STATE’S
EXHIBIT NO. 37
INDIANA DEMOCRATIC PARTY, et al.,

Plaintiffs,

v.

TODD ROKITA, et al.,

Defendants,

____________________________________)  No. 1:05-CV-00634 SEB-VSS

WILLIAM CRAWFORD, et al.,

Plaintiffs,

v.

MARION COUNTY ELECTION BOARD,

Defendant,

and

STATE OF INDIANA,

Intervenor.

DECLARATION OF WENDY ORANGE

Wendy D. Orange, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am Wendy Davis Orange, the Marion County Election Board Administrator.

2. This affidavit is made on my personal knowledge, and I am competent to testify and will testify to the matters stated herein.

3. I am over eighteen years of age.
4. I am a resident of the State of Indiana.

5. From June of 1996 until January of 2001, I served as the Marion County Election Board Administrator. In my capacity as Marion County Election Board Administrator, I was responsible for the administration of elections in Marion County, which included but was not limited to, the preparation of ballots and other documents integral to voting both at the polling place and absentee.

6. From January of 2002 until May of 2004 I served as a Project Manager for Election Systems and Software, Inc. (ESS) with assignments in Florida and Indiana. In my capacity as Project Manager for ESS, I coordinated the implementation of new voting technologies and related procedures.

7. In my capacity as MCEB Administrator and later as Project Manager for ESS in Marion County, I became knowledgeable of the Indiana Election laws and the operational procedures for conducting elections in Marion County, Indiana.

8. Prior to the voter photo identification statute, SEA 483, P.L. No. 109-2005, codified at Indiana Code §§ 3-11-8-25.1 and 3-5-2-40.5, the two security measures for protecting against voter identity fraud at the polling place were the challenge procedure and signature comparison by the precinct board clerks.

9. The challenge procedure permitted precinct board members and credentialed party challengers the right to challenge a voter’s right to vote in that precinct. In my experience, this challenge procedure was not used primarily to verify the voter’s identity, but instead was used to verify that a voter met the residency requirements for voting in the precinct.
10. By contrast, the signature comparison by the precinct board clerks was the principal means for verifying the identity of a voter unknown to the board. In Marion County, the precinct board clerks have precinct voter registration lists that contain digital images of each voter’s signature on their registration application. Each individual voter who wishes to vote in the precinct polling place must sign the voter registration list next to the digital image of that individual’s signature. The precinct board clerk is responsible for comparing the contemporaneous signature with the digital image signature.

11. If the precinct board clerk does not think that the signatures match and that the individual who signed the poll list is attempting to vote in the name of another, the precinct board clerk may challenge the right of that voter to cast a ballot.

12. Because of the limited expertise of the clerks, the time constraints and pressure at the polls, and availability of only one other signature for comparison, it is my opinion that the signature identification process at the polls is not an effective means for detecting identity fraud. In my experience, I am not aware of a single instance where an individual who wished to vote at a precinct polling place was challenged because of an alleged signature mismatch.

13. The implementation of the new voter photo identification requirement at the polls will significantly enhance the ability of the precinct board clerks and other precinct board members to detect those who falsely identify themselves and will also make the precinct board clerk’s identity verification job easier.

14. In Marion County, an individual who desires to vote absentee must sign and submit a written application under oath to the Marion County Election Board.
15. Upon receiving an absentee ballot application, the Marion County Election Board staff verifies that the absentee applicant is registered to vote with the name and address as stated on the application.

16. If an applicant is registered, the staff prepares an absentee ballot and either mails it to the applicant or delivers it to the applicant by means of a Marion County Traveling Absentee Board, which are bipartisan bodies distinct from the Marion County Election Board.

17. After the voter marks the absentee ballot and seals it in the absentee ballot return envelope provided, the voter must sign an affidavit on the outside of the ballot return envelope attesting to the voter’s identity, residency, and personal voting of the ballot inside.

18. The Marion County Election Board receives the mailed absentee ballots and forwards them to the absentee voter’s precinct board for counting on election day. Prior to delivering a voter’s absentee application and sealed ballot return envelope to the voter’s precinct board, the Marion County Absentee Board compares the signature on the voter’s application for an absentee ballot with the voter’s signature on the affidavit on the absentee ballot return envelope.

19. If the Marion County Absentee Board determines that the signatures match, the Marion County Election Board delivers the voter’s absentee application and the voter’s sealed absentee ballot return envelope to the proper precinct board for counting.

20. If the signature is questioned by any member of the Marion County Absentee Board, the application and the sealed ballot return envelope are forwarded to the Marion County Election Board for a determination concerning authenticity.
21. In addition to signatures on the voter’s absentee application and voter’s absentee ballot return envelope, the Marion County Election Board is authorized to use the signature from a voter’s registration list and any other independent documents to verify the validity of the voter’s signature on the absentee ballot return envelope.

22. If the Marion County Election Board votes unanimously that the signature on the absentee ballot return envelope is valid, the absentee application and the sealed absentee ballot return envelope are forwarded to the proper precinct board to be voted and counted. If the Marion County Election Board votes unanimously that the signature is not valid, the absentee ballot return envelope is marked with a notation regarding the Board’s decision to question the genuineness of the voter’s signature. The voter’s absentee application and sealed absentee ballot return envelope are forwarded to the proper precinct board for the board to compare the signature on the envelope with the digital image from the voter’s registration application and to make a final determination regarding the validity of the signature on the sealed ballot return envelope. Finally, if the Marion County Election Board’s vote is divided, the ballot return envelope is marked as a disputed ballot and the voter’s absentee application and voter’s sealed absentee ballot return envelope are forwarded to the proper precinct board where the precinct board makes the final determination regarding the authenticity of the signatures.

23. In my opinion, the signature comparison method used in Marion County provides an effective safeguard against absentee ballot fraud. In fact, in Marion County absentee ballots are routinely rejected due to non-matching signatures.

24. If absentee voters were required to submit photo identification in the absentee ballot return envelope with their ballots, the secrecy of the ballots would be compromised.
because election officials could verify the voter’s identity only after opening the ballot envelope rather than before. Under the current process, no one may open the ballot envelope (which contains the marked ballot) until a final decision has been made concerning the genuineness of the signature on the ballot envelope. When the envelope is unsealed and the ballot is removed, the envelope and ballot are immediately separated. The ballot is cast into the ballot box and the envelope is stored separately so that it can never be traced to the ballot it once contained. If election officials were required to check copies of photo identification submitted in the same envelope with absentee ballots, they would be required to keep at least one document identifying the voter—the photocopy of the photo identification—with the exposed ballot for what may be a lengthy series of examinations by various election officials. This would quite obviously compromise the secrecy of the absentee voter’s ballot.

25. The addition of a photo identification requirement would not significantly enhance the absentee voter’s identification process because, unlike with voters who vote in person, there is no basis for election officials to make a determination as to the identity of an absentee voter based on a photograph. Neither the Marion County Absentee Board, the Marion County Election Board nor the precinct board would be able to compare the photocopied photo identification with the face of a person standing in front of them, with another photograph, or with any other point of comparison. Hence, election officials would be unable to determine whether the person in the photograph was the person who submitted the absentee ballot application, voted the absentee ballot, signed the affidavit on the absentee ballot return envelope, and mailed the absentee ballot to the Marion County Election Board.
I declare under penalties for perjury that the foregoing is true and correct. Executed on the 8th day of November, 2005.

Wendy Davis Orange