recommend this file be redacted, and then
13 we can redact it in the next meeting. And until
14 then, it just remains unavailable to the public.

15 MR. WESTERCAMP: Is that going to prejudice
16 anyone if we take that approach? Are we going to
17 have to have another meeting to come back and adopt
18 the recommendations and will that slow any of this
19 down?

20 VICE CHAIRMAN OVERHOLT: I think that means it
21 would be withheld from public --

22 MS. WARYCHA: I'm sorry. I didn't mean to
23 interrupt. Just to answer the Commissioner's
24 question, we, Matthew Kochevar and I, would prepare
25 a record for the courts, so we would have to turn

1 all of that over. So it would still be --

2 CHAIRMAN BOYCE: If no action was taken.

3 MS. WARYCHA: Right. If a court asked, we
4 would turn that over.

5 MS. CELESTINO-HORSEMAN: But the expungement
6 statute sets forth the basis on which certain
7 documents can get out and such, and you can't
8 access it unless you get a court order or whatever.
9 So I would assume the same thing would apply. We
10 maintain an unredacted copy with our files, of
11 course.

12 VICE CHAIRMAN OVERHOLT: And I think really
13 for clarification, I was sitting here thinking
14 about it as well. Really probably what we're
15 talking about is the -- yeah, so what would someone
16 from the public that does a FOIA request, I think
17 we're talking about what would be excluded from
18 that record, which is different from what would be
19 actually provided to the Court for judicial review
20 procedures.

21 MR. WESTERCAMP: Does that sound right to you?
22 Is that what you're saying? Because you used the
23 word "stricken," and I just --

24 MS. CELESTINO-HORSEMAN: No, I didn't use
25 stricken.

1 MR. KOICHEVAR: It shouldn't just be the
2 minutes. This binder right here is part of the
3 record. We keep this in the official record we
4 keep in our library. So any reference to the
5 things that should be confidential under the
6 expungement order -- I'll just use that term --
7 that needs to be instructed to us, if we get a
8 public records request, that we go through and
9 redact that information for the copy that's given.
10 We'll obviously keep the original unaltered copy
11 along with the minutes that we will get obviously
12 for any courts or something.

13 MS. CELESTINO-HORSEMAN: I don't think you
14 have to go through and do a redaction every time
15 you get one. I'm saying go through and do the
16 redaction that we just adopted as the official
17 record, official public record, and that way you
18 have it, and we say everything related to it, which
19 would include our minutes from when the hearing was
20 held.

21 VICE CHAIRMAN OVERHOLT: So my motion --

22 MR. WESTERCAMP: I think Mr. Bopp just raised
23 his hand. I'm curious if he has any objections to
24 this.

25 MR. BOPP: I appreciate the distinction

1 between public records request and the
2 administrative record that you're obligated to file
3 with the Court. And I'm not at all concerned about
4 how you deal with the public records request. That
5 will be between you all and whoever, you know,
6 makes the request.

7 What I'm concerned about is not altering the
8 administrative record in a way that the Court
9 cannot review what happened here, which means no
10 redactions. And if there is something that the
11 Commission believes should be confidential, then
12 you should seal it, right, so that it's available
13 to the Court but not publicly available when the
14 record is filed.

15 Now, but the other point I would make is what
16 I said earlier. This is not a collateral action
17 that is subject to the expungement order because it
18 does not involve --

19 VICE CHAIRMAN OVERHOLT: We're done with
20 argument. We're done with argument.

21 MR. BOPP: I'm just responding to his question
22 that I don't think you need to --

23 MR. WESTERCAMP: I guess are we --

24 CHAIRMAN BOYCE: Just on the issue of the
25 record.

1 MR. WESTERCAMP: Do you think that we're all
2 on the same page here?

3 CHAIRMAN BOYCE: Yes. If you could.

4 VICE CHAIRMAN OVERHOLT: Yeah. The thing is,
5 I do want the expungement order treated a little
6 bit differently.

7 MR. WESTERCAMP: Okay.

8 VICE CHAIRMAN OVERHOLT: Well, if it sounds
9 good, maybe I can convert it to a motion at the
10 end. So my thought is that with the expungement
11 order -- I'm going to use the terms I normally use
12 as an attorney because the redaction thing is
13 throwing me off a bit.

14 So the expungement order, so Exhibit 1 to the
15 memorandum filed on April 7th, my thought is that
16 that be kept under seal as a confidential record so
17 that even for -- even when these binders are stored
18 in the Election Division office, that that
19 expungement order should not be contained -- there
20 can be -- I guess, I don't know. I mean, I don't
21 know, if you put a reference page in there or
22 something that says "Confidential Record" or
23 something like that --

24 CHAIRMAN BOYCE: Acknowledgment.

25 VICE CHAIRMAN OVERHOLT: -- so you know

1 there's something there because I don't want
2 members of the public -- because when it's
3 confidential, it's confidential, so people in the
4 office should not be able to go around -- I'm
5 thinking about confidential records in my office.
6 People should not be able to see it anywhere.

7 So, number one, the expungement order, somehow
8 that it -- well, that it be removed, that a copy of
9 it can be put in an envelope somewhere or whatever,
10 but that it be completely removed from these
11 binders so no one else can access it. For purposes
12 of the record provided to the -- so that's part
13 one.

14 Part two would be that staff be directed to go
15 through the minutes from this hearing, the minutes
16 from the February '26 hearing, and determine what
17 redactions or confidential provisions, how those
18 should be treated due to the concerns related to
19 the expungement order discussed today and present a
20 proposed version of the -- that would be for the
21 public record to us for review when they're ready
22 to do that.

23 And that, number three, in terms of a record
24 to the Court, that the expungement order be under
25 seal. So I would propose that the entire record,

1 when it's provided to the Court, be provided under
2 seal and treated entirely as confidential, marked
3 confidential so that, again, when we are submitting
4 the record from the Election Commission, when it's
5 submitted to the Court, the whole thing isn't
6 subject to public review at the court level. I
7 mean, the court itself, the judge itself, but the
8 court filings through Odyssey, that people can't
9 access the entire record and see everything that
10 we've considered to be confidential.

11 And I think there are provisions under AOPA or
12 under the trial -- the administrative rules where
13 we can submit -- we could submit the entire record
14 under seal to the Court.

15 MR. WESTERCAMP: There are a lot of words
16 there.

17 VICE CHAIRMAN OVERHOLT: I know.

18 MR. WESTERCAMP: Can I just ask one clarifying
19 question?

20 VICE CHAIRMAN OVERHOLT: Yeah, yeah. You
21 might simplify it.

22 MR. WESTERCAMP: Why don't we -- I'd love to
23 simplify it and just say let's instruct the staff
24 to take steps to preserve the record and also to
25 seal records consistent with applicable law, full

1 stop. Does that do it?

2 VICE CHAIRMAN OVERHOLT: That's a really much
3 simplified way.

4 MR. WESTERCAMP: So moved.

5 VICE CHAIRMAN OVERHOLT: Okay. There you go.
6 And I will second that.

7 CHAIRMAN BOYCE: We're not going to go over
8 that again, but you got it and you got it.

9 MR. WESTERCAMP: When we agree, we agree. How
10 about that?

11 VICE CHAIRMAN OVERHOLT: Yeah.

12 CHAIRMAN BOYCE: Okay. So as far as the
13 records, we have a motion and a second. All those
14 in favor say "aye."

15 VICE CHAIRMAN OVERHOLT: Aye.

16 MS. CELESTINO-HORSEMAN: Aye.

17 MR. WESTERCAMP: Aye.

18 CHAIRMAN BOYCE: Aye.

19 Opposed "nay."

20 The motion passes four to zero, and we
21 appreciate the work of staff on that.

22 MR. WESTERCAMP: I move to adjourn.

23 VICE CHAIRMAN OVERHOLT: No. We've got to
24 approve the minutes.

25 MS. CELESTINO-HORSEMAN: Are the February

1 minutes part of what you just made?

2 MR. WESTERCAMP: I'm sorry?

3 CHAIRMAN BOYCE: Well, the minutes were --

4 MS. CELESTINO-HORSEMAN: They have to prepare
5 them first for us to pass them.

6 VICE CHAIRMAN OVERHOLT: Well, but the
7 February minutes, can they be treated -- are they
8 treated as part of what we just --

9 CHAIRMAN BOYCE: Should we vote separately on
10 those?

11 MS. WARYCHA: You should vote separately to
12 approve those minutes.

13 MS. CELESTINO-HORSEMAN: Then you go back.

14 CHAIRMAN BOYCE: With the appropriate
15 redactions.

16 MS. WARYCHA: And I hate to complicate things,
17 but we also have a video record. Do you have any
18 directions for us with regard to the video record?

19 MR. WESTERCAMP: We've already specified that
20 records are going to be redacted consistent with
21 applicable law. I really don't want to complicate
22 this.

23 CHAIRMAN BOYCE: Any form of a record.

24 MS. WARYCHA: That's all the clarity I needed.
25 Thank you.

CHAIRMAN BOYCE: Video, paper, et cetera.

Okay. So as far as the minutes then, we do need to have a motion and a second to adopt the minutes from the February 25th.

MR. WESTERCAMP: I adopt to adopt -- I move to adopt the minutes consistent with the prior motion that was adopted by this Commission.

CHAIRMAN BOYCE: Okay. We have a motion. Do we have a second?

VICE CHAIRMAN OVERHOLT: Second.

CHAIRMAN BOYCE: We have a motion and a second. All those in favor signify by saying "aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. CELESTINO-HORSEMAN: Aye.

MR. WESTERCAMP: Aye.

CHAIRMAN BOYCE: Aye.

Opposed "nay."

Very good. Motion passes four to zero.

MR. WESTERCAMP: I move to adjourn. I think that's a second.

CHAIRMAN BOYCE: Do we have a second?

MS. CELESTINO-HORSEMAN: I second.

CHAIRMAN BOYCE: We have a motion and a second to adjourn. All those in favor say "aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. CELESTINO-HORSEMAN: Aye.

MR. WESTERCAMP: Aye.

CHAIRMAN BOYCE: Aye.

Opposed "nay."

Very good. Thank you.

(The Indiana Election Commission Public
Session was adjourned at 1:13 p.m.)

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 11:07 a.m. and
7 1:13 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 22nd day of
14 April, 2026.

15 *Maria W. Collier*



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Maria W. Collier NOTARY PUBLIC SEAL STATE OF INDIANA Commission No. NP0693933 My Commission Expires Dec. 5, 2032
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My Commission expires:
December 5, 2032

Job No. 207019

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