

THE OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:

STATE ELECTION BOARD MEETING

GEORGIA STATE CAPITOL BUILDING
ROOM 341
ATLANTA, GEORGIA 30334

WEDNESDAY, JULY 15, 2015
10:00 A.M.

PRESIDING OFFICER:

BRIAN KEMP
SECRETARY OF STATE
STATE OF GEORGIA

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APPEARANCES:

Brian P. Kemp, Chairperson, State Election Board, Secretary of State, State of Georgia

Tex McIver, Vice Chairperson, State Election Board, State of Georgia

David J. Worley, Member, State Election Board, State of Georgia

Rebecca N. Sullivan, Member, State Election Board, State of Georgia

Ralph F. Simpson, Member, State Election Board, State of Georgia

Russell Willard, Senior Assistant, Attorney General's Office, State of Georgia

Chris Harvey, Chief Investigator, Secretary of State Office, State of Georgia

M. Frances Watson, Investigations Supervisor, Secretary of State Office, State of Georgia

TRANSCRIPT LEGEND

Quoted material is typed as spoken

[sic] Exactly as spoken.

(phonetic) Exact spelling unknown.

-- -- Interruption in speech.

. . . Indicates halting
speech, unfinished sentence,
or omission of word(s).

P-R-O-C-E-E-D-I-N-G-S

MR. SECRETARY: We will call the meeting to order for the State Election Board on Wednesday, July 15th, 2015 at 10:00 a.m. Our first order of business is our invocation and our pledge of allegiance which is traditional with the State Election Board.

Today I would like to ask if there is anybody in the audience that would like to lead us in the invocation today and, or the pledge?

(No response)

MR. SECRETARY: Okay. Hearing none, Mr. McIver, will you do the honors?

MR. MCIVER: Yes, sir.

INVOCATION

PLEDGE OF ALLEGIENCE

MR. SECRETARY: Thank you, Mr. McIver, for that. If anyone is interested in leading us in the invocation or doing the pledge in the future just let our office know and we will be glad to accommodate that.

Our first order of business on our agenda will be the approval of our minutes. We've actually got two sets of minutes that we need to approve today. The first one being our State Election Board meeting on March 12th, 2015 and I'll take a motion if there is one.

MR. WORLEY: I'll move to approve the minutes of the March meeting.

MS. SULLIVAN: Second.

MR. SECRETARY: Alright, Mr. Worley moves that we approve and Ms. Sullivan seconds. Any other discussion or changes?

(No response)

MR. SECRETARY: Hearing none, all oppose signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All oppose same sign.

(Whereupon, there was no response)

MR. SECRETARY: That motion carries. Our second minutes are the special-called meeting of the State Election Board on June 10th, 2015.

MR. MCIVER: I move that we approve the minutes of that meeting.

MS. SULLIVAN: Second.

MR. SECRETARY: Alright, Mr. McIver moves for the approval. Mr. Sullivan seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign.

(Whereupon, there was no response)

MR. SECRETARY: That motion carries as well and we have approved both sets of minutes.

Our next agenda item is the public comment. Mike, do we have anybody signed up for public comment?

MR. MYERS: No, sir.

MR. SECRETARY: Okay, no public comment today. I would like to just make a few quick opening statements before we get into our investigative reports. My first point I would like to make is just to congratulate our Chief Investigator Chris Harvey. This is his last day on the job in his role as chief investigator and tomorrow he will take over as the new director of elections for the State of Georgia. We are very excited about Chris' new role. I think for many of you, that are in the room today that have worked in the county elections office and registrar's office for many years, you have dealt with Chris and have found him to be a very straight forward and fair chief investigator in all of his dealings with your offices and I certainly know that he will continue that in his role as elections director. I don't know of too many people that are more familiar with the election's code than Chris is, so that is something that is certainly a feather in his cap but also just he is a good guy and has a great work ethic. So we are looking forward to his leadership in the elections division and also I want to thank him for an outstanding job that he has done as our chief investigator. I know since I've been in this office we have seen, I think, the State Election Board meetings and the way we handle investigations and even though it seems like, to some that we don't move these cases as fast as maybe we should but we are certainly moving them faster than we ever have before, I believe. A lot of that goes to the credit of Chris' leadership and the great team that he's got. So I want to thank Chris for the job that he's done and wish him all the best as our new elections director and I think it would be appropriate for us to recognize him with a round of applause (applauds).

Would you like to make any brief comments, Mr. Harvey?

MR. HARVEY: I am leading by design. Thank you, Mr. Secretary, for those kind words. It has been my honor and privilege to serve the people of Georgia and the Secretary of State's office in this role. I have tried to perform with honor and integrity and I believe I have done that and as I have told people I believe the best protection against any type of election whether it's fraud, whether it's negligence, whether it's incompetence, is an informed electorate. People that know and understand the election law and I think these meetings, in dealing with elections experts on the Board, have been invaluable for me, certainly for my investigative staff and I think for a lot of citizens and elected officials in Georgia. So as much as I can continue to spread the word about what the law allows and what the law requires in elections I think I will be continuing my mission of assisting the counties in providing a secure legal election. Thank you for those kind words. It has been my privilege to serve with you.

MR. SECRETARY: Thank you. Mr. Worley, did you have something?

MR. WORLEY: Yes, I just wanted to concur in the Secretary's comments. Mr. Harvey is extremely hard working, capable, impartial and in my experience working with him over the past years, he is completely nonpartisan and I think you'll do a nice job as elections director and I just want to commend you, Mr. Secretary, on your choice.

MR. SECRETARY: Thank you, Mr. Worley. Anyone else?

(No response)

MR. SECRETARY: Alright, I also just wanted to take a moment to thank our hardworking elections' staff that's here. I know for you-all and myself last night ended up being a little bit longer night than I thought it was going to be with several special elections that we had and several of the county folks were involved in that last night as well. I was joking with some folks in the office this morning, who in the world schedule a State Election Board meeting after an election night and I think that was me that did that (laughter). So I apologize to the staff and thank you-all for the great job that you did last night and Ms. Hicks is here with us today as well, Julie and Erica and I hope I'm not missing anybody. Mike's here. It is just appreciated what you-all have done. I'm very excited just for you-all to know about our team that we have in place heading into this important cycle with our municipal elections and also our big Presidential Year next year. We are looking forward to great things from our team, so thank you-all for what you do.

Alright, Mr. Harvey, we are going to move on to the consent cases. For those of you that are not aware of our policy on consent cases, what we will do with the consent agenda is I will ask if there is anyone here, either Board members or anyone in the public that would like for us to pull any of these consent cases off the calendar to have them presented. If no one asks for that case to be pulled off the calendar then we will vote in block to dismiss all of these cases which is the recommendation of the investigators and Mr. Harvey. So at this time, are there any Board members that would like to pull a case off?

Mr. Worley.

MR. WORLEY: Mr. Secretary, I would just like to have a separate vote on case number 2014, seventy-one.

MR. SECRETARY: Okay

MR. WORLEY: Because I am -- for reasons I'll explain later I am going to have to recuse myself from voting on that.

MR. SECRETARY: Is that the only one?

MR. WORLEY: Yes.

MR. SECRETARY: Any other Board Members wish to pull a case off?

MR. HARVEY: Mr. Secretary, if I may, I think I would like to add the first case of the letter case to that consent agenda. It was originally to be a letter case and my recommendation would be we move 2012 ninety-six, the Cherokee County from the letter case to the consent case, if that doesn't cause a problem. If not we can deal with it separately.

MR. SECRETARY: Mr. Willard, do we need a motion and a vote to do that?

MR. WILLARD: No, Mr. Secretary, you can do that. The vote will be on whether or not to accept the resolution.

MR. SECRETARY: Okay. Alright, if there is no objection from the Board we'll move the SEB case 2012, ninety-six the Cherokee County districting issues to the consent calendar.

Alright, is there anyone else that wish to pull a consent case off of the calendar and have it discussed?

(No response)

MR. SECRETARY: Hearing none, I will take a motion to dismiss the following cases on the consent calendar, 2012 number forty-five, 2012 number one ninety-two, 2013 number twenty, 2014 number twenty-six, 2014 number one thirty-two, 2014 number one hundred, 2015 number one, 2015 number five and 2015 number thirteen and I'm sorry the 2012 number ninety-six which we moved to the consent calendar. Thank you, Mr. McIver.

MR. WORLEY: I'll make that motion, Mr. Secretary.

MR. SIMPSON: Second.

MR. SECRETARY: Alright, Mr. Worley moves for dismissal. Mr. Simpson seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign.

(Whereupon, there was no response)

MR. SECRETARY: That motion carries and we have dismissed the noted cases on the consent calendar.

Mr. Harvey, we will now let you present real quick the SEB case number 2014 number seventy-one.

MR. WORLEY: Mr. Secretary, I just want to be clear. I didn’t necessarily call for that case to be reviewed but just to have a separate vote. It is a case involving a candidate that I gave a campaign contribution to and under our code of ethics for the State Election Board I can’t participate in that case, so I would just intend to recuse myself from the discussions.

MR. SECRETARY: Let the record show that Mr. Worley is recusing himself on the vote on this case and Mr. Harvey, if you want to just give us a quick recommendation for dismissal and we’ll move on.

MR. HARVEY: Yes, sir. For case 2014, seventy-one we did an investigation and we found no violations and we recommend this case be dismissed by the State Election Board.

MR. SECRETARY: We have a recommendation for dismissal. Any question from the Board members?

(No response)

MR. SECRETARY: Anyone in the audience wish to speak regarding this case?

(No response)

MR. SECRETARY: Hearing none, do we have a motion for dismissal?

MR. SIMPSON: So moved.

MR. MCIVER: Second.

MR. SECRETARY: Mr. Simpson moves for dismissal of case 2014 number seventy-one. Mr. McIver seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All oppose same sign.

(Whereupon, there was no response)

MR. SECRETARY: That motion carries. We are now moving on to our letter cases which we go through the same posture. These cases basically have been -- the recommendation for them is a letter of instruction from the Secretary of State’s office addressing the facts and findings per our investigators in these matters.

If any Board members would like to pull one of these cases off we’ll discuss it individually or if anyone in the audience would like to do the same we will do that as well. If not we will have another block vote to issue letters of instruction on the following cases.

Is there anyone on the Board that would like to pull a case off?

MR. WORLEY: Mr. Secretary, I’d like to just have a separate vote on the Douglas County case because again I am going to have to recuse for the same reasons that I made a contribution to.

MR. SECRETARY: Is that 2014, number seventy-two.

MR. WORLEY: Number seventy-two. Yes, that is correct. And also I want to have a separate discussion of the Hart County case.

MR. SECRETARY: That case we will pull off 2014, number sixty as well. Any other Board members wishing to pull a case off?

(No response)

MR. SECRETARY: Anyone in the audience wishing to pull a case off of the letter calendar?

(No response)

MR. SECRETARY: Hearing none I will accept a motion to issue letters on the following cases SEB 2012 one fifty-four, 2012 one eighty-four, 2013 number thirty-four, 2014 number forty-two, 2014 number forty-six, 2015 number eighteen and that will be it. Do we have a motion to accept the recommendation in issuing letters of instruction on the following cases?

MS. SULLIVAN: So moved.

MR. SECRETARY: Ms. Sullivan moves. Do I have a second?

MR. MCIVER: Second.

MR. SECRETARY: Mr. McIver seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none all in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: And that motion is carried.

Now, Mr. Harvey, why don't you go ahead and present 2014 number sixty which is the Hart County case.

MR. HARVEY: The allegation in this case was that in a May 2014 general primary election that voter's election paperwork was not properly reported and that there were other issues in Hart County elections.

To give a little bit of a background in Hart County at this time there was a fair amount of contention at higher levels between the people that were in the elections office. There was a probate judge, I believe, that had been replaced or was in the process of being replaced. There was some confusion as to exactly what was going to happen with the election. But specifically with regard in this case there are allegations at two precincts primarily. First was in the Reed Creek precinct. There was a complaint that there was a discrepancy in the card count versus the votes cast and there were absentee ballots that were alleged to have been counted before the 7:00 p.m. time period when the election officials had not properly filed notice with the Secretary of State's office and publically notified the folks that they were doing that. The other allegation was at the Goldmine precinct but I will get to that in a second but the findings for the Reed Creek investigations were -- I think there were some confusion among the complainant with the difference between the cards counted and the votes cast. We did an examination of the election results and found that although there were some difficulties uploading some of the results to the gem server eventually technical help was sought and the results were uploaded. There was no discrepancy in terms of votes actually being cast. There was a -- when the optical scanners were done L&A testing apparently the election officials did not properly set the date and time, so when the absentee ballots were run through the optical scanner after seven o'clock, which is not allowed by law, they should have timed earlier in the day and the failure there was that they did not properly reset the optical scanners for the Reed Creek precinct so it appeared on record that they were counted at three o'clock in the afternoon. They were not counted at three o'clock but that's what the record appeared to show.

The allegations at the Goldmine precinct were that not all the proper votes were added. The absentee and in-person votes were not added to the totals and that the precincts reported late voter results. We didn't find any evidence that there were any type of calculation error or that the votes were not allowed or not counted. Again there was some confusion, I think, between the term cards counted and the votes cast and there isn't any evidence that they were unduly late in the reporting. Again I think there were some technical issues uploading results to the gem server. Those were all resolved and were accomplished. The violation is potentially with the failure to reset the optical scanner on the absentee ballots and that's why it is recommended that the Hart County election's office receive a letter of instruction regarding the complete L&A testing process.

MR. SECRETARY: Any questions for Mr. Harvey from the Board?

MR. WORLEY: I had a question for Mr. Harvey. Based on your report, it seems like there's some question as to whether the statute deals with setting the time correctly and seems like that is the only potential violation here?

MR. HARVEY: Yes, sir.

MR. WORLEY: But the statute doesn't say that they have to set the timer?

MR. HARVEY: Yes, that's why it is a little bit iffy in my mind as to whether or not that would really be a violation. I think the spirit of L&A testing is that the machines are set and ready for the election. The code doesn't specifically say you must set the date and time to the correct -- which is why I think a letter of instruction would be appropriate as a reminder to be diligent in L&A testing but certainly may not be.

MR. SECRETARY: Any other Board members have a question for Mr. Harvey?

(No response)

MR. SECRETARY: Anyone else wish to speak?

(Response from unidentified speaker)

MR. SECRETARY: If you will come up and grab that microphone. Welcome and if you will just give us your name and address for the record we will be glad to hear from you.

MR. GORDON: Mr. Secretary, I am Walter Gordon. I am the county attorney in Hart County. I appreciate this opportunity. I came because I am requesting a dismissal of this case. We believe this case was filed substantially in bad faith. There was some confusion. The complainant was confused in the way the results were displayed and believed that twenty-one votes were not counted. They were counted. Your investigator found that as well and so did ours. The other allegation, which had to do with the date and time of the optical scanner, that's really, I would presume, where the recommendation of the letter of instruction stems from. I

looked at that law very thoroughly. I've looked very thoroughly at this entire factual situation. Those machines were fully tested by Kennesaw. They were then fully tested for logic and accuracy by our election people shortly before the election just as 21-2-374(b) requires and there is no requirement. This is odd to me, but there is no requirement. That law spells out very specifically how you test for logic and accuracy which is a counting or numerical type of test. Nothing is said about establishing a date and time. Setting the date and time, that maybe is something that the law should address but it is not there and in this particular case not only did it show that the votes were counted at 3:00 p.m., it actually shows that they were counted at 3:00 p.m. on March the 5th, 2010 which would have been quite extraordinary for a May 20th, 2014 election. It was an obvious and very clear error. I know our focus is trying to do the best to work with Kennesaw to resolve that but in my mind a letter of instruction is inappropriate because -- maybe a letter of instruction to all election officials might be appropriate telling us to check the date and time but to single Hart County out would not be a fair treatment. One other thing I would like to say is that we did have some issues, the Probate Judge who is our Elections Superintendent was subsequently arrested and I promise it had nothing to do with this election, by the way, and we had an interim election superintendent for the November election. As of today, as of January 1 of 2015 we have a legislatively created consolidated Board of Elections and Registrations. It is a completely new body and an effective elections process in Hart County.

MR. SECRETARY: You have a new supervisor too, correct?

MR. GORDON: That is correct and Mr. Secretary, I would like to answer any questions that you or the Board may have.

MR. SECRETARY: Well thank you for being here, Mr. Gordon. I appreciate that. Anybody have any questions for Mr. Gordon?

(No response)

MR. SECRETARY: Thank you for being here. Anyone else wishing to speak on this matter?

(Response from unidentified speaker)

MR. SECRETARY: Yes, ma'am, If you will just come up and give us your name and address for the record.

MS. FOCER: Mary Elizabeth Focer.

MR. SECRETARY: Could you spell your last name?

MS. FOCER: It looks like Focer. It's F-O-C-E-R.

MR. SECRETARY: And what is your address?

MS. FOCER: 151 Woodlake Landing, Hartwell, Georgia.

MR. SECRETARY: Okay. You can go right ahead, ma'am.

MS. FOCER: If you want to narrow it down to about two or three sentences instead of taking half a day we have three ballot cast accounts for Hart County and I could not find any help from anybody in Hart County about how many ballots were cast in that election. The election paperwork has been actually put away. The public is not allowed to see it. I want to know how many people voted that day, the Primary in 2014. We had three results. We had two thousand sixty. You guys had two thousand seventy-three. I counted every cast ballot off every print out of every machine and it totaled twenty-two eighty-one. I have tried since the night of this election to get answers and I was shut down every time. This one threatened to put me in jail (indicating) for looking at election (indiscernible) that I shouldn't have looked at. I would like for an investigator to find out how many ballots were cast. It is very simple. You-all can shut me down if you-all can provide proof of that.

MR. SECRETARY: Ma'am, let me ask you a quick question, if you don't mind me interrupting you.

MS. FOCER: Sure.

MR. SECRETARY: Have you made a formal complaint to the Secretary of State's office about the issues that you're talking about?

MS. FOCER: I've made a formal complaint on this and about half a dozen other things but this is the most striking.

MR. SECRETARY: Okay, if you will just hold on one second. Mr. Harvey, are you aware of a complaint to the State Election Board or our office about the count?

MR. HARVEY: I think that's one of the bases of this complaint was that the counts didn't match up and I think the results are public and the records are properly filed in the clerk of the superior court's office. Our investigation didn't show any discrepancy in the counts. It was certainly something that she could access through open records with the county and talk to somebody about those results.

MR. SIMPSON: Have you filed an open records request?

MS. FOCER: Yes, sir. I was asked to pay six hundred dollars for them to hand me the records from the election.

MR. SIMPSON: Well you have to follow statute.

MS. FOCER: I would have to pay \$600 dollars?

MR. SIMPSON: I don't know about that but whatever the statute says you have to do to file an open records request that is your remedy to get that information.

MS. FOCER: Before this is dismissed, I brought copies of everything. Proof of the allegations I've made. I've got this much (indicating) in paperwork. If I can talk to an investigator in person before this is dismissed?

MR. SECRETARY: Well, the time has passed for us to deal with that unless the Board has a different issue. I don't think the Board would have a problem to make a motion to accept the documents that you have but that would really be up to the discretion of the Board whether to put this case on hold or move forward today.

MS. FOCER: Can I ask you about a second complaint and is the second most striking complaint that was not addressed. The tabulation was done for the mail-in votes or advanced by mail, Reed Creek one card -- something else. Anyhow it was done thirty seconds after midnight without supervision by a representative of the Republican Party or Democratic Party. That is a violation of State law.

MR. SECRETARY: Have you made a formal complaint about that issue?

MS. FOCER: I did.

MR. SECRETARY: Mr. Harvey, do we have that complaint?

MR. HARVEY: It is not contained in this investigation. I believe we have gotten other complaints from Ms. Focer since she filed this. I think I've spoken to her a couple of times and gotten some emails. I believe that is being addressed in another case.

MS. FOCER: So we will come back?

MR. SECRETARY: That is correct. One thing about the State Election Board for anyone that has never been here is that we take every single complaint that we get and look into it. So if there is something that is not addressed today Mr. Harvey will be glad to follow up with you or you can follow up with him after this meeting to make sure that we have any complaints that you want us to look into and if we don't then you can do that at that time and then we will look into that as well.

MS. FOCER: And then third the candidate's husband did the L&A for her election. I have an issue with that. I made a complaint of that. That was never addressed. I would like that to be addressed that the person who sets the machines up for the elections should not be a spouse of the person on the ballot.

MR. SECRETARY: Well ma'am just like your other complaint if that is one that we don't have that you would like to make a complaint on we will be glad to look into that if you would go through the complaint process.

MR. HARVEY: What I would like to do, Ms. Focer, if you would is get with one of our investigators in the back and if you have documentation with you we can take it and we can copy

it and see how it matches up with the complaints we already have and if there are other cases that can be applied or if we need to open a new investigation we will certainly do that but please get -- we have two investigators in the corner back there that can talk to you today and get your documentation and we will proceed appropriately.

MS. FOCER: Now or later?

MR. HARVEY: When you are done addressing the Board. If you go back there and meet with them they can take care of you and get your documentation right now.

MS. FOCER: Thank you.

MR. SECRETARY: Did you have anything else?

MS. FOCER: Oh, no.

MR. SECRETARY: Any questions from the Board?

(No response)

MR. SECRETARY: Thank you for being here. Mr. McIver.

MR. MCIVER: Mr. Harvey, in this particular matter under the heading complaint, it says a complaint was submitted to the Secretary of State's office of Investigations. Do you know which entity, person or body submitted the complaint?

MR. HARVEY: It was Ms. Focer.

MR. MCIVER: It was?

MR. HARVEY: Yes, sir.

MR. MCIVER: It would be helpful to me at least in the future to know who that is.

MR. HARVEY: Yes, sir and I've spoken with Mr. Secretary. We are going to start adding that to the summary report for easier access.

MR. SECRETARY: Anyone else wishing to address the Board or Mr. Gordon, did you want to address any of that or are you good?

MR. GORDON: I think I'm good.

MR. SECRETARY: Thank you. Alright, Mr. Harvey, anything else?

MR. HARVEY: No, sir.

MR. SECRETARY: So on the discrepancy in the count that was just discussed, you did not find

any issues with the way the count, the certification was done?

MR. HARVEY: We did not. We did not according to this investigation. Like I said, there is some additional documents she has that we didn't have access to or which she did not provide. We will certainly view those to see if there is something to look at but our investigation looked at all of that stuff and didn't find any discrepancy.

MR. SECRETARY: So do you want us to go ahead and move forward then?

MR. HARVEY: I would recommend we move forward and then if there are outstanding issues we definitely can get a subsequent investigation. So I think right now the question is does the date and time counter inaccuracy constitute grounds for a letter of instruction or not. If not then I would say we need to discuss it.

MR. SECRETARY: Well, your recommendation -- I mean if it is not in the law do we have grounds to even issue the letter? Do you have an opinion on that?

MR. HARVEY: My thought on letters of instruction was that there were some cases where there was some ambiguity in the law where maybe the spirit of the law would suggest something. Rather than a sort of knock down drag out fight over a particular issue, I think, that obviously Hart County has responded. They are aware of this. They have got a new board going. Whether or not the Board issues the letter is probably less consequential than it would have been at the time we did this.

MR. SECRETARY: I would like to hear, if anything, of what my colleagues would think because they are attorneys but I tend to agree with Mr. Gordon that I would not only be singling Hart County out on an issue that we need to let all counties know about especially in light of the changes that they've made. I think they have certainly done a lot to address some issues that they had there and we certainly appreciate that but I am open to my colleague's views as well.

MR. SIMPSON: Mr. Chairman, I would move that we dismiss this case because I don't think we can make law. We can interpret the statute if there is a provision in there to determine if there is probable cause to refer the case but if it is not in the statute I don't think we have any authority to issue a letter of instruction pointing out Hart County. I think that if for information purposes the Secretary of State's office wants just to write a letter broadly for all the election boards in the State to every county saying this is a problem we have noticed and maybe you ought to check this through and include this in your examination before the election. I think that is appropriate but I do not think that a letter of instruction to Hart County is appropriate, so I move to dismiss the case.

MR. SECRETARY: We've got a motion to dismiss. Do we have a second?

MR. WORLEY: I second that, Mr. Secretary and I would like to make a comment at the appropriate time.

MR. SECRETARY: Sure. Go ahead.

MR. WORLEY: I agree with Judge Simpson. I am trying to be consistent, I think in the past we taken the position that if there is not an actual violation of the code then it is not appropriate to send a letter of instruction in any more than it would be appropriate to send the case on to the Attorney General's office if there is not a violation of the code and based on what we heard today from Mr. Harvey it doesn't seem to me that there is a -- based on just reading the code it doesn't seem like there is a violation, so I would agree that it should be dismissed without a letter.

MR. SECRETARY: Alright, we've got a motion and a second. Any other discussion?

MR. MCIVER: Yes, sir.

MR. SECRETARY: Mr. McIver.

MR. MCIVER: I would like to ask the guidance of the law department in this particular instance to see if they can assist with that deliberation.

MR. SECRETARY: Mr. Willard.

MR. WILLARD: What would you like elucidation on?

MR. MCIVER: I'm very much persuaded by Mr. Gordon's argument and Judge Simpson's analysis of this matter. Do you have any guidance for us if it is not specifically identified in the statute as to whether or not it is appropriate to issue a letter?

MR. WILLARD: Actually I would say that Judge Simpson's guidance on that point is probably very apropos in terms of, typically letters of instruction are actual violations of the code that you don't believe rise to the level that you think sanctions from our office through the Board are appropriate and absent an actual violation of the code I don't believe a letter of instruction is the proper remedy. I mean a letter of guidance from Chris in his new position tomorrow as election superintendent going out statewide may be an appropriate resolution here but not a letter of instruction to a particular respondent.

MR. MCIVER: Thank you. That is all my questions.

MR. SECRETARY: Alright, any other discussion?

(No response)

MR. SECRETARY: I would imagine we could handle this issue through training. There is probably enough of our fine, hardworking election officials in the room that this order would spread very fast as well. So we have a motion to dismiss and a second. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: We have dismissed that. Thank you for being here today Mr. Gordon.

MR. GORDON: Thank you, Mr. Secretary.

MR. SECRETARY: The next case, Mr. Harvey, we are just going to pull this out 2014 number 72.

Mr. Worley.

MR. WORLEY: I just wanted to note for the record that I have recused myself in this case because I made a contribution to the candidates involved (indiscernible).

MR. SECRETARY: Alright let the record show that Mr. Worley has recused himself.

Mr. Harvey, would you like to present a quick recommendation?

MR. HARVEY: Yes, sir. I recommend that -- this case is a classic case of somebody taking a photograph at the DRE and posting it. I recommend that the respondents be given a letter of instruction that is consistent with the Boards previous practice in a first offense.

MR. SECRETARY: Any questions from Mr. Harvey from the Board?

(No response)

MR. SECRETARY: Hearing none, anyone else wishing to speak on this matter?

(No response)

MR. SECRETARY: Is there a motion?

MR. MCIVER: I so move.

MR. SECRETARY: Mr. McIver moves that we accept the recommendation for a letter of instruction on SEB case 2014, number seventy-two. Do we have a second?

MS. SULLIVAN: Second.

MR. SECRETARY: Ms. Sullivan seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign.

(Whereupon, there was no response)

MR. SECRETARY: That motion carries and we will issue that letter as well.

Alright, Mr. Harvey, we are moving on here to the investigative report. Let the record show that we have continued or we were asked for continuances on case number 2012 number one twenty-four, 2012 number one thirty-five. That may not even be on the agenda but I know we continued those two cases.

What our practice has been on our new cases to try to keep you-all from being here so long in the day is to call the cases that people have actually showed up to be present for in those cases. If we have cases where nobody is here from those counties or no complainants or respondents then we will move those to the foot of the calendar and call the cases where people who have taken the time to come we move those up on the agenda. So what I am going to do is go through a little process here to see if people are here for these cases and I will just call those out. If you will just signify by saying here or present or whatever and we will mark that and if not we will move on.

The first one is a 2008, 107 Franklin County tabulation case? The second is 2012, 108 Fulton County?

UNIDENTIFIED SPEAKER: (signifies)

MR. SECRETARY: Okay they are here. 2012 number 113, Paulding County?

UNIDENTIFIED SPEAKER: (signifies)

MR. SECRETARY: Okay, they are here. 2012 number 114, Carroll County?

UNIDENTIFIED SPEAKER: Here.

MR. SECRETARY: They are here as well. 2012, 117 Cobb County? 2012, 122 another Cobb County. Deceased voter case? 2012, 172 Gwinnett double voting case?

UNIDENTIFIED SPEAKER: (signifies)

MR. SECRETARY: They are here. 2013 number 21, Cherokee County?

(No audible response)

MR. SECRETARY: Anybody here for the Cherokee County case?

(No audible response)

MR. SECRETARY: Okay. 2013 number 55 the City of Monroe Walton County?

(No audible response)

MR. SECRETARY: 2013 number 56, City of Dahlonega?

(No audible response)

MR. SECRETARY: 2013 number 58, City of Lake City?

(No audible response)

MR. SECRETARY: 2013 number 65. It is a Fayette County convicted felon case?

(No audible response)

MR. SECRETARY: 2013 number 69, a Walton County voter registration case?

(No audible response)

MR. SECRETARY: 2014 number 18, Jackson County campaign sign case?

(No audible response)

MR. SECRETARY: 2014 number 50, Cherokee County poll problem?

(No audible response)

MR. SECRETARY: 2014 number 59, Paulding County, felon?

(No audible response)

BOARD MEMBER: There is someone here.

MR. SECRETARY: I'm sorry I missed you-all. My apologies. 2014 number 85, Gwinnett County?

(No audible response)

MR. SECRETARY: They are here again. 2014 number 86. Another Paulding County case?

(No audible response)

MR. SECRETARY: 2014 number 87, Polk County?

(No audible response)

MR. SECRETARY: 2014 number 107 is a Fulton County case?

(No audible response)

MR. SECRETARY: Okay. Alright, Mr. Harvey, we have our agenda set here.

SEB case 2008, number 107.

MR. HARVEY: Mr. Secretary, first of all I would like to point out that Frances Watson who is our current Atlanta area investigator supervisor will be presenting some of the cases today also so she will have an opportunity to present to the Board.

The first on this Franklin County case I need to correct the case number. It is listed inaccurately on the agenda. It is actually 2012, 000099. So it is a 2012, ninety-nine SEB case.

MR. SECRETARY: I was going to ask you later why we had a 2008 case there (laughter).

MR. HARVEY: That didn't ring true to my ears either, so I checked it out. This case involves a candidate filing a complaint about, after the close of the polls the proper rehashing and tapes from the machines were not posted on polling places. There was a sheriff candidate who was running for election who visited the polling places after the close of the polls and found several precincts just did not have -- polling places that did not have the required results and tapes. Eventually the elections office was contacted and Ms. Eubanks went around to two or three of the polling places that did not have the results posted. She posted them later that evening, so they did get posted by the end of the night however they were not posted originally by the poll managers as required and so we've got Melanie Sole (phonetic) who is the manager at the Lavonia precinct cited for failure to post the tapes as well as the Elections Superintendent Tess Eubanks (phonetic) although she actually went back and corrected it before. We've got them cited for violation of 21-2-440 regarding posting of election results on polling places. We recommend this case be bound over to the Attorney General's office.

MR. SECRETARY: Alright, any questions from the Board for Mr. Harvey?

(No response)

MR. SECRETARY: Anyone else wishing to speak?

UNIDENTIFIED SPEAKER: (signifies).

MR. SECRETARY: Just to remind you if you will give us your name and address for the record.

MR. SAMUELS: Good morning, Mr. Secretary and Members of the Board. Thank you for hearing from us this morning. My name is Bubba Samuels I am the county attorney for Franklin County. I have with me our Elections Supervisor Gina Chappelleaer and my son Jack

Daniels (phonetic), who just graduated from the University of Georgia.

MR. SECRETARY: Welcome it is good to have you with us this morning and go Dogs.

MR. SAMUELS: Members of the Board, as with many cases the names and faces in Franklin County have changed. Ms. Chappelle has been serving as elections supervisor in Franklin County since the spring of last year. So a little over a year. Ms. Eubanks is no longer employed. Ms. Melanie Sole (phonetic) who was the poll manager at the Lavonia precinct, which is the precinct in question in this complaint, has not been utilized since May of 2014 as poll manager for reasons not solely related to this incident. This is essentially a matter of training of poll workers and Ms. Chappelle can certainly speak or I'll be happy to represent to the Board that all the poll workers received training in accordance in utilizing the Secretary of State's poll worker training manual. They have all been provided a copy of it. Copies are also in the precinct notebooks. Training occurs up to and including the day of the election and Ms. Chappelle also has on her personal checklist to make the rounds throughout training and on election day of reminding, during visiting precincts on election day, the poll managers of their responsibilities and to go through the checklist that they have.

The letter inviting us here today only cited a single incident of the failure to immediately post the tabulation sheets. We are only aware of the singleness in that Lavonia precinct and again that has been addressed in our current state with the training procedures and guidance. We view it as an isolated incident that occurred in 2012. Again the complaint was, in fact, made by the unsuccessful candidate for sheriff in that election and we believe that this is an isolated incident that has been addressed through subsequent training, education and our check list practices we've got in place. The offending individuals are no longer employed with Franklin County.

MR. SECRETARY: Mr. Samuels hold tight one second Mr. McIver has a question for you.

MR. MCIVER: What do you recommend we do?

MR. SAMUELS: In light of the fact that the individuals are no longer there and Franklin County has gotten the message loud and clear, at most, I would think a letter of instruction documenting what Franklin County understands as a result of going through this process would be appropriate.

MR. MCIVER: Thank you.

MR. SECRETARY: Hold tight one second Mr. Samuels. Mr. Harvey, is the only reason they got cited on one is because we have the county on one and then the poll workers and the other citations of...

MR. HARVEY: He is correct. There was one precinct. I may have said two precincts in the summary but there was one precinct where they were not posted.

MR. SECRETARY: I think he was saying in the letter we only cited him for one violation and there was two.

MR. HARVEY: There were multiple respondents on the same violation. So the poll manager, the election superintendent were all cited however it was the one violation. I may have misspoken earlier when I said two or three polling places. There is one polling place.

MR. SECRETARY: You know, Mr. Samuels, I'm open to the idea of a letter of instruction. I think you have addressed the training issues, the new personnel. Why we would like to have your son and you come back and visit us we are hoping we won't see you again and I feel certain that if we were to issue a letter that would be the case, hopefully. With that being said, did any other Board members have any questions for the counsel.

(No response)

MR. SECRETARY: Thank you for being here. Did anyone else wish to speak on this matter?

(No response)

MR. SECRETARY: Hearing none, is there any other discussion from the Board or do we have a motion?

MR. MCIVER: I'd like to address a question to Mr. Harvey.

MR. SECRETARY: Mr. McIver.

MR. MCIVER: Mr. Harvey, I think I have mentioned this before. It would be very helpful to me if the person standing in your shoes after today's meeting would reflect the recommendation. At least let us know your thoughts in terms of the perceived violations that you have determined. Not seeing that here and then now I ask that you tell me what your recommendations are.

MR. HARVEY: Yes, sir. Originally I thought I had said I recommended binding it over to the AGs office.

MR. SECRETARY: I believe you did make that recommendation.

MR. MCIVER: Reflect that it if you would in your documents. As I look this over before these meetings it is helpful to me to see the recommendations.

MR. HARVEY: Yes, sir. We can work toward that and one of the difficulties is when the reports are prepared by the investigators and they are stored, they don't contain the recommendations. I can certainly work with my successor and Secretary Kemp to see if we can provide something that will be more helpful to you along those lines.

But specifically in this case, I believe, I mentioned recommending binding over. I think it is certainly not out of the realm of consistency of you dealing with voter cases if the Board would issue a letter of instruction. I don't think that would be the regular previous practices.

MR. SECRETARY: Alright, anyone else from the Board?

(No response)

MR. SECRETARY: Do we have a motion?

MS. SULLIVAN: I'll make a motion for reasons stated by Secretary Kemp and additionally the Superintendent corrected that problem when the result tapes and provisional ballot and tab sheets were posted within an hour and a half of the close of the polls. I would move that a letter of instruction be issued.

MR. SECRETARY: Ms. Sullivan moves for a letter of instruction and I will second that. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, any other discussion?

(No response)

MR. SECRETARY: Hearing none, all those in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign.

(Whereupon, there was no response)

MR. SECRETARY: And we will issue a letter. Thank you gentlemen for being here today.

Alright, Mr. Harvey, we have 2012, number 108 the Fulton County case.

MR. HARVEY: Yes, sir. This case is a case where a non-citizen a Mr. Michael John Ferguson (phonetic) originally registered to vote in 1996 in Fulton County. There are no records that document exactly what happened with that registration. Mr. Ferguson is not a United States citizen. I believe he was a legal resident, so he registered to vote in 1996. He transferred to DeKalb County in 2004 and continued voting. In 2008 he updated his voter registration application in DeKalb County and he indicated on his form that he was not a United States' citizen. That was missed by DeKalb County when they processed his paperwork. That normally would have triggered somebody to check or challenge him and remove him from the list. That was not done in 2008, so he stayed on the voter list and continued to vote.

We do have documentation from 2008 when he registered to vote in DeKalb County where he indicates he is not a US citizen. In talking with him he has always maintained he has never misled anyone about being a United States citizen. He's always marked forms properly and they have somehow gotten through and allowed him to register to vote. So based on his voting history we've got Mr. Ferguson cited twice for false registration and five times for voting while he was not qualified. We've also have the DeKalb County Board of Elections cited for failure to determine proper eligibility to remain on the voter's list by allowing him to remain registered after he indicated he was not a citizen in 2008 and then continuing to vote in DeKalb County and I do recommend this case be bound over to the Attorney General's office.

MR. SECRETARY: Any questions from the Board for Mr. Harvey?

(No response)

MR. SECRETARY: Hearing none, anyone else?

UNIDENTIFIED SPEAKER: (Signifies)

MR. SECRETARY: (Indicates)

MR. BRYAN: Mr. Secretary and Members of the Board, my name is Bennett Bryan, I am an Assistant County attorney for DeKalb County.

MR. SECRETARY: Give us your address if you don't mind Mr. Bryan.

MR. BRYAN: It is 1300 Commerce Drive in Decatur, 30030.

MR. SECRETARY: Thank you.

MR. BRYAN: The county does not dispute the facts that were cited by Mr. Harvey. We know that Mr. Ferguson voted and he should not have. We know that we registered him to vote and we should not have and he stayed on our role and he shouldn't have. However, since the last time he voted we now have several internal policies in place, training measures and we also have (indiscernible) which will prevent this from happening again.

The first remedial action that we have taken is a very simple but also very effective one is that we actually physically take a highlighter on every single application, highlight the question related to citizenship and then highlight the answer. If the answer is, no, the application is rejected and a letter is sent. If the application is left blank we check with the Department of Driver Services records to verify citizenship status and we also send a letter. Finally we have to enter this information into the election (indiscernible). So that is a very good stop where there is a question on the election (indiscernible) specifically related to citizenship and we have to answer that so that also focuses the county's attention on that particular issue.

I would like to note that since Mr. Ferguson voted last which was in 2010 these measures have gone into place after that but also before this particular case was brought to our attention and I believe that we have taken simple, effective, remedial measures to prevent this from happening again and therefore we request that the Board -- well, we would like for you to dismiss this case or send a letter.

MR. SECRETARY: Any questions from the Board for Mr. Bryan?

(No response)

MR. SECRETARY: Thank you for being here this morning. Anyone else wishing to speak on this case?

(No response)

MR. SECRETARY: Any other discussion from the Board or do we have a motion?

MR. SIMPSON: Mr. Chairman, I don't want to sound like a broken record but it is my understanding the last time a case with dates like this came up we were told that since this is a felony that the statute of limitation would be four years. Is my recollection correct?

MR. WILLARD: For criminal prosecution case.

MR. SIMPSON: Right and that is what we will be doing here is referring the case, binding it over for a criminal prosecution. I think the statute of limitation has run on these cases and I don't think we can proceed on it. I just wanted to bring that up so we could once again think

about that. I know I seem to be overly technical about that because it seems like I'm the one that always brings up the statute of limitations issue but I think that is a serious problem because I think it would be embarrassing for all of us if we bound this case over and a district attorney took it in a courtroom and the judge says you are out of here, you are dismissed, what was the motion worth doing sending us a case where the statute's run on it. So for that reason I would move to dismiss this case.

MR. SECRETARY: Alright Mr. Simpson has moved for dismissal. I had a question for Mr. Willard. So would that be our only recourse would be to bind over for criminal prosecution?

MR. WILLARD: You are in an area, Mr. Secretary that has never been addressed by an Appellate court in the State. The trial courts have addressed it. We have always taken the position that the administrative process under the APA including the imposition of sanctions exists separate and apart from a criminal proceeding. In the election context everything in the State Election code that is a violation is a crime. There's specifically enumerated felonies and then a catchall that says anything that is not specifically made a felony is a misdemeanor. That is where you start to see some cross pollination between the statute of limitations issue and what this Board can do. I will say that there is no reported court case out there that says that this Board cannot bind over a matter outside of that window of time. However, as a case begins to age you are going to see courts begin to take note of the concepts like laches, in terms of the delay in bringing the administrative action, has unfairly prejudiced the rights of the respondent to go forward. In this case I would say that a court would clearly view the transfer of the voter in 2004 as something that should have been dealt with much before 2015. You are starting to get into a grey area in the, I believe it was a 2008 change of address, where I think we could argue that equity should not preclude us bringing an enforcement action against the respondent but there is always the chance that a court is going to say because the General Assembly has made these criminal provisions that the criminal statutes of limitations should apply even in the civil administrative context.

MR. SECRETARY: Alright. Mr. McIver.

MR. MCIVER: Mr. Secretary, is there anybody in the room that can at least assist me in understanding that DeKalb has met all of its training obligations and is up to date on their certifications and so on?

MR. SECRETARY: I would imagine that they have. Do we have anybody that can address that? Ms. Walters probably can.

MS. DANIELS: I don't have the records with me but I can assure you that everybody that is supposed to be certified is certified and passed and made hundreds on all their quizzes (laughter).

Good morning, my name is Maxine Daniels. I am the director of registration and elections. My address is 4380 Memorial Drive, Suite 300, Decatur, Georgia. Yes, all of DeKalb County is certified. As director I am certified with the elections certification as well as several certifications from national and also our registrar's supervisor is also certified as well as our Elections supervisor and many of our staff who have been there longer than me. So yes we are very much so.

We actually took corrective action on this prior to this case being brought to our attention

because we realized that it was an area that could cause problems and so we did institute a procedure of action doing the highlighting in order to prevent this. So since that we are talking 2008, it has been five years -- I'm sorry, it's been seven years. So we have done many things in five years. We've done corrective action. So we feel like we've made corrective action, so we asked that you dismiss or a letter.

MR. MCIVER: Are you satisfied with the fail-safes described very eloquently by Mr. Bryan are working?

MS. DANIELS: Yes, very much so. In addition to what we are doing, in-house systems set up by the Secretary of State is also a fail-safe because the fact that every voter that we put in is now being tested to see if their citizenship verifies with the given information. So in addition to our manual process there is also mechanized process.

MR. MCIVER: Thank you, Mr. Secretary.

MR. SECRETARY: And I think for the record just a couple of things too. Ms. Daniels is certainly a familiar face at our training meetings with the Registrars and the Elections officials, so I will corroborate exactly what she just said for the record. I will note too that since this case first happened in '96 when the gentlemen was registered to vote there has also been a verification process that has been pre-cleared by the Justice Department that checks citizenship. There has been a State law that just passed that actually requires that, so we've got a lot of different requirements now that are in law, in my opinion, that helps prevent things just like this from happening and certainly the new ENET system which is our new statewide voter registration system that has been implemented now for a little while and was a huge project is also helping with that as well. I just want to make sure that the Board members realize that as well that these processes have changed a lot even since 2007 and 2008 but certainly since 1996.

Did anybody else have any questions for Ms. Daniels or did anyone else wish to speak

(No response)

MR. SECRETARY: Thank you-all for being here. So, Mr. Simpson, if I am remembering correctly you had a motion for dismissal but I don't believe we had a second, is that correct?

MR. SIMPSON: That is correct. No second yet.

MR. SECRETARY: Do we have a second or anymore discussion?

(No response)

MR. SECRETARY: Not hearing a second, I will ask if there is a substitute motion or another motion on the table.

MR. MCIVER: I move that in this matter a letter of instruction be prepared and issued to the respondents.

MR. SECRETARY: Alright we have a motion for a letter of instruction for DeKalb County and Mr. Ferguson by Mr. McIver. Do we have a second for that?

MR. WORLEY: I'll second.

MR. SECRETARY: Mr. Worley seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, "aye".

(Whereupon, there were a chorus of ayes)

MR. SECRETARY: All opposed same sign?

BOARD MEMBER: No.

BOARD MEMBER: No.

MR. SECRETARY: That motion fails on a three to two vote. So we need another motion.

MS. SULLIVAN: I move that this case be bound over to the Attorney General's office as to both respondents.

MR. SECRETARY: Ms. Sullivan makes a motion that we bind over with both respondents. Do we have a second for that?

MR. WORLEY: I'll second that.

MR. SECRETARY: Mr. Worley seconds that. Do we have any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, "aye".

(Whereupon, there were a chorus of ayes)

MR. SECRETARY: All those opposed say, no.

BOARD MEMBER: No

MR. SECRETARY: That motion fails. Do we have another motion?

MR. WORLEY: I'll make a motion that we send a letter of instruction to DeKalb County and that we bind over Mr. Ferguson.

MR. SECRETARY: Mr. Worley has a motion to bind over Mr. Ferguson and send a letter to DeKalb County. Do we have a second?

MR. MCIVER: Second.

MR. SECRETARY: Mr. McIver seconds. Any other discussion? Hearing none, all in favor signify by saying, "aye".

(Whereupon, there were a chorus of ayes)

MR. SECRETARY: All opposed?

BOARD MEMBER: No.

MR. SECRETARY: That motion carries with Mr. Simpson voting no. Alright thank you-all for being here today from DeKalb County.

Alright, Mr. Harvey we are going to move to 2012 number thirteen, the Paulding County case.

MR. HARVEY: Yes and just for the record it is 2012, 113. This is a similar case as to the case you just heard. Mr. Gotheno (phonetic) is a non US citizen. His grandmother in-law actually found a precinct card that was mailed to him and called the elections office in Paulding County who reported it to us. The history with Mr. Gotheno (phonetic) was that he registered to vote in 2006 through the Department of Driver Services at a time unfortunately when there was not much of a paper trail for voter registration with the Department of Driver Services. We do know that he is not a US citizen and we do know that he is registered to vote while not being a US citizen and that he also has cast ballots while not being a citizen. We have not been able to locate him to track him down to get his side of the story about how this happened and it is recommended that he be bound over to the Attorney General's office for administrative action.

MR. SECRETARY: Any questions for Mr. Harvey?

(No response)

MR. SECRETARY: Hearing none, anyone else wishing to speak?

(No response)

MR. SECRETARY: Hearing none, do we have a motion?

MS. SULLIVAN: I move that this case be bound over to the Attorney General's office.

MR. SECRETARY: Alright, Ms. Sullivan moves that we bind over. Do we have a second?

MR. WORLEY: Second.

MR. SECRETARY: Have a second by Mr. Worley. Any other discussion?

MR. SIMPSON: Do we know what the dates are that he voted?

MR. SECRETARY: Mr. Harvey?

MR. SIMPSON: Has he voted -- 2011 since or is it all earlier or more than four years?

MR. HARVEY: Give me one second.

MR. WILLARD: The most recent election was November of 2012.

MR. SECRETARY: We've got 2012, Mr. Harvey.

MR. WILLARD: The most recent. We don't list all of them but we do list the most recent.

MR. SECRETARY: Let the record show that 2012 is the most recent.

MR. HARVEY: That is what the report shows then it is 2012.

MR. SECRETARY: Any other questions?

MR. SIMPSON: Are we going to bind it over just for the 2012 election? Or what elections and how many instances are we proposing to bind it over for?

MR. SECRETARY: Mr. Willard, wouldn't it be appropriate for us to bind that over and you take the case and then figure out what exactly happened and then work that out with them or do we need to specifically cite each instance?

MR. WILLARD: No, Mr. Secretary, you can make a general bind over. I will -- I think I made note of this to you and Mr. Harvey. Given that Mr. Harvey's investigators have not been able to locate this respondent this may be coming back before the Board on an inability to serve but a general bind over will be sufficient in this case.

MR. SECRETARY: I will just say for my personal -- I certainly understand that we may not be able to find this individual but I still think it sends the right message to bind it over but that is the Chair's opinion.

Alright, so we did have a motion to accept and Mr. Worley second. Any other discussion, any other questions?

(No response)

MR. SECRETARY: Hearing none, all in favor of binding over signify by saying, "aye".

(Whereupon, there were a chorus of ayes)

MR. SECRETARY: All opposed same sign?

BOARD MEMBER: No

MR. SECRETARY: That motion carries with Mr. Simpson voting no. Alright we are on to 2012 number 114 Carroll County case.

MR. HARVEY: Yes, sir. This case involves a school board election in which an incumbent

school board member was re-districted out of the district that she was originally in. After the 2010 census the reapportionment office re-drew [sic] the district lines. She believed she was in district 1 which had been her original district. She qualified in district 1. The county qualified her in district 1. Her husband received in absentee ballot once the election commenced and found out that she wasn't on his ballot. He went to the elections office and they discovered that in fact their address had been moved to district 3. The board had a hearing and disqualified her as a candidate. The candidate went to Superior court and had a judge order reinstatement to the ballot. So we've got the county cited for not following the proper procedure in terms of qualifying the candidate in her proper district.

The second violation we've got cited is that when the judge ordered the candidate put back on the ballot the county then issued a ballot to her husband in district 1 when he in fact did not live in district 1. They had moved to district 3. It's a little bit of a technicality there but that's what we've got the board cited for is failure to properly qualify and then issuing a ballot to a voter who does not live in that district.

I believe the candidate and Carroll County are present to speak with the Board.

MR. SECRETARY: Mr. Harvey can you just walk me back through the qualifying process real quick?

MR. HARVEY: Yes, sir. The candidate was a representative in district 1 and believed she lived in district 1. She had been serving district 1. After the reapportionment when the map was drawn her address was now in district 3 however she believed she still lived in district 1 and she qualified in district 1 and the county allowed her to qualify in district 1. When it was brought to the county's attention that -- her husband believed he had just gotten the wrong ballot because she was not on it. The county went back and said as a matter of fact you were in district 3, you can't run in district 1, we are disqualifying you. The judge then said she is back on the ballot. The judge did not change district lines or anything like that but the judge said she remains on the ballot and then the county issued her husband a ballot for that district which technically he did not live in. There were a few other allegations that were made about an unsecured ballot box and people being denied the right to vote. We didn't find violations in those instances but we did find a violation in failure to properly qualify and then arguably issuing a ballot to her husband when he doesn't live in that district and this is one that I would recommend be bound over to the Attorney General's office.

MR. SECRETARY: The recommendation to bind over, why is that?

MR. HARVEY: I think due to the -- it is not something that is going to happen all the time but reapportionment district lines do get changed but I think it probably has some effect on the election. I think there is some gravity being taken off the ballot and then getting put back on.

MR. SECRETARY: Okay, so forget what the judge did, from the county's perspective they should have known after redistricting that the candidate no longer lived in the district?

MR. HARVEY: Yes. When she submitted her paperwork they should have checked and said

you can't qualify in district 1. You live in district 3.

MR. SECRETARY: So that was just a mistake?

MR. HARVEY: Correct.

MR. SECRETARY: And then everything else that follows was really reactions to the judge's ruling?

MR. HARVEY: Well, the other issue of issuing the ballot to her husband with her on the ballot is--

MR. SECRETARY: I could see the logic here from the parties in the county -- I could see the logic in the judge said the candidate remains on the ballot. He was basically saying that she lived in that household and it was alright to stay on the ballot. I could see the county's perspective both ways. I could see them saying this house isn't in the district, so even though the judge said she can vote there he can't but I can also see the logic of, well the judge said that she could vote and she lives there then that should make it alright for the husband to vote. I mean that is obviously not something you see every day.

MR. HARVEY: It is certainly not completely illogical if the county would have done that but there were a lot of complaints about people that thought they didn't get to vote correctly because they didn't realize that their district lines had been changed also. So a lot of people made basically the same complaint that her husband did that, hey, I got the wrong ballot or I didn't get to vote for this person not realizing they too had been moved to district 3.

MR. SECRETARY: Does any of the Board members have a question for Mr. Harvey?

MR. WORLEY: Maybe it is in the report and I missed it but did the judge say that she could vote in her district or only that she had to be on the ballot?

MR. HARVEY: The order that I saw it was simply that she be put back on the ballot. It didn't say anything about voting.

MR. SECRETARY: Alright, anyone else wishing to address this and surely there is. Welcome. Good Morning.

MS. BROOKS: Good Morning, I am Bernice Brooks and I live 130 Red Branch, Villa Rica, Georgia 30180. I am here to review the findings. I would like to share these observations for your paragraph statement (reading) furthermore White (phonetic) stated that members of the Carroll County Board visited the reapportionment office and confirmed the new redrawn district map in October of 2011 all in attendance, including Dr. Brooks, were shown the new district maps and there were no objections. On that day on review of the new district lines the South district lines of Board member Dr. Bernice Brooks was below 760 Bailey Brooks Road residence. The rational as stated by director Chantell Bell (phonetic) and I quoted you are a sitting elected official, I cannot map you out of your district. She repeated that several times.

When review of the maps were received Dr. Brooks' house was located by a red dot and that dot was noted as 760 Edge Road, one mile or more due North of her house. I have the map here. Note the difficulty in finding Bailey Brooks Road was due to the name check. The name was formerly Reed Road. The Carroll County Commissioners renamed the road to honor my family for longevity as a resident and because of my accomplishments.

The next finding in the paragraph beginning with (reading) in hind sight Mashburn said she probably should have simply broke the seal and opened the box in public eyesight however Mashburn insisted that she never held ballots in her hand anyway, anytime during the election. Overall Mashburn stated the recount confirmed the original count and no other incidents were reported. I submit that the two witnesses that observed the incident were not contacted for an explanation concerning this matter. Those witnesses are Darden Burtin Calloway (phonetic) and Mark Zachary (phonetic) whose name and phone numbers were provided. I do wish to share with the Board that I will continue to pursue this matter through appropriate channels.

MR. SECRETARY: Mrs. Brooks I assume -- I'm sorry if I didn't catch this are you Doctor Brooks?

MS. BROOKS: Yes.

MR. SECRETARY: Any questions for Dr. Brooks?

MR. MCIVER: Yes.

MR. SECRETARY: Mr. McIver.

MR. MCIVER: Dr. Brooks, what is it you would have us do?

MS. BROOKS: Well, I was disappointed with the fact that there was not any concern as to my address being moved from 760 Bailey Brooks to 760 Edge Road, which is in Douglas County.

MR. MCIVER: I recognize that you are disappointed but what would you like for us to do?

MS. BROOKS: I'd like to see -- my recommendation is that the lines are redrawn according to a census block. The census block where my house was personally located was not done. The line was drawn straight down the power line which is fifty feet from my last home.

MR. SECRETARY: How did your address get changed?

MS. BROOKS: I really don't know but this map shows that my house is located 760 Edge Road instead of 760 Bailey Brooks Road.

MR. SECRETARY: So it wasn't necessarily your address changed but it was just the county thought you lived in one place but you actually lived in another, is that what happened?

MR. BROOKS: That's probably it. I have absolutely no idea.

MR. SECRETARY: Any other questions for Dr. Brooks?

(No response)

MR. SECRETARY: Thank you for being here, ma'am.

MR. BROOKS: Thank you.

MR. SECRETARY: Anyone else wishing to speak?

MR. LEE: My name is Nathan Lee it has been a few years since I've been before you. I am the lawyer. I am here today representing Carroll County Board of Elections and in the 2010 reapportionment following the census, I don't know if any of you had any level of involvement in that but there is really not any expert in reapportionment because it comes around only every 10 years and those that did deal with it pretty much forgot what the process changes. So, I was not involved with the Board of Education on their reapportionment but I understand that it is undisputed that they all including Dr. Brooks went to the State reapportionment office and expressed the intent was for all incumbents to remain in their district, which makes sense. They were shown maps and told that all the incumbents were to remain in their same districts. Now all these maps were produced with computer software and so when that was voted on by the legislature and then sent out to Carroll County to the Board of Elections when you would enter in Dr. Brooks' name to check residency, however it happened, she was drawn out of her district. I think she lives on forty acres, her house was on three and then three acres were cut out. How that happened is an answer for somebody that knows more about that than I do but that is in fact what happened. The Board of Elections voted to disqualify her not because they didn't think she should be able to run but they didn't believe that they had the power to override the legislature and then of course we went to court and we didn't fight. I told the same story I am telling you here today, we don't know how this happened. We certainly think she should be able to run for the seat that she held.

The then Elections Supervisor Becky Deats (phonetic), when Dr. Brooks came in to qualify since she was in incumbent she did not check her residency. That was a mistake that should have never happened. We are now two election supervisors removed from Ms. Deats (phonetic). I have Mr. Gregg Rigby here with me today and he told me, you know, I don't need to be told that. You have to check everybody whether they are incumbent or not. We don't have a formal policy on that that is just how he believes. That is just what he thinks he is supposed to do. We would just submit that a husband and wife live in a house together and a judge orders her that she remain on the ballot we just thought it was common sense that she be allowed to vote for herself as is anybody that resided in that same house with her. Having said that we have no other excuses. That is just what happened.

MR. SECRETARY: Alright, Mr. Lee, welcome back. I'm glad it's been a while since we've seen you. I should ask this question to Dr. Brooks and I'll let her answer in a minute if she would like to add. So, what was the outcome of the election?

MR. LEE: She lost.

MR. SECRETARY: She lost. So you didn't have to deal with the aftermath had she won and then she wouldn't have been living in her district and then you get the whole question of you can't serve if you don't live in your district.

MR. LEE: That's right and that would have been something for the legislature to handle, in my opinion.

MR. SECRETARY: Mr. Willard -- if you don't mind giving us one second, I want to ask Mr. Willard a question. Dr. Brooks mentioned that she couldn't have been drawn out of her district. That was more of a comment from the policy of the school board and the people that were redrawing the maps I would assume because it's certainly not illegal for someone to get drawn out of their district, correct?

MR. WILLARD: Correct. The local delegation could have told Gina Wright over at Legislative and Congressional Reapportionment, we want all five incumbents drawn into the same district to create four open seats if that had been their inclination.

MR. SECRETARY: I'm just trying to make sure that that was not a legal question we need to answer versus one that just was a policy of the School Board. Did any Board Members have a questions for Mr. Lee?

MR. MCIVER: I do.

MR. SECRETARY: Mr. McIver.

MR. MCIVER: Mr. Lee, what would you have us do?

MR. LEE: I think a letter of instruction. I mean I have Mr. Rigby here and it is his practice and he was in the Douglas County Board of Elections before this and that has just always been his practice. If we could have a letter of instruction and we could publish it to the office staff which is very small. I mean, Ms. Deats (phonetic) is long gone and not as a result of this. She just retired and actually the board member who was -- there was no finding of wrong doing she's -- there was a three member board and two of these members are retired as well.

MR. WORLEY: Was there any effort made after this happened to redraw the district lines, so that Dr. Brooks would be in her original district?

MR. LEE: My understanding and I don't represent the Board of Education but my understanding is that when she was not re-elected and it was not due to any error in the -- I say error -- mistake in the redrawing that the issue is moved. They were not going to bring it back up in the legislature but that would be a question for the Board of Education.

MR. SECRETARY: Alright, any other questions for Mr. Lee?

(No response)

MR. SECRETARY: Alright, thank you for being here. Did anyone else wish to speak on this matter?

MR. STRICKLAND: My name is Justin Strickland (phonetic). I live on (indiscernible) Georgia. Been working with Dr. Brooks in filing this information and to answer the question was any efforts made following this error that was made, we did petition the local school board for a resolution. They refused to do that. We petitioned the local representative Kevin Cook (phonetic) and Justin Hightower (phonetic). We petitioned both of their offices for a resolution. They refused. So those are the efforts we're making in order to try and correct this redistricting error.

MR. SECRETARY: Thank you, Mr. Strickland. Any questions for Mr. Strickland?

(No response)

MR. SECRETARY: Dr. Brooks did you have anything else that you wanted to add?

MS. BROOKS: No.

MR. SECRETARY: Thank you for being here. Somebody gave me some wise advise one time when they were talking about redistricting and they said no matter what you think it is a political exercise and people have been before and I'm sure they will be again either multiple candidates are thrown into the district or multiple candidates thrown out. I'm sure you had instances in the past where things that weren't supposed to happen like drawing an incumbent out of the district by mistake happened that shouldn't have but I don't know that there is anything legally and I will stand to be corrected if Mr. Willard will disagree with me but I don't know if there is anything legally that this Board could do to address that. It seems this is an unfortunate situation for you Dr. Brooks. I can imagine some of the faults that the judge is going through trying to figure out how to deal with this situation. With that being said, if there is no one else wishing to speak the Board needs to take some action. If anybody has a motion I will accept one.

MR. SIMPSON: Mr. Chairman, may I ask a question?

MR. SECRETARY: Mr. Simpson, yes.

MR. SIMPSON: This is one of those -- and I noticed several of these summary reports in our book. This summary does not have the recommendation. We don't have a recommendation as to what action we should take. It just says that there is a potential violation but it looks like to me this is one of those cases where unfortunately we don't have the ability to fashion a remedy for Dr. Brooks and it looks like the county board has resolved this matter and is moving forward. So it looks like to me it is one of those things that we are sort of powerless to really do anything significant except to tell the county board through a letter of instruction to make sure this doesn't happen again. So because of that I would recommend we issue a letter of instruction.

MR. SECRETARY: Is that a motion Mr. Simpson?

MR. SIMPSON: Yes.

MR. SECRETARY: We've got a motion from Mr. Simpson. Let me just make one comment from your comments, Judge. I think Mr. Harvey did make a recommendation after he wrapped up to bind over but I think we are also very, very cautious when we're discussing these cases prepping for these meetings. Some of these cases we quite honestly feel like the Board should just hear and then weigh-in because this Board, as you can see today, is very cordial but doesn't always agree but we try to reach remedies that are good for the people of this State and for elections and I think this is one of those cases where you could have opinions when you start a case of what may should happen but then when you actually hear from the individuals in the room and hear their testimony then your opinion of what you thought earlier may change or there may be a better recommendation. So I think that is why I am a little cautious sometimes to be too forceful with the recommendation. I think it is helpful for Mr. Harvey to verbally do that but I have a little bit of an angst about putting things in writing like that because that is the job of this Board is to hear these cases, hear from all of the individuals that take their time to come to these meetings and give us their side of the story and then us trying to make a proper recommendation, so I just wanted to allow that for the discussion.

Alright Mr. Simpson has got a motion for a letter of instruction. Is there a second?

MR. MCIVER: Second.

MR. SECRETARY: Got a second by Mr. McIver. Is there any other discussion? Mr. Worley.

MR. WORLEY: I would prefer that we bind this over even though the people who were involved at the time are not there. It seems to me that a lot of the problems that are here arise out of the fact that the Carroll County Board didn't do its due diligence at the time and given that qualifying a candidate is a very, very significant responsibility and one that should be carried out very carefully I think it just highlights the issue if we bind the case over and so that would be my preference.

MR. SECRETARY: Alright, Mr. Worley has his opinion on the matter but we do have a motion and a second for a letter of instruction. Is there any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor of Mr. Simpson's motion for a letter of instruction, signify by saying, "aye".

(Whereupon, there were a chorus of ayes)

MR. SECRETARY: All opposed same sign.

BOARD MEMBER: No

BOARD MEMBER: No.

MR. SECRETARY: Okay, that motion carries three to two. We will issue the letter of instruction. Thank you-all for taking the time to be here today.

Alright Mr. Harvey we are moving to 2012, 117. It is a Cobb County false registration.

MR. HARVEY: This case involves a -- there was an individual who was going around in Cobb County passing out absentee ballot applications. It was originally thought that these were voter registration applications and it ended up being absentee ballot applications. They started coming into the Cobb County Elections office and the elections staff caught some irregularities that caused them to follow up on five of them and what they found was that in three cases individuals had requested absentee ballots for -- in one case, the first case Mr. Mathis (phonetic) had requested an absentee ballot for his wife and was told, hey, just fill out her information and sign it and I'll send it in for you as he was coming out of a Quick Trip. So he filled out the form and he signed his wife's signature as if she were requesting an absentee ballot. When Cobb County followed up with her and the signature didn't match they contacted Ms. Mathis (phonetic) and said hey we've got your absentee ballot application and she said what absentee ballot application. When the Mathis' spoke they figured out what had happened.

There were two other individuals who requested absentee ballots and were told that they were in fact voter registration applications. So these people who were non-citizens Mr. Patrick Camathey (phonetic) and Mr. Miguel Martinez (phonetic) submitted an absentee ballot application. They weren't even registered to vote. They were told that they could do this by this third person. So we've got Mr. Mathis (phonetic), Mr. Camathey (phonetic) and Mr. Martinez (phonetic) cited for submitting improper absentee ballot applications. The indication is that they were seriously misled by the person who was doing it, who is subsequently deceased. I would recommend that these three respondents receive letters of instruction from the Board regarding the proper request for an absentee ballot and would also just give a good note of acknowledgement to the Cobb County Voter Registration office for catching some discrepancies and reporting to our office.

MR. SECRETARY: Very good. Any questions for Mr. Harvey?

(No response)

MR. SECRETARY: Anyone wishing to speak on this matter?

(No response)

MR. SECRETARY: I concur with the good work that the Cobb County Registration did in recognizing this. Any other discussion from the Board?

(No response)

MR. SECRETARY: We have a recommendation for those three letters of instruction to all three respondents.

MR. SIMPSON: So moved.

MR. SECRETARY: Alright, Mr. Simpson moves to issue the letters. Do we have a second?

I'll second. Any other discussion?

MR. WORLEY: Mr. Chair, I would like to bind this over to the Attorney General's office rather than issuing a letter of instruction. It is not at all clear to me that some of them are saying they were misled but it's not clear to me that they were in fact misled. (Indiscernible) is other testimony that they weren't misled, so I would bind it over.

MR. SECRETARY: Alright Mr. Worley thinks we should bind it over but we do have a motion and a second. Do we have any other discussion?

(No response)

MR. SECRETARY: Hearing none, we've got a motion to issue letters. All in favor signify by saying, "aye".

(Whereupon, there were a chorus of ayes)

MR. SECRETARY: All opposed same sign?

BOARD MEMBER: No

BOARD MEMBER: No

MR. SECRETARY: That motion carries three to two. So we will issue the letters of instruction.

Alright Mr. Harvey we will move to 2012 number 122 which is another Cobb County, deceased voter case.

MR. HARVEY: Another catch by the Cobb County Registration office they received a voter registration application for a Donald Ruben High (phonetic) who had been dead for four years. They reported it to our office. We investigated it and came to -- we got copies of documents and found out that a Donald Jeffrey High (phonetic) his son had submitted paperwork that had very, very similar handwriting to it, living at the same address. We also found out at the time that Mr. High, Jr. was under indicted in Cobb County for multiple counts of identity theft and fraud and we subsequently learned that he has been convicted and is serving a twenty year sentence with ten years to serve on a long list of theft and racketeering and identity theft charges. We do have him cited for violation -- he is going to be in prison for at least ten years. Normally the recommendation is to obviously bind this over to the Attorney General's office since he is

already serving criminal sentences. I think it may be a double jeopardy issue and usually in those cases the Board does not proceed administratively. So that is my recommendation. Unless there's some confusion about the double jeopardy issue I would recommend that this case be dismissed because he is serving a criminal sentence already.

MR. SECRETARY: Any questions for Mr. Harvey? Mr. Worley.

MR. WORLEY: Thank you, Mr. Chairman. Is he serving a sentence for any of the things that are alleged in this complaint?

MR. HARVEY: Well, no. That is the distinction I should have made. Not for these specific documents to my knowledge.

MR. SECRETARY: Mr. McIver.

MR. MCIVER: The opinions of Mr. Willard on this of how he would want us to proceed?

MR. WILLARD: I would ask Mr. Harvey and confirming what Mr. Harvey just told you, we are not -- we have no information as to whether or not the fraudulent documents that are in this case formed a part of the identity fraud prosecution that has resulted in the twenty to serve ten sentence. In this case if it is the Board's inclination to bind it over we will see if we can make a visit to one of our institutions of long term residency and see if he is willing to negotiate a sentence. I can say that I don't care what an ALJ puts in an order, Corrections will not be delivering Mr. High (phonetic) for an administrative hearing over at OSA anytime in the next ten years. With that, it may be a case the Board just wants to put on the back burner and assuming this gentlemen serves his ten years and then if they want their pound of flesh at that time to bind it over to us. I would prefer not having a case sitting on my file cabinet for ten years waiting for his release from prison to prosecute him at that point.

MR. MCIVER: I do have a comment. I am concerned about setting a precedent here. Despite his presumably violation of his other Georgia laws this is a deliberate act based on what I have read in Mr. Harvey's report and that has got to be dealt with by this Board. I would support binding it over. May be it would represent a problem for Mr. Willard but that's the reason he makes all that big money down there anyway. But I am concerned that in some way it would appear that we are forgiving this sort of conduct and that should not be done.

MR. WORLEY: And I would completely concur with Mr. McIver.

MR. SIMPSON: And I agree as well.

MR. SECRETARY: Alright, well, we certainly know where to find this gentlemen. Any other discussion?

(No response)

MR. SECRETARY: Anyone wishing to speak?

(No response)

MR. SECRETARY: We did not have a motion yet, did we?

MR. WORLEY: No, but I will make a motion to bind it over to the Attorney General's office.

MR. SECRETARY: Mr. Worley moves that we bind it over. Mr. McIver seconds. Any other discussion?

(No response)

MR. SECRETARY: Anyone else wishing to speak? Just want to make sure we didn't miss anybody.

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: And that motion carries. Mr. Harvey we move to the 2012, 172, the Gwinnett double voter.

MR. HARVEY: This is a case where an individual with the last name Hoey spelled H-O-E-Y was registered to vote in Gwinnett County. In 2012 he filed a change of address in DeKalb County and when he wrote his name it appeared and I think a reasonable reading of it was that his last name is spelled, Huey (phonetic). He didn't appear to completely close the O in Hoey, so he was registered as Huey (phonetic). When he went to vote he wasn't found on the voter -- so he wasn't found, so he voted a provisional ballot as was appropriate. On Election Day he went thinking that maybe they would solve the problem and he would be able to vote more accurately. He went to his assigned precinct where he encountered the same problem not being found at the express poll and was allowed to vote another provisional ballot and when the results came in, Gwinnett County identified him properly as being registered to vote. They counted his proper provisional ballot and they canceled the other one. They initially reported it, Gwinnett County was the complainant, as possible attempt at double voting. It really doesn't appear as though there was an intent to double vote and I would point out that in the summary report where we have Gwinnett County cited for violation I would recommend that the Board dismiss those citations. We determined that they didn't do anything improper and that they actually did count the ballot that they should have counted. Some of the paperwork they initially provided led us to believe they didn't. So we don't have any violations for Gwinnett County and I would recommend that those be dismissed. As far as Mr. Hoey goes I would recommend that the Board

issue a letter of instruction. He did actually cast two ballots but he cast two provisional ballots and I think his actions were understandable.

MR. SECRETARY: Why would we issue a letter if his actions were understandable?

MR. HARVEY: I think they were understandable in the sense that as a citizen making sure his vote counted. I think when he signed the oath on the second provisional ballot it says I have not cast another ballot in this election. I think that is technically a false statement, so I think that gives the Board the basis in issuing the letter and the pros to move on this.

MR. SECRETARY: So he should have not signed that when he read it and asked somebody saying, I voted one provisional can you-all check if it is good or not?

MR. HARVEY: Yes, sir. I think that would have been the proper course if he had shown up and explained the situation and when he got to signing that form said wait a second this isn't true because I voted -- at that point presumably the election officials would have said look they will deal with your first provisional ballot you don't need to vote a second one and you really shouldn't vote a second one.

MR. SECRETARY: Any questions for Mr. Harvey?

(No response)

MR. SECRETARY: Anyone else wishing to speak on this matter?

(No response)

MR. SECRETARY: We have a recommendation to dismiss Gwinnett and a letter for Mr. Hoey.

MR. SIMPSON: Mr. Chairman?

MR. SECRETARY: Mr. Simpson.

MR. SIMPSON: We have consistently done these illegal voting cases by binding them over. I do not see any reason -- this is the same thing about signing an application saying you are a citizen or saying you are not a felon. So I don't see any distinction here and it seems to me that the case should be bound over to be consistent.

MR. SECRETARY: Mr. Worley.

MR. WORLEY: I agree with the Judge and I'm also a little troubled with this concept of a provisional ballot is not really a ballot. I mean it is a ballot and the fact that he voted provisionally once should have put him on notice that he has voted and so I agree, Gwinnett should be dismissed but I would bind over Mr. Hoey.

MR. SECRETARY: Any other discussion?

(No response)

MR. SECRETARY: Did any of you want to make that motion?

MR. SIMPSON: I move that we bind this case over.

MS. SULLIVAN: Second.

MR. SECRETARY: That will deal with Mr. Hoey--

MR. WILLARD: Can we have that reflected on the record, Mr. Secretary?

MR. SECRETARY: I'm sorry?

MR. WILLARD: The motion to bind over was a generic motion to bind over. I would ask that the record reflect what exactly Mr. Simpson--

MR. SECRETARY: That is what I was about to ask.

MR. SIMPSON: Just the charges against Jonathan Hoey (phonetic).

MR. SECRETARY: Alright, we have a motion and a second to bind over Mr. Hoey. Any discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign.

(Whereupon, there was no response)

MR. SECRETARY: And that motion carries. Do we have a motion for Gwinnett. I would move that we dismiss the case against Gwinnett County. Mr. McIver seconds. Any other discussion?

(No response)

MR. SECRETARY: All in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: And that motion carries. Okay, Mr. Harvey are we now moving to 2013 number fifty-five City of Monroe. We are jumping over Cherokee County, right?

MR. HARVEY: Yes, sir. Because there is nobody here for that. This case involved a complaint from a candidate, who is running for city council seat in Monroe that nine people were not allowed to vote or had problems while voting in that election and we investigated that case and interviewed all nine individuals and what we found was with one or two exceptions the people he provided, I believe, five of them actually did cast ballots. Two of them indicated that they did not vote or that they never attempted to vote and then there were two people that had issues. One of the people who cast an absentee ballot was rejected because the name didn't match the signature and that is actually going to be a subject of another case that you are going to hear in just a little bit. That is going to be Walton County voter registration case. So we will take him out of the play for a moment. The only other individual who wasn't allowed to vote said that he went to vote and was told he could not vote because he had an expired driver's license. He left and he was going to come back with his real driver's license. When we asked him if he could identify the person that told him that he gave a description of a poll worker. The person he described was not consistent with the people who were working at the polls and nobody at the poll had any record of anybody being turned away. They all acknowledged that an expired driver's license is proper ID and even then a provisional ballot would have been the solution if there was a question about ID. So at the end of the day there was -- the sole issue we found was that a voter registration application appeared to have been filled out improperly. That again is going to be addressed in a subsequent case. We did not find any violation at the elections office and we recommend that this case be dismissed.

MR. SECRETARY: Any questions for Mr. Harvey?

(No response)

MR. SECRETARY: Hearing none, anyone else wishing to speak on this matter?

MR. FERGUSON: Secretary Kemp, Board Members. My name is Jim Ferguson. My address is 535 St. Ives Walk in Monroe. I am here representing the Walton County Board of Elections. Ms. Gene Fipps (phonetic) the supervisor of elections is here as well. We certainly agree with the investigators recommendations and we respectfully request that you dismiss the case.

MR. SECRETARY: Very good. Well, thank you-all for being here this morning. Any questions for Mr. Ferguson?

(No response)

MR. SECRETARY: Hearing none, you are good to go.

MR. FERGUSON: I appreciate it and it may make sense if you would consider -- Mr. Harvey

mentioned there is a related case and I think Ms. Fipps (phonetic) would certainly like to hear what comes out of that case as well.

MR. SECRETARY: Alright anyone wishing to speak on this matter?

(No response)

MR. SECRETARY: Hearing none, we have a recommendation to dismiss the City of Monroe in this matter. Do we have a motion?

MS. SULLIVAN: So moved.

MR. SECRETARY: Ms. Sullivan moves to dismiss. Do we have a second?

MR. WORLEY: Second.

MR. SECRETARY: Mr. Worley seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign.

(Whereupon, there was no response)

MR. SECRETARY: And that motion carries and we get a dismiss. I am being told that our lunch will be ready at 12:15, so I am going to keep going. Let the record reflect that Ms. Sullivan needs to step out for a minute. We will call SEB case 2013 number fifty-six, the City of Dahlonga case.

MR. HARVEY: This is a case in which three voters were allowed to vote in special election 2013 when they were not residents of the City of Dahlonga. When three voters showed up to vote in the City of Dahlonga election. The election officials contacted the Lumpkin County elections office and had their residency checked. The Lumpkin County Deputy Registrar Linda Williamson (phonetic) mistakenly believed that they were city residents. She did not check the system. She apparently just kind of went on a, that sounds like it is in the city sort of deal, so she approved them to vote and they cast ballots in the Dahlonga election. The voters were not city residents and should not have voted in the election and so I recommend that Ms. Williamson (phonetic) the Deputy Registrar in Lumpkin County be bound over to the AGs office on the listed violations.

MR. SECRETARY: Alright, Mr. Harvey, we have the respondents listed as the board and the supervisor as well. The recommendation is just to bind over Ms. Williamson (phonetic)?

MR. HARVEY: That is correct.

MR. SECRETARY: Okay. Any other questions for Mr. Harvey?

(No response)

MR. SECRETARY: Anyone else wishing to speak on this matter?

MS. PECK: Yes. My name is Ashley Peck (phonetic). I am the Elections Supervisor for Lumpkin County. My address is 79 Grandview (phonetic) Street Dahlonega, GA. We just wanted to say the Board is here with me to represent and we certainly appreciate you taking the time to listen to us and Mr. Harvey's recommendation on this matter. We did want to let you know that we did correct Ms. Williamson's (phonetic) actions when this took place. She was re-trained once we found the mistakes and she was required to complete the e-learn courses as well as sit down with me and review office policies and procedures the board had in place during this. I appreciate your time.

MR. SECRETARY: It was great for you-all to be here this morning that says a lot and certainly appreciate the work that you do. Is there any questions for Ms. Peck (phonetic)? Mr. McIver.

MR. MCIVER: Is Ms. Williamson (phonetic) still employed?

MS. PECK: She is not. There was some other issues later and she was removed at a later date.

MR. SECRETARY: Any other questions for Ms. Peck?

(No response)

MR. SECRETARY: Thank you-all for taking the time to come down. Did anyone else wish to speak on this matter?

(No response)

MR. SECRETARY: Hearing none, do we have any other discussion or a motion?

MR. MCIVER: I move we bind over Ms. Williamson (phonetic).

MR. SECRETARY: Mr. McIver moves to bind over Ms. Williamson (phonetic). Do we have a second?

MR. SIMPSON: Second.

MR. SECRETARY: Mr. Simpson seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: That motion carries and we have bound over Ms. Williamson. Alright, Mr. Harvey we are skipping down to 2014 number fifty, I believe, the Cherokee County poll problems.

MR. HARVEY: Ms. Watson will be presenting those cases.

MR. SECRETARY: Alright, Ms. Watson. Welcome.

MS. WATSON: Thank you. In 2014, fifty, Cherokee County (indiscernible) voting case in this the complaint is a voter in the July 22nd, 2014 primary run-off election in Cherokee County was told she had already voted when in fact she had not and was informed that this type of error was occurring at other locations in Cherokee County. The voter stated she visited her precinct and immediately was informed by poll officials that records showed that she had already voted in the run-off election. The voter explained to the officials that she had in fact not voted and requested to be allowed to vote on electronic ballot instead of provisional ballot. After waiting briefly she was allowed to cast an electronic ballot. The voter asked the poll officials if any other electors had encountered similar problems and it was advised that yes this similar error occurred at other locations in the county.

Our investigation showed that Cherokee County Elections Supervisor Kim Stancil (phonetic) confirmed the complaint and further stated that the express poll were problematic in the election. An error occurred when a list of eligible voters was created by Cherokee County Elections Clerk Jennifer Atkins. Ms. Atkins did not delete the old voters from the express polls and input the new list of eligible voters. Instead she attempted to edit the express polls which unsuccessfully marked all the eligible voters as having already voted. The error was correctly promptly once it was brought to the attention of the Elections Supervisor. The investigation ruled that there was no evidence to suggest that voters were turned away as a result of the error that had occurred. The recommendation is to refer to the Attorney General's office the Cherokee County Board of Election Registrations office and the Elections' Supervisor Kim Stancil (phonetic), the Elections Clerk Jennifer Atkins for violation of 21-2-224(f) when they failed to properly prepare and complete an official list of eligible electors five days prior to the July 22nd primary run-off election.

MR. SECRETARY: Any questions for Ms. Watson?

(No response)

MR. SECRETARY: Anyone else wishing to speak on this matter? Welcome.

MR. ROBIN: Good afternoon, Mr. Secretary and Members of the Board. My name is Ken Robin. I am the attorney from Jarrard and Davis at 105 Pilgrim Village Drive, Cumming, Georgia 30040. I represent Cherokee County Board of Elections and Registration. I have here today Kim Stancil (phonetic) who is the director of Cherokee County elections and to her left, fourth row is Jennifer Aikens who is the assistant director of Cherokee County elections.

To preface this, I really want to state to the Board that this is Cherokee County Board of Elections first rodeo before you as far as any violations are concerned. They have an exemplary record of service in preparing and conducting elections in Cherokee County abiding by your rules and regulations on the State Election Code and I think that is important to note. I also want to note that Ms. Aikens is a human being and she admittedly made a mistake here. I do want to go into some slight clarifications and corrections as far as some statement of facts by the investigator here today. First of all, there was a statement that Ms. Aikens tried to edit the express polls which was unsuccessful. It almost implies that she nefariously or she was doing something inappropriate as far as going into the system and editing the change of the eligible list of voters. That's not exactly what happened here and also it was stated in the investigation's summary, not all eligible voters with the county being marked as having voted for that July 2014 run-off although they've not actually voted. That is simply incorrect. What happened here was Ms. Aikens was downloading and saving the absentee poll update for the July 2014 run-off election to the (indiscernible). Where the prior elections made both update (indiscernible) and what happened is, there was this one case she didn't first remove that prior (indiscernible) update and for whatever reason the previous file didn't get overwritten as a result of that all absentee voters from May 2014 election were logged in the express poll tab had voted. So just to clarify it didn't result in all eligible voters being reported as having voted. It worked (indiscernible) fifty-one hundred plus the absentee voting in the May 2014 election out of a total of one-hundred and forty-six thousand eligible (indiscernible) counties having been marked as already voted.

What I want to focus on for the Board today is the steps that were taken once this error was found out. It was reported to the elections staff main office at approximately 6:25 a.m. on election day which was more than half an hour before the polls opened. Once this occurred election staff including Ms. Aikens took swift action to make sure that there was no disenfranchising of voters turned away and that there was no adverse impact on the voters as a result of this unfortunate mistake. What happened was the elections office immediately communicated to all poll managers at all precincts of what had occurred and instructed them that if a voter arrives that was on the list marked as having already voted absentee then to contact the elections office immediately, so they could verify whether that voter in fact had already voted or whether they were part of being on this list unfortunately by mistake. They were also instructed on how to unmark these voters who erroneously indicated as having been voted and they were also told that voters who did not want to wait around, they had to go to work in the morning, to have them fill out and vote by provisional ballot while all this cleared up as to whether or not they were actually eligible to vote or whether they have in fact already voted in the July run-off election. Also while that was taking place elections' staff and again including Ms. Aikens looked at the list and merged the list of the voters who voted absentee in July along with the list of voters who voted absentee in the prior election and they compiled a list of the voters who

were erroneously marked as having already voted. So they created this corrected, hard copy list showing who was erroneously marked as having already voted and a team of elections staff physically went to each polling place delivered that list and this was delivered approximately 10:00 a.m. on election day. So this was approximately a three-hour period from 7:00 a.m. to 10:00 a.m. election staff was on top of correcting this unfortunate mistake through this verification process and got communication with all the poll managers and poll places as far as verifying that there was no disenfranchising or voters being turned away who actually were entitled to vote. Then from 10:00 a.m. going forward everybody at the polling places had a list showing definitively who was erroneously blocked as having already voted and I think that is crucial to note. Ultimately there was no evidence of anyone being turned away. The voters actually didn't get a chance to learn -- and that's noted in the summary too that the complainant actually voted. I think that is crucial to note.

I respectfully ask that the Board act to dismiss this case and close out this case. What happened here is an unfortunate human error. This is a onetime occurrence. Ms. Aikens has worked for the elections office for seventeen years and but for this one speck in time she's had an unblemished record and this is just a bad moment. She made a mistake as all humans do and she has not made the same mistake since then. She has not made this mistake prior. Her practice has always been to read the prior absentee vote list before she saves and inserts the new one. There has been extensive training and obviously based on this complaint, since then by Ms. Stancil and by Ms. Aikens herself as far as being sure to follow that procedure deleting and removing that prior absentee voter list before the new one is saved (indiscernible), so this does not happen again in the future. I think that is why even a letter of instruction here quite frankly would be redundant. Ms. Aikens is here today already embarrassed for making this mistake. She has already given herself plenty of grief over it and once the mistake was noted the board of elections acted swiftly and definitively correcting and it resulted in no voters being adversely affected. Based on that I respectfully ask that this case be dismissed and closed out. If the Board is not inclined to do that then I would suggest that, at most, a letter of instruction would be the appropriate matter. Thank you for your time.

MR. SECRETARY: Thank you, Mr. Robin. Any other questions for counsel? Mr. McIver.

MR. MCIVER: Just to clarify for me, no voters were affected at all?

MR. ROBIN: That is correct.

MR. MCIVER: The folks that showed up and said I've got to go to work they all came back?

MR. ROBIN: Well, there is no evidence that anyone said they had to go to work and left because of any verification process.

MR. MCIVER: No voters were not turned away? Which is the wrong word to use here but they attempted to vote, they were frustrated and some left?

MR. ROBIN: I have no information that that took place. None of the investigators mentioned that (indiscernible) as well and as far as the provisional ballot option that was available to these

folks that didn't want to wait around. My understanding is that all those folks who were told about that option didn't want to wait around did wait around and did not vote provisional. They made sure the verification took place and it did take place and voted and they were allowed to vote.

MR. SECRETARY: Mr. Robin, if you would use your microphone. I think Mr. McIver had one more question.

MR. MCIVER: Is there any significance why Ms. Beringer did not give a statement in this investigation. We are looking at the notes of the interviewer as opposed to a statement. Should we attach any significance to that?

MR. ROBIN: I think that is significant to note. I think that's significant in failure of Cherokee County. It shows that Ms. Beringer felt that she was truly disenfranchised and was wronged in not being allowed to vote. If she would have made a statement she might have been here today to support the complaint. I think it is just further demonstration that the Board of Elections took swift action and appropriately handled this unfortunate mistake once it was caught and the voter was ultimately not affected.

MR. SECRETARY: Mr. Worley -- I'm sorry are you done, Mr. McIver?

MR. MCIVER: Yes, sir. I wanted to complement the counsel on his client. You are strangers to this Board and that is something to be proud of.

MR. ROBIN: Thank you , sir.

MR. SECRETARY: Mr. Worley.

MR. WORLEY: Could you tell us at what point in the day the poll managers throughout the county were informed that this was a problem and that they should be told that they could vote a provisional ballot?

MR. ROBIN: The elections main office was notified after 6:25 a.m. So it would have been at that period between 6:25 a.m. and opening of the polls.

MR. WORLEY: It was actually before the opening of the polls that word went out?

MR. ROBIN: Yes, I can't definitively tell you that word went out to everybody before 7:00 a.m. but the process of informing everybody was right at that time before everybody was notified.

MR. WORLEY: Thank you.

MR. SECRETARY: Mr. Robin, if you will hold tight. Mr. Simpson, did you have anything?

MR. SIMPSON: No, but as far as we know no one was prevented from voting. I mean Ms. Beringer voted and you didn't have any complaints from any other people or any reports of

complaints from any other people, is that correct?

MR. ROBIN: That's correct.

MR. SECRETARY: I just had one thing I wanted to ask Ms. Watson and then you may want to ask that questions. Mr. Watson, can you explain to me again do we have one voter that voted twice?

MS. WATSON: No.

MR. SECRETARY: What was it when you were telling us -- I thought we were saying that there was one person that maybe voted early and then came in and voted on the machine again?

MS. WATSON: She was offered a provisional but she said that she was told that she had already voted and she said no I haven't already voted and requested to be allowed to use an electronic machine and she was allowed to use it. She only voted once. She was offered the provisional and she said I haven't already voted I want to vote--

MR. SECRETARY: Okay, they were saying that they thought she had already voted.

MS. WATSON: Right. That's what we're showing on the express poll--

MR. SECRETARY: Okay, I misunderstood. Very good. That clears that up. I don't think I have any more questions. Anybody else have anything for Mr. Robin?

(No response)

MR. SECRETARY: Alright, thanks for being here. Anyone else wishing to speak on this matter?

(No response)

MR. SECRETARY: Hearing none, do we have a recommendation or any other discussion?

MR. WORLEY: I'd like to make a motion.

MR. SECRETARY: Mr. Worley.

MR. WORLEY: Given Cherokee County's prior record of actions and how they administer their elections and the fact that I really think they made an incredible effort on election day to make sure that this would not be a problem out in the precincts and they are very clear about what's been done and I think it would be most appropriate to dismiss the case.

MR. SECRETARY: Alright Mr. Worley moves to dismiss. Do we have a second or any other discussion?

MR. SIMPSON: I'll second.

MR. SECRETARY: Alright, Mr. Simpson seconds. I will certainly agree about Cherokee County and the great job that they have done. I think they handled this about as best as you can. I am a little troubled by dismissing this. I personally think a letter might be more appropriate just because I believe there was a violation that happened. With that being said, even errors happen in elections. It happens at the County level, it happens at Secretary of State's office and I think Cherokee County handled this about as good as you can. They owned it and as soon as it happened -- I've had to do that before and say, hey, this is our mistake. The buck stops here and this is what we are going to do to fix this. I certainly appreciate that. With that being said, I do think it would be more appropriate to do a letter just for the record that there was a violation but I hope that the county knows that I appreciate all that they do in my view here and certainly appreciate the way that they reacted. With that being said, we do have a motion and a second.

Mr. McIver.

MR. MCIVER: Whatever the Judge stands for in terms of the statutes of limitations I truly would like to stand for setting a precedent and I am very troubled here about a dismissal. There was a human failure here and albeit persuasively argued by counsel because we all make mistakes. This should have been caught by the supervisors in my judgment and it was not and that is the sort of thing that we deal with every day. So I support a letter of instruction certainly over that of any form of dismissal largely because of the precedent that will be set. Supervision should have been used here in a greater degree than it was and that was not the case. This was a failure (indiscernible) and that is what we are really charged to deal with. All of us -- the five of us on this Board have taken an oath to do this. My view of this is just a letter of instruction and I intend to vote against the motion.

MR. SECRETARY: Is there any other discussion?

(No response)

MR. SECRETARY: Alright with that being said, we have a motion and a second to dismiss. All in favor signify by saying, "aye".

BOARDMEMBER: Aye.

MR. SECRETARY: All opposed same sign?

BOARD MEMBER: Nay.

BOARD MEMBER: Nay.

BOARD MEMBER: Nay

MR. SECRETARY: Mr. Worley's motion failed. Do we have another motion?

MR. MCIVER: I move that this matter be handled by a letter of instruction.

MR. SECRETARY: I will second that. Any other discussion? I think certainly before we vote I would like to just say again I think regardless of our little bits of disagreement here I don't think that there is any doubt that this Board appreciates the work that Cherokee County has been doing past and present but there are precedent issues that we have to deal with here and I certainly understand Mr. Worley's position and Mr. Simpson's on the first motion and I don't speak for them but I will assume that they understand where Mr. McIver and I are coming from and certainly hope that the county sees that as well.

Is there anyone else that would like to comment?

(No response)

MR. SECRETARY: Alright we have a motion and a second for a letter of instruction. All those in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: That motion carries and thank you-all for being here today. We will break for lunch and come back at 1:20. Mr. Willard, do we need to discuss anything in the Executive session or are we just going to go ahead and break for lunch?

MR. WILLARD: No, Mr. Secretary, nothing to discuss.

MR. SECRETARY: Alright, well, we will break for lunch and we will see you-all back here at 1:20. Thank you.

(At 12:20 p.m. a recess was taken, after which the following proceedings were had at 1:20 p.m.)

MR. SECRETARY: Let me go ahead and call our July 15th State Election Board meeting back to order from our lunch break. Before we get started back on our calendar I just wanted to note, I should have done this this morning but this is also Mr. Russ Willard's "swan song" with the State Election Board today. He said he is going to spend the next ten years waiting for that fellow to get out of prison (laughter).

No, Mr. Willard has been promoted within the Attorney General's office. As you know that Stefan Ritter has left to go be over the Ethics Commission, so Mr. Willard has gotten a promotion. We want to thank him for his service to the State Election Board and wish him the best in the future and just appreciate you working with us and I know we still have a little bit of unfinished business for the rest of the day and a couple of other matters, so we look forward to putting that to bed but we appreciate you working with us on the Board, sir.

MR. WILLARD: Thank you, sir.

MR. SECRETARY: Okay, Ms. Watson you leading us off after lunch?

MS. WATSON: I think.

MR. SECRETARY: Let's see, I've got that we got 2014 number fifty-nine. It is a Paulding County felon case?

MS. WATSON: Yes, that's correct. The complaint is Bobby Shane Duff (phonetic) a convicted felon under sentence registered to vote in Paulding County. Certified copies of the felony conviction were obtained and verified that Mr. Duff was in fact a convicted felon under sentence at the time of the voter registration application. Mr. Duff was contacted and verified that he did complete the voter registration application and stated that he was not aware that he was not allowed to do so. The recommendation is to refer to the Attorney General's office Brian Shane Duff for violation of 21-2-561.

MR. SECRETARY: Any questions for Ms. Watson?

(No response)

MR. SECRETARY: Hearing none, anyone else wishing to speak on this matter?

(No response)

MR. SECRETARY: What was the recommendation again, Ms. Watson?

MS. WATSON: Refer to the Attorney General's office for violation of 21-2-561.

MR. SECRETARY: Any other questions? Anyone else wishing to speak on the Paulding County 2014, number fifty-nine case?

(No response)

MR. SECRETARY: Hearing none, do we have a motion or any discussion?

MR. WORLEY: I make a motion to bind over this case to the Attorney General's office.

MR. MCIVER: Second.

MR. SECRETARY: Mr. Worley moves to bind over. Mr. McIver seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: That motion carries. The next case 2014, number eighty-five, Gwinnett County voter registration application.

MS. WATSON: In this case more than one hundred completed voter registration applications were turned in late to Gwinnett County on October 28th, 2014. Over twenty days after the October 6th, 2014 deadline. The investigation found that Corey Fisher (phonetic) had coordinated a voter registration drive on behalf of her sorority. This group of applications came into Ms. Fisher's possession around September 27th, 2014. They were inadvertently left in her vehicle and once she found them -- once she discovered them in her vehicle she gave them to her fiancée to transmit to Gwinnett County and the recommendation is for her, the respondent Corey Fisher, to bind over to the AGs office for violation of 21-2-224 for failure to transmit the completed voter registration applications to the designated registrar's office in a timely manner.

MR. SECRETARY: Any questions for Ms. Watson?

(No response)

MR. SECRETARY: Hearing none, anyone else wishing to speak on this case?

(No response)

MR. SECRETARY: I will just note for the record that this is a classic example of a good reason to use the online voter registration system. Certainly we have many ways to register to vote and it is certainly proper to do it by paper application but you can alleviate the problem of somebody not turning the forms in if you are doing the registration drives online for those citizens that want to register to vote that have a driver's license or state issued I.D. So we are certainly promoting that. I know the counties are as well and I think anything we all can do to let our citizens know about that option. There is a free mobile app that you can download by searching www.gavottes.com We would appreciate you-all continuing to spread the word about that. It is a great and easy way for people to register to vote.

That being said, any other discussion or a motion?

MR. MCIVER: I have a question.

MR. SECRETARY: Mr. McIver.

MR. MCIVER: Ms. Watson, it appears from your narrative, presumably you are the author of this report, that Ms. Fisher eventually, furnished the investigator. Was she less than cooperative?

MS. WATSON: I do not believe that she was less than cooperative. I mean she responded but she was not less than cooperative with our investigation.

MR. MCIVER: No other questions.

MR. SECRETARY: Anyone else?

(No response)

MR. SECRETARY: Do we have a motion?

MR. SIMPSON: I move to bind the case over.

MR. WORLEY: Second.

MR. SECRETARY: Mr. Simpson moves to bind over. Mr. Worley seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign.

(Whereupon, there was no response)

MR. SECRETARY: That motion carries. The next case, Mr. Watson, 2014 number eighty-six is a Paulding County voter registration application case.

MS. WATSON: Paulding County reported that a person possibly attempted to register to vote with possible false identification. On October 31st, 2014, during early voting for the November 4, 2014 General Election, Robertson Zenzy Butler (phonetic) went to a precinct in Hiram, Georgia in Paulding County. He completed his voter registration application as he had moved from Douglas County into Paulding County. He requested a ballot but refused to provide any identification to certify that he was a United States citizen. Mr. Butler was refused a ballot by Paulding County and ultimately rejected the voter registration application and they verbally explained to Mr. Butler why the application was being denied.

On November the 4th Mr. Butler went to his assigned precinct in Douglas County and provided the acceptable photo ID and was allowed to cast a ballot. The recommendation is to refer this case to the Attorney General’s office for a violation of 21-2-562(a)(1) when he entered fraudulent information for his address on November 4th, 2014 and failed to submit a voter registration change of address form when he voted in Douglas County as he no longer resided in

Douglas County.

MR. SECRETARY: Okay, any questions for Ms. Watson?

(No response)

MR. SECRETARY: Anyone else wishing to speak?

MR. WILLARD: Mr. Secretary, if I may?

MR. SECRETARY: Yes, Mr. Willard.

MR. WILLIARD: He was properly registered to vote and eligible to vote, correct?

MS. WATSON: He was registered to vote in Douglas County.

MR. WILLIARD: And he did end up voting in Douglas County?

MS. WATSON: He did.

MR. WILLARD: Alright.

MS. WATSON: He had moved to Paulding County and went to try to vote in Paulding County but refused to provide his citizenship status or to provide photo ID.

MR. SIMPSON: But you determined he was not a citizen?

MS. WATSON: He is a citizen. He just would not provide any corroboration to that to Paulding County when he was trying to register in Paulding County as a new voter in Paulding County but he was already registered in Douglas County but had moved to Paulding County.

MR. SIMPSON: What is the problem?

MR. SECRETARY: I guess the question is what did he violate?

MS. WATSON: He was entering his home address that he was still a resident of Douglas County when in fact he was not.

MR. SECRETARY: So basically like a false swearing?

MS. WATSON: Yes.

MR. SIMPSON: Well, did he affirmatively say that or did he just not give the new address form?

MS. WATSON: He just did not complete a new address form. He just went in like he was still a

resident of Douglas County and proceeded to vote as he would normally if he still resided in Douglas County.

MS. SULLIVAN: It appears that our documentation says that he entered an old address on the voter certificate and that would be a sworn statement, is that where the problem is?

MR. WATSON: Yes.

MR. SIMPSON: He did fill out a form?

MS. WATSON: Yes.

MR. SIMPSON: Okay.

MR. SECRETARY: Do we have anyone else wishing to speak?

MS. HOLDEN: Deidra Holden, Elections Supervisor, Paulding County, 240 Constitution Boulevard, Dallas, Georgia. I wanted to provide some verification. When he came in to the precinct, he completed a voter certificate and we realized that he was not registered to vote. He was then offered a voter registration application so he could transfer. He would not check that he was a citizen because he provided the card stating that he was a Moorish National and that he did not abide by the laws of the State of Georgia or these United States.

MR. SECRETARY: A Sovereign Citizen.

MS. HOLDEN: Sovereign Citizen. So, when he refused to check that on his application our manager said, I'm sorry we can't accept this because on the application it says do not complete any further and I believed you checked, no, on one of these answers. So she took a picture. I asked them to take a picture of his ID and send it to me and it is very clear that he is not a citizen. What bothers me is he had an ID. He would not provide it but he goes to Douglas County on election day and provides them with a military ID which is perfectly acceptable. So we are seeing this more and more with the Moorish Nationals and the Sovereign Citizens and it may be something that the State wants to address because we are seeing it so much. They want to abide by the rules that they want to abide by and not abide by all of the laws that apply to them. So, I just want to be clear that you should have a picture of what was sent to the investigator of his identification.

MR. SECRETARY: So when he signed that voter certificate then he did false swear, correct?

MS. HOLDEN: Yes.

MR. SECRETARY: He filled it out completely and then signed it?

MS. HOLDEN: Yes and he also put the address he was living in as Paulding when he told the poll manager that he had moved six months ago into Paulding from Douglas and that Douglas allowed him to vote, which I don't think that should have happened either because the law is

very clear that in thirty days you should change your registration but they did allow him to vote, which they probably would not have known. He had a good address. He had a military ID and so they allowed it.

MR. SECRETARY: Any questions for Ms. Holden?

(No response)

MR. SECRETARY: Thank you for clearing that up. Anyone else wishing to speak?

(No response)

MR. SECRETARY: Mr. Simpson, did you have a motion?

MR. SIMPSON: Yes. I move we bind the case over.

MR. SECRETARY: Do we have a second?

MR. WORLEY: Second.

MR. SECRETARY: Mr. Simpson moves to bind over. Mr. Worley seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: That motion carries. So was that case number 2014, eighty-six, that we just did?

MS. SIMPSON: Alright, we are moving on. Ms. Watson, 2014, 107. It is a Fulton County issue.

MS. WATSON: Yes, sir, and I believe the case number is incorrect. It should be 2014, 104.

MR. SECRETARY: Alright, let the record show we are on 2014, 104.

MS. WATSON: In this particular case on November 4th, 2014 an elector alleged that the wheelchair lift at the Hope hill elementary school was inoperable and its exit poll blocked by a table resulting in a voter in a wheelchair having to be carried up the steps into the poll by poll

workers. The investigation revealed that the wheelchair lift needed a key to make the lift operable. The key had not been located prior to the 7:00 a.m. opening of the poll. A voter in a wheelchair was waiting when the polls opened and the voter was assisted by other voters to gain access to the polls. The key was located prior to the voter exiting the poll and the lift was able to be utilized.

The recommendation in this case is to refer to the Attorney General's office Fulton County Board of Elections and Registration, Bridget Hope (phonetic) the poll manager, Paul Thomas the assistant poll manager for violation of 21-2-265 for failure to provide handicap persons suitable and appropriate access to a poll location for voting and Board of Election Rule 183-1-6.04 for failure to provide a handicap person a continuous unobstructed access to the poll location for voting.

MR. WILLARD: Mr. Secretary?

MR. SECRETARY: Mr. Willard.

MR. WILLARD: So since our initial meeting your office's recommendation on this case has changed? My understanding in talking with Mr. Harvey was this was going to be a recommendation for a LOI, Fulton County?

MR. SECRETARY: Mr. Harvey, do you recall any of that discussion?

MR. HARVEY: I recall us talking about and pointing out the key was obtained by the time the voter was ready to leave. So I thought it was one that may be was suitable for an LOI but that is always, of course, up to the Board's discretion.

MR. SECRETARY: Well, we will just see what the everybody has to say and go from there. Any questions for Ms. Watson?

MR. STEWART: Good afternoon, Mr. Secretary and distinguished panel. My name is Denval Stewart (phonetic) and I work for Fulton County. I represent the Fulton County Board of Registration and Elections. Here today with me is the Elections Chief Mr. Dwight Brown who can speak more on this matter. It is our request that this complaint be dismissed because the BRE did not intentionally or willfully violate both the applicable State law or your promulgated rules which is 183-1-6.04 for not having an unobstructed path connecting the parking area to the voting facility. If I may with your allowance I do have some pictures that I would like to present.

MR. SECRETARY: Do we have a motion to accept the documents?

MR. STEWART: Yes, please. I just have one set.

MR. SECRETARY: We have a motion and a second. All in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign.

(Whereupon, there was no response)

MR. SECRETARY: We have moved to accept the documents.

MR. STEWART: Thank you. (Presenting). These pictures are not (indiscernible) to represent the way the voting facility looked on the day of November the 4th, 2014 since they were taken after. I'm offering these to show you that the path starting with the first pictures showing that the area was properly marked as required by the State law and your notice requirements with the international handicap symbol and that if you were to peruse through the pictures you would see that -- let me step back. This facility is Hope hill elementary school and what we have here is that this is the only path into that voting facility for the disabled or I like to say the differently-abled and you will see here that if you peruse through these pictures there is a permanent lift that is available there for disabled children to access the library and it just so happens that on the morning of voting the polls opened at 7:00 however the librarian who was a new individual did not arrive until 7:30 which was when the school opened and she had the key. As soon as she arrived at 7:30 we had the key. Unfortunately for the BRE the gentlemen had arrived early and was assisted by several members up these three flights of stairs before a polling official could come over and let the individual know that there was a key available for assistance. So it is our position that if you look at the code section which required that it be unobstructed there is -- the facility is operable. The fact that it requires a key would not make it inoperable. It's just a matter of timing.

The other thing we would like to point out is that the assistant poll manager Mr. Thomas he was unable to attend today because he had a prior medical appointment that he could not make it but he did provide me with an affidavit which I would like to present if permitted. May I?

MR. SECRETARY: Yes, we have already moved to accept the documents.

MR. STEWART: (Presenting)

MR. SECRETARY: We will give that back to you.

MR. STEWART: The purpose of the affidavit is simply to show that on the morning in question that it was his observation that the only thing that was missing was the fact there was a delay in obtaining the key from the new librarian. That there was no table or furniture or anything that was blocking access to the elevator lift.

MR SECRETARY: So you are claiming that there was not a table blocking the exit?

MR. STEWART: No, sir, because at this time the school was still in operation and so when open, children would still have to access that facility, so there would be no need for a table and if there was which obviously I wouldn't have any pictures of that I can only go with the sworn affidavit that that is something that probably would have been moved without a delay once the

polling officials noticed that there was a disabled person who needed to require to utilize the lift and as pointed out in the complaint as soon as the gentlemen was able to vote it took him approximately fifteen minutes by the time he completed voting around 7:45 that he was available and he was assisted out of the building through the lift elevator. I do want to say this, I recall at one point representing Fulton County in a lawsuit in which someone was suing the county for, let's just say, approximately a million dollars and it was against the county and it was against the official and so it was a jury trial and at the conclusion of the trial the jury found no liability for the county but they turned around and they found liability against the officials for five hundred dollars. So when polling the jury, we asked them why did you believe that the officials did nothing wrong did you impose a five hundred dollar penalty and their response was even though that official didn't do anything wrong we thought that the -- the jury said they felt like the individual alleged victim was owed an apology and we recognize in this case that in order to preserve a person's dignity and especially a handicap persons' dignity they would not want to be lifted like that. So we do offer a public apology to the individual, who I might point out was not the person who filed the complaint, who was an observer. We also want to point out that the problem with the key because we want to avoid the situation where polls open at 7:00 and the school doesn't open until 7:30 but now going forward we've made arrangements for the key to be left with the polling official overnight to make sure that we have access.

I guess my argument is from a technical point to show that pursuant to the letter of the law that you could find that there was an obstructed path that that was not the case and as such we would request that this matter be dismissed.

MR. SECRETARY: Any questions for Mr. Stewart?

(No response)

MR. SECRETARY: Thank you-all for being here this morning. Well, let me ask you one thing. I want to ask Ms. Watson this too. So it is my understanding that when this happened somebody was going to get the key and while they were gone to get the key some other voters lifted the person and got them on in the precinct before they could actually come back with the key, is that correct?

MR. STEWART: No, I would not want to state that. Apparently the individual, the librarian had not arrived yet because it was prior to 7:30 and so they were on their way into the facility and it just so happened that before -- well, actually the polling person saw the disabled individual. He had requested assistance from other voters and they lifted him up and by the time we saw him we are like -- they went and got the key, found the librarian and was able to assist him out of there.

MR. SECRETARY: And then he used it on the way out?

MR. STEWART: Yes.

MR. SECRETARY: But you-all's side of the story -- your testimony here is that there was not a table blocking the entrance?

MR. STEWART: No. From the polling manager's perspective, who was there observing and based on his personal observation there was no table blocking the lift elevator.

MR. SECRETARY: I am going to let you have that document. Can we get somebody on our staff to make a copy of that so we can just keep one.

MR. STEWART: I have several copies.

MR. SECRETARY: Is that the original?

MR. STEWART: Yes, it is. I can give you some more copies if you need them.

MR. SECRETARY: You can just give me a copy when you get done. I don't want to take your original.

Okay, any other questions for Mr. Stewart?

(No response)

MR. SECRETARY: Alright, thank you guys for being here. I appreciate it. Ms. Watson, I know Investigator Howard dealt with this case. So the complainant Joe Darose (phonetic), do you know what he was telling us? Was he saying that there was a table blocking--

MS. WATSON: He did say that there was a table blocking but there was no other corroboration to the table other than the original complaint.

MR. SECRETARY: Is anyone else wishing to speak on this matter?

(No response)

MR. SECRETARY: Do we have any discussion with the Board? I personally don't see why we would bind this over.

MS. SULLIVAN: At the appropriate time, I would make a motion that we issue a letter of instruction in this case.

MR. SECRETARY: The time is appropriate certainly for a motion. We have a motion by Ms. Sullivan and a second from Mr. McIver for a letter of instruction. Any other discussion?

(No response)

MR. SECRETARY: I would just make one quick comment in regards for Fulton County, thank you for being here today and for giving us you-all's views on this situation. I hope you can also understand when we get a complaint on ADA issues on polling locations we take that very seriously. We want to make sure that we have access for all individuals that want to vote in

Georgia. So I certainly -- I know you guys understand that. I thank you for being here today.

Any other discussion?

(No response)

MR. SECRETARY: Hearing none. I have a motion and a second for a letter of instruction. All those in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: That motion carries. Ms. Watson, I think we are moving back up on the agenda to 2013 number twenty-one? The Stegall felon case? Mr. Harvey is back with us.

MR. HARVEY: Let me catch up here. The complaint here is that in Cherokee County a Jason Tommy Stegall (phonetic) voted while serving a felony sentence. He was convicted of a felony on October 2nd, of 2012. He voted on the 24th of 2012 and he was actually on the felon list the following month. So he was convicted. He voted in about three weeks while serving a felony sentence and then he made it on the felon list. There was a question as to why he wasn't on the felon list. It was because he voted so quickly after he was convicted.

It is our recommendation that Jason Tommy Stegall be bound over to the AGs office for registering to vote as a convicted felon.

MR. SECRETARY: Alright, any questions for Mr. Harvey?

(No response)

MR. SECRETARY: Hearing none, anyone else wishing to speak on this matter?

(No response)

MR. SECRETARY: Hearing none, do we have a motion?

MR. SIMPSON: I move that we bind the case over.

MR. WORLEY: Second.

MR. SECRETARY: We have a motion by Mr. Simpson and a second by Mr. Worley to bind over. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: We have moved to bind the case over. Next we have 2013 number fifty-eight the City of Lake City.

MR. HARVEY: This case is another ADA-type case. This case involved a complainant who, like the Fulton County case, himself was not disabled but when he went to vote in the City of Lake City election he notified that there was a door bell to get into the voting area that he felt was much too high for anybody in a wheelchair to reach. We went out and we identified the doorbell. It did appear to be pretty far out of reach for somebody had they been in a wheelchair. When we out there and notified Lake City they did lower it down to a level that was much more consistent with what would have been necessary for a handicap voter. But in addition we discovered the elections superintendent Eric Beckham (phonetic) was not certified to run the election. So they were able to fix the doorbell issue all in which we didn’t get any other complaints but the elections superintendent was not certified. So I recommend that it be bound over on those listed violations.

MR. SECRETARY: Did we notice the Superintendent?

MR. HARVEY: I believe so.

MR. SIMPSON: He’s named as the respondent.

MR. HARVEY: We have him listed as a respondent and all those people got notices, so I would certainly believe that, I think, he would have been noticed. He certainly should have gotten the notice.

MR. SECRETARY: So we have a recommendation to bind him over for not being certified and then do we have a recommendation for the doorbell? They fixed that problem, correct?

MR. HARVEY: They did fix the doorbell. Generally binding over on one thing, we bind it over on everything or dismiss the doorbell. Again, we didn’t get any complaints that any individuals were affected by it. They removed it when we pointed it out to them. I think dismissing that and issuing a letter of instruction either in conjunction with a consent order or something else would be appropriate for the doorbell.

MR. SECRETARY: Any other questions for Mr. Harvey?

MR. WORLEY: I had a question?

MR. SECRETARY: Pull that mic to you, Mr. Worley.

MR. WORLEY: Mr. Harvey, the report indicates that there was an email to an attorney. I presume from Lake City involved in this case. Were they made aware of this hearing?

MR. HARVEY: I don't think that the attorney necessarily -- he or she may not have been noticed but certainly the respondents were provided notice. Normally, if we know that there is an attorney that is representing we generally list them with the respondents as an attorney for.

MR. WORLEY: On one page of this report it has a witness list and he's listed Michael Williams, attorney at law and I guess he sent an email relating to this. Do you know what position he was taking in that email? I just want to make sure that they had an opportunity to present whatever facts that he wanted to present

MR. HARVEY: The report indicates that we contacted him on two several occasions and requested some type of status or some type of report and the report indicates that he never responded. So whether he was actually their attorney or not I don't know.

MR. SECRETARY: But we are positive that the City and the election officials were noticed?

MR. HARVEY: I'm as positive as they were served in the same process everyone else was.

MR. SECRETARY: Are you done, Mr. Worley?

MR. WORLEY: Yes.

MR. SECRETARY: Mr. McIver.

MR. MCIVER: Often time cities have their elections run by the county. Is there any history here for Lake City?

MR. HARVEY: Not that I'm aware -- I'm not aware of any election case before involving Lake City.

MR. MCIVER: Could there be any reason why this gentlemen was not certified? Meaning previous elections had been administered around another time? It's Clayton County?

MR. HARVEY: That certainly is possible. It is possible that he has run them before and they just never run into an issue and it's never been discovered that he wasn't certified. I guess I don't believe I've ever had a Lake City case come up for any kind of complaint in the eight years that I've been doing this.

MR. MCIVER: Well, let's say that Lake City runs their own elections is there a fail-safe in the divisions elections here in Atlanta that would catch the fact that here is a supervisor, who runs its own elections, is not certified?

MR. HARVEY: No, sir, there is not. Unless somebody were to call with a specific questions, we could tell whether or not somebody was certified but there is no kind of registration for Municipal--

MR. MCIVER: A directory of some sort?

MR. HARVEY: Not that I'm aware of. No, sir. The cities kind of do their own thing.

MR. MCIVER: So we've seen.

MR. SECRETARY: I'm with you on that, Mr. McIver. I will say however this year Julie Walters who is with us today and some of her folks did elections training at GMA. We had over a hundred Municipal clerks -- I think it was just about an all-day or half a day training. It was all day wasn't it?

MS. WALTERS: Yes, sir. It was a continuing education training. It was a hundred and seven Municipal city clerks.

MR. SECRETARY: We haven't always been asked by GMA to do that. So we were very glad when they asked us and sent a big staff down there to help train over hundreds -- of course you know there is just over, I think, six hundred cities in Georgia. So it is always a moving target with people coming in and out and you know you have cities that will run an election at one site and the next site the county is doing it and it is just very hard for us to keep up with all of that but I feel like we are making strides but honestly this individual was not certified which is troubling.

Was there anyone here wishing to speak on this matter other than who has already?

(No response)

MR. SECRETARY: Any other discussion from the Board? A motion?

(No response)

MR. SECRETARY: Well, I will move that we would issue a letter of instruction to the City of Lake City and then bind over -- is it Mr. Beckham?

MR. HARVEY: Yes, sir.

MR. SECRETARY: To the AG's office.

BOARD MEMEBR: Second.

MR. SECRETARY: We have a motion and a second. Any other discussion?

(No response)

MR. SECRETARY: All those in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign.

(Whereupon, there was no response)

MR. SECRETARY: That motion carries. Next we have 2013 number sixty-five. Ms. Watson is back with us.

MS. WATSON: In this case the complaint is that Brenda Malan (phonetic) a convicted felon and under sentence and registered to vote in Fayette County. Ms. Malan completed a voter registration card on November 4th, 2013. She was sentenced in February of 2012 for a felony conviction in Fayette County. She was in fact under sentence as a convicted felon on November 4th, 2013. Ms. Malan stated that she did in fact register to vote but did not realize it was a violation to do so. The recommendation is to bind over the respondent Brenda Malan for violation of 21-2-216(b) for registering to vote on November 4th, 2013 while under sentence for a felony conviction.

MR. SECRETARY: Any questions for Ms. Watson?

(No response)

MR. SECRETARY: Anyone else wishing to speak?

(No response)

MR. SECRETARY: We have a recommendation to bind over to the AG's office, is that correct?

MS. WATSON: Yes.

MS. SULLIVAN: So moved.

MR. WORLEY: Second.

MR. SECRETARY: Ms. Sullivan moves and Mr. Worley seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none all in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: That motion carries and we have bound that case over to the AG's office. Next is 2013 number sixty-nine. The Walton County voter registration case.

MS. WATSON: Walton County reported that they received three voter registration cards that were submitted to their office and they all appeared to be completed and signed by the same individual although the names on the cards were different. The investigation determined that Mary Helen Peters (phonetic) had completed a voter registration card for herself, her daughter Marquette Butler (phonetic), and Antonio Spear (phonetic) on October 1st, of 2013. Marquette Butler advised that she and Antonio Spears were present when Mary Helen Peters completed voter registration cards and gave Ms. Peters permission to do so. Mary Helen Peters also signed the cards for the individuals but did not sign as assisting required in 21-2-220(f).

The recommendation is to bind over Mary Helen Peters to the Attorney General's office for violation of 21-2-220(f) for failure to sign the voter registration form in the space provided to identify the person offering assistance.

MR. SECRETARY: Any questions for Ms. Watson?

(No response)

MR. SECRETARY: Anyone else wishing to speak?

(No response)

MR. SECRETARY: Any other discussion? Do we have a motion?

MS. SULLIVAN: I move we bind this case to the Attorney General's office.

MR. WORLEY: Second.

MR. SECRETARY: Ms. Sullivan moves we bind the case over. Mr. Worley seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none all favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign.

(Whereupon, there was no response)

MR. SECRETARY: And that motion carries. Next we have 2014 number eighteen. It is a Jackson County Campaign Sign case.

MS. WATSON: Yes. A campaign sign reading help re-elect Dwayne Smith was posted on the

window to the door leading into the civic center which was being used as the new town precinct in Jackson County on election day of May 20th, 2014. The investigation showed that the sign was posted on the door windows leading into the precinct into the polling place on or around April 17th, 2014. There was an event held at that location previously which was in April in support of Mr. Smith and the sign had just remained on the door until election day and it wasn't noticed by anyone prior to the opening of the poll. Once it was brought to the attention of the officials, the sign was removed and they made arrangements to check the perimeter throughout the day.

The recommendation in this case is to bind over for violation of 21-2-414 for the poll manger Floyd L. Wood (phonetic) for failure to check the perimeters of the polling place prior to opening for campaign material or activity prior to opening the poll.

MR. SECRETARY: We have a recommendation to bind over. Do we have any questions for Ms. Watson?

MR. SIMPSON: Yes.

MR. SECRETARY: Mr. Simpson -- I'm sorry, Mr. Harvey, did you have something you wanted to add?

MR. HARVEY: I was going to add just that Ms. Wood has sent a letter as well as the superintendent from Jackson County expressing her contrition and apologies. I wanted to make the Board aware of it.

MR. SECRETARY: Judge Simpson.

MR. SIMPSON: Yes, I am looking at the statute 21-2-414 that prohibits placing the sign but there is nothing in the statute which would put any liability on the poll manager for allowing somebody to do it. It is not covered under the statute. That is not a violation in my opinion. The person that post the sign would be responsible only, under the statute as I read it.

MS. SULLIVAN: Unless there is some other regulation that places the burden upon the poll manager to check for those kinds of things I would agree with Mr. Simpson.

MR. SECRETARY: Do we have any other sections, Mr. Harvey, that would be the responsibility of the elections supervisor or poll manager?

MR. HARVEY: I think that when you get in to the powers and duties as the superintendent I think you can infer -- (indiscernible) polling place produced in primary elections in accordance with this chapter. I think that is a duty that is on the superintendent and maybe it will come down. I don't disagree with Judge Simpson that there is not a specific requirement for a poll manager to remove these things but to allow them is sort of the negligence I think.

MR. SIMPSON: That's unlike charging me for allowing Ms. Sullivan to shoot somebody

because she is the one doing the shooting and I just allow it because I'm sitting next to her. That is no crime. So I just don't think that is appropriate. I move to dismiss it.

MR. SECRETARY: We have a motion by Mr. Simpson to dismiss but Mr. McIver had a question.

MR. MCIVER: Mr. Harvey, is there any history here of who literally enforces these, and I'm going to initially answer my own question because some of those that we have had other cases on they summon the sheriff, the sheriff sends the deputy and they remove campaign materials or people who should not be standing within a hundred and fifty-feet and so on and so forth. So what is the structure, if any, for enforcing this action?

MR. HARVEY: I think that normally that is what would happen. Normally the poll managers would call law enforcement to deal with any violations in law that they encounter. I mean had she been aware she would have removed it herself. She came in through the back way and just never saw the front of the building.

MR. MCIVER: Could the sign have been there, according to her letter, for a couple of weeks.

MR. HARVEY: Right and then she just didn't come in the front door. I guess it's like you might use the front door of your house and somebody sticks a card in there and you go in through the garage and you wouldn't know that somebody had left something for you. Normally they would contact the sheriff or the police department who would come out and remove an unruly person or somebody who was actively (indiscernible). That would be the normal course of events.

MR. MCIVER: That is the structure that is in place?

MR. HARVEY: Yes, sir.

MR. MCIVER: Whether or not it is covered in training I wouldn't know but I assume there is an instruction manual or something for poll managers?

MR. HARVEY: Right, there is--

MR. MCIVER: If you perceive to have a problem call someone.

MR. HARVEY: Yes and as soon as she identifies -- as soon as it was brought to her attention she did take action against it. So, yes, if somebody came into the precinct and started to create a disturbance or violate the law the poll managers would normally call 911 as well as the election superintendent for the polling place.

MR. MCIVER: This is presumably some hole in the statute that doesn't provide for dueling force just the poll manager is there to manage and that might mean calling the sheriff, calling 911 or maybe the Board itself, not this board but the county board

MR. HARVEY: Right.

MR. SECRETARY: I think normally too you have campaigns that are out there putting signs up either in or outside of the buffer. I think this was something where somebody put this sign up days, weeks before the election and just left it there and then when the superintendent or the poll manager came in they just didn't think anything about it and just oversaw it and probably more of an embarrassment than anything. I don't think it was an orchestrated campaign event. It was just something that was left over that the poll manager didn't see.

Mr. Simpson, did you have something?

MR. SIMPSON: Yeah, both these statements that we have from Ms. Wood said that she -- I acknowledge the voter brought it to my attention that there was a campaign sign. I immediately removed it and called the elections supervisor and the elections supervisor, Ms. Works (phonetic), says the sign was brought to the attention of Ms. Fluet (phonetic) at 7:30 and she immediately removed the sign. I don't see anything else they could have done.

MR. HARVEY: I would just point it out to you, if I may that 21-2-413 (h) indicates that it shall be the duty of the chief manager to secure the observance under this code section, to keep order in the polling places while persons are admitted within the close space that are permitted by this traffic. I think that may be the basis for putting the duty on the poll manger to make sure that all those codes are complied with and I think we had cases before where a sign has appeared in the midst of voting where somebody sticks a sign in the yard and nobody knows who it is. It is removed immediately and that is generally not considered a violation but when somebody doesn't take the initial step to secure the facility or make sure that when they are starting off before they open the polls that they are in compliance with the statute that would be the basis of the possible violation.

MR. SECRETARY: What about the complainant Mr. Jordan? Do we know much about him? Was he mad or was he just letting us know? Do we know that?

MR. HARVEY: I don't know that there is any real history or any much of a background on him.

MR. SECRETARY: Mr. McIver.

MR. MCIVER: Well, here I am back at precedent again but I am concerned with respect to Judge Simpson's motion that we would allow this to occur when in essence clearly it is the poll manager's responsibility to inspect the site and to report anything or deal with anything that doesn't appear to be in accordance with the code, so I favor a letter of instruction. I would not dismiss the case for fear that we are setting a precedent that might come to haunt later.

MR. SECRETARY: Anybody else?

MR. SIMPSON: May I?

MR. SECRETARY: Mr. Simpson.

MR. SIMPSON: Down there in subset -- if you're going to read four thirteen as broadly as we are talking about reading it, there is also a provision in here that says no person shall use photographic or other electronic monitors. We do not charge the poll manger or any election officials for allowing any of these people to take photographs, so that is inconsistent as well. It seems like to me whatever construction we put on this statute we've got to be consistent. We are either going to have to go back and if we charge this poll manger about the sign then we got to go back and start looking at all these photographs and all these other things and start charging poll managers for allowing that to happen.

MR. MCIVER: My response to that would be that first of all had the poll manger simply inspected the grounds they would have found the sign and that is the responsibility of the poll manger. With respect to these photos a lot of that strikes me as very spontaneity and somebody yanks out a cell phone and flips it over to the camera feature and you can't move out of our chair fast enough to stop something like that. That is the reason I thought that poll managers were responsible for pictures you know somebody comes in with a tripod and sets up and all kinds of thing that is another story. I think given the nature of technology and photography these days it just happens so very quickly there is not much you can do other than to stop the conduct and grab a monitor of somebody. I am still concerned about the precedent here where this poll manger simply did not inspect the premises as they should have done. I think that warrants a letter of instruction. For that reason if there is a second to Judge Simpson's motion then I intend to vote against it.

MR. SECRETARY: Anybody else?

(No response)

MR. SECRETARY: I will just say that I think there has been some good points made here but I just wonder what our posture would be if that door had been -- instead of having a sign on it if that door was locked and that poll manger hadn't unlocked that door, I feel certain that we would be at least giving a letter of instruction if not binding it over for not inspecting that door properly. So I'm kind of leaning in Mr. McIvers's direction of a letter but we do have a motion to dismiss by Judge Simpson. Is there a second or I am open for other discussion as well.

MR. SIMPSON: Mr. Chair, I will withdraw the motion.

MR. SECRETARY: Alright, Mr. Simpson withdraws the motion. Do we have any other discussion or another motion?

MR. MCIVER: I move for a letter of instruction be issued to the poll manger and I'm not sure I would extend that to Jackson County. So, my motion is that the poll manger receive a letter of instruction.

MR. SECRETARY: We have a motion that the poll manger receive a letter of instruction. Do we have a second?

MR. WORLEY: Second.

MR. SECRETARY: Mr. Worley seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: That motion carries and we will issue the letter. Alright, 2014 number eighty-seven. It is a Polk County districting issue.

MS. WATSON: Polk County Elections Director Gary Vargan (phonetic) discovered a hundred and forty-five electors as being out of district during the November 4th, 2014 general election. Of hundred and forty-five electors found out of district, thirty-one were found to have voted early, in person or absentee prior to the election being completed. On October 29th, 2014 the electors brought it to the attention of the Polk County elections office that their ballot did not contain questions concerning pay for volunteer firefighters.

Karen Gardner (phonetic) the Elections Supervisor for Polk County researched the issue and found that a hundred and forty-five electors on Cherokee Road were shown in the City of Cedartown instead of being shown in Polk County. The error was corrected and it was found that thirty-one affected registered voters had incorrectly been districted and had already cast ballots prior to the correction being made.

The recommendation is to refer to the Attorney General’s office Polk County Board of Elections and Registration and Karen Gardner the director of elections for violation of 21-22-226(b) for failure to place a hundred and forty-five electors in the proper voting district.

MR. SECRETARY: Do we have any question for Ms. Watson?

(No response)

MR. SECRETARY: Anyone else wishing to speak?

(No response)

MR. SECRETARY: Hearing none, do we have a recommendation to bind over. Do we have

any discussion or motion?

MR. WORLEY: Well, I'm going to make a motion, Mr. Chairman, to bind this over but it bothers me that nobody from Polk County is here. I mean this is some pretty serious, in my opinion, error and I'm surprised that no one is here which encourages me to continue to bind it over. So I make a motion to bind it over.

MR. SECRETARY: Alright Mr. Worley moves to bind this over to the AG's office. Any other discussion or do we have a second?

MS. SULLIVAN: Second.

MR. SECRETARY: Got a second by Ms. Sullivan. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, "aye".

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: That motion carries and we have bound that over to the AG's office.

Okay, Mr. Willard your swan song is upon you. We are moving on to the Attorney General's consent orders. Our posture has been in recent meetings to take these in bulk to accept the recommendation of the AG's office and the consent orders in our binders. However if anyone on the Board or anyone in the audience would like to pull one of these cases out for it to be formally discussed we will be glad to do that.

So, is there anyone on the Board that would like to move a case or two or all of them out?

(No response)

MR. SECRETARY: Hearing none. Anyone in the audience wish to remove one of these cases or all of them to hear?

(No response)

MR. SECRETARY: Hearing none. If there is no further discussion I will be glad to take a motion to accept the recommendation that we have before us.

MS. SULLIVAN: So moved.

MR. SECRETARY: Ms. Sullivan moves to accept. Do we have a second?

MR. SIMPSON: Second.

MR. SECRETARY: Mr. Simpson seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: That motion carries. That concludes are business on the agenda today. Again, I want to wish Mr. Willard the best in his new duties moving forward and I also wish Mr. Harvey his best as well and thank him and both for their service to the State Election Board and with that I will be glad to take a motion to adjourn and I hope you-all have safe travels on the way home today.

MR. WORLEY: I move that we adjourn, Mr. Chairman.

MR. MCIVER: Second.

MR. SECRETARY: Mr. Worley moves and Mr. McIver seconds. Any other discussion?

(No response)

MR. SECRETARY: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, the vote was unanimous)

MR. SECRETARY: All opposed same sign?

(Whereupon, there was no response)

MR. SECRETARY: That motion carries and we are adjourned and have a great afternoon.

(Meeting adjourned at 2:20 p.m.)

CERTIFICATE OF COURT REPORTER

STATE OF GEORGIA

COUNTY OF DEKALB

I hereby certify that the foregoing meeting was reported as stated in the caption and the proceedings were reduced to writing by me; that the foregoing 75 pages represent a true, correct, and complete transcript of the proceedings given on July 15, 2015.

I certify that I am not disqualified for a relationship of interest under O.C.G.A. 9-11-28(c); I am a Georgia Certified Court Reporter here as a representative of Happy Faces Court Reporting Firm; I was contacted by Happy Faces Court Reporting Firm to provide court reporting services for this proceeding; I will not be taking this proceeding under any contract that is prohibited by O.C.G.A. 15-14-37(a) and (b) or Article 7.C. of the Rules and Regulations of the Board; and by this form I confirm that Happy Faces Court Reporting Firm is not a party to a contract prohibited by O.C.G.A. 15-14-37 or Article 7.C. of the Rules and Regulations of the Board.

This 4th, day of August , 2015



LaTasha D. Bethel
Certified Court Reporter
Georgia Certificate #2660

