That's just unconscionable to me, for a -- for -- that a U.S. Senate candidate is asking to be placed on the ballot by some conspiracy theory because they didn't make copies of the documents that they submitted to the local election officials.

It's very clear it's 498. They didn't meet the threshold. And on top of that, they didn't file a CAN-1 form themselves to challenge this. If they had an issue with it, their first line of recourse was to go to the local election officials and say, "Wait a second. You should have certified these," or, "Wait a second. Where is this page that we didn't get back?"

They didn't do that.

And then, when they submitted the documents to you and they realized that there's an issue, they knew -- Mr. Zody filed his first CAN-1 challenge on Wednesday morning, some 48 hours-plus before the deadline. If the Young campaign had an issue and said, "Oh, it does look like we only have 498, and it should be 500 or more," they had an opportunity last week to come into the Election Division, file their own CAN-1, and say, "We
believe it should be higher than what's submitted. We believe that the" -- as the form says, due to insufficient signatures or the county voter registration's office failure to certify qualified petitioners is not in accordance with law.

If they had an issue with what they submitted because they felt, after looking at it the second time, the clerks messed up, there's a "dup." here, and there shouldn't have been, there's a -- someone who's not designated one way or the other, and they should have been certified, they could have come and asked this body, through this process, to do that.

So I don't think that this Commission should raise that number from the 498, because they didn't follow the procedures to do so.

And if this Commission is going to permit them, and you are essentially going to decide there are some people who were certified that were -- or there were some people who were not certified who should have been, then that's a two-way street.

And when we get to the subsequent petition, then we'll be going through some of these and
saying, "Well, here's some that were certified that should not have been." And then that number will dip below the 500 once again.

Thank you.

CHAIRMAN BENNETT: Response from the Young campaign?

MR. BROOKS: Yeah. I just want to make a couple of quick observations, and then I'm going to talk a little further.

About half of the time the Democrats and the Stutzman campaign spent talking to you was about good campaign practices or bad campaign practices. Those are totally irrelevant. The issue is what's in front of you.

They are suggesting that we are asking you to certify. That's not the case. The local voter registration people put into the SVRS that those 501 names were certified.

Some little clerical inconsistent error doesn't -- you've got to look at all the evidence. It's like I'm giving you evidence from some third party. I'm giving you evidence from the very people who actually sat there and did it. They entered that those 501 names were, in fact, certified.
VICE CHAIRMAN LONG: Show me 501 names they certified.

MR. BROOKS: What did I just say?

VICE CHAIRMAN LONG: Show me 501 names they certified. The only place you can get it is on that printout.

MR. BROOKS: It's a printout. That is the 501.

VICE CHAIRMAN LONG: But they certified to me, a certification is, you write your name on it. "I certify the above and foregoing," period, period, period.

Show me where the voter registration office in those three counties have certified 501 names.

MR. BROOKS: Those voter registration people entered into the computer --

VICE CHAIRMAN LONG: I understand. You don't have --

MR. BROOKS: I have the --

VICE CHAIRMAN LONG: -- to repeat it.

Show me something that they have signed, a voter registration officer in Lake, Porter, and LaPorte Counties has signed, under oath, that there's 501 signatures on the petitions that
were filed. Do you have such a document?

MR. BROOKS: We have a document that has
500 signatures that the voter registration,
through the SVRS system, says they certified.
There are 500 of them.

VICE CHAIRMAN LONG: You answered my
question. Thank you.

MR. BROOKS: 500.

So in any event, I'm not asking you guys to
do a certification.

I'm asking you to take the evidence that's
in front of you, which is twofold, all of which
is from voter registration, and see if this
makes sense. Because obviously, there were some
inconsistencies.

Obviously, you know, the Stutzman campaign
thinks we ought to disenfranchise a person
because of a clerical error, writing
Congressional District 2, when it was obviously
Congressional District 1.

We're not asking you to do anything except
to determine what the voter registration
intended with its certification. We have put
those pieces together for you.

And before we get much further, there's
been very little conversation about the general state of law in Indiana. And I'm sure the Commission is generally familiar with these things, but I'm going to go through and cite to you one statute -- one case, a couple three statutes. And then I'm going to talk about the precedent and history of what this Commission has done.

I'm going to start with quoting Wyatt v. Wheeler, which is 936 N.E.2d 232 and 239.

Quote, "Our Supreme Court has long held that the law favors the franchise and the enfranchisement. The purpose of election law and the efforts of the court are to secure to the elector an opportunity to freely and fairly cast his ballot, and to uphold the will of the electorate, and prevent disenfranchisement.

"To disenfranchise voters because of a mere irregularity or a mistaken construction of the law by a party committee or election commissioner would defeat the very purpose of all election laws."

And make no mistake why we're here. We're here because the Stutzman campaign would like you to turn his primary election into a
coronation. He doesn't want you -- he doesn't
want to face Todd Young.

There's speculation about the Democrats.

But I sort of get the Democrats and, you know,
why they think that.

But he's going to be the only person on the
ballot. You'll be disenfranchising all of the
State of Indiana from an opportunity to have a
real election instead of the coronation of
Marlin Stutzman over the -- over a few disputed
certifications that the voter registration
office has told you were certified.

I'm not going to read all the different
statutes, but I would just call your attention
to 3-5-6-2. It's a statute that talks about the
presumption in favor of the voters when you're
looking at signatures by certification.

I'm going to cite you another statute.
It's not on point, but it's very consistent with
the law and what this Commission has done. And
that's 3-12-1-12.

And that's a statute that says that an
otherwise legal vote does not turn into an
invalid vote if the only reason is because there
was error or omission on the part of an election
official.

And while this isn't technically a vote, this is exactly what the Democrats and the Stutzman campaign are asking you to do, is because there were a couple of clerical errors and the 500 signatures that were there, the 500 people they said they certified, and they had a clerical error three times, they're asking you to disenfranchise the State of Indiana and have a coronation for Marlin Stutzman.

Then I would also cite you to 3-8-1-1.1. "If a candidate filing error is made by the election division or a circuit court clerk, the error does not invalidate the filing."

And this is the general concept of detrimental reliance that is throughout Indiana law, but is also very prevalent in election law.

In this case we were told ahead of time that there were 501 certified signatures, according to the local voter registration people, because they're the ones that entered it into the SVRS. The Election Division, again, told us we had 501 certified signatures, according to the voter registration people, because they're the ones that entered it.
I want to talk to you about three quick Election Commission cases. One is The Matter of Susan Minx. It's a 1996 case. In that case, Susan Minx was wanting to run for the legislature. She needed to get a certain amount of signatures in order to do that.

She went to the clerk's office. The clerk misinformed her as to what district she lived in. So she started gathering petitions, found out that was the wrong district, and switched gears and started gathering the correct petitions. But by the deadline, even with combining both the wrong district and the right district, did not have enough petitions.

And what the Commission said is, "The chair stated that it appears that credible evidence had been submitted that Ms. Minx received bad information in this case, and that simply adding together the number of signatures she received from both districts might not fully reflect her detriment, since this bad information may have prevented her from moving forward in the same manner as if she had received correct information."

In other words, Ms. Minx was entitled to
rely on the clerk, and he -- she did to her
detriment. And she was allowed to stay on the
ballot by a unanimous vote, even though she
didn't have the right number of signatures. No
one even argued she had the right number of
signatures.

And I want to talk about the 2008 challenge
to Senator McCain when he was running for
president. And I'm quoting from that
transcript. This is, I believe, the same case
that Mr. Bopp was pointing to, where
Mr. McClamroch, on Page 84, says to the
Commission, "A candidate for president of the
United States has a right to rely on a
certification from a county clerk. It is not
our responsibility to go back and verify beyond
what's been certified to us."

The Democrat member of the Commission at
that time, Sarah Riordan, said, "But we've
talked before about how we favor the notion of
access, and I think that has to apply,
regardless of party, that that has to be our
primary informing philosophy, and it is mine."
That goes back to not disenfranchising people.

But she goes on. "And Mr. McClamroch made
the point that Senator McCain should not be
required to come back and verify every single
one of those signatures, and I think that's
right."

Mr. Wheeler, the chairman at the time,
said, "I agree with Commissioner Riordan that it
is not the candidate's responsibility to go
through and certify. It is the county clerk's
certification."

And Vice Chairman Long at the time followed
up with, "Mr. Chairman, on echo," agreeing with
those comments. "I want to go one step
further." And you actually were very
complimentary to the challenger in that case.
But you had agreed with everybody else on that
subject.

And you went on to say, "And I believe if
we're going to err, it's going to be -- in my
mind, unless the law is so abundantly clear that
there's a violation, if it's ambiguous at all,
that we err on the side of letting people run,
from any people before them," which I think is a
mis- -- I'm sure you didn't say it exactly that
way at the very end. But the point is the same.
You err on --
VICE CHAIRMAN LONG: You never know what I might say at one of these meetings.

MR. BROOKS: Pardon?

VICE CHAIRMAN LONG: You never know what I might say at one of these meetings.

MR. BROOKS: Perhaps it's accurate.

But I think the point is pretty clear that you believe that you should be erring on the side of keeping people on the ballot. That was a 4-0 vote.

And I would tell you that in that case, the McCain people had certifications of over 500, but the challenger had 47 challenges that, if they were all granted, would have taken him below 500.

And what that Commission did is not consider that, because the certified number was over 500. It didn't even consider that, even though they would have gone below it. And I think that's an important thing to consider.

So as we move forward here, I guess I can quote -- the other case is the Jim Wallace case.

And that was a case in which the certification -- which, by the way, was an SVRS certification -- was for Marion County, which
was the Seventh Circuit, because it's all in
Marion County -- was 489 -- or 486.
The petitioner -- the challenger's attorney
wanted to deduct from that 486, and Mr. Wallace
wanted to add to that total from 486.
And what happened in that case was,
Mr. Long moved to sustain the challenge without
allowing the deductions, and basically saying to
Mr. Wallace, "You could have sent in more
information, but you didn't present us with any
affidavits, or anything, so there wasn't a
sufficient thing." And so you're going to rely
on that 489 or 486 and sustain the challenge.
And that was an SVRS number. Nobody
brought in all the petitions and had you
hand-count that, because Marion County was on
the system, as I think almost every -- if not
every county is currently on them today.
So while you can call it voluntary, that's
just a misdirect. It's a red herring.
Voluntary or not, it is a statement of the
voter registration officials that this person
was certified. They voluntarily did it or not.
That's what they said. And you guys need to
consider that and not disenfranchise the entire
state and not have Mr. Stutzman run unopposed.

So I would just conclude by saying that
consistent with this Commission's history and
with Indiana law, that you should find that --
like commissions in other very similar cases,
that the Young campaign had the right to rely on
a number from the local voter registration
people. That is what the SVRS system is. It is
the statement of the local voter registration
people.

Further, we've tied up all the little loose
ends for you. Granted, you don't have one
signature on there. But you have undisputed
testimony that the chain of custody got to the
Election Division.

Again, I'm not making the claim that
something nefarious happened. But the
undisputed testimony is that there are 54 pages.
Page 51 is missing. It actually adds up. The
two -- two missing Lake County petitions, as the
Democrats and the Stutzman campaign filed,
are -- are now identified as part -- as being in
that missing page.

And while one of the two counsel indicated
that we're saying that there's two voters from
the missing page, remember, you don't need the missing page for the duplicate. It was certified by the local voter registration people as saying he was certified. And you all looked through, and there is no other signature. So he was clearly entitled to be certified, and was. So even without the missing page, we're at 500. And I'd just ask the Commission, with all due respect, to empower the people of Indiana, not entertain some technical, hypertechnical view of election law, when you have evidence from the local voter registration people as to not just how many, but who they certified. We know their names. It's not a random thing from someone else. This we know from the local voter registration office. And I ask you to defeat this challenge and certify Mr. Young to the ballot.

CHAIRMAN BENNETT: Thank you. Well, it's, by my clock, 5:00. We've heard a lot from both parties. We appreciate all the presentations.

VICE CHAIRMAN LONG: Are we ready for a vote or discussion?

CHAIRMAN BENNETT: Let's have a motion.

VICE CHAIRMAN LONG: I'm ready to make a
motion. I move that we sustain the challenge because he doesn't have enough certified signatures on the petition.

CHAIRMAN BENNETT: Is there a second?

COMMISSION MEMBER OVERHOLT: Second.

CHAIRMAN BENNETT: Is there any discussion?

VICE CHAIRMAN LONG: Discussion. One of the things you get when you've been around maybe too long, I remember the McCain petition and hearing quite well. A young law student from I.U. Bloomington, and he did a spectacular job. He did such a good job I understand Toby hired him later.

But the petitions that are in the Wallace matter, we did look at this, at the petitions in that matter. Mr. Wallace, unfortunately, was unrepresented. And if he'd had any of the lawyers who are here today representing him, there may well have been a different result. But it was just an unfortunate situation.

I can tell you that that was one that I met with a modicum of criticism from members of my party for my vote in the matter, because I voted to disenfranchise him, and it was not received with the best -- or not to disenfranchise him,
but to sustain the challenge, because he didn't have enough petitions. I think that's a simple question.

I think this is a simple case. The law is clear. I think that the clerk or the voter registration office must certify the petition.

Now, where I come from, certification means you certify. And if you can add up the petition signatures, there's 498, or there's 497, and you get an extra -- it's under 500.

The only way that this could have possibly been statutorily acceptable, in my opinion, is that the voter -- whether or not you file a CAN-1 or not, I've seen nothing from the voter registration folks in the counties that are in this district that certify anything any different than what they certified the first round, 498.

If you went to the trouble to prove that the campaign -- that the -- the chain of custody, that missing page is a nonissue to me.

Mr. Bross and Mr. Wozniak, why didn't the voter registration offices in those counties file a certificate or an affidavit of error that, "We should have certified these and we
didn't"? I think you're asking us to make a
decision, and according to their decision-making
process, that they were wrong.

I don't know why they didn't certify these
people. It says "dup." I don't know what that
means. I mean is it a duplicate? I didn't find
one in there, so I don't believe it's a
duplicate.

You're trying to have us certify them. And
I believe that's what you're asking us to do
based on records that you brought in here.

And specifically for the record here,
Exhibits 2, 3, 4, 5, 7, 8, 9, 10, 12, 13, 14,
15, and, to the extent they're applicable, 19,
20, and 22, I think they relate to maybe one
that's missing page signatures. These records
aren't certified by anybody. You tell us
they're print-offs. I don't even know what some
of them are. It says, "Super petition results,
report, supervisors, election." I don't know
what they are.

I know they're not certified by anybody
that's in the voter registration office in any
of the counties that are referred to here.
They're not certified by anybody. And I'm not
prepared to say that the voter registration is
wrong in not certifying these people.

Maybe they compared signatures. I know of
one campaign that we had to -- and these
petition drives are a pain. But we had to take
them back because they were comparing signatures
to say, "Well, they don't look the same," so
they wouldn't certify them.

So you go get more. I mean that's what you
do in these processes.

And right now, they could have not
certified these two people for any number of
reasons, none of which have been addressed.

They're not required to state on the petition
why. And the statute is clear that the voter
certification must be by the voter registration
officials of the county.

They've not been done. There is an
accommodation program out there that they
entered data. I pointed it out to you earlier
just on the one -- there was a discrepancy on
the -- whatever that printout is, and the actual
votes in LaPorte County, they -- they didn't --
just one vote or one signature. That's a pretty
big signature, though, in this petition.
And in the McCain case we said -- and I believe there was -- Mr. McCain, Senator McCain had a right to rely on the certification of the county clerk, and so does Congressman Young. The county clerk said, at best, 498 signatures in the first district, and he had a right to rely on that.

I mean I agree we're not here because somebody made a mistake. Well, that's probably why we're here, but that's -- it's not up to us.

The law says, the legislature said you must have 500 certified signatures, certified by the election officials. And they do not have them, and that's why I made my motion.

And by the way, all of you did a nice job in presenting your cases. It's always nice to see good lawyers' work.

CHAIRMAN BENNETT: I think that voter disenfranchisement is a very serious matter. I think that everyone did a fine job here representing their interests in the case. But I fall back on the spirit and intent and the purpose of our election laws.

Indiana Code 3-8-2-9 and 10 of the election laws are all designed to ensure that we have
serious and viable candidates on the ballot for
our primary elections.

I think that Congressman Young's reliance
on the certification by the Statewide Voter
Registration System, which showed 501
signatures, and the evidence and testimony that
we've heard here today about the reasons why the
other totals that have been done by hand
purportedly by the petitioners demonstrate that
there is no problem with the Statewide Voter
Register System, that it is a reliable system,
and that our prior history on this matter shows
me that we have consistently and properly
allowed candidates to rely on that system.

The idea that the Young campaign should
have challenged the certification from Lake
County, which had over 500 signatures, doesn't
compute with me. I don't know why they would
have a duty or a reason to challenge it once the
certification says 500 or more.

I think, in this situation, we're not being
asked to do anything more than we should be
doing, which is to uphold the intent, spirit,
and purpose of voter registration laws to allow
citizens of Indiana to be enfranchised, to vote
their will for serious, viable candidates.

And I cannot support the motion to approve
the challenge.

COMMISSION MEMBER KLUTZ: It seems there's
certain mandatory requirements that we've all
been asked to look at. 500 signatures of
registered voters that were timely submitted.
Those are the mandatory items that I've been
focusing on.

If the candidate is able to do that, the
evidence supports that they were able to do
that, I'm unwilling to disqualify a signature
because of a clerical error.

I cannot support the motion on the table.

COMMISSION MEMBER OVERHOLT: And on the
flip side of that, I support the motion because
I think there are mandatory requirements that
were not met.

And I think we've been presented with
speculation about why those haven't been met,
but speculation isn't sufficient.

And that's why I support the motion.

CHAIRMAN BENNETT: Just one final comment.

It seems to me if there's any question, we
should err on the side of enfranchisement rather
than disenfranchisement.

VICE CHAIRMAN LONG: If I could make one final comment. I think that due diligence is required of everyone. And to challenge someone, to come forward on the theory that we're disenfranchising somebody, you have to prove that you're a candidate. And he just, simply, in my mind, Mr. Chairman, all due respect to you and your positions, he just hasn't made it.

CHAIRMAN BENNETT: All right.

At this time I would ask for a vote to upholding the challenge.

VICE CHAIRMAN LONG: Challenges, both of them.

CHAIRMAN BENNETT: Challenges. All in favor of upholding the challenge, say aye.

VICE CHAIRMAN LONG: Aye.

COMMISSION MEMBER OVERHOLT: Aye.

CHAIRMAN BENNETT: All opposed say nay.

COMMISSION MEMBER KLUTZ: Nay.

CHAIRMAN BENNETT: Nay.

We have a split, 2-2 vote. Therefore, the challenge is not upheld.

Now, we can consider the opposite motion, and perhaps we should do that before --
VICE CHAIRMAN LONG: Do you want to do that before --

COMMISSION MEMBER OVERHOLT: This was -- that wasn't --

VICE CHAIRMAN LONG: These are joint challenges. That's what we were talking about, I'm assuming. That's what my motion was directed to.

COMMISSION MEMBER KLUTZ: 2016-12 and 2016-5.

(Discussion off the record.)

CHAIRMAN BENNETT: The challenge has not been upheld for the -- to prove that there have not been 500 signatures. That was the issue. We still have the second half of this to go through, if we're going to do that. But that's what -- the challenge has not been upheld at this point.

Now, I would make the opposite motion, which is that the challenge be denied. And I don't know if anybody needs to say anything more on that.

COMMISSION MEMBER KLUTZ: This statement that I -- I get to 500 votes, based upon the evidence presented, but I do not get to 501, to
the extent that's important, I want to make
sure, for the record. I have a hard time using
the lost-Page-51 theory. I'm unwilling to
accept a signature that I've not seen, that we
have to speculate on.

   I am willing to accept the duplicate
signature. I think evidence has been presented
that that voter was registered when he signed
the petition.

   I'm willing to accept the Bross, the
LaPorte voter that had a blank designation. I
think evidence was submitted that showed he was
a registered voter at the time he signed the
petition, and the petition was timely filed.

   And I believe there's -- I'm willing to
accept the LaPorte error, which showed
Congressional District 2, when it should have
been Congressional District 1.

   For purposes of my vote to support this
motion, I believe Candidate Young received 500
valid signatures.

   CHAIRMAN BENNETT: Thank you. All in favor
of denying the challenge say aye.

   Aye.

   COMMISSION MEMBER KLUTZ: Aye.
CHAIRMAN BENNETT: All opposed say nay.
COMMISSION MEMBER OVERHOLT: Nay.
VICE CHAIRMAN LONG: Nay.
CHAIRMAN BENNETT: We are split 2-2 denying
the challenge.
So at this point we'll take a recess for
five minutes and be back.
(A recess was taken from 5:18 p.m. to
5:30 p.m.)
CHAIRMAN BENNETT: I'll call the Indiana
Election Commission meeting back to order.
We're now in the position of hearing from
the petitioners' position on other challenges
besides just the numbers.
We're missing some of the Stutzman people?
VICE CHAIRMAN LONG: They did not want to
join this one.
CHAIRMAN BENNETT: They did not join this
one?
VICE CHAIRMAN LONG: They did not. I think
theirs was -- they totally carved out that
portion so that they could go on.
CHAIRMAN BENNETT: Well, then, Mr. Patton?
MR. PATTON: Thank you, Mr. Chairman.
(Exhibits 1-Zody, and 2A-2C-Zody were marked for identification.)

MR. PATTON: And just for purposes of the record, this matter that we're about to discuss is under Cause No. 2016-13. That is the second challenge filed by Mr. Zody, where he states -- and I believe in the petition he submitted, it's IC 3-8-2-8, and IC 3-6-12-7. Please see the additional language as follows. And as you will note, he had supplemental information, and there were two exhibits -- or actually an Exhibit 1, and then Exhibit 2 is separated, 2A, 2B, 2C.

And for purposes of the record, I'm going to refer to those exhibits as they were attached to that CAN-1 challenge form, and begin with the first exhibit that I present to you today, which is Exhibit No. 3.

(Exhibit 3-Zody was marked for identification.)

VICE CHAIRMAN LONG: Three?

MR. PATTON: Yes, sir. And what I've handed you, which is Mr. Zody's Exhibit 3, is a two-page document, petition signature processing. And as you'll see at the bottom of the page, it says 2016 Indiana Election
Administrator's Conference.

As you're well aware, every December the staff puts on a conference for all the clerks in the state to educate them on issues that are going to come up with the next year's election issues. And obviously, with this being a presidential and governor and U.S. Senate on the ballot in 2016, petitions were an issue. So these were the guidelines that were provided to clerks across the state on how to process these petitions.

And you will note in the middle of the first page, the Frequently Asked Questions.

And then on the second page in the middle, it indicates what the petition must include. And that's Indiana Code 3-6-12-7. The petition carrier must include the following: Signature, date signed, printed name, date of birth, full address, including the ZIP code.

And this is all information that's completed by the petition carrier; not a voter, but the petition carrier, who is presumably employed by or a volunteer of the campaign.

If the petition carrier does not comply with these requirements, voter registration
officials must accept the filing, but do not
determine the validity of the signatures, and
give the petition carrier the best possible
notice that certification is incomplete. The
petition carrier has until the deadline date and
hour to correct the error.

If the deadline date passes and the
petition carrier's error has not been corrected,
then the signatures will not count, pursuant to
IC 3-6-12-8.

And it further -- states further that a
missing petition carrier signature may lead to a
challenge under 3-6-12-10.

And that's exactly what we're here on. And
I'll reference you to Exhibits 2A, 2B, and 2C,
which are in your materials, hopefully, as
attachments to Mr. Zody's challenge.

You will note on 2A, the petition is not
signed by the carrier. And for reasons unknown,
even though the clerks were provided the
educational materials by staff in December, they
did not comply with that statute, and they went
ahead and certified these signatures anyway,
when state code said they should not have been
certified.
Further, on 2B, there is one signature that was certified. But that petition was also not signed by the carrier. But yet, again, the local election office certified the signature when it should not have been, by state code, by educational materials that this Commission, the Election Division, put forth.

And finally, Exhibit 2C, that petition does not include the carrier's full address, any address for that matter. The line is entirely blank. And there is one signature from the first congressional district, and that's the LaPorte County petition that was certified for that county.

And again, it was certified, when it should not have been, because the clerk did not follow the guidelines put forth by this body.

So based on that, we believe those petitions and the signatures on those petitions, on 2A, 2B, and 2C, were improperly certified by local election officials.

And that would amount to a total of seven registered voters in Lake County, and one in LaPorte. So a total of nine -- no, I'm sorry -- a total of eight signatures that were certified
that, pursuant to state law, should not have
been certified.

COMMISSION MEMBER KLUTZ: Any of these
petitions, or all three of these exhibits, are
you asserting that any of these registered
voters were not registered?

MR. PATTON: That aren't -- aren't ...

COMMISSION MEMBER KLUTZ: I'm asking are
you asserting that at all?

MR. PATTON: No.

COMMISSION MEMBER KLUTZ: Are you asserting
that any of these petitions that I'm looking at
right now in your exhibits were not timely
filed?

MR. PATTON: No. Our position is it did
not comply with state law because they did not
follow the process and procedures to have it be
a valid petition to be processed by the clerk.

COMMISSION MEMBER KLUTZ: I'm looking at 2C
now. Exhibit 2C is what I'm looking at now. It
looks like there's eight signatures that, for
whatever reason, the clerk certified. And not
for just Young, but eight signatures on here --

MR. PATTON: I believe they would all be
for Young, they'd be --
COMMISSION MEMBER KLUTZ: Well, I'm sorry.

All --

MR. PATTON: Right.

COMMISSION MEMBER KLUTZ: -- Young. I misspoke.

And the carrier signed it and the carrier printed her name. And the carrier printed her date of birth, and then dated it when she signed all this.

But she didn't put her address right there. And therefore, these signatures should not be counted?

MR. PATTON: Under the law, they --

COMMISSION MEMBER KLUTZ: And that's the sole --

MR. PATTON: -- should not be --

COMMISSION MEMBER KLUTZ: -- reason?

MR. PATTON: Under state statute, they should not have been certified because it did not include that carrier's information, correct.

VICE CHAIRMAN LONG: Could I ask a question?

MR. PATTON: Certainly.

VICE CHAIRMAN LONG: You said on 2A, the carrier signature is not --
MR. PATTON: No. The date signed by
carrier --
VICE CHAIRMAN LONG: Date signed, okay.
MR. PATTON: So 2A and 2B fail to include
date signed by the carrier.
VICE CHAIRMAN LONG: Okay. I misheard you,
then. I apologize, because I had a signature on
mine, and I was wondering if maybe there was ...
MR. PATTON: And with regards to Exhibit 1
that is included and attached to Mr. Zody's
petition under 2016-13, you'll see on Line 4,
the last -- or Line 4, the signature that was
certified, Andrea Drygas (phonetically). And it
was certified -- it was dated by the carrier on
January 5, 2016, and it was certified by the
clerk that she was a registered voter the
following day, on January 6.
VICE CHAIRMAN LONG: Okay, January 6.
MR. PATTON: So Ms. Drygas signed this
petition sometime, at the very latest, on
January 5, the date that it was signed by the
carrier. And her voter registration was
certified by the clerk the very next day.
(Exhibit 4-Zody was marked for
identification.)
MR. PATTON: I'm handing you Zody No. 4. And this is information off of IndianaVoters.Com for the same individual with the same date of birth.

And you will note that this voter was not registered to vote until February 10, after the date that this petition was presumably signed, after the date that this signature was certified, after the filing deadline for the campaign to submit to the election official.

On the day -- on the -- he filed this candidate challenge on Wednesday, February 10, at 8:30 in the morning, and attached this CAN-4 with Ms. Drygas's name, and questioned that. And what's the day that she was registered to vote? February 10, the very same day.

(Exhibit 5-Zody was marked for identification.)

MR. PATTON: I want to mark this as Zody No. 5. This is additional information from the Indiana Voters about the same individual that shows the registration date of February 10, 2016, again, the same day that Mr. Zody filed a challenge.

And if you take Zody No. 5, and you also
take Exhibit 1 -- and let's look at that. We have a signature from Ms. Drygas, presumably, on the early part of January of 2016. And then we have another signature from the registration, again, a month later, February 2016.

And look how that "A" is written in both signatures. You have a very pointed "A," almost like the peak of a house, in her signature on the CAN-1.

But then, going through these petitions, Mr. Zody and his staff note that some of these people weren't registered. So he challenged them on Wednesday morning, and -- sometime on -- on Wednesday, the 10th, nine days ago.

And then sometime on the 10th, she registered. Well, look at the "A" there. It's not the peak of a house. It's a rounded "A."

And these are signatures that are a month apart.

But regardless of the fact whether it's a fraudulent signature or not, at the time she signed this -- this signature was put on the petition, this name was put on this petition, at the time it was certified, at the time of the filing deadline for candidates two weeks ago, she wasn't a registered voter.
So this is a two-way street. If they want to -- if we're going to rehabilitate some of these signatures, as you did in the previous hearing, for a clerk's error, then on that two-way street we're also going to look at a clerk's error and say, "Guess what? You shouldn't have certified some of the signatures that you did." And this is the one.

COMMISSION MEMBER KLUTZ: What day do you believe she -- that Andrea Drygas signed this petition?

MR. PATTON: Based on the CAN-4 form, Exhibit 1, it's certified by the carrier as January 5, is when she signed it.

So I would say January 5 or before is when this person signed -- whomever it was put Andrea Drygas's name and information on this document.

And then, if we compare this SVRS document that we've discussed throughout the day, how did she get included in this count of the 501?

VICE CHAIRMAN LONG: Are you saying it would not be possible for her to be in the SVRS on that date?

MR. PATTON: I'll show you.
(Exhibit 6-Zody was marked for identification.)

MR. PATTON: And I apologize. This is the only copy of the SVRS that I have. It's Zody No. 6.

On Zody No. 6, I'll walk through and show you there is a Drygas at that address. It's not Andrea. It's an Andrew. One letter off, a "W" versus an "A" at the end of the first name. And there's an Andrew Drygas, who we believe to be her father, who's registered. But his signature is nowhere on any of these petitions.

Once again, clerk's error. They put his name on the SVRS, and there's no Andrea Drygas on the SVRS. The only place you'll find her name is on this petition.

But she's not registered to vote. She wasn't in January. She wasn't as of two weeks ago at the filing deadline.

So based on the comments and discussion and ruling from the previous hearing, it sounds like there are at least three commissioners who are under the belief that there are 500 or fewer signatures.

And based on these issues with the
petitions that were Exhibits 2A, B, and C, we believe that number should be reduced by a total of eight.

But then, additionally, Exhibit No. 1, this person is not being disenfranchised because they were not a registered voter at the time that the petition was signed, submitted, or at the time of the filing deadline.

And with that, we would request the Commission to determine that there are fewer than 500 signatures submitted in Congressional District 1, and sustain the challenge under Cause No. 2016-13.

CHAIRMAN BENNETT: Okay. Very well.

Mr. Brooks?

MR. BROOKS: Let me just start by saying what I've said before. As far as I know, and I've read quite a lot of these cases, I do not believe this Commission has ever allowed a party to come in and reduce the certified number; that is, decertify. Didn't happen in the McCain case, where we have 47 arguably defective petitioners. Didn't consider it.

When it was over 500 in the Wallace case, where there was 800 -- 486, less than 500, there
was also an effort to be made to reduce that
number. This Commission did not do it.

So I simply tell you it is unprecedented
for you to uncertify or decertify somebody.

But let me address these issues directly.

(Exhibits 25-Young, 26-Young, and 27-Young
were marked for identification.)

MR. BROOKS: This is 25, 26, and 27.

Before I discuss those affidavits, I want
to discuss -- let's talk, just briefly, about
the magnitude of these two errors on -- or three
errors on the petitions themselves.

One is that the carrier didn't sign it. I
cannot think of a less important thing for a
petitioner to do. We know when they were turned
in, and we know when they were processed. The
only thing that matters is that it was before
the petition deadline.

But having said that, we sort of went
through those statutes, on the carrier, what is
supposed to happen. What's supposed to happen
is, in this egregious case, without having an
address and a -- or a -- the date, the county
clers or the county registration people are
supposed to give the carriers an opportunity to
come in and correct it.

These particular ones were all turned in
and processed in very early January, so there
was plenty of time for that to happen.

As indicated on the two affidavits, it
didn't happen. In the case of the two missing
dates, the affidavit of Mr. Barclay
(phonetically) simply tells you that he got all
of those petitions at the Lake County Republican
Reagan Breakfast, he signed them all on
October 9, and inadvertently left two off, and
then, in pertinent part, nobody from Lake County
ever contacted him, or anyone at the Young
campaign, to inform us and give us an
opportunity to come back.

Rachel, whose address is missing, was in
frequent contact with them, all -- both these
counties. An affidavit of Rachel is -- she
submitted 74 pages of Todd Young ballots in
Lake, Porter, and LaPorte, and one of those
pages, she forgot the address.

So if the purpose of the address is to be
able to get ahold of them in case something else
is the matter, there's 73 of those floating
around. It's certainly not a mystery to the
Democrats what her address is because it's on
the very -- she's the one who signed the one for
the Andrea Drygas.

        So I would tell you that this would be the
most remarkable, hypertechnical view of any law,
to disenfranchise eight people because of the
missing date, which doesn't matter to anything,
a missing address which everybody had, and in
which the local county officials didn't follow
proper procedure and give them a chance to come
back and fix it.

        Easy fix. This is not the kind of thing
that, in Indiana, we disenfranchise people for,
in my opinion. And I hope you agree with that.

Now, on the Andrea Drygas situation, I mean
we've heard the Democrats tell us that she
wasn't registered on this date, that date, and
that date, the most important one of which was
the filing deadline.

        Well, if you will look at the full voter
registration report, as opposed to the one --
only the one that tells you when the effective
date is, you will see that she registered on
January 13.

        So forget that somebody hurried out and
registered her the day they filed their appeal. She registered on January 13.

    Where it says "precinct effective date," that is when it was processed. And for those who are familiar with the voter registration process, you've got to send out some mail and wait seven days. So we know she applied before the deadline. She was processed before the deadline.

    But let's talk about what Indiana law requires about voter registration for a second. Pursuant to 3-7-26.3-9, a county voter registration office must electronically enter all voter registration information obtained by the county voter registration office into the computerized list on an expedited basis at the time the information is provided to the county. "Expedited basis" is defined in 3-5-2-23.2. And that expedited basis is within 48 hours.

    Had this application been processed according to law, this would have been completed, and, even with the 7-day waiting period, well before the deadline.

    So the question is, here she is. She was certified by the local authorities and should
have been registered by the time the deadline
was, on February 5. No matter how you do the
math, that's just an error or omission on the
part of the -- the Porter County election
officials to not have her registered in time for
that deadline.

So we would ask that you leave that vote in
the total. It was certified by the -- I mean
it's sort of like wanting to have this both
ways. He argued that even though somebody who
was demonstrably eligible to be certified,
couldn't be certified, because they didn't fill
in the right blank, where there was a clerical
error. But now we're saying that somebody that
was certified shouldn't have been certified.

And I think the whole thing, in total, is
that you should not disqualify this voter. She
was certified. She should have been registered
had the Porter County election officials
followed the proper procedures. And we'd be
sitting here today not wondering whether she was
or wasn't registered before or after the
deadline.

VICE CHAIRMAN LONG: Do you want to address
the forgery?
MR. BROOKS: Pardon?

VICE CHAIRMAN LONG: I'd kind of like to hear about the forgery. If that's her signature, I think that's sort of important. The signature on her voter registration in no way comports to the signature on that petition.

I'd like to hear you explain that. And the Young campaign maybe didn't call her and tell her she made a mistake in it.

It's just astounding to me, when the Republican legislature puts these requirements on these petitions, and they end up biting the rear end of the Republican rising star. Then we come out, "Well, this is hypertechnical."

It's almost as humorous to me as when we do the campaign finance. And here we get campaign finance violations by legislators. And they come parking over here, and my God, you know, this is -- you passed these damn laws. You've got to live by them.

Your party has put these registration requirements upon us. Now, tell me and address the forgery.

MR. BROOKS: Well, you are calling it a forgery. I'm not willing to say that.
VICE CHAIRMAN LONG: Do you -- is that what you're going to tell me?

MR. BROOKS: I'm not -- I get your point that they don't look -- you've got to understand how -- when these things get signed, a lot of these petitions are signed with somebody holding a clipboard, and they're moving around, or whatever.

So look. I don't know this person. And I see how you have decided that it's a forgery. I cannot share that --

VICE CHAIRMAN LONG: And I wouldn't expect you to.

MR. BROOKS: -- view with you.

And I would also say, neither did the local voter registration people. So they're the ones who certified her.

VICE CHAIRMAN LONG: But the voter registration people didn't have this signature when they certified this on the 6th, because you just said she didn't register until the 13th.

Now, how could they compare the signature six days before they got it? Could you explain that to me?

MR. BROOKS: They wouldn't have. You're
right. They would not have had --

VICE CHAIRMAN LONG: My God. Thank you very much. I was really hoping -- I thought, if we'd pass this around the room, we'd get a pretty high percentage that --

MR. BROOKS: It still does not change the fact --

VICE CHAIRMAN LONG: -- these are not signed by the same people.

MR. BROOKS: It still does not change the fact that it's not a sit-down signature, generally, on these certificates. And I would say that the law specifically says that with respect to signatures, you are to give any reasonable doubt whatsoever to the validity of the signature.

Because the circumstances are very different when you sign a petition from when you're sitting down to sign something else, I think it would be very sensible to have a reasonable --

VICE CHAIRMAN LONG: How do you know she was sitting down to sign something else? Maybe she was standing on her head. I don't know what she was doing.
MR. BROOKS: I don't know, either, but
neither do you.

And that's the point. The point is that it
could have been a very different situation, and
it likely is. It likely is.

VICE CHAIRMAN LONG: And it could be an
abject forgery, couldn't it? Would you admit
that?

MR. BROOKS: I suppose you could reach that
conclusion. I don't believe that's the
responsible conclusion to reach, given the
different circumstances for signing a petition
and filling something else out. I don't think
that's necessarily --

VICE CHAIRMAN LONG: Where's an affidavit
from this lady that says she signed that
petition? Do you have one of those?

MR. BROOKS: I do not, or I would have
given it to you.

VICE CHAIRMAN LONG: I would have hoped --
did you attempt to get one? I mean you got
affidavits all over that district for all these
things that happened. Couldn't you find that
girl?

MR. BROOKS: There's a lot of people we
tried to find that are really hard to find.

VICE CHAIRMAN LONG: I'll bet. That's all I've got.

CHAIRMAN BENNETT: Anything else?

MR. BROOKS: Let me look. I maybe have one more exhibit.

COMMISSION MEMBER OVERHOLT: I guess, before we leave Ms. Drygas, I mean the point that I would raise about it, what I find problematic, regardless of the signatures and the fact that she might have multiple ways of signing her name, which is kind of unusual, but I think you're not disputing that as of January 5, 2016, she was not a registered voter, right? I mean there's no -- there's no dispute regarding that?

MR. BROOKS: That's correct.

COMMISSION MEMBER OVERHOLT: But this petition -- each individual -- and I know we've all signed these forms, and we're all well aware, I think, of the requirement.

But these petitions say that by signing her name, if she, indeed, did sign her name, that she is representing that she resides at the address after her signature, which we're not
disputing, that I'm aware of. But also that she
is a duly qualified registered voter in Indiana.
And it doesn't say that, "I'm going to make
sure I'm a registered voter by the time this
form has to be submitted." It says that she is
duly qualified when she signs this form.
And there's no dispute that she was not
duly qualified on January 5, 2016, because she
didn't try to register until January 13.
COMMISSION MEMBER KLUTZ: What date did she
sign the form?
COMMISSION MEMBER OVERHOLT: January --
MR. PATTON: January 5.
COMMISSION MEMBER OVERHOLT: Well,
January 5 would be the latest, because the
carrier signed it on the 5th.
COMMISSION MEMBER KLUTZ: Andrea signed
this -- we know that Andrea signed this on or
before January 5?
VICE CHAIRMAN LONG: We know she signed it
on or before --
MR. PATTON: Based on --
VICE CHAIRMAN LONG: -- January 6 --
MR. PATTON: -- the petition carrier
certification, if we're going to believe the
petition carrier certification, yes.

COMMISSION MEMBER OVERHOLT: And I would say that --

COMMISSION MEMBER KLUTZ: There's --

COMMISSION MEMBER OVERHOLT: -- then we're getting into the fact --

COMMISSION MEMBER KLUTZ: -- an error in the date.

VICE CHAIRMAN LONG: It was certified on the 6th. Look at the second page. The second page says the clerk signed it. Now, did they all make it -- did they have a time warp up there, and they just got the dates wrong? That was -- it had to be signed by everybody on that petition on or before January 6, because the clerk had signed it that day, or the voter registration officer, "I certify these -- these signatures."

COMMISSION MEMBER KLUTZ: On Exhibit 2A, what date were these signed on or before?

VICE CHAIRMAN LONG: 2A?

COMMISSION MEMBER KLUTZ: Yeah.

VICE CHAIRMAN LONG: They were signed on or before January 8, because that's the date they were certified.
I don't get nervous about what the date of
the -- if it's a mistake on the date. But
surely to God you're not going to say that the
clerk has signed off here, or whatever the title
is, voter registration, two of them that have
signed off, they've used that -- surely those
signatures were all there by that date.

And if you want, I mean that's -- I'm --
I'm looking at the clerk's certification date as
the date that's -- that's the certified date.
And they have to have been signed by then.
Otherwise, they wouldn't have been certified.

MR. PATTON: And if I may, going back to
how did this signature get certified in the
first place if she wasn't registered, I'll
reference you back to the SVRS -- I think it's
Exhibit 7 -- where it shows Andrew.

If you look at -- if you are a clerk and
you're going through all the presidential
candidates and the governor candidates and the
U.S. Senate candidates, and you're going through
all these forms, you have seen so many names and
signatures and addresses and dates of birth,
it's a blur.

So they see this signature of Andrea
Drygas. And I can't tell if that's an "E" or an "A" or a "W" at the end.

And then they see the address and the name -- at least, certainly, the last name, and all but the very last letter of the first name -- matches with an address for an Andrew Drygas, who is registered. So the clerk's like, "Yeah, I'm going to certify this because that person's registered."

But the printed name, if you look at that, that's very clearly Andrea. The date of birth matches up with an Andrea. I mean if we didn't have -- if she had not registered to vote, whether it was January 13 or February 2 or February 10, or whatever, if she hadn't registered to vote, we would have been saying, "Who is this girl? We don't know. We don't know who she is."

But now we do. She signed this, at the very latest, on January 5. The signature was certified on January 6. And I think it's an honest mistake of the clerk, because they thought it was an Andrew, because it's Andrew on the SVRS. Not Andrea. Andrew. They thought they were certifying Andrew's signature.
So at the time it was signed, at the time it was certified, not registered to vote. At the very earliest, based on Young Exhibit 27, she was registered on January 13.

CHAIRMAN BENNETT: All right. Is there anything else from either the petitioner or the respondent?

MR. BROOKS: Yeah. I just want to make one comment, that I find it quite amusing that when it comes to Andrew, these poor, overworked voter registration people make mistakes.

But when they clearly made clerical errors on at least three of those ones we gave you, no, that's just it.

MR. PATTON: But that's a --

MR. BROOKS: I don't have -- I don't have anything else to say on these two exhibits.

MR. PATTON: It's a two-way street. You can't have it both ways. If we're going to forgive them for the errors that they made and increase the number from 498, then, at the same time, when there's errors when they weren't registered to vote, you -- you gave them more signatures that the clerks made errors.

And even though they weren't certified, you
gave them two or three more signatures because
of the clerk error, when those individuals
apparently were registered to vote.

And on the flip side, going the other
direction on that same road, this was a clerk
error by certifying a signature for someone who
was not registered to vote. It's a two-way
street.

CHAIRMAN BENNETT: Anything else from
anybody?

(No response.)

CHAIRMAN BENNETT: Do we have a motion?

VICE CHAIRMAN LONG: I move --

COMMISSION MEMBER KLUTZ: I actually have
some questions.

VICE CHAIRMAN LONG: Go ahead.

COMMISSION MEMBER KLUTZ: Mr. Brooks, would
you mind looking at the Lake petition for me?

MR. BROOKS: Any Lake petition?

COMMISSION MEMBER KLUTZ: It's designated
as 45 at the top.

MR. BROOKS: I gave you my only copy -- no,
wait a minute. What number at the top?

VICE CHAIRMAN LONG: Forty-five.

MR. BROOKS: Okay. I'm there.
COMMISSION MEMBER KLUTZ: One thing that surprised me, at the bottom, where it says number of valid signatures, it says five.

And on the -- on the number of valid signatures on the next page --

VICE CHAIRMAN LONG: Mine says eight.

COMMISSION MEMBER KLUTZ: Yours says eight?

Okay.

COMMISSION MEMBER OVERHOLT: You're on 45, right?

COMMISSION MEMBER KLUTZ: What's your next page say?

VICE CHAIRMAN LONG: Well, that's --

COMMISSION MEMBER KLUTZ: Mine was a 45 at the top as well -- I'm sorry. Thirty-two?

VICE CHAIRMAN LONG: Yeah, 32.

MS. NUSSMEYER: Yeah.

MR. BROOKS: Okay. I see it says five.

COMMISSION MEMBER KLUTZ: And on the other side it says five valid signatures?

VICE CHAIRMAN LONG: Yeah. It's got a five and a circle at the bottom.

COMMISSION MEMBER KLUTZ: When I do my count, I get seven. I'm just -- do we have any evidence or any idea what's going on here?
MR. PATTON: Well, just to clarify, Line 1 shows precinct M16. Line 2 says NR, which I presume means not registered.

COMMISSION MEMBER KLUTZ: Correct.

MR. PATTON: Line 3 is WCT1. Line 4 is the "dup..." which we've discussed. Line 5 [sic] is WCT3. Line 5 [sic] is, I believe, Hobart 4. And 8 and 9 are Porter, so they would not have been --

COMMISSION MEMBER KLUTZ: Okay, that's --

VICE CHAIRMAN LONG: Yeah, I agree, that's five.

CHAIRMAN BENNETT: Anything else?

MR. BROOKS: On this issue, I have -- I have some exhibits for additional votes.

CHAIRMAN BENNETT: Well, we should hear those before we determine the --

VICE CHAIRMAN LONG: We didn't get notice of that, did we?

MR. BROOKS: Pardon?

CHAIRMAN BENNETT: Well, let's --

MR. BROOKS: We certainly -- we certainly have done it that way...

(Discussion off the record.)

MR. BROOKS: Let me just verbally make this
motion. In the prior segment, we argued about
whether or not the four ones that I've talked
about were certified.

I would like, now, to draw the Commission's
attention to the three, Mr. Wozniak, Mr. Bross,
and Mr. Neiswinger. Not Melcher. Melcher
didn't have a signature.

So I would now ask this Commission to count
those back in, not because they were certified,
but because they should have been. There's no
question that they signed it. There is no
question that they were registered and should
have been certified. There's no question
whateover on those three.

VICE CHAIRMAN LONG: Hasn't this board
already done that? The motion was -- this
gentleman explained his vote. He's got 500, and
that's got those two signatures in there.

MR. BROOKS: Well, I --

VICE CHAIRMAN LONG: And so I mean I think
we've already -- why are we plowing the same
ground over and --

MR. BROOKS: It's not the same ground.

VICE CHAIRMAN LONG: -- over again? It is
the same --
MR. BROOKS: No, it's not.

VICE CHAIRMAN LONG: -- ground. We've already --

MR. BROOKS: I'll tell you why it's not the same ground. It's not the same ground because the whole first argument was what was certified and what was not. You did not believe that the signatures that I suggested were certified.

That is not the same subject as should they have been certified, that the clerks or voter registration people made an error. Now that you believe that they weren't certified, you should now consider that a clerk made an error, and they should have been certified.

And that is indisputable, and it's a totally different subject.

CHAIRMAN BENNETT: Do you have any evidence to present on whether they should have been certified?

MR. BROOKS: Well, you've got it. You've got the --

VICE CHAIRMAN LONG: -- indisputable --

CHAIRMAN BENNETT: I'm talking about those three.

MR. BROOKS: Oh, yeah. I have more than
that. I have more than that.

CHAIRMAN BENNETT: So you have others?

MR. BROOKS: Yeah.

CHAIRMAN BENNETT: All right.

(Exhibit 28-Young was marked for identification.)

MR. PATTON: And again, I'll raise the objection. This should have been filed as their own CAN-1 challenge under Section 7 of the form.

MR. BROOKS: There's no requirement for a CAN-1 filing when you've been told --

COMMISSION MEMBER OVERHOLT: Mr. Brooks -- are we still streaming this? Because you need to try to be on your own microphone.

MR. BROOKS: What you have is an affidavit from Rachel Null (phonetically). If you look on the second page, you will see --

MR. PATTON: May I have one, please?

MR. BROOKS: I'm sorry. This copy didn't come out very well, but I'm going to show you. And the reason for rejection was no signature.

I'm going to read that -- it's on my copy -- but it says no signature.

(Discussion off the record.)

CHAIRMAN BENNETT: Go ahead.
MR. BROOKS: So the bottom line here is, it's patently wrong that there's no signature, because there is a signature.

But we've got an affidavit from Rachel saying that she signed the petition that's attached, and that's her name.

So this is one that should be added back in. It clearly should have been certified.

(Exhibits 29-Young, 30-Young, and 31-Young were marked for identification.)

MR. BROOKS: This is Exhibit 29, Exhibit 30, and Exhibit 31.

Now, Patricia Wieser (phonetically), she signed as Patricia Wieser. Her married name, and you'll see from the divorce, she -- her previous name was Wieser. She married Mr. Tile (phonetically). And obviously, she has changed her marital status again.

Pursuant to statute, I don't know -- can you see the name well enough to see if it's Patricia Wieser?

COMMISSION MEMBER KLUTZ: Is that the same --

MR. BROOKS: Yeah. It's just a little better copy.
A voter whose name is changed may vote in
an election by filing with the circuit court or
the voter's registration a verified statement.
So her change of name has not changed her
registration status. She's still entitled to
vote. She's still registered. And that was
presumably rejected. It says -- I think it says
"not registered." But, in fact, she is
registered. She's registered at the address
that's there.
If you look at the signature, it is -- the
first name is signed the same. Everything is
the same except a marital status change.
VICE CHAIRMAN LONG: It seems to me the
Patricia that married Tile is Patricia Ann
McClellan (phonetically).
MR. BROOKS: I would say, having looked at
these records a little bit, I would say she's
had a --
VICE CHAIRMAN LONG: Are you knowing or are
you guessing?
MR. BROOKS: No. I know the answer to
that. Her maiden name was McClellan. She
married Wieser, divorced Wieser, married Tile,
and for that reason, has taken the name back.
But since you're apt to look at signatures --

VICE CHAIRMAN LONG: Well, I didn't --

MR. BROOKS: -- those signatures match.

VICE CHAIRMAN LONG: Well, I didn't --

MR. BROOKS: Those signatures --

VICE CHAIRMAN LONG: -- say that for sure.

MR. BROOKS: -- match. It's a lot closer

than anything else you're going to get.

So we submit that she is a legitimate

registered voter. She should not have been

rejected for having a name change, and a change

in marital status. She should be added to the

list.

(Exhibits 32-Young and 33-Young were marked

for identification.)

MR. BROOKS: This is 32 and 33. So

Mr. Nordrine (phonetically) signed this

petition. Mr. Nordrine is a registered voter at

that address. They indicate "not registered."

I would tell you what the -- there's one

little discrepancy, and that is he wrote his

birthdate being 7/20/15. In fact, his birthdate

is 7/20/54.

So as he's signing, and he's been signing

checks all day, he got partway through and he
wrote '15. I'm pretty sure that nobody thought that he was a one-year-old when he signed this thing. It's a minor discrepancy.

The date of birth is not required to be on the petition as a matter of law, by the way. So it is -- it's an extra thing not required by law. It's a pretty simple error. This person is registered and should have been certified.

(Exhibits 34-Young, 35-Young, 36-Young, and 37-Young were marked for identification.)

MR. BROOKS: This is 34. This is sort of an interesting case, more than some. Mr. Carson has a Crown Point -- can you guys read that?

VICE CHAIRMAN LONG: No, not at all. You might as well have handed over a blank page.

MR. BROOKS: I'll show you in a minute. It's got his address here in Crown Point. It was turned in late. And it's indicated that he's not registered.

So he is registered, as you can see from his voter registration, in Porter County, with the same address that he put on his petition, Crown Point.

For some reason -- and we found a map that doesn't really -- it's just a mystery to me as
to how you can have a Crown Point address but be
registered in Porter County, but he is. And
it's the same person, the same address.

When Lake got that, they should have --
they have access to the whole -- the whole voter
registration process. I think the process
should be while you have to certify, as a matter
of law, those people in your own county, you
can't -- it doesn't say you can't certify
somebody else from a county -- or send it --
send it to another.

So here's a case of a clearly registered
voter, clearly within the first --

VICE CHAIRMAN LONG: Let's correct
something. You just said that Lake County had
access to the whole file; did you not?

MR. BROOKS: I believe they do.

MS. NUSSMEYER: It's my understanding, and
Dale, correct me if I'm wrong, that the
county -- their access to the Statewide Voter
Registration System is just to their county.
They would not have -- they could do a statewide
search, but they would only have --

MR. BROOKS: I've got some screenshots from
people in counties other than what I was --
MS. NUSSMEYER: Well, maybe it's just

access to --

MR. BROOKS: I think they've got

statewide -- now, it used to be, I think, they

were a lot pickier about that. But I think they

have countywide access now.

MR. SIMMONS: They can do a voter search,

but I'm not sure they would be doing that in a

petition processing --

MR. BROOKS: No, no, no. I'm just saying

it's possible for voter registration to pull up

that screenshot, even though it's in Porter.

VICE CHAIRMAN LONG: Do you want them to do

that on everybody that's not registered, do a

statewide search on them?

MR. BROOKS: Well, here's my --

VICE CHAIRMAN LONG: Is that what you're

proposing?

MR. BROOKS: Well, here's my point to you.

We're looking for, did we have people who should

have been certified that are registered voters?

That's a petition that is signed by a registered

voter in the first congressional district.

That's my -- that is my --

VICE CHAIRMAN LONG: -- clerk up there in
voter's registration --

MR. BROOKS: That is my --

VICE CHAIRMAN LONG: -- certify this now,

if you try to get them to certify this now, as

their statutory duty?

MR. PATTON: It's too late.

VICE CHAIRMAN LONG: I'm asking Mr. Brooks.

If they've got the voter registration office in

Lake County, have you asked them to certify

these people?

MR. BROOKS: Well, I tried not to --

VICE CHAIRMAN LONG: Either you have or you

haven't.

MR. BROOKS: Let me -- let me answer the

question this way. I have tried not to be

critical of one party or the other in this

process.

VICE CHAIRMAN LONG: I'm just asking --

MR. BROOKS: Let me answer your question.

VICE CHAIRMAN LONG: I'm asking --

MR. BROOKS: You asked me a question. Can

I answer it?

VICE CHAIRMAN LONG: Can he answer the damn

question?

MR. BROOKS: I'm going to --
CHAIRMAN BENNETT: One at a time.

MR. BROOKS: The answer to the --

CHAIRMAN BENNETT: Do you understand the --

MR. BROOKS: -- question is --

CHAIRMAN BENNETT: Do you understand the question?

MR. BROOKS: Maybe you should repeat it.

VICE CHAIRMAN LONG: I will. Did you ask the voter registration office in Lake County to correct what you think is their error?

MR. BROOKS: And my answer to you is that we could not get the Democrat member of voter registration up there to sign an affidavit that they said -- read and said was true because the Democrat party wouldn't allow them to sign an affidavit.

And I can give an affidavit saying that. I was trying to keep that out of here.

But if you think that I've got some prospect of going and getting two signatures from a Republican and a Democrat in Lake County at this point, I think that's naive.

VICE CHAIRMAN LONG: Have you ever heard of a subpoena?

MR. BROOKS: I can't get a subpoena. As I
understand it, only this Commission can get a subpoena. I asked Dale about getting subpoenas, but unlike trial court, I can't just write a subpoena.

VICE CHAIRMAN LONG: And did Dale tell you how to get one?

MR. BROOKS: Yeah, he told me how to get one. He told me --

VICE CHAIRMAN LONG: And did you get --

MR. BROOKS: -- that all four commissioners had to be together and vote in an affirmative to do it. Well, you guys weren't together until today.

So for me to get a subpoena between here and last -- what, at the time the challenge was filed, was impossible. So I'm okay with getting one. I wanted to.

This is an issue I'm going to come back to, but I've got a couple of intervening ones.

The statute requires that an address, when they're being certified, requires that it be the resident's address as shown on the voter registration roll or system.

The form does not ask that question. The form asks what your current residence is.
So, for example, in this case, a college student wrote his residence as where he was living. But he is a registered voter in that county. The form in this case, if you say, "What's your registration address," then they can either screw up or not.

But this form affirmatively misleads people to what the question is. If I move, I still am registered at that address. I can, pursuant to a -- I can -- I can go back and vote.

But this address disenfranchises -- this form disenfranchises people who move, but are still registered, because it doesn't ask them the right question. They would have to lie on that form, the way it's worded, in order to be counted, when, in fact, they're registered voters. And I've got a lot more of those, but that's the situation here.

As you can see, he listed an address that is a local college, Hyles-Anderson College. That's the address he lived at. That's a college.

This form is essentially disenfranchising college kids because they're going to school, listed as their address, even though they're
still registered at home. And that's a defect
in the law, which, if it was ambiguous, it would
be one thing. But it's actually affirmatively
misleading.

I believe this vote should be counted and
added to the total.

(Exhibits 38-Young through 44-Young were
marked for identification.)

MR. BROOKS: This is 38 and 39.

This is a case where, on this particular
petition, Mr. Ashford has signed -- or printed
his name, his address. He is a registered
dvoter, as you can see. But somebody had already
scribbled in the signature mark, and he didn't
sign it because there was no space there.

And here's an affidavit from him saying he
filled out the petition. The signature line was
already -- it was his intention to sign, and
he's a registered voter, so I would request that
this individual get added back in.

VICE CHAIRMAN LONG: Would you agree he
didn't sign this petition?

MR. BROOKS: I do.

VICE CHAIRMAN LONG: Okay. I just wanted
to make sure.
MR. BROOKS: Yes.

VICE CHAIRMAN LONG: You're asking us to count a signature that -- right?

MR. BROOKS: Because it's a defect in the form.

VICE CHAIRMAN LONG: What's the allotment of time? I've got plans this evening.

MR. BROOKS: I've given you enough to get up over 500. We can stop now, if you want to go ahead and say that.

CHAIRMAN BENNETT: I mean I think that's the problem, is that we are challenging all of these, so we --

VICE CHAIRMAN LONG: I have to --

CHAIRMAN BENNETT: -- have to listen to the evidence.

VICE CHAIRMAN LONG: I immediately -- I've got plans this evening, and I'll ask Ms. Overholt to walk out with me, and this hearing's over.

Now, we either get it over, or be done.

We've got people all over the state here coming in for this. And you set the rules, and you set the time, and the -- the time we have the petition, we -- you let it go different.