

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

NORTH CAROLINA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

PATRICK LLOYD MCCRORY, in his official
capacity as the Governor of North Carolina, *et
al.*,

Defendants.

**NOTICE OF FILING OF
CORRECTED PLAINTIFFS'
DEPOSITION DESIGNATION
TRANSCRIPT EXCERPTS
TOGETHER WITH
DEFENDANTS' COUNTER-
DESIGNATION EXCERPTS FOR
JAY DELANCY, ALEXANDER
EALY, AND QUISHA
MALLETTE**

Civil Action No. 1:13-CV-658

LEAGUE OF WOMEN VOTERS OF NORTH
CAROLINA, *et al.*,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, *et al.*,

Defendants.

Civil Action No. 1:13-CV-660

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NORTH CAROLINA, *et al.*,

Defendants.

Civil Action No. 1:13-CV-861

As a result of a technical error, the combined deposition transcript excerpts for the following witnesses were incorrectly paginated: (1) **Jay DeLancy** (filed as Attachment 19 to Plaintiffs' Designations of Deposition Testimony: Transcript Excerpts (ECF No. 310) and filed as Attachment 19 to the Notice of Filing of Plaintiffs' Deposition Designation Transcript Excerpts Together with Defendants' Counter-Designation Excerpts (ECF No. 325)); (2) **Alexander Ealy** (filed as Attachment 26 to Plaintiffs' Designations of Deposition Testimony: Transcript Excerpts (ECF No. 310) and filed as Attachment 26 to the Notice of Filing of Plaintiffs' Deposition Designation Transcript Excerpts Together with Defendants' Counter-Designation Excerpts (ECF No. 325)); and (3) **Quisha Mallette** (filed as Attachment 46 to Plaintiffs' Designations of Deposition Testimony: Transcript Excerpts (ECF No. 310) and filed as Attachment 46 to the Notice of Filing of Plaintiffs' Deposition Designation Transcript Excerpts Together with Defendants' Counter-Designation Excerpts (ECF No. 325)). Plaintiffs in the above-captioned matters are hereby providing replacements for those combined excerpts.

Dated: July 12, 2015

By: Respectfully submitted,

Penda D. Hair
 Edward A. Hailes, Jr.
 Denise D. Lieberman
 Donita Judge
 Caitlin Swain
 Advancement Project
 1220 L Street, N.W., Suite 850
 Washington, DC 20005
 (202) 728-9557
 phair@advancementproject.com

Irving Joyner (N.C. State Bar # 7830)
 P.O. Box 374
 Cary, NC 27512
 (919)319-353
 ijoyner@nccu.edu

/s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)
 Of Counsel
 Tin Fulton Walker & Owen, PLLC
 312 West Franklin Street
 Chapel Hill, NC 27516
 (919) 240-7089
 astein@tinfulton.com

/s/ Daniel T. Donovan

Daniel T. Donovan
 Susan M. Davies
 Bridget K. O'Connor
 Jodi Wu
 Chris Maner
 Kirkland & Ellis LLP
 655 Fifteenth St., N.W.
 Washington, DC 20005
 (202) 879-5000
 daniel.donovan@kirkland.com

*Attorneys for Plaintiffs in
 North Carolina State Conference of the NAACP, et al v. McCrory, et al.*

By: Respectfully submitted,

/s/ Allison Riggs

Laughlin McDonald*
 ACLU Voting Rights Project
 2700 International Tower
 229 Peachtree Street, NE
 Atlanta, GA 30303
 (404) 500-1235
 lmcdonald@aclu.org
 * pursuant to Local Rule 83.1(d)

Anita S. Earls (State Bar # 15597)
 Allison J. Riggs (State Bar # 40028)
 Southern Coalition for Social Justice
 1415 Highway 54, Suite 101
 Durham, NC 27707
 (919) 323-3380 ext. 115
 anita@southerncoalition.org

Christopher Brook (State Bar #33838)
 ACLU of North Carolina Legal
 Foundation
 P.O. Box 28004
 Raleigh, NC 27611-8004
 (919) 834-3466
 cbrook@acluofnc.org

Dale Ho*
 Julie A. Ebenstein*
 ACLU Voting Rights Project
 125 Broad Street
 New York, NY 10004
 (212) 549-2693
 dale.ho@aclu.org
 * pursuant to Local Rule 83.1(d)

*Attorneys for Plaintiffs in
 League of Women Voters of North Carolina, et al. v. North Carolina, et al.*

By: Respectfully submitted,

/s/ John A. Russ IV

Gill P. Beck (State Bar # 13175)
 Special Assistant United States
 Attorney
 Office of The U.S. Attorney
 100 Otis Street
 Asheville, NC 28801
 (828) 259-0645
 gill.beck@usdoj.gov

T. Christian Herren, Jr.
 John A. Russ IV
 Catherine Meza
 David G. Cooper
 Spencer R. Fisher
 Elizabeth Ryan
 Attorneys, Voting Section
 Civil Rights Division
 U.S. Department of Justice
 Room 7254-NWB
 950 Pennsylvania Avenue, N.W.
 Washington, D.C. 20530
 (800) 253-3931
 john.russ@usdoj.gov
 catherine.meza@usdoj.gov

*Attorneys for Plaintiff in
 United States v. North Carolina, et al.*

By: Respectfully submitted,

/s/ Edwin M. Speas, Jr.

Marc E. Elias
 Bruce V. Spiva
 John M. Devaney
 Elisabeth C. Frost
 Joseph Wenzinger
 Amanda Callais
 700 Thirteenth St., N.W., Suite 600
 Washington, D.C. 20005-3960
 (202) 654-6200
 melias@perkinscoie.com
 bspiva@perkinscoie.com
 jdevaney@perkinscoie.com
 efrost@perkinscoie.com

Edwin M. Speas, Jr. (State Bar #
 4112)
 John W. O'Hale (State Bar # 35895)
 Caroline P. Mackie (State Bar #
 41512)
 P.O. Box 1801 (27602-1801)
 301 Fayetteville St., Suite 1900
 Raleigh, NC 27601
 (919) 783-6400
 espeas@poynerspruill.com
 johale@poynerspruill.com
 cmackie@poynerspruill.com

Joshua L. Kaul
 Wisconsin Bar No. 1067529
 1 East Main Street, Suite 201
 Madison, WI 53703
 (608) 294-4007
 JKaul@perkinscoie.com

*Attorneys for Plaintiff-Intervenors in
 League of Women Voters of North Carolina, et al. v. North Carolina, et al.*

CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2015, I electronically filed the foregoing NOTICE OF FILING OF CORRECTED PLAINTIFFS' DEPOSITION DESIGNATION TRANSCRIPT EXCERPT TOGETHER WITH DEFENDANTS' COUNTER-DESIGNATION EXCERPT FOR JAY DELANCY, ALEXANDER EALY, AND QUISHA MALLETT, using the CM/ECF system in case numbers 1:13-cv-658, 1:13-cv-660, and 1:13-cv-861, which will send notification of such filing to all counsel of record, including those counsel listed below.

Respectfully submitted,

/s/ Daniel T. Donovan

Daniel T. Donovan
*Attorney for Plaintiffs in
North Carolina State Conference of the
NAACP, et al. v. McCrory, et al.*

Attorneys for Plaintiffs in North Carolina State Conference of the NAACP v. McCrory

Penda D. Hair
Edward A. Hailes, Jr.
Denise D. Lieberman
Donita Judge
Caitlin Swain
Advancement Project
1220 L Street, N.W., Suite 850
Washington, DC 20005
(202) 728-9557
phair@advancementproject.com

Daniel T. Donovan
Susan M. Davies
Bridget K. O'Connor
Jodi Wu
Chris Maner
Kirkland & Ellis LLP
655 Fifteenth St., N.W.
Washington, DC 20005
(202) 879-5000
daniel.donovan@kirkland.com

Irving Joyner (N.C. State Bar # 7830)
P.O. Box 374
Cary, NC 27512
(919)319-353
ijoyner@ncu.edu

Adam Stein (N.C. State Bar # 4145)
Of Counsel
Tin Fulton Walker & Owen, PLLC
312 West Franklin Street
Chapel Hill, NC 27516
(919) 240-7089
astein@tinfulton.com

Attorneys for Plaintiffs in League of Women Voters of N.C. v. North Carolina

Laughlin McDonald*
ACLU Voting Rights Project
2700 International Tower
229 Peachtree Street, NE
Atlanta, GA 30303
(404) 500-1235
lmcdonald@aclu.org
* pursuant to Local Rule 83.1(d)

Anita S. Earls (State Bar # 15597)
Allison J. Riggs (State Bar # 40028)
Southern Coalition for Social Justice
1415 Highway 54, Suite 101
Durham, NC 27707
(919) 323-3380 ext. 115
anita@southerncoalition.org

Christopher Brook (State Bar #33838)
ACLU of North Carolina Legal
Foundation
P.O. Box 28004
Raleigh, NC 27611-8004
(919) 834-3466
cbrook@acluofnc.org

Dale Ho*
Julie A. Ebenstein*
ACLU Voting Rights Project
125 Broad Street
New York, NY 10004
(212) 549-2693
dale.ho@aclu.org
* pursuant to Local Rule 83.1(d)

Attorneys for Plaintiff-Intervenors in League of Women Voters of N.C. v. North Carolina

Marc E. Elias
Bruce V. Spiva
John M. Devaney
Elisabeth C. Frost
Joseph Wenzinger
Amanda Callais
700 Thirteenth St., N.W., Suite 600
Washington, D.C. 20005-3960
(202) 654-6200
melias@perkinscoie.com
bspiva@perkinscoie.com
jdevaney@perkinscoie.com
efrost@perkinscoie.com

Edwin M. Speas, Jr. (State Bar # 4112)
John W. O'Hale (State Bar # 35895)
Caroline P. Mackie (State Bar # 41512)
P.O. Box 1801 (27602-1801)
301 Fayetteville St., Suite 1900
Raleigh, NC 27601
(919) 783-6400
espeas@poynerspruill.com
johale@poynerspruill.com
cmackie@poynerspruill.com

Attorneys for Plaintiff in United States v. North Carolina

T. Christian Herren, Jr.
John A. Russ IV
Catherine Meza
David G. Cooper
Spencer R. Fisher
Elizabeth Ryan
Attorneys, Voting Section
Civil Rights Division
U.S. Department of Justice
Room 7254-NWB
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(800) 253-3931
john.russ@usdoj.gov
catherine.meza@usdoj.gov

Gill P. Beck (State Bar # 13175)
Special Assistant United States Attorney
Office of The U.S. Attorney
100 Otis Street
Asheville, NC 28801
(828) 259-0645
gill.beck@usdoj.gov

Attorneys for Defendant Patrick McCrory

Karl S. Bowers, Jr.
Bowers Law Office LLC
P.O. Box 50549
Columbia, SC 29250
(803) 260-4124
butch@butchbowers.com

Robert C. Stephens
Office of the Governor Of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699
(919) 814-2027
bob.stephens@nc.gov

Attorneys for Defendants State of N.C. & Members of the State Board of Elections

Alexander Peters, Esq.
NC Department of Justice
PO Box 629
Raleigh, NC 27602
(919) 716-6913
apeters@ncdoj.gov

Thomas A. Farr, Esq.
Phillip J. Strach, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, P.C.
4208 Six Forks Road
Raleigh, NC 27609
(919) 787-9700
thomas.farr@ogletreedeakins.com
phil.strach@ogletreedeakins.com

Page 1

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

3 NORTH CAROLINA STATE CONFERENCE)
 4 OF THE NAACP, et al.,)
 5)
 6 Plaintiffs,)
 7 vs.) Case No: 1:13-CV-658
 8)
 9 PATRICK LLOYD MCCRORY, in his)
 10 official capacity as the Governor)
 11 of North Carolina, et al.,)
 12)
 13 Defendants.)

14 _____)
 15 LEAGUE OF WOMEN VOTERS OF)
 16 NORTH CAROLINA, et al.,)
 17)
 18 Plaintiffs,)
 19 vs.) Case No: 1:13-CV-660
 20)
 21 THE STATE OF NORTH CAROLINA,)
 22 et al.,)
 23)
 24 Defendants.)

25 _____)
 UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 vs.) Case No: 1:13-CV-861
)
 THE STATE OF NORTH CAROLINA,)
 et al.,)
)
 Defendants.)

VIDEOTAPED DEPOSITION OF JAY NORMAN DELANCY
 TAKEN BY THE PLAINTIFFS

Page 2

1 VIDEOTAPED DEPOSITION OF JAY NORMAN DELANCY
 2 TAKEN BY THE PLAINTIFFS

3
 4 -----
 5 10:14 A.M.
 6 THURSDAY, MARCH 19, 2015
 7 -----

8
 9 SHANAHAN LAW GROUP

10
 11 7501 FALLS OF NEUSE ROAD

12
 13 SUITE 200

14
 15 RALEIGH, NORTH CAROLINA

16
 17
 18
 19
 20
 21
 22
 23 Reported in Stenotype by
 24 Amy A. Brauser, RPR, RMR, CLR
 25 Transcript produced by computer-aided transcription

Page 3

1 A P P E A R A N C E S
 2 Counsel for Plaintiff-Intervenors League of Women
 3 Voters:

4 PERKINS COIE, LLP
 5 BY: JOSHUA L. KAUL, ESQ.
 6 1 East Main Street
 7 Suite 201
 8 Madison, Wisconsin 53703
 9 Telephone: (608) 294-4007
 10 Fax: (608) 663-7499
 11 Email: jkaul@perkinscoie.com

12 Counsel for Plaintiffs United States of America:
 13 U.S. DEPARTMENT OF JUSTICE
 14 BY: ERNEST A. MCFARLAND, ESQ.
 15 950 Pennsylvania Avenue, N.W.
 16 Room 7265-NWB
 17 Washington, D.C. 20005
 18 Telephone: (202) 307-6552
 19 Fax: (202) 307-3961
 20 Email: ernest.a.mcfarland@usdoj.gov

21 Counsel for Plaintiffs NAACP:

22 ADVANCEMENT PROJECT
 23 BY: JASMYN RICHARDSON, ESQ. (via telephone)
 24 CAITLIN SWAIN, ESQ. (via telephone)
 25 1220 L Street, N.W.
 Suite 850
 Washington, D.C. 20005
 (202) 728-9557
 (202) 728-9558
 jrichardson@advancementproject.org

Counsel for American Civil Liberties Union of North
 Carolina:
 BY: CAROLYNA CAICEDO MANRIQUE, ESQ.
 CHRISTOPHER BROOK, ESQ.
 P.O. Box 28004
 Raleigh, North Carolina 27611
 Telephone: (919) 834-3466
 Fax: (866) 511-1344
 Email: cmanrique@acluofnc.org
 cbrook@acluofnc.org

Page 4

1 A P P E A R A N C E S (Continued)
 2 Counsel for Defendants State of North Carolina and
 3 Members of the State Board of Elections:

4 OGLETREE, DEAKINS, NASH, SMOAK & STEWART,
 5 P.C.
 6 BY: PHILLIP J. STRACH, ESQ.
 7 4208 Six Forks Road
 8 Suite 1100
 9 Raleigh, North Carolina 27609
 10 Telephone: (919) 787-9700
 11 Fax: (919) 783-9412
 12 Email: phillip.strach@ogletreedeakins.com

13 Counsel for the Witness Jay Norman DeLancy:

14 SHANAHAN LAW GROUP, PLLC
 15 BY: JOHN E. BRANCH, III, ESQ.
 16 JACK PHILBIN
 17 128 E. Hargett Street
 18 Suite 300
 19 Raleigh, North Carolina 27601
 20 Telephone: (919) 856-9494
 21 Fax: (919) 856-9499
 22 Email: jbranch@shanahanlawgroup.com

23 Reported By:

24 DISCOVERY COURT REPORTERS
 25 AND LEGAL VIDEOGRAPHERS
 BY: AMY A. BRAUSER, RPR, RMR, CLR
 TRAE HOWERTON, Videographer
 4208 Six Forks Road
 Suite 1000
 Raleigh, North Carolina 27609
 (919) 649-9998

1 A. Uh-huh. Sorry.
 2 Q. And then the one other thing is with
 3 respect to the transcript, please do your best to
 4 let me finish the question before you start
 5 answering, and I'll do my best to let you finish
 6 answering before I start with the next question, so
 7 that we're not talking over each other on the
 8 transcript. Okay?
 9 One other thing I would mention is if I
 10 ask any questions that you don't understand either
 11 because they're not clearly phrased or you're not
 12 sure what I'm talking about, please just let me know
 13 that, and I will rephrase the question. But if you
 14 do answer the question, I'll assume that you
 15 understand it. Okay?
 16 A. Okay. Yes.
 17 Q. If you need a break at any point during
 18 the deposition, just let me know. It's not an
 19 endurance test, and we'll probably try to take a
 20 break about once an hour regardless. But we -- you
 21 know, if you need a break in the interim, just let
 22 me know and we'll take one. Okay?
 23 A. Okay.
 24 Q. The only caveat to that is if I've just
 25 asked you a question that's pending, I'd ask that

1 you answer it first and then we take a break. Okay?
 2 A. Okay.
 3 Q. Before we get into any substance, let me
 4 start out with asking you what you did to prepare
 5 for today's deposition, and I don't want to know
 6 about any conversations you had with your lawyer,
 7 but anything other than that?
 8 A. Prayed a great deal.
 9 Q. Okay.
 10 A. And, yeah, we just met with the lawyer
 11 yesterday and just -- they explained to me what was
 12 going on and I cleared the documents. I reviewed
 13 the documents that -- that we're preparing to turn
 14 over.
 15 Q. Okay. And that's the other thing I was
 16 going to ask. Did you -- it sounds like you
 17 reviewed a number of documents; is that right?
 18 A. Yes.
 19 Q. And the documents you reviewed are the
 20 ones that were turned over in discovery?
 21 A. I believe so, yes.
 22 MR. BRANCH: Yeah, only that -- I'm
 23 going to object. There was one document that's
 24 attorney-client privilege that he took a look
 25 at.

1 MR. KAUL: Okay.
 2 MR. BRANCH: Don't talk about that
 3 one but . . .
 4 BY MR. KAUL:
 5 Q. You're involved with an organization known
 6 as the Voter Integrity Project, correct?
 7 A. Correct.
 8 Q. What is your role in that organization?
 9 A. Cat herder. My official title, I just
 10 called myself and agreed with the others that with
 11 our -- executive director of this organization.
 12 Q. Okay. And how was Voter Integrity Project
 13 founded?
 14 A. We established ourself as a private
 15 corporation in 2011.
 16 Q. And who established that corporation?
 17 A. Myself and an attorney -- not an attorney,
 18 an accountant and a friend who has been helping me
 19 with it.
 20 Q. Okay. And who are the accountant and the
 21 friend?
 22 A. Okay. The accountant is Deirdre
 23 Morrison -- Deirdre Morrison and the friend is John
 24 Pizzo.
 25 Q. Okay. And does Deirdre Morrison go by

1 Dee?
 2 A. You probably see that in some e-mail, yes,
 3 some call her Dee. But there are other Dees in my
 4 life if you -- as you read my e-mail there's . . .
 5 Q. I see.
 6 So you were one of the cofounders of the
 7 organization; is that right?
 8 A. John and I cofounded it.
 9 Q. Okay. And have you been the executive
 10 director since the founding?
 11 A. Yes.
 12 Q. Were you involved with any efforts
 13 relating to voter fraud prior to your involvement in
 14 Voter Integrity Project?
 15 A. No.
 16 Q. Did you have any affiliation with or
 17 attend any trainings of a group called True the
 18 Vote?
 19 A. I did attend a workshop that True the Vote
 20 put on in early 2011 and got the idea to do
 21 something like that here in North Carolina.
 22 Q. And do you remember where that workshop
 23 was?
 24 A. Houston.
 25 Q. And what caused you to attend that

1 regarding this issue. I want to make sure you
 2 had that background.

3 MR. STRACH: Josh, just from my
 4 perspective I'll just say, since we're talking
 5 about it on the record, that my own view of
 6 that ruling is that it applied, number one, to
 7 documents that the legislators were being asked
 8 to produce, and number two, that it applied to
 9 the legislators. And that the reason -- my
 10 view of it is that the reason that the court
 11 had in the order would not apply the other way,
 12 that it would not apply to a constituent's
 13 right to object to talk about communication
 14 with the legislator. So to the extent that you
 15 care, that's -- that's my position on it.

16 MR. KAUL: Okay. All right. We'll
 17 take that position into account, and I'm not
 18 sure what we'll do next. But I appreciate your
 19 raising that issue.

20 And so just so I'm clear for purposes
 21 of today's discussion, what you're objecting to
 22 is questions not about the content of any
 23 documents that were produced, but any other
 24 questions about Mr. DeLancy's communications
 25 with members of the legislature; is that right?

1 MR. BRANCH: Yeah, the objection is
 2 specifically to Mr. DeLancy's oral
 3 communications with members of the legislature.

4 MR. KAUL: Okay.

5 MR. BRANCH: Yeah, I've -- we
 6 produced what I believe we have as far as his
 7 written communications. I don't know what's
 8 been produced in discovery between the parties,
 9 obviously. So, you know, that being said, to
 10 the extent that you've got questions about the
 11 documents we've turned over, he'll address the
 12 content of the documents but not the oral
 13 communication he had with the legislature.

14 MR. KAUL: Okay. I'll reserve my
 15 right to potentially revisit that issue on the
 16 record, but I won't go into that substance
 17 beyond what we have today then.

18 BY MR. KAUL:

19 Q. All right. So Mr. DeLancy, let me ask you
 20 questions then not about your communications with
 21 members of the legislature but to the extent you can
 22 otherwise answer the questions.

23 What role did you play in the drafting of
 24 SB 666 and 667?

25 A. Bill Cook got a complaint from a

1 constituent about polling, some news story -- and
 2 this is in your discovery documents -- some news
 3 story about a precinct that was to be set up on the
 4 Greenville campus, and the constituent was very
 5 worried. And Bill asked me if I had any ideas on
 6 how to solve this problem, and we did. And I gave
 7 him -- I'd already distributed that document. It
 8 was a -- I imagine you have it -- it was a 19-page
 9 document that was just -- I think we called it Voter
 10 Integrity Project legislative agenda for whatever
 11 year it was, 2013, 2014, very humbly did that, you
 12 know, just thought that I -- we'll just go in and
 13 sell them on our ideas. And naively, having never
 14 done this, I thought, yeah, this is the way you get
 15 laws changed, and I learned as I went.

16 But Bill, when he sent that e-mail to me,
 17 I said, well, I've already given you all the answer,
 18 and I sent him that document and he liked it and
 19 you'll see in the e-mail. I've forgotten how he
 20 liked it, and how -- how many iterations it went
 21 through and -- but at one point I actually was the
 22 guy working with the bill drafter on the language at
 23 one point.

24 Q. Just for the record, Bill Cook is a state
 25 senator, correct?

1 A. Correct, yes.

2 Q. Is Bill Cook your state senator?

3 A. No, Bill Cook is the sponsor of that bill,
 4 and he heard me speak once out in -- at a meeting of
 5 activists in the -- in his district, and I met him
 6 there. And as I'd go and speak to different
 7 political groups I ran into him. He was running for
 8 office at the time, and I ran into him more than
 9 once. So we knew who each other were and he knew
 10 what I was doing, so he thought he'd see if I had
 11 any answers.

12 Q. Okay. And the document that you're
 13 referring to having sent to Mr. -- or Senator Cook
 14 was the legislative advisory?

15 A. Actually, no, it was -- actually before
 16 that, it was the 19-page document. I drafted the
 17 legislative advisory as it got serious that the bill
 18 was actually going to be produced. And so -- I say
 19 19-page, don't hold me to that, it's 19 different
 20 issues over a number of pages. But if you don't
 21 have that, I have no problem giving it to you. It
 22 was something we turned over publicly.

23 Q. You said you worked with the bill drafter.
 24 Is that a staff member at the legislature?

25 A. It was -- the legislature had appointed a

1 guy named Gerry Cohen with a G -- Gerry Cohen to be
 2 the -- anything involving election law that was
 3 his -- his last hurrah. He was about to retire and
 4 he'd worked all those, so they sent me to him.
 5 Actually, they had communication with him, but at
 6 one point I got the call saying could you work with
 7 him to fix this and he -- there'd been some
 8 objection. I don't recall exactly, but there'd been
 9 some objection. So I met Gerry Cohen and Gerry,
 10 he -- he recommended I gut a major provision in the
 11 bill that would have made it workable and turned it
 12 into what I later realized was a bad bill.
 13 Q. All right. Let me ask you, first of all,
 14 a few questions just to make sure. I think I
 15 understand, but just to make sure the record's
 16 clear.
 17 You said Gerry Cohen is a legislative bill
 18 drafter. He's not a member of the legislature,
 19 correct?
 20 A. He is a nonpartisan employee.
 21 Q. Okay. So he's a staff member,
 22 essentially?
 23 A. Correct.
 24 Q. And you said, I think, they -- they had
 25 him draft the bill?

1 A. There were -- they -- Bill took my ideas
 2 and I didn't hear anything for a while. And then
 3 they forwarded me e-mail indicating that there'd
 4 been a whole lot of conversation between the bill
 5 drafting division and Senator Cook's office.
 6 Q. Okay. And so the "they" you're referring
 7 to is either Senator Cook or members of his office?
 8 A. Or -- yes, his LA.
 9 Q. And then you said you got the call at some
 10 point?
 11 A. Well, at some point they -- I don't
 12 remember what the situation was, but they asked
 13 me -- Senator Cook asked me to -- you can see it in
 14 the e-mail, it said, need you to work with
 15 Senator -- with Gerry Cohen to get this -- he asked
 16 me to get involved somehow where I went and met
 17 Gerry.
 18 Q. Okay. So just to recap. The idea for the
 19 bill in the first place was -- was yours, correct?
 20 A. It was mine, yes.
 21 MR. BRANCH: Objection to form.
 22 BY MR. KAUL:
 23 Q. And I'm specifically -- this is both 666
 24 and 667; is that right?
 25 A. Yeah, it all came from the same document,

1 the -- our legislative agenda. That's -- that was
 2 a -- a committee of VIP supporters from across the
 3 state that we agreed as a team these are the ideas
 4 we would push.
 5 Q. And who had the final call as to what was
 6 included in that document?
 7 A. I guess it was me.
 8 Q. You're the executive director, right?
 9 A. Well, yeah, but it's -- I wouldn't have --
 10 if someone -- if one of my key people had a strong
 11 objection, then that key person would have had it.
 12 But we -- we just operated by consensus, and it
 13 wasn't a -- it wasn't autocratic. None of it was
 14 autocratic. It was a -- it was agreed upon by, you
 15 know, our -- our gang, if you will.
 16 Q. Okay. So to go back a step, you -- you or
 17 your organization had the idea and then Senator Cook
 18 passed that along to the legislative bill drafter.
 19 Is that what you're saying?
 20 MR. BRANCH: Objection.
 21 You can answer.
 22 THE WITNESS: Senator Cook -- well,
 23 the e-mail's clear, he liked the idea.
 24 BY MR. KAUL:
 25 Q. And then when a draft of the bill came

1 out, you got involved in helping to revise the bill;
 2 is that right?
 3 A. At some point. I don't know when exactly,
 4 but, yes.
 5 Q. Okay. You said a moment ago that there
 6 was a critical part of the bill that was taken out
 7 at the suggestion of Mr. Cohen; is that right?
 8 A. Yes.
 9 Q. Can you explain what that was?
 10 A. Yeah, it was -- the bill would have put
 11 the onus on the Board of Election employee to make
 12 sure each new voter or each -- each new to that
 13 county voter who listed a home address elsewhere
 14 understood the impact of their registering, or if
 15 you do not -- in other words, it was -- it said, if
 16 you do nothing, your vote will -- you can vote right
 17 here in Orange County, for example, and what you're
 18 doing is saying that you're not claimed on anyone
 19 else's state income taxes.
 20 If you are on someone else's income taxes,
 21 then, you know, they already had the address. And
 22 the idea was to -- that the county election check
 23 this block, and we will send you an absentee ballot
 24 from that address. So it wasn't an extra step for
 25 the kid except to -- to say, okay, which address do

1 I want to use as my domicile; to make each child
2 decide as an adult are you doing this as an adult,
3 or are you doing this as a dependent child of
4 someone else.

5 And Gerry said, oh, no, that would, you
6 know, legislators like to work out those details
7 themselves, you need to take that out, and very
8 naively I agreed to, and it made the bill
9 unworkable. It made it look like a gotcha bill to
10 punish anybody's kid who voted at college.

11 Q. When you say "naively," what do you mean
12 by that?

13 A. I mean, I believed that he was -- he was
14 giving me good advice, because he was, quote,
15 unquote, nonpartisan. But later on as I -- after
16 Gerry retired I realized he had a lot invested in
17 how much he hated 666 and 667, and I realized
18 that -- I realized what he did.

19 I didn't realize his intent until after he
20 started posting on the News & Observer to an
21 editorial that was -- that I published in that
22 paper -- or they published under my name, and Gerry
23 wrote some really over-the-top comments on the
24 comment section that made me realize that he had a
25 dagger the whole time he was working down there,

1 metaphorically, that he was -- that he wanted to gut
2 this bill, and he showed that he was -- that he had
3 an agenda.

4 Q. Okay. So do you think Mr. Cohen actually
5 sabotaged the bills?

6 A. Yes, I do.

7 Q. What was the purpose of 666 and 667?

8 A. There is no class of American who gets to
9 choose on election day where their domicile is. You
10 work in D.C., you live in Virginia, you can't choose
11 to vote in D.C. You have to chose to vote where you
12 domicile. No class that is except for one, college
13 students. They can walk in and without giving it
14 much thought at all can chose where they live, which
15 their domicile is.

16 And God does funny things, but I've -- I
17 was stationed in North Dakota years ago against my
18 will, but I was there, and this issue -- this was
19 the early 80s, they had a bond issue, a campus bond
20 issue, and it was clear that the activists on campus
21 were registering students to vote for the bond
22 issue. And many of these students were out of state
23 students. And so the secretary of state in their
24 state just put a -- it's still on -- I have an
25 artifact of it on my web site somewhere, but they --

1 they advised -- for student voting they put out an
2 advisory on it, and said that if you are a student
3 and you vote from your college campus, it may affect
4 your residency requirement or your residency period.

5 And so we -- I just never forgot that,
6 because it seemed inappropriate for a -- for that
7 kind of abuse to go on, manipulation of student
8 voters, for what was clearly a local issue that the
9 students from out of state, especially, had no
10 business -- or even in a different county, you know,
11 if it were different, a school board race, for
12 instance, those kids have no business picking -- you
13 know, they're going to be in town for a couple years
14 and then they're leaving, and they can vote for bond
15 issues and they can vote for school board members,
16 you know, they don't have children.

17 And so the -- no one is questioning that
18 child's right to vote. But the question is, where
19 is it morally responsible for that child to vote,
20 and I decided -- we, you know, we all agreed that
21 the moral place for the child to vote would be where
22 that child intends to live long-term if he doesn't
23 get a job. If he -- when he goes home for summer,
24 where does he live? Where do they send his tax
25 forms? They send it to mommy and daddy's house.

1 Now when -- if a child doesn't have that, if the
2 child was a full emancipated adult, then knock
3 yourself out, vote wherever you want to. But for a
4 child who is clearly a dependent living off of
5 somebody else, then that vote -- we feel like that
6 vote really should be administered where that child
7 is actually residing, where his true domicile is.

8 Q. You said "we think" a few times. Who's
9 the "we" you're talking about?

10 A. I speak as our -- as our organization,
11 that is a -- that's a heartfelt. And whenever I
12 shared that with any political groups in those
13 college towns, particularly Orange County, they gave
14 me a standing ovation when we floated the idea.
15 There's a huge amount of support for not letting
16 these children be manipulated by college professors
17 which is what -- what clearly is the threat.

18 Q. And so to be clear, when you're saying
19 "we," you're both sort of speaking as a
20 representative of Voter Integrity Project but also
21 reflecting your own view, right?

22 A. Yes.

23 Q. And what is it about college students
24 voting where they attend school that concerns you in
25 particular?

1 A. Didn't I just explain that to you?
 2 Q. Well, can -- was that the full extent of
 3 your explanation, or is there more to it?
 4 A. If you have any other questions, more
 5 particular, ask them.
 6 Q. Is it the fact of their voting, or the way
 7 that the college students vote?
 8 MR. BRANCH: Objection.
 9 BY MR. KAUL:
 10 Q. You can answer.
 11 A. Okay. As a military person, I had to be
 12 responsible. If I wanted to vote, I had to fill out
 13 an absentee ballot and vote from a home address. As
 14 a college student I don't. It is a privilege. It
 15 is a super right given just to one class of citizen
 16 and no other class in American society has this.
 17 That's why we -- our pitch for the bill was called
 18 Equalized Voting Rights. The child still gets to
 19 vote from college if he wants to.
 20 That wasn't -- it was not my intent to
 21 stop anybody from voting. It was my intent to make
 22 them stop and think where does this vote fit, does
 23 it fit here or does it fit at home, and not to be
 24 manipulated by, you know, like fraternity rush week
 25 and going to vote instead of giving it some thought

1 and some deliberation.
 2 Q. So I guess just to go back to my question,
 3 is it -- is the way that college students vote part
 4 of the reason that you have interest in this issue?
 5 A. "Is the way that college students vote,"
 6 what do you mean?
 7 Q. Well, is it fair to say that college
 8 students disproportionately supported the bond issue
 9 in the North Dakota example you gave?
 10 A. Well, the bond issue failed for what it's
 11 worth. The vulnerability of young, really children,
 12 they're college students, they're 18-years-old, some
 13 of them -- well, obviously, they're not 17 if
 14 they're voting. It concerns me that they can be
 15 herded like sheep to the polls to vote without
 16 really thinking things through. And I wanted to
 17 create a level of deliberation inside of their
 18 heads, maybe even a conversation between the child
 19 and the parent, you know, it might happen.
 20 Q. College students disproportionately vote
 21 democratic, right?
 22 A. If you say so.
 23 Q. Do you know?
 24 A. I don't know.
 25 Q. You don't know whether college students

1 disproportionately vote democratic?
 2 A. I can't state for absolute -- okay, that
 3 is my hunch, Josh, sure.
 4 Q. Okay.
 5 A. Do I know for absolute certain, okay, I'll
 6 give you that.
 7 Q. Is that hunch that college students
 8 disproportionately vote democratic part of the reason
 9 that you're interested in the college student voting
 10 issue in particular?
 11 A. As I explained earlier, a child voting in
 12 a school board race, disrupting local politics, is a
 13 problem. A child voting for a bond issue in a town
 14 where that child never pays a penny in taxes in that
 15 town, that child goes back home and lives under
 16 mommy and daddy's umbrella and, yet, that vote
 17 that -- that college vote irresponsibly takes -- has
 18 an impact long after that child has left that town.
 19 It is not about Democrat/Republican. It's
 20 about what is the moral way to vote. Do you vote
 21 where your vote -- where it should vote, or do you
 22 vote where it can vote. And no other class of
 23 citizen, I have to say that again, no -- nobody --
 24 North Carolina law even had the word teacher with
 25 the exact same description of a student. I don't

1 know if it's still in there, it might be. But if
 2 you do a control F on the word teacher, and it shows
 3 in that exact same situation that a student has, the
 4 teacher has to vote at mommy and daddy's house. But
 5 if you substitute the word student, well, it doesn't
 6 apply. The child gets to choose one or the other.
 7 And so that annoys me that anybody gets
 8 super rights like that. And that it affects school
 9 bond issues that we've -- that burden the local
 10 community with more taxes while the child goes off
 11 and has his career and doesn't even realize that
 12 that vote that he did, you know, on the way, you
 13 know, on the way to the bar or whatever, you know,
 14 just that vote rendered without much deliberation
 15 could change a local election.
 16 Q. Do you believe there's disproportionate
 17 amounts of leftist activism on college campuses?
 18 MR. BRANCH: Objection.
 19 You can answer.
 20 THE WITNESS: The media is quite
 21 clear on how thought was controlled in Chapel
 22 Hill, on how conservative speakers get
 23 uninvited from campus and how student funds are
 24 used to fund leftist speakers in general. But,
 25 yeah, I've seen a lot of that, and so -- and

1 the fact that I've never been invited to a
 2 college campus, that would be more proof, even
 3 though I've asked different professors to
 4 consider -- to have a discussion on this and
 5 they won't, they don't for whatever reason. It
 6 concerns me that kids don't get a balanced view
 7 of the world on a college campus anymore.
 8 BY MR. KAUL:
 9 Q. Is that -- you said it does concern you.
 10 You said that the -- well, let me ask you a
 11 different way.
 12 Does the leftist activism on college
 13 campuses concern you?
 14 MR. BRANCH: Objection.
 15 THE WITNESS: Yes.
 16 BY MR. KAUL:
 17 Q. And was one of the goals with 666 and 667
 18 to push back against that activism?
 19 MR. BRANCH: Objection.
 20 THE WITNESS: You can clearly see
 21 from my rhetoric that it was an added bonus
 22 that it would -- it would have an affect. I
 23 have no idea how much affect. But I knew
 24 because people for the American Way and Rachel
 25 Maddow both started screaming about how this

1 would affect the taxes of hard working middle
 2 class families. And I don't think ever in my
 3 life have I seen people for the American Way
 4 care about any of their wild ideas affecting
 5 the taxes of taxpayers. I've never seen that.
 6 But in this one they were so desperate to stop
 7 this that they actually started playing that
 8 card. So does that answer your question?
 9 BY MR. KAUL:
 10 Q. Well, is it fair to say that deterring
 11 leftist activism was one of the primary goals of 666
 12 and 667?
 13 MR. BRANCH: Objection. This is the
 14 third or fourth time this question has been
 15 asked. Are you going to -- you know, I mean,
 16 he's given lists over and over of what the
 17 goals were with respect to the legislation in
 18 college and the efforts with respect to the
 19 college voting.
 20 MR. KAUL: This is a slightly
 21 different question. It's about whether this
 22 was a primary goal.
 23 MR. BRANCH: And he answered that
 24 question with the last recitation, was that it
 25 wasn't a goal. He said that it was an added

1 benefit, that was not the goal of the
 2 legislation.
 3 BY MR. KAUL:
 4 Q. Let me ask you that, is that your
 5 testimony that it's --
 6 A. Yes, I stand by it, I'm sorry. Go ahead.
 7 Q. Is Mr. Branch's characterization correct,
 8 that it was not a goal of the legislation, it was
 9 just a benefit?
 10 A. Correct, it was a bonus.
 11 Q. You referred to the manipulation of
 12 college students by professors, I believe, right?
 13 A. In general. I did use that term, but as a
 14 general term, campus activists --
 15 Q. Is it your understanding that college
 16 students are particularly susceptible with
 17 manipulation in their voting practices?
 18 MR. BRANCH: Objection.
 19 THE WITNESS: It is a new environment
 20 on a college campus for many of these children
 21 where peer pressure has a greater influence on
 22 their lives than ever before.
 23 BY MR. KAUL:
 24 Q. So is that a yes, I guess, to the question
 25 about manipulation?

1 MR. BRANCH: Objection.
 2 THE WITNESS: Repeat the question.
 3 BY MR. KAUL:
 4 Q. Is it your understanding that college
 5 students are particularly susceptible of being
 6 manipulated in their voting practices?
 7 A. It is my fear that college students would
 8 be more susceptible to peer pressure in that sort of
 9 environment.
 10 Q. And you mentioned college students
 11 thoughtlessly registering and voting before. Do you
 12 recall that?
 13 A. I won't dispute you, Josh. Go ahead.
 14 Q. Well, what did you mean by that?
 15 A. Particular to voting, if they're told by
 16 an authority figure they trust how to vote, we all
 17 do that, though, obviously, every adult will turn to
 18 a friend and say -- someone you trust and say, how
 19 do you vote. What bothers me on the college campus
 20 is that many of these votes are for local races that
 21 the children have no business voting for. They may,
 22 under the law they may, but I would like for those
 23 children to understand the full responsibility of
 24 their vote by making that vote a declarative act of
 25 their full emancipation. They're no longer a burden

1 on anyone's taxes, and that they're responsible
 2 adults for their own lives.
 3 Q. All right. And you mentioned before that
 4 one of the reasons you think that college students
 5 shouldn't vote on local issues is that they're not
 6 paying taxes; is that right?
 7 MR. BRANCH: Objection.
 8 THE WITNESS: My intent -- you may be
 9 able to trip me up on the words -- my intent
 10 was to -- to say they don't realize the
 11 consequences of their actions when they leave
 12 that community if they vote for a higher bond
 13 issue for that county or if they vote for a
 14 school board.
 15 BY MR. KAUL:
 16 Q. Okay. And do you think that college
 17 students are less likely than other citizens to
 18 understand the consequences of their votes?
 19 A. I think young people in general. I know I
 20 was, I was a lot less responsible when I was 18,
 21 19 and voting for the first time. So, yeah, college
 22 kids, anybody at that age.
 23 Q. Okay. So that's not a problem specific to
 24 college students then; is that right?
 25 A. Okay. Yeah.

1 Q. We've been going a little over an hour.
 2 I'm happy to take a break now if you want, or we can
 3 keep going, whatever you prefer.
 4 MR. BRANCH: Let's take a quick break
 5 and circle back in about five minutes.
 6 MR. KAUL: Great.
 7 THE VIDEOGRAPHER: Going off the
 8 record. The time is 11:18 a.m.
 9 (RECESS TAKEN)
 10 THE VIDEOGRAPHER: Going back on the
 11 record. The time is 11:27 a.m.
 12 BY MR. KAUL:
 13 Q. Mr. DeLancy, I'm going to show you a few
 14 documents in just a minute. One thing that occurred
 15 to me during the break is a lot of questions I'm
 16 coming back, I realized afterwards, to ask for a
 17 yes-or-no answer. And your lawyer can supplement
 18 what I'm about to say, obviously, but what might be
 19 helpful is to the extent you can give a yes-or-no
 20 answer -- I'm not trying to stop you from providing
 21 explanation.
 22 A. Yeah.
 23 Q. -- but if you provide that first and then
 24 provide the explanation, then you -- then that may
 25 make things a little smoother. Okay?

1 A. Good idea, yes.
 2 Q. Having a few documents also may be
 3 helpful.
 4 MR. KAUL: I'm going to ask the court
 5 reporter to mark this one as JD 2.
 6 (EXHIBIT NUMBER 2 WAS MARKED FOR IDENTIFICATION)
 7 THE WITNESS: Thank you.
 8 MR. BRANCH: Thank you.
 9 BY MR. KAUL:
 10 Q. And once again I'm asking you to take a
 11 look at the document and in particular the portion
 12 referred to as the statement issued by the Voter
 13 Integrity Project. And let me know when you've had
 14 a chance to look that over.
 15 (WITNESS REVIEWS DOCUMENT)
 16 You are certainly welcome to read the
 17 comments at the bottom, although, I promise not to
 18 ask you any questions about them.
 19 A. Yeah, I can't be responsible for the
 20 comments anyway. But you have me curious. But
 21 anyway, yeah, go ahead.
 22 Q. First of all, your name is at the bottom
 23 of this document, correct?
 24 A. Yeah.
 25 Q. And by "document" I mean the statement

1 issued by Voter Integrity Project.
 2 A. Yes.
 3 Q. Did you write that statement?
 4 A. I probably did, yes. It looks familiar.
 5 Q. Okay. To the best of your memory, did you
 6 write it?
 7 A. Yes.
 8 Q. Now, first of all, the statement begins
 9 with the phrase, we've gotten a bill into the
 10 Senate. Do you see that?
 11 A. Yes.
 12 Q. And then if you go down a couple
 13 paragraphs, the first bullet refers to the two
 14 bills, SB 666 and SB 667. Do you see that also?
 15 A. Yes.
 16 Q. The bill you were referring to in the
 17 first sentence, was that a reference to both bills?
 18 A. Yes.
 19 Q. And you note in that first sentence that:
 20 (Reading)
 21 Progressives were going to
 22 hate this almost more than they hate
 23 voter ID.
 24 Do you see that?
 25 A. Yes, I see that.

1 Q. Why did you include that statement, if you
 2 remember?
 3 A. I have to raise money and the people who
 4 send me \$25 donations and whatnot, that's red meat
 5 for them.
 6 Q. Because they like to support legislation
 7 that progressives oppose; is that right?
 8 A. I don't know.
 9 Q. Well, why do you think it's red meat for
 10 them?
 11 A. Because they don't like progressives
 12 either. And so you say that progressives won't like
 13 this, and they go, well, then I will. And that's --
 14 and I'll send this group money for working on this.
 15 I mean, that's pretty clear-cut. If you dissect
 16 any -- from these other organizations here, I am
 17 sure they have, you know, rhetoric in their -- in
 18 their appeals too.
 19 Q. The next paragraph says that: (Reading)
 20 If other states pick up this
 21 legislation, it will shift the
 22 landscape of college town voting all
 23 across the nation and may even put
 24 college states like Massachusetts back
 25 into play.

1 Do you see that?
 2 A. Yes.
 3 Q. And when you say putting "Massachusetts
 4 back into play," you mean make Massachusetts a more
 5 competitive state in presidential elections,
 6 correct?
 7 MR. BRANCH: Objection.
 8 You can answer.
 9 THE WITNESS: It will make the
 10 partisan forces, in Massachusetts' case the
 11 Democrats, have to fight harder for that race
 12 for that state.
 13 BY MR. KAUL:
 14 Q. Are there any states in which you believe
 15 it would have made Democrats more likely to win
 16 elections?
 17 A. You do see who this publication is, it is
 18 a conservative publication. I'm reaching out to
 19 people who if I'm going to get any funds at all,
 20 it's going to be from Tea Party and
 21 Republican-types. So, no, I don't think college
 22 student voting, you know, would -- would -- well, in
 23 very few cases. I have seen one.
 24 I have seen a case the New York Times even
 25 highlighted where college students flipped a race in

1 a way that even the New York Times realized was bad,
 2 and it was a school board race. So, you know, my
 3 main concern in the bill was already stated.
 4 Q. And then the next -- the first bullet
 5 which we mentioned before says that: (Reading)
 6 The bill was designed in
 7 response to a race being flipped in
 8 the Buncombe County commissioners --
 9 well, the Buncombe County
 10 commissioners race being flipped after
 11 Warren Wilson College students voted
 12 in that election.
 13 Is that right?
 14 A. Yes.
 15 Q. And is that the issue you had mentioned
 16 before with respect to your conversations with
 17 Senator Cook?
 18 A. No.
 19 Q. Okay. So this is a different local
 20 election?
 21 A. Yes.
 22 Q. And why was it significant that college
 23 students had flipped that election?
 24 A. Well, there was a lot -- there's no short
 25 answer on this. But, in general, the students

1 getting to vote, again after some activism at the
 2 local level, was enough to swing the race. It
 3 actually changed the outcome of the race. And the
 4 Register of Deeds actually was quoted as saying that
 5 no doubt college students won this election for
 6 their side.
 7 And the way it was handled, it -- everyone
 8 in that community felt -- well, not everyone,
 9 obviously -- but a lot of people contacted me and
 10 said, you've got to come up here and see this. It
 11 was a seminal moment. They were -- that school was
 12 divided among two county commission districts, and
 13 all the kids that voted from -- all the college
 14 students had voted from one central mailing facility
 15 address instead of where they lay their head.
 16 And they later realized that, some
 17 activists realized that, and they got those students
 18 back in to change. So they were able to move
 19 100 votes into a swing district that one district,
 20 the school, okay, all right, you know, the school of
 21 800 -- roughly 800 registered Democrats, about five
 22 Republicans at that school. And so the locals were
 23 very upset about that, about the impact it had on
 24 that second district.
 25 Q. What type of school is Warren Wilson

1 College?
 2 A. It's a four-year college, private school.
 3 Q. And its registration is 800 Democrats to
 4 five Republicans?
 5 A. We could not believe it when we saw that,
 6 because we wanted to see who these people were who
 7 were getting their votes moved. And some of them
 8 were in their 50s, they were clearly -- well, not
 9 clearly, but I don't know that many 50-year-olds
 10 that live in college dormitories. And, yet, there
 11 were a lot of problems with their voter roll in that
 12 district with that school, the people that were
 13 being invited to come back and vote again.
 14 Q. And it was specifically the fact that the
 15 vote of those students changed the election that
 16 drew your attention; is that right?
 17 A. That is why I was called by some local
 18 activists in that area.
 19 Q. You referred to it as a "seminal moment,"
 20 right?
 21 A. Yes.
 22 Q. Was that for you or for the locals?
 23 A. For me. I -- we'd never thought about
 24 this problem until then. I shouldn't say never, but
 25 that was -- it just -- it was a big -- obviously,

1 I'd thought about it before because of North Dakota,
 2 you know, 20 years earlier. So I shouldn't say that
 3 I never thought of it, but it really put some flesh
 4 on it to help us understand it more.
 5 Q. And the next bullet says: (Reading)
 6 The bill will, quote,
 7 encourage, unquote, college students
 8 to vote by absentee ballot.
 9 Is that right?
 10 A. It is right.
 11 Q. What did you mean by that?
 12 A. It nudges them to consider voting absentee
 13 instead of just voting for the convenience right
 14 there on campus, to maybe make them think just a
 15 little bit longer before they vote.
 16 Q. And when you say -- when you put encourage
 17 in quotes, why was that in quotes?
 18 A. I like using quotes. I use it a lot in
 19 my -- my print rhetoric. Not deter, not force, just
 20 encourages them.
 21 Q. But it would deter college students from
 22 voting at their campus address, wouldn't it?
 23 MR. BRANCH: Objection.
 24 THE WITNESS: It would not affect the
 25 right of a college student to vote in any way.

1 BY MR. KAUL:
 2 Q. Would it affect the taxes paid by the
 3 parents of those college students?
 4 A. Only if -- well, you know the language of
 5 the bill, if a student -- under this bill that was
 6 so controversial, if we'd had it our way and the
 7 student had made a decision to, say, oh, I am an
 8 emancipated adult, I'm going to vote on college,
 9 then the issue is moot. The child is declaring --
 10 the student is declaring, yes, I am -- I'm an adult
 11 student. I'm not a dependent student. I'm not
 12 depending on anybody else. This is my domicile.
 13 Q. Okay. So -- and going back to the
 14 yes-or-no point from before. So there would be a
 15 tax consequence for the student's parents if they
 16 voted at college, correct?
 17 A. Yes.
 18 Q. And do you know whether taxes have been
 19 used historically to deter voting in the United
 20 States?
 21 A. No.
 22 Q. You ever heard of a poll tax?
 23 A. Oh, yes.
 24 Q. Okay. So you said the bill would treat
 25 students as though they were full residents of their

1 new location, correct?
 2 A. I don't know if I worded it exactly that
 3 way, but in general it would, yes. It would make
 4 the students decide where am I living, where's my
 5 domicile?
 6 Q. Would it -- would it have permitted
 7 students to pay in-state tuition rates rather than
 8 out-of-state rates if they were from out-of-state?
 9 A. I don't believe the bill had any -- I know
 10 our -- our suggestion had nothing to do with tuition
 11 rates.
 12 Q. Okay. So students wouldn't have gotten
 13 that benefit of being residents as a result of that
 14 bill?
 15 A. I'd -- I'd have to read the bill again.
 16 I'm not that familiar with the bill, because it had
 17 a lot of provisions in it. But as it regards to
 18 student voting -- do you have a copy of the bill?
 19 Q. I do. Do you want to -- are you talking
 20 about 666 or 667?
 21 A. I have to see them both if you're going to
 22 ask me a question on the detail of the bill.
 23 Q. Well, you know, I'll just ask you the best
 24 of your recollection.
 25 A. I don't recall it having any effect on

Page 65

1 tuition in-state/out-of-state.
2 Q. Did you consider adding that into the
3 bill?
4 A. No, I did mention it, that another state
5 had used that. I -- maybe it will be your next
6 exhibit, but there was a -- this problem is a
7 nationwide problem. An Ohio legislator was not
8 happy with the way students were voting, probably
9 partisan reasons. But his answer was, okay, if
10 you're going to vote in-state, then you're an
11 in-state student because -- I don't know why he did
12 it, but I read that and thought, well, that's
13 interesting, because they -- this is a problem not
14 just here, it's a problem all over the country.
15 Q. Well, including -- making out-of-state --
16 students who came from out-of-state in-state
17 residents would actually encourage the students to
18 vote in-state, right?
19 A. Yes, it would.
20 Q. I think this is going to be Exhibit JD 3.
21 A. You know, I'm going to add one more.
22 Q. Please do.
23 A. We did subsequently find students who had
24 voted both in North Carolina and in Florida at a
25 school. We think they were students. They were

Page 66

1 student age. They had the same -- we sorted by age
2 for Florida voters and did find that there was a
3 case, and I won't name the school -- well, we're
4 confidential here, it was Livingstone College, and
5 these are being investigated by the state I hope,
6 because we turned that evidence over to the State
7 Board of Elections along with 147 other people that
8 we believed had committed vote fraud by voting twice
9 in the 2012 election.
10 Q. All right. And I'm -- I'm going to come
11 back to that later. So if I forget, remind me.
12 Okay?
13 A. Well, maybe.
14 Q. I was teasing.
15 (EXHIBIT NUMBER 3 WAS MARKED FOR IDENTIFICATION)
16 BY MR. KAUL:
17 Q. All right. Once again, please take a look
18 at this. And I can tell you the material I'll be
19 asking you about is all on the first page, although,
20 again, if you -- if it's helpful to look at the
21 whole thing for context, please feel free.
22 (WITNESS REVIEWS DOCUMENT)
23 A. All right. I see you've been reading my
24 e-mail. Okay. Go ahead.
25 Q. First of all, you just answered my

Page 67

1 question, I think. But you are the J. DeLancy
2 referred to in these e-mails, correct?
3 A. That is me.
4 Q. And I'm going to show you a number of
5 other documents today that list your name and
6 e-mails and then provide
7 jay@voterintegrityproject.com as the e-mail address.
8 If any of those e-mails are not from you, please let
9 me know. Okay?
10 A. Okay.
11 Q. Now, do you recall these e-mails?
12 A. Yes.
13 Q. And let me start with the -- the full
14 e-mail at the bottom of the page sent from you on
15 March 3rd, 2013, at 9:52 p.m. Do you see that?
16 A. Yes.
17 Q. Now, you said you sent this to Chuck Neely
18 for tax advice, correct?
19 A. Correct.
20 Q. And who's Chuck Neely?
21 A. Chuck was a former legislator that they
22 all knew, and he -- I read on his -- somewhere that
23 he does tax stuff. He's a tax lobbyist of some
24 sort, and I wanted to get his opinion on whether
25 this idea was totally nutty or whether it was

Page 68

1 something that was viable.
2 Q. And was he a member of the legislature at
3 this point?
4 A. No.
5 Q. All right. And who is Tim Moffitt?
6 A. Tim Moffitt was a legislator at that time,
7 and he is in the Warren Wilson school district.
8 Q. Now, going up to the top e-mail you wrote
9 that Tim Moffitt was a bit timid about sponsoring it
10 alone. Do you see that?
11 A. Yes.
12 Q. Now, is this in reference to SB 666, 667
13 or both?
14 A. It was in reference to the idea. Let's
15 see. Yeah, it was in reference to the idea stated
16 on page 2. It wasn't really -- there's a lot in
17 those bills, 666 and 667 had -- there were things in
18 it I didn't even -- didn't know were in there, that
19 I had nothing to do with, and so this is one idea
20 that was in those bills.
21 Q. Okay. And the idea you're referring to is
22 the idea that we've been discussing which is that if
23 students register at their college address, they
24 can't be claimed as dependents on their parents'
25 taxes, correct?

1 A. Yes.

2 Q. So when you say Tim Moffitt was a bit

3 timid about sponsoring it alone, is it fair to say

4 that he had indicated that he was interested in

5 sponsoring the bill but not by himself?

6 MR. BRANCH: Objection to the extent

7 that the question calls for you to relate to

8 specific conversations with Representative

9 Moffitt. You can answer it otherwise.

10 THE WITNESS: I don't recall beyond

11 one thing, Tim's a freshman. He'd need help.

12 A freshman -- I don't -- that's about all I

13 remember from that. He just -- freshmen don't

14 introduce bills alone.

15 BY MR. KAUL:

16 Q. I understand what you're saying, but just

17 so the record's clear. Meaning he was supportive

18 but didn't want to introduce the bill alone; is that

19 right?

20 A. Yeah. Yes, for the record.

21 Q. Then I believe the fifth paragraph of that

22 first e-mail still, the top e-mail, says, David

23 Lewis seemed interested too. Do you see that?

24 A. Yes.

25 Q. And that was interested in the idea that

1 we've been discussing?

2 A. Yes.

3 Q. All right. And David Lewis is a member of

4 the state legislature, correct?

5 A. Correct.

6 Q. And do you know what role Representative

7 Lewis played in HB 589?

8 A. Well, Representative Lewis is the head of

9 the election committee of the legislature, the

10 chair. I don't know his official title, chairman of

11 the committee. So, yes, he had a big role.

12 Q. All right. And just to clarify. When you

13 said "he had a big role," you were referring to a

14 big role in HB 589, right?

15 A. Correct.

16 Q. All right. Let me show you another

17 document that I think you're going to enjoy,

18 Mr. DeLancy. And this is going to be JD Number 4.

19 (EXHIBIT NUMBER 4 WAS MARKED FOR IDENTIFICATION)

20 BY MR. KAUL:

21 Q. Is my guess correct?

22 A. Yeah, I was young. I'd never done this

23 before.

24 Q. And I can tell you I'm -- again, take as

25 much time as you need to review it, I will be asking

1 you questions just based on the first page.

2 (WITNESS REVIEWS DOCUMENT)

3 A. Okay.

4 Q. Now, this document is a series of e-mails

5 that you were involved in regarding this idea about

6 students and tax status, correct?

7 A. Yes.

8 Q. And as the e-mail at the bottom of the

9 first page reflects you had made some suggestions

10 about what to include in legislation on that idea,

11 correct?

12 A. Yes.

13 Q. Now, when you said you were jumping for

14 joy at Gerry's response, Mr. Cohen's response, what

15 did you mean by that?

16 A. They told me that they were actually

17 taking our idea and putting it into the process,

18 into the hopper.

19 Q. Okay. And the e-mail above that from

20 Amanda Shreve. Do you see that?

21 A. Yes.

22 Q. And she is a member of Senator Cook's

23 staff; is that right?

24 A. She was a member, yes.

25 Q. Okay. Was she a member of his staff at

1 this time?

2 A. Yes.

3 Q. She was indicating that the bill drafters

4 should go ahead in preparing a bill based on your

5 idea per Senator Cook's instructions, correct?

6 A. That's my understanding.

7 Q. The e-mails on this page include

8 Mr. Cohen, Ms. Shreve, Representative Tim Moffitt,

9 Greg Gebhardt, Jim Blaine and Representative Paul

10 Stam as well as you. Do you see that?

11 A. Yes.

12 Q. Mr. Gebhardt was on Representative Lewis's

13 staff at this time, correct?

14 A. Correct.

15 Q. And Mr. Blaine was on the staff of one of

16 the state senators at this time, right?

17 A. Yes.

18 Q. Do you know which state senator that was?

19 A. It was president pro tem.

20 Q. Do you know who that was?

21 A. Berger.

22 Q. And Paul Stam is obviously a member of the

23 state legislature, correct?

24 A. Correct.

25 Q. Do you know why you had included this

1 particular group of people on these e-mails?
 2 MR. BRANCH: Objection.
 3 You're fine, you can answer.
 4 THE WITNESS: I wanted to build
 5 consensus.
 6 BY MR. KAUL:
 7 Q. Okay. And these are people you had
 8 identified as important in building consensus?
 9 A. Yes.
 10 Q. All right. I have a new document for
 11 you -- actually, before I show you the document, do
 12 you recall putting a statement up on the Voter
 13 Integrity Project web site after you received your
 14 subpoena to testify here today?
 15 A. Yes.
 16 Q. Okay. And that was subsequently taken
 17 down, correct?
 18 A. Correct.
 19 Q. Why did you take that down?
 20 MR. BRANCH: Objection. I will state
 21 on the record that he -- Jay had received a
 22 phone call regarding the statement on his web
 23 site, reached out to me and then the statement
 24 was put -- was taken down. To the extent that
 25 the reason for him taking the statement down

1 involves advice of counsel, I'm going to
 2 instruct him not to respond.
 3 MR. KAUL: Understood.
 4 MR. BRANCH: And, candidly, I think
 5 that's going to be the substance of his
 6 response through the day.
 7 MR. KAUL: That's fine.
 8 BY MR. KAUL:
 9 Q. What I'll do is show you the document,
 10 actually. And I can ask you some questions about
 11 that. This one is going to be JD 5.
 12 (EXHIBIT NUMBER 5 WAS MARKED FOR IDENTIFICATION)
 13 BY MR. KAUL:
 14 Q. And while you're looking at that let me
 15 just also just state for the record that this and
 16 the other documents that I introduced, I had printed
 17 from web sites, sometimes appear slightly different
 18 from how they appear on the web sites. You can see
 19 on this document the subpoena cover sheet didn't
 20 come up. But my understanding is that the substance
 21 of the content, the relevant content, on the page is
 22 the same. I think there are also commercials that
 23 sometimes don't come up when you print them.
 24 Let me know when you've had a chance to
 25 look that over.

1 (WITNESS REVIEWS DOCUMENT)
 2 A. Okay.
 3 Q. First of all, does this appear to be the
 4 web site posting we have just been discussing a
 5 moment ago?
 6 A. Yes.
 7 Q. And are you the person who drafted the
 8 content for this response?
 9 A. It's true, I quoted myself.
 10 Q. The second line of this refers to the
 11 League of Women Voters serving a subpoena at your
 12 home. Do you see that?
 13 A. Yes.
 14 Q. And that was actually incorrect, right?
 15 A. It was. I misunderstood how to read
 16 the -- the subpoena. They were at the top of the
 17 subpoena, and so I thought that they had served me.
 18 Rookie mistake.
 19 Q. And you referred to, in the third and
 20 fourth lines on this first page, documents and
 21 communications involving the group, meaning the
 22 Voter Integrity Project's, solution to young adults
 23 being manipulated by professors and college
 24 activists to vote as a block in order to instruct
 25 college town politics; is that right?

1 A. Correct.
 2 Q. Is that an accurate characterization of
 3 SB 666 and SB 667?
 4 MR. BRANCH: Objection.
 5 You can answer.
 6 THE WITNESS: That is certainly one
 7 aspect of it.
 8 BY MR. KAUL:
 9 Q. All right. And then on the second page
 10 you refer to a so-called nonpartisan senior staffer;
 11 is that right?
 12 A. Yes.
 13 Q. All right. And this is a reference to a
 14 discussion, the same topic we were talking about
 15 earlier, regarding your communications with
 16 Mr. Cohen; is that right?
 17 A. Correct.
 18 Q. Okay. Again, so I'm clear, the idea that
 19 would have made the bill workable, in your view, is
 20 that a letter would have been sent to all
 21 individuals who register to vote in a new county?
 22 MR. BRANCH: Objection.
 23 BY MR. KAUL:
 24 Q. Well, can you explain to me what the idea
 25 is?

1 A. When the student gets a registration card,
 2 they would also get a letter to accompany it and it
 3 would say, is this correct you're voting here, or do
 4 you want an absentee ballot from your parents'
 5 house. And it would explain the tax consequences,
 6 so the child would go -- the student would go, I'm
 7 an adult or I'm -- that was my idea. I realize it
 8 might have 26th Amendment implications, but that was
 9 my idea.
 10 Q. Yeah. Why would that have made the bill
 11 workable?
 12 A. Because in either case the student gets to
 13 vote. It doesn't affect the voter's vote. It
 14 just -- if the voter does nothing, the vote would
 15 count right there in that town just like the voter
 16 probably intended. But on the other hand, if the
 17 voter did not intend that, they could register --
 18 their registration would be considered an absentee
 19 registration from their home of record.
 20 Q. Okay. So under that original proposal,
 21 you said in either case the voter would have gotten
 22 to vote?
 23 A. Yes.
 24 Q. And how did the bill as drafted change
 25 that?

1 MR. BRANCH: Objection.
 2 You can answer.
 3 THE WITNESS: It took out all the
 4 details on the work that the Board of Elections
 5 would have to do to make sure the student still
 6 got their right to vote, and just turned it
 7 into some hideous bill that would punish the
 8 parents if their kid voted on campus.
 9 BY MR. KAUL:
 10 Q. Okay. And that -- the bill you're
 11 referring to there is the bill as introduced?
 12 A. Yes.
 13 Q. All right. Let me show you another one,
 14 and I have fewer copies of this one. I have one for
 15 each of -- I have one for your attorney and for
 16 Mr. Strach, but my -- well, look over my shoulder.
 17 This one is JD 6.
 18 (EXHIBIT NUMBER 6 WAS MARKED FOR IDENTIFICATION)
 19 (WITNESS REVIEWS DOCUMENT)
 20 THE WITNESS: Okay. Go ahead.
 21 BY MR. KAUL:
 22 Q. And you're laughing at some aspect of
 23 this?
 24 A. Yeah, it's agitation rhetoric at its
 25 finest here --

1 Q. Okay.
 2 A. -- two years ago.
 3 Q. Have you matured since then?
 4 A. I hope so.
 5 MR. BRANCH: Objection.
 6 BY MR. KAUL:
 7 Q. And just for the record, I didn't mean
 8 that as a criticism, I was playing along with what
 9 you were saying.
 10 A. I know, levity is not a good idea during
 11 these, but I hope so, I hope I've matured.
 12 Q. That's why we have the video, so the
 13 levity gets captured.
 14 The -- this is a post that you authored,
 15 correct?
 16 A. Correct.
 17 Q. And this is on your organization's web
 18 site?
 19 A. Correct.
 20 Q. I want to draw your attention to the first
 21 indented paragraph. It says: (Reading)
 22 The only impact is that
 23 students will be forced to do one
 24 endeavor they have never been required
 25 to do before voting. To put it

1 bluntly, they will soon have to . . .
 2 well . . . to think before they vote.
 3 Let me show the court reporter how this is
 4 punctuated.
 5 What did you mean by that?
 6 A. I'm a writer first off, I love using the
 7 ellipsis. Second, I was that kid. When I was 18, I
 8 lived in Massachusetts. I voted for Jimmy Carter
 9 and John F. Kennedy and was proud of it, and called
 10 my parents and told them. And --
 11 Q. Ted Kennedy probably, right?
 12 A. Yeah, yeah, I wasn't that old. Thank you.
 13 I thought it was a fun way to put it, to
 14 get -- it will make the -- just make anyone, really,
 15 to think just that one second longer and go, is this
 16 a responsible vote, am I doing the right thing in
 17 voting here instead of at home.
 18 Q. Well, you said anyone, but it says
 19 students specifically, right?
 20 A. Yeah.
 21 Q. Okay. So do you think that you shouldn't
 22 have been able to vote in 1980?
 23 MR. BRANCH: Objection.
 24 THE WITNESS: I think I should have
 25 voted absentee from North Carolina.

1 BY MR. KAUL:
 2 Q. I mean, there was nothing fraudulent about
 3 how you voted, was there?
 4 A. No, they had same-day registration.
 5 Q. Did you use same-day registration?
 6 A. Isn't that ironic? I believe I did, I
 7 might be mistaken, but I believe -- I believe they
 8 had it, and I believe I used it but . . .
 9 Q. And if they --
 10 A. I might be mistaken, it was '76.
 11 Q. If same-day registration hadn't been in
 12 place, would you have been able to vote in that
 13 election?
 14 A. Oh, I stepped into that one, didn't I? I
 15 don't know. I don't even know if it was same-day.
 16 I feel like it was, but I may have gone down and
 17 registered. I just . . .
 18 Q. I'm just asking the best of your
 19 recollection.
 20 A. Yeah. That was -- I mean, strike that
 21 part about same-day registration. No, I -- that's a
 22 joke I've made a lot. But, of course, if that were
 23 the first time I had been there, walked in on
 24 election day, same-day registration would -- I would
 25 not have voted, obviously, if they didn't have it.

1 And so I don't know if they had it in 1976, but I
 2 kid around with people saying that -- I may be
 3 caught in my own lie here -- but, yeah, it's a -- I
 4 don't think they had same-day registration there.
 5 But I sure have told a lot of people that, and I, as
 6 I think about it, I don't believe that was the case.
 7 Q. Okay. So you -- I'm just trying to figure
 8 out where we came out on that.
 9 A. Okay.
 10 Q. All right. To the best of your
 11 recollection, did you use same-day registration or
 12 not?
 13 A. No, I didn't.
 14 Q. All right. That's something you've said
 15 in statements though?
 16 A. I've -- yeah, I've said that just, you
 17 know, like talking to crowds. Say I voted as a
 18 college student using same-day registration as kind
 19 of a joke, but it's -- I -- I guess I should control
 20 my tongue better.
 21 Q. And then a few paragraphs down, do you see
 22 the paragraph beginning with, but be forewarned?
 23 A. Yes.
 24 Q. I guess the third sentence in that
 25 paragraph says: (Reading)

1 Of course they, the students,
 2 could, quote, go native, unquote, and
 3 change their address on their driver's
 4 license and bank account, but these
 5 simple tasks require maturity and
 6 forethought.
 7 Do you see that?
 8 A. Yes.
 9 Q. All right. And did you mean to imply with
 10 that sentence that students don't use maturity and
 11 forethought in their decision-making?
 12 MR. BRANCH: Objection.
 13 You can answer.
 14 THE WITNESS: Would you repeat the
 15 question?
 16 BY MR. KAUL:
 17 Q. All right. Did you mean to imply with
 18 that sentence that students don't use maturity and
 19 forethought in their decision-making?
 20 MR. BRANCH: Objection.
 21 You can answer.
 22 THE WITNESS: Some students certainly
 23 don't.
 24 BY MR. KAUL:
 25 Q. Okay. The prior sentence just refers to

1 college students generally, though, right?
 2 A. Yes, we're not talking about high school
 3 students, yes, we're talking about college students.
 4 Q. Okay. Now, am I right that you said
 5 earlier that one of the problems with SB 666 and 667
 6 as introduced is that they gave the appearance that
 7 they were punishing college students?
 8 A. Punishing the parents of college students.
 9 Q. Okay. And what do you mean by
 10 "punishing"?
 11 A. Their taxes, they would lose the child as
 12 a tax deduction.
 13 Q. Okay. That there would be tax
 14 consequences?
 15 A. Yes.
 16 Q. Okay. All right. Let me show you a
 17 document that we'll mark as JD Exhibit 7.
 18 (EXHIBIT NUMBER 7 WAS MARKED FOR IDENTIFICATION)
 19 MR. KAUL: Actually, hold on just a
 20 second -- yes, there you go. And this is for
 21 Phil's reference, these documents I'm handing
 22 out to Mr. Branch and Mr. DeLancy are from the
 23 Voter Integrity Project production, but the
 24 copies I brought for everybody else are from
 25 the legislative production. But because of

1 they've been marked with respect to
2 confidentiality, I'm giving them the Voter
3 Integrity Project version. So it's a copy of
4 the same document, but it's Bates labeled
5 differently. And if you want to take a look to
6 compare them, Phil, before I move on, please
7 feel free. There are going to be a few other
8 documents I do that with.

9 MR. STRACH: Do you have an extra
10 copy of the -- the VIP production? You only
11 had two?

12 MR. KAUL: Yeah, I -- most of these I
13 believe I got yesterday evening, so I ran off a
14 few copies. The -- and, Phil, let me just say
15 for the record, and I don't expect you to weigh
16 in on this now, but I'm going to ask that any
17 documents that we introduce that are both in
18 the VIP production and have been marked as
19 highly confidential, that the confidential
20 classification of those be changed to just
21 regular confidential. But for today's
22 purposes, I'm just going to show the witness
23 and his attorney --

24 MR. STRACH: The VIP production?

25 MR. KAUL: -- the VIP production.

1 MR. STRACH: Okay. All right.
2 MR. KAUL: All right. And let me
3 also say the VIP Bates numbers for us that we
4 don't get -- there's not any confusion about
5 that. And I really didn't look at that one
6 (indicating), but that one is which pages?

7 MR. BRANCH: 539 to 40 -- 539 to 540.

8 MR. KAUL: Thank you. And if you
9 need any time to look at any of those
10 documents, just let me know.

11 MR. STRACH: Okay. I'm good.

12 BY MR. KAUL:

13 Q. All right. Mr. DeLancy, while we've been
14 discussing those legal points, have you had a chance
15 to look at the document?

16 A. Yes.

17 Q. On the first page you thank Senator Cook
18 for leading the effort and thank Senators Hunt,
19 Sanderson, Randleman, Soucek and Raven too; is that
20 right?

21 A. That's right.

22 Q. Did I butcher any of those pronunciations?

23 A. No more than I would have so . . .

24 Q. Okay. You were thanking them because they
25 were all sponsors of either 666, 667 or both, right?

1 MR. BRANCH: Objection.

2 You can answer.

3 THE WITNESS: To the best of my
4 recollection. I thought Hunt pulled himself
5 off, but at one point he was on it.

6 BY MR. KAUL:

7 Q. Okay. And then you talked about the
8 affect that those bills would have; is that right?

9 A. Yes.

10 Q. And you specifically mentioned: (Reading)
11 Drawing national attention as

12 a solution to the vexing problem of
13 temporary residents or college
14 students spewing local politics
15 without ever feeling any consequences
16 for their actions.

17 Right?

18 A. Yes.

19 Q. So is it fair to say that the bill was
20 designed to create consequences for students who
21 voted at their college residence?

22 MR. BRANCH: Objection.

23 You can answer.

24 THE WITNESS: It has an affect on the
25 taxpayers, the parents. And you're asking me

1 was it -- I'm sorry repeat that.

2 BY MR. KAUL:

3 Q. Was it designed or intended to create
4 consequences for college students who register to
5 vote at their college residence?

6 MR. BRANCH: Objection. Again, this
7 is another topic on which he's testified
8 multiple times.

9 THE WITNESS: Yeah.

10 MR. BRANCH: You can answer. But the
11 question about whether there was an intent to
12 punish the student as opposed to the taxpayer,
13 again, has been gone over several times.

14 BY MR. KAUL:

15 Q. Well, I'm asking, I guess, about the
16 statement in the e-mail specifically.

17 A. The statement was designed to build more
18 consensus for other -- I noticed you skipped the
19 part about judicial overreach where this law was
20 never -- it was something the courts gave these
21 kids -- these kids, I know I sound like a dad -- but
22 it had never really been addressed in the intent of
23 the law to give a certain class of students a choice
24 of what their domicile is.

25 Q. What I'm curious about is second half of

1 that sentence, the solution to those college
 2 students spewing local politics without ever feeling
 3 any consequences for their actions.
 4 You said that this was designed to build
 5 consensus?
 6 A. Not a very good job at it, but, yeah.
 7 Q. Why did you think that referring to
 8 addressing the problem of students spewing politics
 9 without feeling any consequences for their actions
 10 would build consensus?
 11 MR. BRANCH: Objection.
 12 You can answer.
 13 THE WITNESS: A feedback I'd gotten
 14 across the state that in college towns it is a
 15 very deep frustration among political activists
 16 in those towns that everything goes whatever
 17 way the college tells the kids to do it. And
 18 so the politicians in those towns, I was hoping
 19 that they would see that and go, yeah, I'll
 20 join on to that for that reason.
 21 BY MR. KAUL:
 22 Q. And is it your understanding that that's
 23 part of the reason that those senators who signed on
 24 did sign on?
 25 MR. BRANCH: Objection.

1 THE WITNESS: Yeah, I don't know how
 2 to answer that.
 3 BY MR. KAUL:
 4 Q. Do you have an understanding of why the
 5 senators signed on?
 6 MR. BRANCH: Objection.
 7 You can answer if you know, just
 8 don't reveal any specific conversation.
 9 THE WITNESS: Yeah. Senator Cook was
 10 the freshman senator wanting to introduce the
 11 bill. And he -- I mean, embarrassingly this is
 12 how new I was to this, I didn't even go to
 13 Hunt. He was my senator. And Hunt -- I lived
 14 in Hunt's district, but I -- he just signed on
 15 to it for a while. But the -- those are people
 16 that -- that Cook talked and got them to sign
 17 it, so you'd have to ask Senator Cook why they
 18 joined on to sponsor with him.
 19 BY MR. KAUL:
 20 Q. Okay. So is it correct that you don't
 21 have an understanding as to why they signed on?
 22 A. Oh, that would have been a much easier
 23 answer, correct.
 24 Q. Okay. But you had a view as to what you
 25 thought would encourage them to sign on, correct?

1 A. I wanted to motivate more legislators to
 2 sign on as sponsors.
 3 Q. And it was your understanding that this
 4 language would do that; is that right?
 5 A. It was my hope. It didn't work, but it
 6 was my hope.
 7 Q. All right. Next, I believe I have JD 8.
 8 And we have about two minutes left on the tape as I
 9 understand it.
 10 (EXHIBIT NUMBER 8 WAS MARKED FOR IDENTIFICATION)
 11 BY MR. KAUL:
 12 Q. And this is the same type of thing where
 13 the document was part of the VIP production.
 14 MR. BRANCH: The VIP Bates numbers
 15 are 577 and 578.
 16 MR. KAUL: Thank you.
 17 MR. BRANCH: No problem.
 18 BY MR. KAUL:
 19 Q. All right. And I'm going to ask you only
 20 about the first e-mail, but, again, feel free to
 21 read what's below for context.
 22 (WITNESS REVIEWS DOCUMENT)
 23 A. Okay. It's reference to a previous
 24 question you had.
 25 Q. Now, you wrote here that the final --

1 well, first of all, you wrote this e-mail?
 2 A. Yes, I wrote it.
 3 Q. (Reading)
 4 The Final version of the bill
 5 will make no reference to the word
 6 student because it will be a general
 7 rule that happens to impact students.
 8 Do you see that?
 9 A. Yes, I see that.
 10 Q. What did you mean by that?
 11 A. It has an affect on them.
 12 Q. First of all, when it says the final
 13 version of the bill will make no reference to the
 14 word student, does that mean that prior versions of
 15 the bill, the bill did include the word student?
 16 A. I don't recall. It must be that, but I
 17 don't recall.
 18 Q. Okay. And so you put the word happens in
 19 quotes here, right?
 20 A. I do like my quotes there, yeah.
 21 Q. Well, you mentioned you use them a fair
 22 amount.
 23 A. That's a wink, wink kind of a joke. It
 24 happens to impact them.
 25 Q. Okay. Because it -- it wasn't actually

1 happenstance that it impacted students, right?
 2 MR. BRANCH: Objection.
 3 THE WITNESS: Do I need to answer
 4 that? What are you -- repeat the question.
 5 BY MR. KAUL:
 6 Q. You do.
 7 You said it was a wink, wink nudge, nudge.
 8 And I said and that's because it -- it wasn't just
 9 happenstance that this bill impacted students,
 10 right?
 11 MR. BRANCH: Objection.
 12 You can answer.
 13 THE WITNESS: It's obvious that the
 14 bill had an impact on where the students' vote
 15 would count. And that was -- and I think the
 16 rest of this text points to the -- I think it's
 17 a pretty clear picture of what my motivation
 18 was on this.
 19 MR. KAUL: Okay. I believe we're out
 20 of tape. Off the record for a minute.
 21 THE VIDEOGRAPHER: Off the record.
 22 The time is 12:22 p.m.
 23 (RECESS TAKEN)
 24 THE VIDEOGRAPHER: Going back on the
 25 record. The time is 12:42 p.m.

1 BY MR. KAUL:
 2 Q. Mr. DeLancy, we were just looking at a
 3 document marked JD 8, I believe, before the break.
 4 Is that the right number?
 5 A. 3?
 6 MR. BRANCH: 8.
 7 BY MR. KAUL:
 8 Q. It's the one at the bottom, the very
 9 bottom there.
 10 A. Yes.
 11 Q. And I had been asking you some questions
 12 about the second sentence which refers to -- we were
 13 discussing the student language in that. Let me
 14 direct your attention to the next sentence. It
 15 says: (Reading)
 16 While registering to vote will
 17 not automatically qualify a college
 18 student for in-state tuition, it will
 19 clarify the child's intent by publicly
 20 moving the child out of his/her
 21 parents' domicile and into their own.
 22 Do you see that?
 23 A. Uh-uh.
 24 Q. All right.
 25 A. I just lost track here. Establish

1 themselves --
 2 MR. BRANCH: It's the fourth line to
 3 fifth line down.
 4 THE WITNESS: Okay. Verify the
 5 child's intent by publicly moving the child out
 6 of his/her parents' domicile into their own.
 7 Yes, I see it.
 8 BY MR. KAUL:
 9 Q. So you specifically mentioned not
 10 qualifying a college student for in-state tuition,
 11 right?
 12 A. I did.
 13 Q. All right. And so why did you make the
 14 decision not to make that part of the bill?
 15 MR. BRANCH: Objection.
 16 You can answer.
 17 THE WITNESS: The financial
 18 implications would be outrageous. I thought
 19 there's no way anybody would like this idea if
 20 I said, hey, let's give all these kids -- if
 21 they vote, let's give them, you know, it's just
 22 not my lane. It's just -- I just didn't see it
 23 as appropriate.
 24 BY MR. KAUL:
 25 Q. Okay. There was a tax consequence for

1 their parents if they registered to vote, right?
 2 A. Well, yes, there was.
 3 Q. Was it your understanding that granting
 4 in-state tuition would encourage college students to
 5 register in North Carolina?
 6 MR. BRANCH: Objection.
 7 You can answer.
 8 THE WITNESS: That wasn't the thought
 9 process. The thought process was if I said
 10 something that draconian, it would change the
 11 budget so badly that the bill would never get
 12 passed.
 13 BY MR. KAUL:
 14 Q. All right. Let me move on to a different
 15 document. Now, when you were talking about the
 16 purpose of SB 666 and 667 before -- and I -- I don't
 17 want to go back over what we did before in-depth, so
 18 this is more of a clarification question -- am I
 19 right that your concern was making sure that -- you
 20 said that your concern was making sure that
 21 residency requirements were properly enforced?
 22 Correct me if that's wrong, I'm not . . .
 23 A. I don't recall using the word enforced but
 24 maybe. Are you referring to a document we have?
 25 Q. Let me -- let me show you a document. We

1 will mark this as JD 9.
 2 (EXHIBIT NUMBER 9 WAS MARKED FOR IDENTIFICATION)
 3 MR. BRANCH: Thank you.
 4 (WITNESS REVIEWS DOCUMENT)
 5 THE WITNESS: Okay.
 6 BY MR. KAUL:
 7 Q. All right. Now, this is a media advisory
 8 put out by Voter Integrity Project, correct?
 9 A. Correct.
 10 Q. And did you draft this?
 11 A. I did.
 12 Q. Now, the first paragraph describing the
 13 bill focuses on how the bill will encourage college
 14 students to vote from their home of record rather
 15 than their college -- their temporary college
 16 address it says; is that right?
 17 A. Yes.
 18 Q. And then the next paragraph refers to the
 19 Buncombe County commissioner race that you talked
 20 about before?
 21 A. Yes.
 22 Q. And specifically that it was by student
 23 voting, right?
 24 A. Yes.
 25 Q. Now, at the beginning of the next

1 paragraph there's a quote from you that says:
 2 (Reading)
 3 We are not saying any laws
 4 were broken.
 5 Is that right?
 6 A. Yeah, I said that.
 7 Q. Okay. And then you said: (Reading)
 8 But that race showed how
 9 easily college students can be
 10 manipulated like pawns, and these
 11 bills will protect students from such
 12 abuse.
 13 Is that right?
 14 A. Yes.
 15 Q. All right. So when you're saying that no
 16 laws were broken, if that's correct, what was your
 17 concern with the voting in Buncombe County?
 18 A. There were a lot of activists in Buncombe
 19 who were alleging that the actions of the director
 20 of the Board of Elections broke the law, and I don't
 21 think she did. And -- and that was -- that was a
 22 gratuitous hat tip to her, because -- because I
 23 think she did -- I don't know what her intent was,
 24 but I think she followed the law.
 25 Q. So why were you concerned about the voting

1 in that election if the laws were followed?
 2 A. I think it's clear that the students who
 3 came in and voted, again, were -- they had a impact,
 4 they changed the outcome of the election.
 5 Q. Well, when you say voted again, you don't
 6 mean that they were voting a second time in the same
 7 election, do you?
 8 A. No, they didn't -- okay. They didn't vote
 9 illegally. What happened was the activist group, I
 10 don't know who, I heard them testify at some
 11 hearing, but they -- a group of activists contacted
 12 the students, they worked with the school to find
 13 out which of the students slept -- laid their head
 14 in the swing district, and I forget which one it
 15 was, and they contacted -- they just got on the
 16 phone and started contacting them and offering them
 17 a do over, a chance to vote again.
 18 Q. Okay. So the -- wait, a chance to vote
 19 again?
 20 A. Yeah. They brought them in and said --
 21 they called them and said, your vote, I'm
 22 paraphrasing here, but they called each one of them
 23 and said, it turns out your vote will only be
 24 partially counted, because we've discovered that
 25 you -- you actually lived in District 2 instead of

1 District 1 which is the address they'd given on the
 2 registration. And so now if you come in, you can
 3 vote a whole new ballot, or if you leave it as is,
 4 you'll only vote in the federal races.
 5 And so some -- some of the kids just hung
 6 up the phone and said, no, I voted for the
 7 president, that's all I want to do and they hung up
 8 the phone. Others said, okay, I'll come in, and
 9 they voted again, so they -- the provisional ballot.
 10 And that was when I got called by the candidate who
 11 between that period of the election and the
 12 provisional ballot the candidate realized that she'd
 13 only won by 82 votes and was afraid that they were
 14 going to steal it from her in provisional.
 15 And so I use the word steal, because they
 16 were like they're breaking the law, they're breaking
 17 the law and, thus, the point. I kind of threw that
 18 in there that they're not breaking the law, they're
 19 just -- this is the way the law is set up.
 20 Q. Okay. So your understanding was that
 21 voters had cast a provisional ballot in one
 22 precinct?
 23 A. No, originally they just voted. They just
 24 went in and voted, it wasn't provisional ballot.
 25 They just -- but it was early voting. And under

1 North Carolina law early voting ballots are
2 retrievable, and so they contacted those students
3 and allowed them to come back and do a provisional.
4 And the board voted overwhelm -- you know, any
5 provisional they got under that circumstance they
6 threw out the original ballot and used the
7 provisional, because it was a more robust ballot.
8 It had -- it would have had the effect on the local
9 races too and not just the federal races.

10 Q. Okay. And so the students were permitted
11 to essentially have the first vote canceled; is that
12 right?

13 A. Yes.

14 Q. And you mentioned that in the -- with the
15 first vote the students' votes didn't count for all
16 races, but that in the other vote it did?

17 A. If the student came back in and voted
18 provisionally, then whatever they voted would count,
19 it would supersede what they did in the previous
20 but -- I'm sorry, too long an answer. The first
21 ballot would have only counted for the federal races
22 so congressional.

23 Q. Why would it only have counted for the
24 federal races?

25 A. That's the nature of provisional ballots.

1 Whenever you do an out of precinct provisional
2 ballot, you are -- you're -- basically the board
3 will vote to disqualify you on those local -- if you
4 don't live in that district, then they would -- most
5 election boards would disqualify those particular
6 votes. They wouldn't throw out the whole ballot,
7 but they would throw out -- it's my understanding
8 that they would throw out the ballot -- just that
9 part of the ballot that effected the local races.

10 Q. Okay. So the original votes by the
11 students were cast in the incorrect precinct. Those
12 were canceled, and then they voted in the correct
13 precinct; is that right?

14 A. Yes.

15 Q. And by voting in the correct precinct the
16 results of the election in that precinct were
17 flipped; is that right?

18 A. Yes.

19 Q. Okay.

20 MR. BRANCH: And I'm just going to
21 object to the extent that I don't know if it
22 was actually a physical voting in -- I believe
23 Jay is delineating, correct me if I'm wrong,
24 but there may have been a distinction between
25 actually physically voting in the precinct and

1 then ultimately voting the ballot associated
2 with -- with the correct precinct in which the
3 voter was domiciled.

4 THE WITNESS: Yeah, this was not
5 physical voting on election day. This was --
6 all of it was early voting or provisional
7 ballot cast before election day or maybe --
8 maybe on election day. But the key was where
9 their ballot counts not where the student
10 voted, because it was early voting. They could
11 vote anywhere in the county.

12 BY MR. KAUL:

13 Q. Okay. So just to sort of crystalize this.

14 A. Okay.

15 Q. The concern was not that there was any
16 illegality in how the students were voting, but the
17 fact that the student votes impacted the results of
18 the election; is that right?

19 MR. BRANCH: Objection.

20 You can answer.

21 THE WITNESS: The students' impact on
22 the local race was the concern which was why I
23 was brought in to help them sort through it.

24 BY MR. KAUL:

25 Q. And the second half of that quote which we

1 were talking about earlier from you --

2 A. Okay.

3 Q. -- which shows: (Reading)

4 This shows how easily college
5 students can be manipulated like pawns
6 and that these bills would protect
7 students from such abuse.

8 Do you see that?

9 A. Yes.

10 Q. What do you mean by saying, "how easily
11 college students can be manipulated like pawns"?

12 A. Part of this is that I want to -- I'm
13 writing a press release to generate support, you
14 know. We didn't get a lot of support. But I write
15 press releases that kind of play to that -- to that
16 base feeling.

17 But do I think students can be manipulated
18 like pawns, I think that stands by its own that
19 they -- they're in a highly suggestive environment,
20 and college professors or whoever, activists, they
21 can manipulate them.

22 Q. And do you think that's particularly true
23 for college students?

24 A. I think in general -- obviously, this bill
25 was targeting college students, because that's where

1 the problem is identified. But, of course, younger
 2 people can be manipulated by elders. But,
 3 obviously, the bill was for students.
 4 Q. And you said that these bills will protect
 5 students from such abuse?
 6 A. Yes.
 7 Q. What did you mean by that?
 8 A. I mean it takes it off the table where
 9 people are not going to be wasting time and class.
 10 As teachers, and I've been a college professor, that
 11 they would be taking time to -- instead of giving
 12 the kids, the students, what they wanted in school
 13 to politic them and to manipulate them. Same as a
 14 nursing home or, you know, or someone who has a
 15 lower mental capacity, you know, similar to it.
 16 Obviously students 17/18-year-old kids are -- they
 17 have a mental capacity, I didn't mean to compare
 18 them to a nursing home, but it's the same kind of
 19 abuse.
 20 When you have somebody in a power
 21 relationship like a corporate employee with a boss
 22 who tells all the employees they have to vote a
 23 certain way, it's a power relationship there, and
 24 this law would take that off the table. Where the
 25 professors -- a kid who feels he's being pressured

1 could say, I voted absentee, and then they're, oh,
 2 and they leave them alone instead of keep pressuring
 3 them to vote a certain way.
 4 Q. How would the college professor know how
 5 the student voted?
 6 A. I haven't been on a campus in a couple
 7 years, but, you know, obviously, it's -- they're not
 8 going to be checking their ballots. But I'm just
 9 talking about the influence and the pressure, not
 10 just professors but the peer pressure on the campus.
 11 It would -- it would liquidate some of that pressure
 12 among kids about having to vote a certain way if
 13 they talk it over with their parents, decide how
 14 they want to vote and they vote absentee, what's the
 15 problem.
 16 Q. Okay. So by referring to protecting the
 17 students from such abuse is it fair to say that
 18 there's an aspect of protecting students from
 19 themselves?
 20 A. Well, there could be even great abuse, I
 21 don't know. I mean, you know, there's -- I have no
 22 idea what goes on in every college campus and what
 23 the morals are of a professor, but there could be
 24 abuse. There could be abuse of the grade book. I
 25 mean, that's a -- I've -- it's happened, you know.

1 I know people who have been punished for their
 2 views.
 3 Q. Do you know anybody who has been punished
 4 for how they -- how -- what vote they cast?
 5 A. Well, how would I know that?
 6 Q. So you're, I just want to be clear, you're
 7 speculating, right?
 8 A. Yeah, I had a student who she clearly -- I
 9 mean, I had an intern rather, who clearly knew that
 10 her views were affecting her grade. And they were
 11 her political views, had nothing to do with the
 12 academics, and she had confrontations with
 13 professors over these kinds of issues.
 14 Q. But to be clear, it's based on her -- her
 15 view is not how she marked a ballot, right?
 16 A. Right.
 17 Q. All right. The next document is going to
 18 be JD Number 10.
 19 (EXHIBIT NUMBER 10 WAS MARKED FOR IDENTIFICATION)
 20 BY MR. KAUL:
 21 Q. And I apologize to the court reporter for
 22 underselling how many exhibits we'd have.
 23 And this one I actually am going to ask
 24 you to read the entire document, because I plan to
 25 ask you about different parts of it.

1 A. Okay. You all may take a five minute
 2 break here.
 3 (WITNESS REVIEWS DOCUMENT)
 4 Okay.
 5 Q. All right. Now, let me start on the page
 6 that is referred to as CIVITAS 319 on the bottom,
 7 the last page of the document. About a third of the
 8 way down the page there's an e-mail from Amanda
 9 Shreve to you, correct?
 10 A. Yes.
 11 Q. And Ms. Shreve was letting you know that
 12 Civitas was going to oppose SB 666, right?
 13 A. Correct.
 14 Q. What is Civitas?
 15 A. They're a . . .
 16 Q. Just generally.
 17 A. Yeah, it's a public policy group in
 18 Raleigh focused on North Carolina law.
 19 Q. Okay. And then let me turn your attention
 20 to the next e-mail.
 21 A. Above or below?
 22 Q. Above, I'm sorry, on page 318. And
 23 specifically the e-mail sent from you to some others
 24 on April 9th, 2013, at 9:47 a.m.
 25 A. I remember it well.

1 Q. Why do you remember it well?
 2 A. Well, I felt bad about it later, and
 3 apologized to Francis for stomping around like a
 4 child and screaming at him over there.
 5 Q. Okay. And Francis DeLuca, just for the
 6 record, is the president of Civitas, correct?
 7 A. Yes.
 8 Q. And he was at the time?
 9 A. Yes -- or I don't know what his -- yeah,
 10 whatever his position is.
 11 Q. Is he the head?
 12 A. The head, yeah.
 13 Q. And who is Susan Myrick?
 14 A. She is his -- it is not the congresswoman,
 15 it is his chief election analyst.
 16 Q. Okay. And she has been involved in a lot
 17 of the public dialogue regarding election law bills
 18 in North Carolina, correct?
 19 MR. BRANCH: Objection.
 20 You can answer.
 21 THE WITNESS: Yeah, she's written
 22 extensively on the subject, and Francis -- if I
 23 were Francis, I would use her as my subject
 24 matter expert, and I presume he does.
 25

1 BY MR. KAUL:
 2 Q. And who is Jim Anthony?
 3 A. Jim Anthony is someone we had in common.
 4 Jim has been -- he gave us a commercial property to
 5 use, not gave, but he lets us use one on a
 6 month-to-month until he rents it. And I knew that
 7 if I was at cross swords with Civitas, then I
 8 probably need to pack my bags. I wanted Jim to know
 9 about the argument we're having, because I knew he's
 10 a big guy with Civitas in funding them. And so I
 11 needed to know if I'm going to get -- you know, if
 12 Jim's going to evict me for disagreeing with
 13 Francis, I wanted him to know up-front that this is
 14 why I'm upset. So I -- I decided to cc Jim in on
 15 the conversation.
 16 Q. Okay. Mr. Anthony you said lets you use
 17 space free of charge?
 18 A. Yes.
 19 Q. But he hasn't donated more than a thousand
 20 dollars to your organization; is that right?
 21 A. Well, yeah, I guess that would be an
 22 in-kind, because no, he has not. We're, you know,
 23 we're -- no, he has not. I hate to put this on the
 24 camera, he hadn't -- to my knowledge he hadn't
 25 donated any money to it, but he's given me . . .

1 Q. Yeah, I wasn't trying to trip you up, I
 2 was just asking you about the financial end of it.
 3 A. Yeah. It's surplus commercial property,
 4 you know, there's plenty of it in Raleigh.
 5 Q. Now, I believe the fifth line in your
 6 e-mail says that you had a meeting with a U.S.
 7 Attorney?
 8 A. Yes.
 9 Q. And did you, in fact, have a meeting with
 10 the U.S. Attorney?
 11 A. Okay. Yes.
 12 Q. And was that with respect to voter fraud
 13 allegations?
 14 A. Yes.
 15 Q. And did that office pursue any charges as
 16 a result of that meeting? Let me phrase it
 17 differently.
 18 Was anybody charged who you had brought up
 19 in that meeting?
 20 A. No. And the U.S. Attorney was reassigned,
 21 so it dropped.
 22 Q. Was it the U.S. Attorney or Assistant U.S.
 23 Attorney?
 24 A. The branch chief, Bobby Higdon.
 25 Q. Was he reassigned based on not prosecuting

1 the allegations you brought or?
 2 MR. BRANCH: Objection.
 3 BY MR. KAUL:
 4 Q. Well, let me ask you, you mentioned his
 5 being reassigned.
 6 A. Yeah, yeah, he's not there any -- I
 7 don't -- I haven't talked to him since is what I'm
 8 saying.
 9 Q. Okay.
 10 A. We -- he -- we had discussions with the
 11 FBI. We had -- we were concerned about the Florida
 12 and North Carolina voters and we had brought the
 13 evidence to them and it didn't go anywhere.
 14 Q. Okay. The second half of that sentence
 15 you say that: (Reading)
 16 We have worked hard to pack
 17 the voter ID hearing for tomorrow.
 18 First, when you say "we," you're referring
 19 to --
 20 A. Voter Integrity.
 21 Q. -- the Voter Integrity Project, right?
 22 And the voter ID hearing was a public
 23 hearing regarding HB 589; is that right?
 24 A. Yeah, I'm checking the date. Yes, it was
 25 the second public hearing.

1 Q. And what did you mean by pack the hearing?
 2 A. I wanted -- the first hearing I went to
 3 was packed by leftist groups who brought buses in
 4 full of people and they occupied the room, and it
 5 was so frustrating that -- well, I thought it was a
 6 hearing, it was a one-and-done. And the --
 7 apparently -- well, I'm speculating. But for
 8 whatever reason Chairman Lewis decided to have
 9 another meeting.
 10 And so we -- when we saw it come up online
 11 that they were having it, we notified our people all
 12 across the state to get ready and to sign up. So
 13 we -- we did what we had to do, because we couldn't
 14 afford to rent buses and bring people in. So we
 15 just had to get people to the hearing.
 16 Q. All right. In the next sentence you said
 17 that you were heartbroken by Mr. DeLuca's conduct;
 18 is that right?
 19 A. Yes.
 20 Q. What did you mean by that?
 21 A. It broke my heart to know that they were
 22 going to oppose us on -- on this.
 23 Q. And is that because you had viewed Civitas
 24 as an allied organization?
 25 A. I -- well, I was -- this is 2013, and at

1 the time this was when I realized that Civitas is
 2 not an ally. I just kind of assumed they were. But
 3 I -- I -- it was my naivete in the whole process
 4 that Civitas has their agenda and we have ours.
 5 Q. Two paragraphs down you said that:
 6 (Reading)
 7 We desperately need a national
 8 discussion to expose the way students
 9 are manipulated into disrupting local
 10 politics.
 11 Do you see that?
 12 A. Yeah.
 13 Q. And by that were you -- are you referring
 14 to the same concept we've been talking about today?
 15 A. Yes.
 16 Q. And in the next paragraph you said that:
 17 (Reading)
 18 North Carolina got a pass in
 19 the November 2012 elections.
 20 Do you see that?
 21 A. Yes.
 22 Q. What did you mean by that?
 23 A. We had -- I know it comes across as
 24 partisan. We had one reform-minded agenda on one
 25 party and the Democrats were not in favor of any

1 kind of election law reform. They'd clearly opposed
 2 it in previous elections. And then when you flip
 3 over and see these states where Democrats take it
 4 over, Colorado and Minnesota, for instance, they
 5 roll it back.
 6 So when I say we had a pass, I meant the
 7 Voter Integrity Project had a pass. My friends in
 8 Virginia did not get that pass, and their -- the
 9 election integrity laws they put in are being rolled
 10 back. And so that's what I meant.
 11 Q. Okay. So you're referring to the results
 12 of the North Carolina state legislative elections?
 13 MR. BRANCH: Objection.
 14 THE WITNESS: Yeah, the fact that
 15 more reform-minded legislators --
 16 MR. BRANCH: Go ahead.
 17 THE WITNESS: Yes.
 18 BY MR. KAUL:
 19 Q. Let me draw your attention to -- there's a
 20 long paragraph near the end, and about two-thirds of
 21 the way down there's a reference to Civitas stabbing
 22 VIPNC in the back. Do you see that?
 23 A. Yes.
 24 Q. And the sentence I want to ask you about
 25 is the next one, actually. It says: (Reading)

1 If your organization has a
 2 better solution to deter the leftist
 3 activism among the college crowd, I'm
 4 glad to jump in and support your
 5 ideas.
 6 Do you see that?
 7 A. I see it.
 8 Q. All right. So was the implication of that
 9 sentence as you meant it in writing it that SB 666
 10 would deter leftist activism among the college
 11 crowd?
 12 A. I think I've addressed that.
 13 MR. BRANCH: Objection.
 14 Go ahead.
 15 BY MR. KAUL:
 16 Q. Well, and I'm asking what you mean by this
 17 sentence in the document.
 18 A. Yeah, you've heard. I'm not going to
 19 repeat what I've already told you. The bottom line
 20 to it is that now, the day I'm angry, I'm writing an
 21 angry e-mail to some activist, and I feel like I've
 22 been stabbed in the back by the guy I'm writing the
 23 e-mail to. And there it is.
 24 Q. So I guess, what did you mean by that
 25 sentence? Let me ask it that way.

1 A. I'll refer back to what I told you
 2 earlier.
 3 Q. Well, we haven't discussed this sentence
 4 earlier.
 5 A. I'll refer back to students being peer
 6 pressure, almost like a fraternity rush week to go
 7 vote, and to vote as a group instead of as
 8 individuals thinking.
 9 Q. Why use the word leftist?
 10 A. Well, because that's who's doing it.
 11 Q. Okay. All right. And this is another one
 12 of those documents that is both a VIP document and a
 13 document that was produced elsewhere in the case.
 14 This is going to be JD 11 and the document is VIP715
 15 to 717.
 16 (EXHIBIT NUMBER 11 WAS MARKED FOR IDENTIFICATION)
 17 MR. KAUL: And I just want to make
 18 sure you don't get any that are marked highly
 19 confidential at the bottom. It's not personal.
 20 MR. BRANCH: I'm not worried about
 21 it.
 22 MR. KAUL: Actually, did I give you
 23 any before? If I did, we should grab those.
 24 MR. STRACH: Uh-uh, you just gave
 25 them to me.

1 MR. KAUL: Okay.
 2 BY MR. KAUL:
 3 Q. And here I'm going to ask you questions
 4 just about the first e-mail. But, again, same
 5 instructions apply, feel free to read the rest.
 6 (WITNESS REVIEWS DOCUMENT)
 7 A. Okay.
 8 Q. All right. And I'd like to direct your
 9 attention to the second sentence of the second
 10 paragraph which begins with the phrase, the orange
 11 crowd went nuts?
 12 A. Oh, yeah.
 13 Q. And what you're saying in that sentence,
 14 the full sentence is that: (Reading)
 15 The crowd went nuts because
 16 SB 666 and 667 were ways to curtail
 17 the massive leftward shift in school
 18 boards, state house and county
 19 commission votes in almost every
 20 single college town in the state.
 21 Correct?
 22 A. Yeah.
 23 Q. So it is right that college student voting
 24 is left for democratic voting in almost every
 25 college town in the state of North Carolina, right?

1 MR. BRANCH: Objection.
 2 You can answer.
 3 THE WITNESS: That's an observation,
 4 and it's a realized benefit that it would --
 5 that it would have that kind of impact.
 6 BY MR. KAUL:
 7 Q. What do you mean "a realized benefit"?
 8 A. That the students would disperse their
 9 ballots in their home of record instead of
 10 concentrating them in a college town.
 11 Q. I guess what I meant is what do you -- "a
 12 realized benefit," what do you mean by that phrase?
 13 A. Well, it's realizing that it is a viable
 14 way. I was cashing on that word. But it is a, you
 15 know, as we discussed before, it's a benefit to it
 16 that it would disperse this.
 17 Q. Disperse it meaning?
 18 A. It would -- this vote -- some students, I
 19 don't know how many, would be more responsible and
 20 vote from the home of record instead of from
 21 college.
 22 Q. And this e-mail is one that you sent to
 23 several members of the state -- well, one member of
 24 the state senate and several members of the state
 25 house; is that right?

1 A. Right.
 2 Q. And you were pointing this out to
 3 encourage them to support SB 666 and 667; is that
 4 right?
 5 A. Yes. Looking at the date, it was prior to
 6 finding out the bill was not going to go anywhere,
 7 but, yes.
 8 Q. Okay. Next I've got JD 12.
 9 (EXHIBIT NUMBER 12 WAS MARKED FOR IDENTIFICATION)
 10 THE WITNESS: Yeah, I wondered if
 11 you'd find this one.
 12 BY MR. KAUL:
 13 Q. Why were you wondering about that?
 14 A. When I saw it, I realized they're going to
 15 think I'm partisan. We work hard not to be
 16 partisan, but sometimes our irrational exuberance
 17 gets the best of us and that's what happened here.
 18 Q. All right. Let me -- it sounds like
 19 you're familiar with this document. Let me ask you
 20 about the e-mail at the bottom of the first page.
 21 And, again, this is in -- this is another e-mail
 22 that you sent to several senators and Ms. Shreve,
 23 correct?
 24 A. Correct.
 25 Q. And those are all senators who

1 cosponsored --

2 A. Yes.

3 Q. -- one or both of the bills?

4 Now, first of all, this e-mail, is this a

5 message to them, or is it a message that you're --

6 that you were planning to broadcast more widely that

7 you were showing to them to preview?

8 A. I just forwarded them this article.

9 Somebody sent it to me. I wanted to encourage them

10 to rally this bill and maybe even, you know,

11 motivate them to do it by showing them this article.

12 This is the same argument that Senator Cook first

13 heard when he -- when he went to me and said, how do

14 we -- you got any ideas to fix this. And this, to

15 me, I think it's far better than saying you can't

16 vote at college then, just to give these kids a

17 chance to either vote as adults -- well, you know,

18 to vote -- to think about where they're voting

19 responsibly.

20 Q. All right. So in the first two paragraphs

21 you refer to: (Reading)

22 This being what's looming over

23 the horizon if we don't get a good

24 student voter restriction this year.

25 Do you see that?

1 A. Yes.

2 Q. And then the next sentence says:

3 (Reading)

4 California sweeps blue by

5 about 60 to 65 percent for all

6 elections.

7 A. Yes.

8 Q. And by that -- by "sweeps blue," meaning

9 votes democratic, right?

10 A. Yes.

11 Q. And when you say "this is what's looming

12 over the horizon," you're referring to the

13 possibility that North Carolina will also

14 overwhelmingly vote democratic, right?

15 A. I am trying to motivate three partisan

16 senators by speaking to something that is of concern

17 to them. If I speak to them about election fraud,

18 they may or may not believe it. But if I speak to

19 them about this is a consequence, I'd hope to

20 motivate them with that language.

21 Q. Did you find that to be more effective

22 than speaking about fraud generally?

23 A. No, actually. Well, I'm sorry, against

24 politicians, no, I don't know. I was thinking maybe

25 different, but I don't -- I don't recall.

1 Q. The ones on this e-mail at least?

2 A. Yeah, this -- I was young, that was 2013,

3 far younger than I am today.

4 Q. And I was just going to say the ones on

5 this e-mail, at least, did cosponsor the bills,

6 right?

7 A. Yes.

8 Q. And to be -- just to get a yes-or-no

9 answer, when you were saying this is what's looming

10 over the horizon, you were referring to the

11 possibility that North Carolina would overwhelming

12 vote democratic like California does unless there

13 was a good student voter restriction, right?

14 A. Yes. As a rhetorical flair to three

15 Republicans.

16 Q. Four actually, right? Senators, I mean?

17 A. Okay.

18 Q. And then in the last paragraph on this --

19 this same e-mail you say: (Reading)

20 If we can get this right, the

21 squealing will be heard all the way to

22 California.

23 A. Yes.

24 Q. What did you mean by that?

25 A. I realized that people would be upset all

1 across the country if we find a viable way that's

2 fair and equitable that would help address this

3 problem.

4 Q. People would be upset all over the country

5 if you found a way that was fair and equitable to --

6 A. Certain people would be.

7 MR. BRANCH: Objection.

8 BY MR. KAUL:

9 Q. You then later in that paragraph refer to

10 this bill, meaning SB 666 and 667, as an existential

11 threat to them meaning the left, right?

12 A. Yes.

13 Q. Second only to voter ID, right? Correct?

14 A. Yes.

15 Q. What did you mean by the reference to

16 voter ID?

17 A. People who like to commit fraud hate

18 things like voter ID. I'm convinced of that after

19 doing this for the last four years.

20 Q. And why does that pose an existential

21 threat to the left specifically?

22 A. Because while it's legal, I don't think

23 rallying kids to -- on a college campus is certainly

24 an ethical way to deal with enfranchising them.

25 Q. And I'm actually asking about the voter ID

1 Board of Elections got it they threw the race
2 out and had them do it, the election, over,
3 because it was too much fraud and they couldn't
4 sort it out.

5 So, yeah, I know fraud affects the
6 outcome of elections. You're asking me big
7 elections, I don't know that. So I can't
8 speculate on it.

9 BY MR. KAUL:

10 Q. I mean, the reason I'm asking, I guess, is
11 existential threat makes it sound like it's big
12 elections. Is that fair?

13 A. If that's the way you read it, sure.

14 Q. I'm -- I'm just trying to figure out what
15 you meant by existential threat.

16 A. We're trying to motivate legislators.

17 MR. BRANCH: Look, I've let this go
18 on and I'll let it go on one more, but he's
19 testified earlier that he's prone to using sort
20 of over-the-top rhetoric in some of his
21 e-mails. And this was days after he's
22 testified that he felt like he got stabbed in
23 the back over this legislation. And you asked
24 him ten different ways what he meant by
25 existential threat, and I mean, he's -- he's

1 doing his best to answer. But I think that the
2 meaning that you're ascribing to, the language
3 that he's got in there is not necessarily what
4 he meant, I mean, you know.

5 MR. KAUL: Yeah, and I guess I feel
6 like I'm not getting an answer. But I -- I'm
7 not going to keep pressing on this issue.

8 THE WITNESS: What you said is right.
9 I'm trying to motivate legislators to save the
10 bill, and they're not going to do it so . . .
11 Pulling out the Lowry dictionary.

12 BY MR. KAUL:

13 Q. Now, let me go to the next e-mail up from
14 that, the one from Amanda Shreve. Do you see where
15 she says that your language sounds very
16 discriminatory and like you were trying to suppress
17 particular groups?

18 A. Yes.

19 Q. And then she says: (Reading)

20 We want this to happen so we
21 have confidence in the integrity of
22 our system no matter which color North
23 Carolina is.

24 Do you see that?

25 A. Yes.

1 Q. All right. So she's encouraging you there
2 to use different language; is that right?

3 A. Yes.

4 MR. BRANCH: Objection.

5 BY MR. KAUL:

6 Q. Was that your understanding of what she
7 was doing, encouraging you to use different
8 language?

9 A. Yes.

10 Q. All right. And you then in the final
11 e-mail proposed new language in response -- was that
12 new language in response to that e-mail, or was it
13 just additional language?

14 MR. BRANCH: Objection.

15 THE WITNESS: First off, I want to
16 point out I knew Amanda as my Sunday school
17 student five or ten years before she took this
18 job.

19 Let's see. New language rather than
20 election . . . I don't know what I intended, I
21 was pretty irritated. But she's right, you
22 know, I was -- I said, you're right, that's
23 wrong, because we are trying to be
24 transpartisan. We are trying to -- we -- I
25 firmly believe that election law should be

1 something that transcends partisan sides.

2 But when I'm talking to legislators
3 trying to motivate them, I'm going to use
4 language to motivate them. I'm not going to
5 talk about ideas when they think I'm some, you
6 know, that I'm a birther or, you know, some
7 other irrelevant. Oh, he believes in vote
8 fraud, he's one of those kooks, you know. And
9 I -- so I realize some of them feel that way
10 about me, and so I'm talking to the people I'm
11 communicating with in this e-mail.

12 BY MR. KAUL:

13 Q. And you're using the language that you
14 think would be most effective with the legislators;
15 is that right?

16 A. Well, I'm using -- yes, to -- with -- not
17 with the legislators, but with people I targeted
18 this e-mail to. If I were writing something to the
19 entire general assembly or to all Republicans even,
20 I'm sure I would -- I'd use different words. It's
21 considering my audience.

22 Q. Okay. So you mean with respect to these
23 four senators and Amanda Shreve?

24 A. The people addressed -- yes -- in this
25 e-mail.

1 Mr. Farr?
 2 A. The status of our research in various
 3 areas to help him see if he could get us paid.
 4 Q. In other words, to bring you on as an
 5 expert witness?
 6 A. Or to do their data research in
 7 particular, but, yes, in general.
 8 Q. Okay. And were you brought on to do work
 9 for the case?
 10 A. No.
 11 Q. Since reaching out to Mr. Farr originally,
 12 did you provide any additional information to the
 13 defense team?
 14 A. I don't recall.
 15 Q. Do you remember any specifics about what
 16 information you provided to Mr. Farr?
 17 MR. STRACH: I'm going to object to
 18 this, Josh, on the grounds that it's possibly
 19 covered by the -- to the extent it may be
 20 covered by the consulting expert privilege in
 21 terms of the process of considering someone for
 22 an expert witness. So I'm okay with the
 23 questions you asked so far, but in terms of
 24 actual conversations between Mr. DeLancy and
 25 Mr. Farr or me for that matter, we will object

1 to those.
 2 MR. KAUL: Okay. And I assume you're
 3 going to stand on that objection, John?
 4 MR. BRANCH: Yes.
 5 BY MR. KAUL:
 6 Q. That means you don't have to answer the
 7 question.
 8 A. Okay. I wondered.
 9 Q. So we talked a lot before about SB 666 and
 10 667, but I believe you said you're also familiar
 11 with a bill known as HB 589; is that right?
 12 A. Yes.
 13 Q. And did you have communications with
 14 members of the legislature about that bill?
 15 A. Yes.
 16 Q. Do you recall who you spoke to in
 17 particular?
 18 MR. BRANCH: I'm going to interpose
 19 the previous objection. I know you're asking
 20 for the identity of who he spoke to not
 21 necessarily the content of the communication,
 22 but I want to remind Mr. DeLancy of the
 23 1st Amendment objection we interposed earlier.
 24 MR. KAUL: Will you permit him to
 25 answer the identity?

1 MR. BRANCH: Yes.
 2 MR. KAUL: Okay.
 3 THE WITNESS: You're not going to
 4 like my answer.
 5 Beyond who I e-mailed, I really don't
 6 remember, that was over two years ago.
 7 Regarding that bill the e-mail is -- that was
 8 my vehicle of choice, then I would, you know,
 9 talk to people too, of course.
 10 BY MR. KAUL:
 11 Q. "Talk to people" meaning -- again, not
 12 about the substance, but legislators as well?
 13 A. Yeah, I e-mail them and I follow up with a
 14 phone call or maybe talk to them and they say, could
 15 you send me an e-mail. But, you know, there wasn't
 16 a lot of that, it was more of me just trying to
 17 persuade them.
 18 Q. Okay. Let me show you a document. And,
 19 again, this is one of the documents that was
 20 included in the VIP production that's also from the
 21 other production. And this one is going to be
 22 JD 13.
 23 (EXHIBIT NUMBER 13 WAS MARKED FOR IDENTIFICATION)
 24 MR. BRANCH: VIP348.
 25 MR. KAUL: And I believe there is one

1 difference here which is that the VIP logo
 2 shows up in your own documents but does not in
 3 the others.
 4 THE WITNESS: I see how it is.
 5 (WITNESS REVIEWS DOCUMENT)
 6 BY MR. KAUL:
 7 Q. And let me know when you've had a chance
 8 to look through that one.
 9 A. Okay.
 10 Q. Now, this is an e-mail from you to
 11 Representative David Lewis that copied a member of
 12 his staff and also two other representatives,
 13 correct?
 14 A. Correct.
 15 Q. And in the first sentence of the e-mail
 16 you refer to the latest version of HB 589. Do you
 17 see that?
 18 A. Yes.
 19 Q. And this e-mail was written a day or two
 20 after an expanded version of that bill was
 21 introduced in the Senate; is that right?
 22 A. Probably.
 23 Q. Is it your understanding that that was the
 24 bill you were referring to?
 25 A. Yeah, it had to be a Senate version of the

1 bill, yes. I don't know which one, though.
 2 Q. And then you said that you just have to
 3 smile at how much they managed to include in it, and
 4 how some of those ideas sync with some that you had
 5 given him all those months ago. Do you see that?
 6 A. Yes.
 7 Q. What ideas were you referring to there?
 8 A. Well, in particular these two
 9 (indicating), the observer rights that later got
 10 taken out of it but we thought we had that in there.
 11 And then let's see -- well, the other one that I
 12 think did make it through the process involved the
 13 ending that -- we'd seen a practice nationwide of
 14 military absentee voters being delayed in having
 15 their ballots sent till the last minute so that
 16 their votes wouldn't count. Because by the time the
 17 guy in the war zone got his ballot back, the
 18 election was certified.
 19 And we decided that a way to fix this
 20 might be to -- you know, they were getting waivers
 21 from the federal law to say we'll mail them later.
 22 And so I asked the legislature to include the
 23 state -- to just include the same language in the
 24 state law but don't put any waivers in it, just say
 25 you will do this and to set a date when those

1 ballots will go out and they did.
 2 Q. Did you also -- were some of the ideas
 3 that you spoke to Representative Lewis about, did
 4 those also include the voter ID bill -- the voter ID
 5 portion of the bill?
 6 A. Oh, we were -- in general, yes.
 7 Q. And did it also include a discussion of
 8 same day registration?
 9 A. We were clearly opposed to same-day
 10 registration as the easiest way to commit vote fraud
 11 in North Carolina. That was our number two
 12 priority, behind voter ID.
 13 Q. Okay. So that's something you would have
 14 spoken to him about also?
 15 A. We were -- yeah -- yes.
 16 Q. And what about the reducing the early
 17 voting period?
 18 A. We were on record as saying get rid of it,
 19 you don't need it. You've got no excuse absentee
 20 balloting, you don't need early voting now. But
 21 that was our absolutist position that we knew they
 22 wouldn't accept, but that was our position.
 23 Q. Is that one of the ideas referred to here?
 24 A. Well, no, they didn't -- they didn't do
 25 it.

1 Q. Well, they reduced early voting, right?
 2 A. Yeah.
 3 Q. So changes to early voting, were those
 4 part of the ideas you're referring to?
 5 A. No, we took an absolutist position knowing
 6 full well that they probably didn't have the
 7 political courage to do it but -- so, no . . .
 8 Q. Did you -- did the ideas include
 9 discussion of out of precinct voting?
 10 A. Actually it did not.
 11 Q. So the idea of eliminating early voting,
 12 yes, but out of precinct voting, no?
 13 A. Correct.
 14 Q. And you copied two other representatives.
 15 Were they also part of that meeting with
 16 Representative Lewis?
 17 A. No, I didn't -- I didn't meet with
 18 Representative Lewis all that much. I mainly met
 19 with Gebhardt. Those two were on the committee and
 20 they had been -- they -- they were freshman, but
 21 they -- they were supportive in their language even
 22 though most of what -- a lot of what we suggested
 23 was ignored in the House and these were
 24 representatives.
 25 Q. You mean in the original bill in the

1 House, right?
 2 A. Correct.
 3 Q. But not the bill that was ultimately
 4 passed?
 5 A. Well, there were more of our provisions in
 6 the -- in the latter -- in the senate bills. That's
 7 why I was happy.
 8 Q. And you smiled at how many they managed to
 9 include, in fact, right?
 10 A. Yeah.
 11 Q. And when you say the -- the ideas that you
 12 gave them all those months ago, what did you mean by
 13 that?
 14 A. I'd refer back to that document that I
 15 hope you have. If you don't, it's public record.
 16 It was our legislative agenda that we submitted when
 17 we -- just getting started right after the 2012
 18 election.
 19 Q. You did also speak to Representative
 20 Lewis, though, right?
 21 A. I -- yes.
 22 Q. Were you in touch with members of the
 23 Senate about that bill as well?
 24 A. Jim Blaine, you've seen him cc'd on
 25 places, I gave him a copy of that document too, of

1 that legislative agenda. And -- and I think we
2 had -- yeah, in fact, and one of our activists who
3 lives in another county, her senator, she personally
4 approached him about supporting some of the
5 initiatives, and those are the ones that got
6 through, actually. The -- like the veteran --
7 veteran deal, but I never even spoke to my own
8 senator I don't know why, but I just -- being new
9 and being -- not knowing what I was doing I just
10 concentrated on the House.

11 Q. And Jim Blaine, just for the record, is a
12 member of the state Senate and was at that time,
13 right?

14 A. No, Jim Blaine was the guy I cc'd on the
15 previous mail. He was the -- the Senate -- he
16 worked in the office of Senator Berger.

17 Q. He worked in the office of the Senate, the
18 president pro tem?

19 A. Correct.

20 Q. And some of the senators who cosponsored
21 your bill would have been aware of those ideas from
22 you as well, correct?

23 A. Well, I have no knowledge whether they
24 did. I didn't -- the document was expensive. It
25 was in color. And I didn't just go hand them out,

1 all 100, or to very many people at all. So I don't
2 know who all got it. It's conceivable that Jim
3 Blaine may have said, hey, this is great, and sent
4 it to everybody, or else he just, you know, threw it
5 away. I, you know, have no idea. They're --
6 dealing with politicians is many times like talking
7 to trees, you know, you just don't know what they're
8 really feeling on you.

9 Q. But a lot of those ideas did end up in the
10 bill you sent, right?

11 A. Well, some of them did, yes.

12 Q. And it's fair to say that you had a closer
13 relationship with Bill Cook than most of the others?

14 A. As far as senators go, yes, Bill Cook was
15 the one I knew the most, because he reached out to
16 me.

17 Q. All right. And would Senator Cook have
18 been aware of the positions you had taken on these
19 issues?

20 A. Eventually he had to get the document
21 because -- okay, short answer, yes.

22 Q. You've written some statements challenging
23 assertions that individuals will have troubles
24 voting due to the changes affected by HB 589; is
25 that right?

1 A. In general, yes.

2 Q. In a number of those cases, have
3 individuals cited the errors that happened at the
4 DMV as reasons that they were --

5 A. Yes.

6 Q. -- had difficulties voting?

7 What's your view of the DMV's handling of
8 voter registrations?

9 A. Are you -- can you --

10 Q. Well, let me ask it a different way.

11 A. -- focus that down a little more?

12 Q. All right. You have proposed changing how
13 the DMV handles voter registrations, correct?

14 A. I wanted DMV to be sole source of voter ID
15 cards. I did not want other agencies to do it. I
16 did not want colleges. I did not want businesses.
17 I wanted the DMV.

18 Q. And I'll come back to that in a second.

19 What I -- I guess, did you request that
20 the State Board of Elections have individuals at DMV
21 offices to accept voter registration applications?

22 MR. BRANCH: Objection.

23 Go ahead.

24 THE WITNESS: Yeah, I think as a
25 policy matter they should have someone who they

1 would consider to be a, quote, unquote,
2 registrar anywhere you're registering voters at
3 a DMV office or anywhere really, but mainly it
4 was DMV. It's probably not workable, but I
5 think you need to have someone who understands
6 what they're doing in that job.

7 BY MR. KAUL:

8 Q. And was that view based in part or
9 informed in part by the mistakes you'd referred to
10 that had happened at the DMV?

11 A. I don't recall that. My main -- I don't
12 recall what motivated it. I'd have to really read
13 the e-mails and stuff to see but . . .

14 Q. Would it be fair to say that the -- when
15 individuals have trouble -- troubles with voting for
16 one reason or another, a mistake on the DMV's part
17 has often in your experience been part of the
18 reason?

19 A. I remember what the problem was now. It
20 was California. The DMV in California. We have a
21 good friend who does what we do in California, and
22 their DMV, she was saying no, no, no, don't use DMV
23 for the ID cards, because in California the DMV was
24 issuing ID cards to everybody regardless of
25 status -- their immigration status.

1 MR. KAUL: Could we go off the record
 2 for a moment?
 3 THE VIDEOGRAPHER: Going off the
 4 record. The time is 3:32 p.m.
 5 (RECESS TAKEN)
 6 THE VIDEOGRAPHER: Going back on the
 7 record. The time is 3:33 p.m.
 8 BY MR. KAUL:
 9 Q. All right. Mr. DeLancy, I was just asking
 10 you about a hearing in April of 2013 regarding voter
 11 ID in the North Carolina House. Do you recall that?
 12 A. Yes.
 13 Q. And were your supporters provided with
 14 scripts to read at that hearing?
 15 A. Yes.
 16 Q. All right. And what was contained on
 17 these scripts?
 18 A. We had produced the scripts to give an
 19 example of fraud, of what we believed to be fraud,
 20 one example. And so if they wanted to read it,
 21 said, I don't know what to say, well, you can do
 22 this. Some --
 23 (PHONE INTERRUPTION)
 24 MR. STRACH: Just cut it off.
 25 MR. KAUL: I think we should just

1 continue.
 2 THE WITNESS: Some didn't need it.
 3 Some just wanted to get up and show support.
 4 BY MR. KAUL:
 5 Q. And those scripts contained stories about
 6 individuals -- go ahead.
 7 A. Specific name of voters who -- what we
 8 believe was a problem.
 9 Q. Okay. And it was alleging that certain
 10 voters had committed fraud; is that right?
 11 A. No.
 12 Q. What was it alleging?
 13 A. Alleging either they committed fraud or
 14 they were victims of identity theft.
 15 Q. Okay. And were the individuals who were
 16 reading those scripts, did they have firsthand
 17 knowledge of the information that they were reading?
 18 A. No.
 19 Q. Okay. They were just reading scripts that
 20 were provided to them by Voter Integrity Project; is
 21 that right?
 22 A. Yes.
 23 Q. And who had prepared those scripts?
 24 A. I printed them.
 25 Q. Okay. Who wrote the content of them?

1 A. Oh, okay, I did that, yes.
 2 Q. Let me show you a document that will be
 3 marked as JD 18.
 4 (EXHIBIT NUMBER 18 WAS MARKED FOR IDENTIFICATION)
 5 BY MR. KAUL:
 6 Q. Do you recall this document?
 7 A. Yes.
 8 Q. And this is actually a document reflecting
 9 content on the Voter Integrity web site, right?
 10 A. Yes.
 11 Q. And did you -- well, your name is at the
 12 bottom. Did you write this post?
 13 A. Yes.
 14 Q. And the post refers to some of the
 15 findings revealed at the April 10th public
 16 legislative hearing. Is that the hearing we've been
 17 talking about, first of all?
 18 A. Yes.
 19 Q. And you wrote that some of them may be
 20 inaccurate.
 21 A. Yes.
 22 Q. What did you mean by that?
 23 A. Well, that was a knee jerk reaction to one
 24 of the people who read her script, and then it was
 25 subsequently determined that it was an

1 administrative error. That it wasn't identity
 2 theft, it wasn't fraud, but it was administrative
 3 error. The -- not on our part, on the Board of
 4 Elections. They had allowed somebody else to vote.
 5 It was a -- actually they credited the vote to the
 6 child or to the adult or something. It was
 7 something that when I met with that board, I
 8 understood the problem and realized, okay, it was
 9 overreaction, we didn't -- in my view, didn't need
 10 to do this.
 11 Q. Okay. The statement at issue here is that
 12 one that had alleged that somebody had engaged in
 13 fraud?
 14 A. No.
 15 Q. It alleged that somebody had her identity
 16 stolen?
 17 A. I'd have to read the scripts that I'm sure
 18 you've seen in the record, but on my script I
 19 never -- we never accused anyone of committing
 20 fraud. We did say some people were victims of
 21 fraud. I shouldn't say never, I'm sorry. Go ahead.
 22 Q. Well, no, I was going to let you finish
 23 that answer.
 24 A. I'm thinking about the -- we may have
 25 suggested fraud in the Buncombe County voters.

1 Q. And the point of the scripts was to make
 2 the case that there was voter fraud, right?
 3 MR. BRANCH: Objection.
 4 You can answer.
 5 THE WITNESS: To articulate cases we
 6 had found that suggested vote fraud or identity
 7 theft.
 8 BY MR. KAUL:
 9 Q. Okay. And at least one of those cases was
 10 inaccurate; is that right?
 11 A. Well, the statement as we wrote it was
 12 accurate, but one of the people it turned out it was
 13 neither fraud nor identity theft.
 14 Q. You wrote that you had learned about that
 15 late that afternoon?
 16 A. Yes.
 17 Q. How did you learn about that?
 18 A. The person who read that script on the
 19 name, she had contacted the Board of Elections and
 20 dug into it and called me that afternoon.
 21 Q. Okay. So she was able to correct that
 22 just by making a call to the Board of Elections?
 23 A. I think she met with them, but it was two
 24 days, what April 12 -- two days after the hearing
 25 and she alerted me to it, and I -- I wrote this and

1 then put it on the web.
 2 Q. You wrote that you planned to issue a full
 3 report after completing an audit.
 4 A. True.
 5 Q. Do you see that?
 6 A. Yes.
 7 Q. Did you issue a full report?
 8 A. No, I did not.
 9 Q. After this statement was posted, did you
 10 continue to refer individuals to the testimony at
 11 the April 10th hearing?
 12 A. To the -- the answer is yes, not to our
 13 scripts but to the testimonies.
 14 Q. By "the testimonies," you mean the people
 15 who read the script, their testimonies, or some
 16 other people's?
 17 A. Other people.
 18 Q. Okay. I'd like to ask you about some of
 19 the tactics that Voter Integrity Project has used to
 20 publicize issues of concern to the group.
 21 A. Okay.
 22 Q. Do you recall having contacts about
 23 creating a fake ID card that would look like a
 24 government agency issued card?
 25 A. Be a little more specific.

1 Q. Let me show you a document. This will be
 2 JD 19, I believe.
 3 (EXHIBIT NUMBER 19 WAS MARKED FOR IDENTIFICATION)
 4 THE WITNESS: Oh, okay.
 5 BY MR. KAUL:
 6 Q. And let me know when you've had a chance
 7 to read that document. I'm actually just going to
 8 ask you about the e-mail at the top.
 9 (WITNESS REVIEWS DOCUMENT)
 10 A. Okay.
 11 Q. First, the top e-mail in that string,
 12 there's one full paragraph followed by three other
 13 paragraphs, the first of which is a one-sentence
 14 paragraph; is that right?
 15 A. Yeah.
 16 Q. Okay. The three paragraphs at the bottom
 17 starting with the paragraph that says I hope you are
 18 doing well this weekend?
 19 A. Yes.
 20 Q. Do you know who wrote that language?
 21 A. That would be me.
 22 Q. All right. So this is a -- it looks like
 23 a cutout of an e-mail that you wrote pasted into
 24 another e-mail; is that right?
 25 A. Correct.

1 Q. And in this e-mail you indicated that you
 2 needed to produce plastic employee ID cards
 3 featuring something that looks like a government
 4 agency as the employer and a person wearing a ski
 5 mask in the picture.
 6 Is that right?
 7 A. That's right.
 8 Q. Did you go through with that plan?
 9 A. No.
 10 Q. Why not?
 11 MR. BRANCH: Let me object to the
 12 limited extent that you've received legal
 13 advice on this, and do not reveal advice of
 14 counsel to the extent you received it on this.
 15 THE WITNESS: We ask a lot of
 16 questions, a lot of ideas, and we don't
 17 necessarily pursue everything we do. This one,
 18 the cost associated with the cards was probably
 19 the reason why. We weren't going to vote
 20 anywhere, as you see, it was just a promotional
 21 campaign.
 22 BY MR. KAUL:
 23 Q. Let me show you another document. This
 24 will be JD 20.
 25 (EXHIBIT NUMBER 20 WAS MARKED FOR IDENTIFICATION)

Page 1

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

3 NORTH CAROLINA STATE CONFERENCE)
 4 OF THE NAACP, et al.)
 5 Plaintiffs,)
 6) Civil Action No.
 7 v.) 1:13-CV-658
 8)
 9 PATRICK LLOYD McCrORY, in his)
 10 official capacity as the Governor)
 11 of North Carolina, et al.)
 12 Defendants.)

13 LEAGUE OF WOMEN VOTERS OF NORTH)
 14 CAROLINA, et al.)
 15 Plaintiffs,)
 16) 1:13-CV-660
 17 v.)
 18 THE STATE OF NORTH CAROLINA, et al.)
 19 Defendants.)
 20 UNITED STATES OF AMERICA,)
 21 Plaintiff,)
 22) 1:13-CV-861
 23 v.)
 24 THE STATE OF NORTH CAROLINA, et al.)
 25 Defendants.)

VIDEOTAPED DEPOSITION OF ALEXANDER EALY

1:30 P.M.
 SATURDAY, MAY 2, 2015

BEAVER COURIE STERNLICHT HEARP & BROADFOOT, P.A.
 230 GREEN STREET, FAYETTEVILLE, NORTH CAROLINA
 By: Jennifer C. Carroll, RPR, CRR

Page 2

1 APPEARANCES

2 For the Plaintiff League of Women Voters:
 3 Southern Coalition for Social Justice
 4 BY: Allison J. Riggs, Esquire
 5 1415 Highway 54, Suite 101
 6 Durham, North Carolina 27707
 7 (919) 323-3380
 8 allison@southerncoalition.org

9 For Defendant North Carolina State Board of Elections:
 10 Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
 11 BY: Michael D. McKnight, Esquire
 12 4208 Six Forks Road, Suite 1100
 13 Raleigh, North Carolina 27609
 14 (919) 787-9700
 15 michael.mcknight@ogletreedeakins.com

16 Videographer: Brent Troublefield

17
 18 --oOo--

Page 3

1 INDEX OF EXAMINATION

2 WITNESS:	PAGE
3 ALEXANDER EALY	
4 Examination by Ms. Riggs	5
5 Examination by Mr. McKnight	21
6 Examination by Ms. Riggs	72
7	
8 --oOo--	
9	
10 INDEX OF EXHIBITS	
11 NUMBER DESCRIPTION	PAGE
12 1 North Carolina Voter Registration	32
13 Application	
14 2 Cumberland County, Provisional Voting	46
15 Application	
16 3 North Carolina Vote Registration	54
17 Application	
18	
19 --oOo--	
20	
21	
22	
23	
24	
25	

Page 4

1 PROCEEDINGS

2 THE VIDEOGRAPHER: On record at
 3 1:27 p.m. Today's date is May 2nd, 2015. This
 4 is the videotaped deposition of Alexander Ealy
 5 taken in the matter of the North Carolina State
 6 Conference of the NAACP, et al., plaintiffs,
 7 versus Patrick Lloyd McCrory, in his official
 8 capacity as the Governor of North Carolina, et
 9 al. Case Number 1:13-CV-658 in the United States
 10 District Court for the Middle District of North
 11 Carolina and all matters related.

12 Would counsel now please introduce
 13 themselves.

14 MS. RIGGS: My name is Allison Riggs. I
 15 work for the Southern Coalition for Social
 16 Justice, and I represent the League of Women
 17 Voters, plaintiff.

18 MR. MCKNIGHT: And my name is Michael
 19 McKnight. I'm with the Ogletree Deakins law firm
 20 in Raleigh, and I represent the State Board of
 21 Elections, defendants, in this matter.

22 THE VIDEOGRAPHER: And would the court
 23 reporter now please swear in the witness.

24 ALEXANDER EALY,
 25 having been first sworn by the court reporter and

1 Notary Public to tell the truth, the whole truth, and
2 nothing but the truth, testified as follows:

3 EXAMINATION

4 BY MS. RIGGS:

5 Q. Good afternoon, Mr. Ealy. Can you state your
6 full name for the record.

7 A. Alexander Louis Ealy.

8 Q. And what is your address, Mr. Ealy?

9 A. It is 11th Quartermaster. Well, I'm sorry.
10 Right now, because I changed companies, it's 126
11 Composite Transportation Company and 189 Combat
12 Sustainment Battalion, but it can be abbreviated
13 from CSSB. C-1135 W-A-A-L Street, Fort Bragg,
14 North Carolina 28310.

15 Q. How long have you lived at -- have you lived at
16 that new site?

17 A. I've lived there three years. Because the
18 mailing address is the Battalion Building, where
19 I receive all of my mail. The barracks is a
20 separate building.

21 Q. Okay. And how old are you, Mr. Ealy?

22 A. Thirty years old.

23 Q. What's your date of birth?

24 A. June 20th, 1984.

25 Q. And how are you employed?

1 A. The United States Army. I'm a -- I am wheel
2 mechanic.

3 Q. Okay. And what's your rank?

4 A. Sergeant.

5 Q. Okay. I'm going to call you Sergeant Ealy --

6 A. Okay.

7 Q. -- from now on just to be respectable.

8 So tell me more about what your job is
9 with the Army.

10 A. I'm a wheel mechanic. It's for scheduled
11 services for the 126 CTC Company.

12 Q. Okay. How long have you been in the Army?

13 A. Act -- active time, I've been ten years active
14 time. But total, including the reserve time --
15 2002 -- I would say 13 years.

16 Q. Okay. Where did you grow up?

17 A. Memphis, Tennessee.

18 Q. And did you live there your whole life growing
19 up?

20 A. Yes. Until I turned 21, when I went active duty,
21 and I -- and I moved to Fort Drum, New York.

22 Q. Okay. What -- what made you decide to join the
23 Army?

24 A. At first, before 9/11 happened, because I signed
25 up at the delayed entry program 2011. July --

1 I'm sorry, July 2001, and 9/11 hadn't happened
2 yet. So I did it for the intention of paying for
3 college, because I was going to join the
4 reserves. Then once 9/11 happened -- of course,
5 I had a friend. He backed out, but I stayed in.
6 And the decision changed from pay-for-school to
7 just-doing-my-part. Because I have family
8 members who have done their part, so I wanted to
9 do the same.

10 Q. So were you in college and the reserves at a --
11 at the same time for a while?

12 A. Yes. At University of Memphis. Once I came back
13 from basic training and AIT, after I graduated
14 from high school. It was September of 2002, is
15 when I returned back to Memphis, Tennessee, and I
16 started the reserves. And I -- I did one
17 semester at University of Memphis, for the spring
18 semester 2003.

19 Q. Okay. So after you went to active duty in the
20 Army, you moved to Fort Drum. Is -- is that how
21 it went?

22 A. Yes. It wasn't till September 2005, I went
23 active duty and went to Fort Drum.

24 Q. Okay. Where else have you been stationed during
25 your military career?

1 A. Well, I was deployed for 15 months, August 2006.
2 And we came back November 2007. After that, I
3 changed my MOS to a mechanic, because -- before
4 I was a patient administrator. And that's when I
5 reclassified and I was at Fort Leonard Wood
6 September 2008. Went to Fort -- Fort Leonard
7 Wood. After that, I reenlisted, and I went to
8 Germany in May 2009 -- well, it was -- yeah, it
9 was 2009.

10 From Germany, I deployed again to
11 Afghanistan. And 2010 -- what was it?
12 November 2010. Came back November 2011.

13 After that, my time had passed being in
14 Germany. I reenlisted. I got Fort Bragg. And I
15 was -- reported to Fort Bragg February 2012. And
16 I have been here ever since.

17 Q. Where was your first deployment? Did I miss
18 that?

19 A. It was to Iraq.

20 Q. Okay.

21 A. We were in -- we were in Bagdad at FOB Striker.

22 Q. Okay. So you've been deployed twice?

23 A. Yes.

24 Q. Okay. I forgot to give you a little introduction
25 when we started. If you ask -- have you been

1 deposed before?
2 A. To post?
3 Q. Sat down with lawyers like this.
4 A. No -- um. Not regarding this matter.
5 Q. Right. Okay. But you've been deposed before?
6 You don't know what it was called?
7 A. No, ma'am.
8 Q. Okay.
9 A. No, ma'am. I'm sorry.
10 Q. That's fine.
11 You're -- you're under oath, and so
12 you're just answering truthfully. When -- if you
13 don't understand a question, please stop me and
14 ask me to rephrase it --
15 A. Okay.
16 Q. -- and --
17 A. What do you mean -- yes. Could you explain when
18 you say "have I visited post"?
19 Q. No. I said, have you been deposed before.
20 A. Deposed.
21 Q. This -- like what we're doing here.
22 A. Oh, this. I'm sorry. I misunderstood.
23 No, ma'am, I haven't.
24 Q. Okay. Just, we'll be careful not to talk over
25 each other as we -- we keep going.

1 Did you ever register to vote in
2 Tennessee?
3 A. I did. When I got my driver's license when I was
4 18. And, of course, with me moving around from
5 every duty station, I had to do an absentee
6 ballot, even when -- when I was at Ford Leonard
7 Wood. See -- yeah, I was still able to -- I was
8 still able to vote there because it was
9 during the -- I believe it was the 2008
10 presidential election and I was still able to
11 vote.
12 So -- but then fast-forward and here.
13 I'm living here for three years. I was going to
14 get a motorcycle, so I had to change my Tennessee
15 driver's license to a North Carolina. Got a
16 North Carolina motorcycle permit, and I
17 registered to vote at the DMV.
18 So I was -- because I knew -- I
19 believe -- it was not a presidential vote, but at
20 least the sheriff, the senator. They'll --
21 they'll -- they'll run for office about, like,
22 every two years, I believe, if I'm correct. So I
23 wanted to take part in that as well.
24 Q. Okay. So you decided to change your -- did you
25 change your residency to North Carolina?

1 A. Yes.
2 Q. Okay. And so when do you think that happened?
3 A. I believe it happened when -- when I got my North
4 Carolina driver's license.
5 Q. Okay. Do you remember when that was?
6 A. It was April 2014.
7 Q. Okay. But you had been living here since
8 February of 2012?
9 A. Correct. Because I wasn't certain if I was going
10 to -- because -- I wasn't certain if I was going
11 to change my driver's license to North Carolina
12 since I was still going to vote in Tennessee.
13 But I was like, well, since I'm living
14 here, might as well change it to North Carolina.
15 And also, Tennessee, there's --
16 there's a -- I found out that if you are in the
17 military, your driver's license does not expire
18 until you get out. North Carolina does not do
19 that.
20 So I was like, well, I'm just going to
21 keep my Tennessee driver's license. But then
22 when I wanted a motorcycle, I was then -- I had
23 no other choice but to change it.
24 Q. Okay. Do you pay taxes in North Carolina?
25 A. I believe I -- I do. Well, not recent -- not yet.

1 Well, let's see.
2 I believe I do. But since changing them
3 over from Tennessee to North Carolina and I'm
4 still in the military, it hasn't -- it hasn't
5 happened. I mean, I'm not certain. I have to
6 get with finance.
7 Q. Okay. When -- so when you first went to get your
8 motorcycle driver's license, did you ask to
9 register to vote at DMV?
10 A. I -- well, I didn't ask, because it's just a
11 question they always ask everyone. Like, "Do you
12 want to register to vote?" And I say, "Yes" --
13 Q. Okay.
14 A. -- you know.
15 So, I mean, I -- I was going to do it
16 anyway, you know. Still -- still, I was going to
17 register anyway.
18 Q. And when you got your motorcycle -- is it just a
19 regular driver's license or is it a motorcycle
20 license?
21 A. Well, if you're going for your permit, it's two
22 different documents, a North Carolina driver's
23 license and a North Carolina motorcycle permit.
24 It's not until you go apply for the license, then
25 they will put the endorsement on your driver's

1 license. So I just had to carry around two
 2 different IDs.
 3 Q. Okay. And what address did you give them when
 4 you signed up for your license?
 5 A. Because it was...
 6 (The witness retrieves wallet.)
 7 I gave them 11th Quartermaster Company
 8 264th CSSB -- this was at the time when I got the
 9 license -- Fort Bragg, North Carolina 28310.
 10 That was the address that I used at the time.
 11 Q. Okay. Is that the address you would have used to
 12 register to vote?
 13 A. Yes. At the time, before I changed companies
 14 later.
 15 Q. Okay.
 16 A. But that -- I didn't change companies until after
 17 that November, though.
 18 Q. Okay. When did you change companies?
 19 A. I believe we did it in the summer of -- the
 20 summer of -- well, I'm -- I'm sorry.
 21 Q. That's fine.
 22 A. I -- that, I cannot remember when we changed
 23 battalions. But I know at that time I was still
 24 with 264th.
 25 Q. Okay. The one -- the 11 Quartermaster Camp,

1 Building C-1135, did you receive mail at that
 2 address?
 3 A. I did.
 4 Q. Okay. So did you believe you were registered to
 5 vote when you left DMV that day?
 6 A. Yes.
 7 Q. Okay. Did you try to vote in the November
 8 elections?
 9 A. Yes.
 10 Q. Can you tell me what -- what happened?
 11 A. Excuse me.
 12 I went to the library. I believe -- I
 13 can't remember the name of the library. But I
 14 believe it was the one off of Rose Hill Road. I
 15 went to do early voting. I presented my ID, and
 16 they could find me -- because they pulled a list
 17 out and they said, "Well, we can't find you,
 18 Mr. Ealy."
 19 So I had to do a provisional vote. And,
 20 of course, I had to fill my ballot out on paper,
 21 you know, and -- and I think I had to register
 22 again there.
 23 So -- I mean, for me, it -- what didn't
 24 make sense, like, I already registered at the
 25 DMV, why do I have to do this again.

1 But I was patient. And, you know -- I
 2 mean, I just did it. And I was like, okay.
 3 Well, at least I got to vote.
 4 Q. Did -- when they said they couldn't find you, did
 5 that mean they couldn't find your registration?
 6 A. Yes. That's what I believed. I believed that
 7 they couldn't find my registration.
 8 Q. Okay. And did they tell you whether your
 9 provisional ballot would cat -- count or not?
 10 A. They did, however, tell me that -- the way I
 11 remember is I would have to -- they gave me a
 12 piece of paper that said, you have to call this
 13 number and you have to find out if your ballot
 14 got counted.
 15 So -- I mean, this was new to me.
 16 Because when I was in Tennessee and I voted, you
 17 know, I didn't have to do that. And even when I
 18 was in Missouri and I went for the presidential
 19 election, I didn't have to do that. So this was
 20 just new.
 21 I was, like, okay. So -- I mean, I
 22 think I was kind of frustrated later about it,
 23 that I had to go through that, to call to see if
 24 my ballot got counted. But I don't remember if I
 25 had called to see if my ballot got counted. It

1 wasn't until the Southern Coalition for Southern
 2 Justice -- I may be saying it wrong. But that
 3 organization contacted me and told me, like, it
 4 did not get counted. And that's when I was --
 5 sent another -- I had to register again. And
 6 this was when I was at -- in school in Fort Lee,
 7 Virginia. That's when I got the documents. And
 8 I sent them off once I got back to North Carolina.
 9 Q. Okay. So when you were given that phone number
 10 and said to call, that was just to see if it had
 11 been counted, not to ensure that it got counted?
 12 A. I believe. Yes.
 13 Q. Okay. And then when you filled out the
 14 registration attached to the provisional ballot
 15 that day, what address did you use then?
 16 A. Since I was still with 264th, I believe I used
 17 the 264th address.
 18 Q. Is that the 11 Quartermaster --
 19 A. It was still -- the company is still the same.
 20 Because it -- it should still come to 11
 21 Quartermaster Company, because it's only one 11
 22 Quartermaster Company. So in -- and then I still
 23 used the building address C-1135 Waal Street. So
 24 it still should have come -- came to the
 25 building. I mean -- or -- or the company. And

1 usually the mailing service on post, it will pick
 2 up where the company is, like whether they belong
 3 to this battalion. So they will send the mail
 4 there.
 5 Q. Do you get mail from official sources at that
 6 address? Or did you when you lived there?
 7 A. Yes. I was receiving bank statements. I
 8 still -- well, I -- I receive mail all the time.
 9 Sometimes from my child support documents as
 10 well. So, I mean, yes, I'm -- I'm constantly
 11 receiving mail.
 12 Q. Okay. And the -- that second registration you
 13 filled out, when you filled out your provisional
 14 ballot, that pro -- that registration didn't go
 15 through either?
 16 A. The one when I went last November?
 17 Q. Yes.
 18 A. No, it did not.
 19 Q. Okay. Do you understand why those registrations
 20 were denied?
 21 A. It was -- because I believe it was undeliverable.
 22 Q. Okay.
 23 A. The mailing address I was using, it -- it -- I
 24 was told that it's not a mailing address.
 25 But I didn't understand. I'm always

1 receiving mail. So why is it that I can't
 2 receive mail from, you know, the -- the board of
 3 commissions. Maybe -- I mean, at that time I was
 4 figuring, like, maybe I need to do more research
 5 on this, you know, and find out what's going on.
 6 Q. Did -- who told you that your -- that the mail
 7 was returned undeliverable?
 8 A. I -- I wrote -- I wrote it down. I'm sorry.
 9 Excuse me. I'm sorry. (Looking at cell
 10 phone.)
 11 Okay. Yeah. That's what it was.
 12 It's when I called Ter -- Terry Roberson
 13 at the board of commissions and talked to her.
 14 She was the one that told me. And we talked
 15 about that, you know, it was the mailing address
 16 issue.
 17 Q. Okay. Board of elections, is that --
 18 A. Yes. Right.
 19 Q. And she told -- did she tell you that the
 20 registration verification was being returned
 21 undeliverable?
 22 A. Yes.
 23 Q. Okay. Where does your registration status stand
 24 now?
 25 A. Right now, since -- since I called her, she told

1 me I have to call back in two weeks to see if
 2 everything was okay. I mean, see if it went
 3 through. So right now I'm just -- in due time,
 4 I'll call her back in two weeks and see if it
 5 got -- if my registration -- if I'm good, you
 6 know. So -- if I can vote next time.
 7 Q. Okay. You touched on this a little bit. But how
 8 did that experience of going during early voting
 9 and being forced to cast a provisional ballot,
 10 how did that make you feel?
 11 A. I wouldn't say I was angry. I was just maybe a
 12 little confused and -- I was frustrated a little
 13 bit. Because, you know, I was rushing to get off
 14 work to -- you know, to let my supervisor know,
 15 hey, I want to go vote. You know, can I get off
 16 work a little bit early?
 17 And I wanted to take advantage of the
 18 early voting because, in my profession, sometimes
 19 you don't really get that -- they'll let --
 20 they'll allow -- allow you time to go vote, but
 21 sometimes you don't really -- because of --
 22 because it's the mission first. So sometimes you
 23 don't get that time off to do what you have to do
 24 on -- on your personal time. Because my soldiers
 25 come first, you know. So once I take care of the

1 mission first, then I go worry about my personal
 2 life.
 3 So at that time it was kind of like, you
 4 know -- I mean, I -- I like voting, you know,
 5 to -- to make a change in my community. But
 6 it's -- when I had to do the provisional vote, it
 7 was -- it was kind of like, you know, like,
 8 okay -- I don't know.
 9 I can't really describe it because it
 10 was just -- it was just like -- kind of like a
 11 shock, you know, to me because I -- I never knew
 12 about this. But this was just another reason
 13 that, you know, maybe when it comes to voting,
 14 you know, get a little bit more research, find
 15 out everything, you know, because maybe it's not
 16 always that simple of just going up there, "Hey,
 17 here's my ID, I want to register to vote."
 18 Because when I was younger and I voted,
 19 that's all I did; I just brought my ID, they
 20 found me and everything, and -- I mean, I -- I
 21 mean, granted, provisional voting has always been
 22 around, but it was just the first time I had
 23 really heard about it that I really just started
 24 to invest a little time, like what is this
 25 provisional vote, you know. So...

1 Q. And about how many elections had you voted in
 2 before 2014? Can you recall?
 3 A. I would say -- probably -- let's see. Since I've
 4 been in the military -- because I -- I've never
 5 been -- I've always been away from Tennessee. So
 6 the times where I was able to vote, when -- when
 7 I -- even when I was deployed, I would say
 8 maybe -- I would say maybe twice.
 9 Q. Okay. And Sergeant Ealy, just for the record,
 10 you are -- are you a U.S. citizen?
 11 A. I am a U.S. citizen.
 12 Q. And you're over the age of 18?
 13 A. Yes, I am over the age of 18.
 14 Q. Had -- had you lived in the state of North
 15 Carolina for more than 30 days when you
 16 registered to vote -- when you tried to register
 17 to vote at DMV?
 18 A. Yes.
 19 MS. RIGGS: I am going to let
 20 Mr. McKnight ask you some questions right now. I
 21 may follow up with some after. But --
 22 THE WITNESS: That's fine.
 23 EXAMINATION
 24 BY MR. McKNIGHT:
 25 Q. Good afternoon again, Sergeant Ealy. And -- and

1 we met a moment ago.
 2 I want to say first, thank you for your
 3 service to our country for all of these years.
 4 We certainly appreciate and honor you for that.
 5 Am I correct that you -- you live on
 6 base at Fort Bragg? Is that right?
 7 A. That's correct.
 8 Q. And where do you live on base? Is it an
 9 apartment? Is it a barracks? Is it a house?
 10 How -- how would you describe it?
 11 A. It's a barracks.
 12 Q. Okay. And just so I'm clear, what is the
 13 physical address of the barracks where you live?
 14 A. The physical address of the barracks -- also,
 15 I -- might -- might I add to that, the -- I'm --
 16 I'm -- I'll tell you the physical address of --
 17 of the building. But the way each unit is set
 18 up, you can't have the mail come directly to the
 19 barracks building. It has to go to the battalion
 20 first, to where they sort the mail.
 21 But the physical address of the barracks
 22 building is C-1647 Camp -- Campobello Street.
 23 That's C-A-M-P-B-E-L-L-O [sic].
 24 Q. So that's a physical address. And that's at
 25 Fort Bragg?

1 A. Correct.
 2 Q. Okay. And, before, you mentioned an address that
 3 was C-1135 Waal Street, I believe?
 4 A. Correct.
 5 Q. Now, what address is that?
 6 A. That's -- that's one of the buildings in the
 7 battalion to where the mail can be sent to.
 8 Q. And is that where you go to pick up your mail?
 9 A. Yes.
 10 Q. So they don't bring your mail to your barracks
 11 room, do they?
 12 A. No. It's -- because it's at a -- it's just -- it
 13 looks like a PO box when you go get it. But it's
 14 like you have a key to it and you just -- it's
 15 kind of like the same process if you were living
 16 in an apartment complex and you just went to a
 17 box to get your mail. So I would have to go
 18 there.
 19 Q. So, now, does your box have "C-1135" on it, or do
 20 you have your own box number, or is C-1135,
 21 that's just the building where all the boxes are?
 22 Which?
 23 A. Right. That's just one of the buildings where --
 24 one of the buildings where the boxes are. But
 25 the mail will still come to the battalion, you

1 know, either -- either way.
 2 Q. So -- so when you want to receive a piece of
 3 mail, you can't just write "C-1135 Waal Street"
 4 on it, can you? You've got to write, like, "11
 5 QM 264 CSSB, Fort Bragg" on it; is that right?
 6 A. Yes. I have to put the unit on the -- on the --
 7 for the address.
 8 Q. And if you don't do that, will you get that piece
 9 of mail?
 10 A. Sometimes I will. And it all depends, because
 11 the mailing system off Fort Bragg, sometimes they
 12 are a little lenient with it. Like -- because
 13 even if you don't put the right battalion and you
 14 put the right company, they still know where it's
 15 going to go.
 16 Q. So in some cases, they might look you up?
 17 A. Right.
 18 Q. Okay. And on your driver's license that you got
 19 at DMV, do you remember when you received that
 20 license? It sounds like you went to the DMV in
 21 April of last year, 2014. Do you remember when
 22 you received that license?
 23 A. Let's see. It was -- let me see, because they
 24 told me, like, at least 14 or 15 days after I
 25 would receive my driver's license. (Looking at

1 driver's license.)

2 Okay, yeah. So it was at -- issued

3 April 28th, 2014. So I believe -- because they

4 gave me -- gave me the paper one first at that

5 time. So two weeks after that -- I can't recall

6 what's two weeks after April 28th. But two weeks

7 after that, that's when I got the -- the actual

8 one.

9 Q. And while you have your license out, can -- can

10 you read off the name and address as it appears

11 on your license?

12 A. Yes. Alexander Louis Ealy, 11 QM CO 264 CSSB,

13 Fort Bragg, North Carolina 28310-0001.

14 Q. And so the C-1135 Waal Street address doesn't

15 appear anywhere on that license?

16 A. It does not.

17 Q. Okay. And -- and -- and you received that

18 license in the mail after you applied for it at

19 DMV?

20 A. I did receive it in the mail.

21 Q. And why did you give the DMV that address as

22 opposed to the C-1135 Waal Street address?

23 A. Because in most cases -- I mean, they tell all

24 the soldiers that what's really important is not

25 more so the building number, the unit is what --

1 because that's how they really find the soldier,

2 according to the unit.

3 Q. Okay. And again, the unit is the 11 QM 264 CSSB

4 address; is that right?

5 A. Yes. At that time it was with the 264th CSSB.

6 Q. And -- and you're with the 189th CSSB now?

7 A. Correct.

8 Q. Okay.

9 A. Also, to add to that: Even though it was a

10 different battalion, it still would have went to

11 11 Quartermaster Company, even though it's a

12 different battalion.

13 Q. Okay. So are you still getting some mail now

14 that may be addressed to the 264th CSSB, even

15 though you're in the 189th?

16 A. No. It's been corrected now. Ever since I moved

17 my unit, it's been correct -- corrected now, even

18 with my bank. Because it even happened with my

19 bank. "Oh, Mr. Ealy. You know, we're getting

20 this undelivered."

21 But somehow the units worked together

22 and, I mean, they're -- the person who picked up

23 the mail, they was able to work together and say,

24 "Okay, it's 11 Quartermaster Company. Even

25 though it's not his battalion, we're still going

1 to send it over to the other battalion." So --

2 so they still worked together.

3 Q. And so in some cases, did -- did they notify you

4 that, "Hey, I'm having to move this piece of mail

5 to your correct battalion and" -- did they ever

6 ask you to update your address or anything like

7 that?

8 A. Well, they write it on there for you, like, once

9 you pick. Because in most cases when I pick up

10 my mail, I don't always get to deal with a

11 person. So it's -- it's just in the box and it's

12 written on there and they'll draw a line through

13 it, you know, this battalion which. Eventually,

14 I did make some calls and I did adjust it.

15 Q. So you had -- you had to update your battalion

16 number with your bank and other -- other places

17 that you wanted to receive mail from?

18 A. Yes, I did do what.

19 Q. Okay. And, for example, on -- on your bank

20 statement, did -- did you ever write the C-1135

21 Waal Street address? Was that ever on your bank

22 statement?

23 A. It was on the bank statement.

24 Q. Okay. And -- and was your unit number also on

25 the bank statement?

1 A. Yes. The -- even though the battalion may

2 change, the 11 Quartermaster was still on there.

3 Q. Okay. All right. And when you changed

4 battalions again, you -- did you say that you had

5 to update your -- your address with the bank?

6 A. When I changed battalions?

7 Q. Yes.

8 A. Not immediately, because I thought I would still

9 receive the mail, you know, from 2189. But it

10 wasn't until I spoke to -- spoke to the bank

11 that, you know, "The building number, still the

12 same. The company is still the same. It's just

13 a different battalion but I'll still receive it."

14 Q. But the bank -- did the bank tell you that they

15 were having trouble with returned mail from you?

16 A. Once. It was once, though.

17 Q. Okay.

18 A. It was once.

19 Q. And that was after you had changed battalions?

20 A. Right.

21 Q. Okay. And -- and again, when -- when was that?

22 I think you said that earlier, I just don't have

23 it right here in front of me.

24 A. Well, I cannot recall when I changed battalions.

25 Yeah. That, I cannot recall, when I changed

1 battalions.

2 Q. Did you say it was over the summer of -- of last

3 year?

4 A. Yes. I mean, not the exact date.

5 Q. Okay.

6 A. But it was over the summer that it happened, but

7 I can't remember the exact date. I cannot recall

8 the exact date it happened.

9 Q. Sure. Good -- good enough.

10 Thinking back to the tax returns that we

11 just got -- all got done with filing our tax

12 returns, for -- for the most part, by -- by

13 April 15th of this year, what address did you --

14 did you put on your tax returns this year, if you

15 remember?

16 A. I used the 11th Quartermaster Company, 189 CSSB,

17 C-1135 Waal Street, Fort Bragg, North Carolina

18 28310.

19 Q. And I think you were having trouble remembering

20 this earlier, but do you recall now whether you

21 had filed a North Carolina tax return or -- did

22 you file a tax return with another state, like

23 Tennessee?

24 A. No. I filed one with North Carolina. But

25 something I learned, since I'm in the military --

1 because this is my residence, but your home of

2 record is what they were going off of, since it's

3 Tennessee. So -- because Tennessee doesn't

4 have -- if you're a federal employee, apparently

5 you don't pay state taxes.

6 So since my home of record is in

7 Tennessee, I don't have to pay the -- I mean, as

8 far as when I look on my LES. But as far as --

9 because that's when -- earlier, when you asked me

10 about the state taxes. I mean, I -- I believe I

11 do, but I still got to go back and check my tax

12 return.

13 Q. I see.

14 And -- and before April of 2014, you had

15 not tried to apply for a North Carolina driver's

16 license?

17 A. I had not. Only because I still wanted to vote

18 in Tennessee.

19 Q. Okay. But -- but when you wanted to get a

20 motorcycle, you were told that you needed a North

21 Carolina driver's license to do that?

22 A. Yes.

23 Q. Okay. And -- and did you get a motorcycle?

24 A. I did.

25 Q. Okay. Very good. I bet that's a lot of fun.

1 A. Yeah.

2 Q. And so you keep that here at Fort Bragg; is that

3 right?

4 A. Oh, the motorcycle?

5 Q. Yeah.

6 A. Well, unfortunately, while I went to school for

7 two months, my motorcycle was stolen.

8 Yes.

9 Q. Sorry to hear that.

10 A. I filed the claim. It's almost complete with the

11 insurance company.

12 So even though I don't have the

13 motorcycle anymore, I don't have a use for the

14 permit anymore, I'll get another motorcycle in

15 the future. But...

16 Yeah. The answer to your question is, I

17 do not have the motorcycle anymore.

18 Q. Okay. And in terms of your license, when does --

19 when does your license expire?

20 A. I just have to look here. (Looking at driver's

21 license.)

22 Expires June 20th, 2022.

23 Q. All right. Mr. Ealy, I'm going to hand you, and

24 I'm going to hand Ms. Riggs a document, that --

25 that may be familiar to you. And I'm going to

1 mark this and -- you know, I need -- before I

2 give that to you, I need to give that to the

3 court reporter and let her label that. I got

4 ahead of myself here. I'm going to give it to

5 you in just a second.

6 MR. McKNIGHT: I'm going to label this

7 document Ealy Exhibit 1. And -- I don't know if

8 you have any stickers or not.

9 Okay.

10 (Deposition Exhibit 1 is marked.)

11 MR. McKNIGHT: And actually, before I

12 give you this document -- I think I've given you

13 the wrong one here. I meant to give you a

14 different one.

15 THE WITNESS: Uh-huh.

16 MR. McKNIGHT: I'm going to label this

17 one as Ealy Exhibit 1. The next one is going to

18 be Exhibit 2.

19 THE WITNESS: Okay.

20 (Deposition Exhibit 1 is re-marked.)

21 Q. So I'm going to hand you this document that's

22 been marked as Ealy Exhibit 1.

23 A. Okay.

24 Q. And I want to give you a moment to look over

25 that. And then you can let me know if you

1 recognize it.
 2 A. Yes, I do recognize this one. When I went to
 3 vote in November, if I'm right.
 4 Okay.
 5 Q. Now, this document, at the top of it, it says
 6 "North Carolina Voter Registration Application."
 7 Do you see that?
 8 A. Yes.
 9 Q. And at the bottom -- there appears to be a
 10 signature at the bottom. Is that your signature?
 11 A. It is.
 12 Q. Okay. And there's a date. It's dated April 28th,
 13 2014. Do you see that?
 14 A. Yes.
 15 Q. And do you remember signing this document at the
 16 time that you went to apply for your North
 17 Carolina driver's license?
 18 A. Well, yes. According to the date and date on my
 19 driver's license, I believe this is it.
 20 Q. Do -- and do you believe this to be the voter
 21 registration form that you completed at the time
 22 that you went to apply for your North Carolina
 23 driver's license in April of 2014?
 24 A. Yes, sir.
 25 Q. Okay. And on this document, I -- I see that

1 right above your signature there's something
 2 here. It said that -- I think you -- you
 3 attested to the fact you read and understood the
 4 contents of the form and -- and -- and then you
 5 attested that the statements there were correct;
 6 is that right?
 7 A. Correct.
 8 Q. Okay. And then on -- on the form, it's got
 9 your -- your name. That's your full name, right?
 10 Alexander Louis Ealy; is that right?
 11 A. Correct.
 12 Q. And then right underneath that, there's a box
 13 that says "residential address." Do you see
 14 that?
 15 A. Yes, I do.
 16 Q. Okay.
 17 A. Oh.
 18 Q. And -- and -- and is that -- is that the
 19 residential address that you have?
 20 A. Yes.
 21 Q. Okay. Now, this address, this is your unit
 22 address, is it not?
 23 A. Yes.
 24 Q. Okay. And then underneath that, there's
 25 something that says "mailing address." Do you

1 see that?
 2 A. Yes.
 3 Q. And I think when you saw that, you -- you -- you
 4 kind of let out a sigh there. Why -- why was
 5 that?
 6 A. Because -- because when -- when I filled this
 7 out, I was understanding that when I put both of
 8 these, that it would have -- it would have still
 9 went to, like -- I'm -- I'm sorry.
 10 From when I wrote it on here, I
 11 understood that when I put the C-1135 Waal
 12 Street, it would still come there. So when I put
 13 the 11th Quartermaster unit address on the
 14 residential part and then put the mailing
 15 address, just like we discussed earlier about the
 16 building number and the unit, that it would
 17 still come -- it would still come to that
 18 building.
 19 Q. I see.
 20 And so would it have been correct to
 21 have put the 11 QM Company 264 CSSB address in
 22 the mailing address spot?
 23 A. Well, being on Fort Bragg, I -- I didn't think it
 24 would at the time because I still received the
 25 mail, you know. So -- I mean, I -- I -- I still

1 received mail to the building. So, I mean, even
 2 when I was ordering books, I still received mail.
 3 So as far as the mailing address, yes.
 4 Like earlier, when I said about the mailing
 5 address, I figured it would still come.
 6 Q. So -- so sometimes when you've had the mailing
 7 address listed as just your name and C-1135 Waal
 8 Street, Fort Bragg, you get the mail; is that
 9 right?
 10 A. Yes. Yes, sir.
 11 Q. But at times that you've had your name and had
 12 the address listed as 11 QM Company 264 CSSB, do
 13 you know of any time that you have not gotten
 14 your mail when it's had that address?
 15 A. No. Not -- not -- not that I can remember.
 16 Q. So if you want to be sure that you're going to
 17 get your mail, you need to put this unit address,
 18 which is the address that's listed under the --
 19 the heading "residential address" on this form;
 20 is that right?
 21 A. At -- at this time, at 28 April 2014, I was
 22 certain I was still going to receive my mail.
 23 But to answer your question -- I'm
 24 sorry. Can you repeat the question? I'm sorry,
 25 sir.

1 Q. Yeah.

2 And I guess the question is just that if

3 you want to be certain that you're going to

4 receive your mail, the address you would list is

5 your unit address, which I understand to be -- at

6 the time you filled out this form was 11 QM

7 Company 264 CSSB, right?

8 A. Right.

9 Q. Okay. And -- and that you -- you sometimes have

10 listed C-1135 Waal Street. And you say you

11 sometimes get your mail when it's listed just

12 like that, right?

13 A. Right.

14 Q. But -- but you've never had a problem getting

15 mail, as far as you know, when it's listed as

16 your unit address, which is the 11 QM CO 264 CSSB

17 address; is that right?

18 A. Well, to answer your question, both -- both --

19 both addresses.

20 Q. Yeah.

21 A. Yes, I don't have a problem receiving mail when I

22 put the unit. And also, if I was to list just

23 the building number also, you know, I don't have

24 a problem with it as well.

25 So both -- I could list both of them and

1 I will still get the mail, you know, so -- I

2 mean, ever since I've been on Fort Bragg, it --

3 whenever I put either address, I'll still get the

4 mail, you know. So -- I mean, because I've lived

5 there for three years and I've never really had a

6 problem receiving my mail.

7 Q. But if you had put the unit address in the

8 mailing address spot --

9 A. Uh-huh.

10 Q. -- do you think -- do you think it would have

11 been more likely that -- that you would have

12 received a response to this -- from the board of

13 elections from this?

14 MS. RIGGS: Objection. Calls for

15 speculation.

16 But you can answer the question.

17 A. I -- I -- I mean, I don't think --

18 Q. Well, let me -- let me ask -- let me ask the

19 question. Let me ask the --

20 MS. RIGGS: Objection. Let him finish

21 what he was saying.

22 A. I mean, as far as if it was guaranteed to reach

23 me by using that first one, I don't think it

24 would have been a guarantee that I would have

25 received it, you know, whether I used one address

1 or the other, because I still would have received

2 it, you know.

3 So to -- to answer your question,

4 whether it would be a guarantee that I will

5 receive my mail by just using that -- just that

6 address, no, it wouldn't be a guarantee, because

7 I can still use either/or.

8 Q. Well, when you applied for your license, though,

9 you -- you didn't use the C-1135 Waal Street

10 address, did you?

11 A. I might -- as far as on my license?

12 Q. Yes.

13 A. Well, I used -- I did -- I did use the unit one.

14 Q. Yeah.

15 So why did you use the unit address on

16 your license rather than the C-1135 Waal Street?

17 A. Because I thought it would still come to me

18 either way, you know. So I was like, okay, well,

19 I'm going to list this. It will still come to

20 me. The mail will still come to me either way.

21 Q. Well, I mean, did you use the unit address

22 because you -- you thought that was a better

23 address to use for the license than the -- the

24 C-1135 Waal Street?

25 MS. RIGGS: Objection. Misstates prior

1 testimony.

2 But go ahead and answer.

3 A. No, I -- I didn't think it was a better address.

4 I just -- it was just with me being on post, it's

5 like -- and since I live in the barracks, it's

6 just like, okay, I'm going to get the mail either

7 way. You know, whether I used the unit or the

8 building, I will still receive the mail.

9 So it wasn't -- it wasn't really a

10 matter of a guarantee or which one is best. It

11 was just -- for me, when I thought about it, it

12 was just I can -- I can put either address and

13 I'll still get it.

14 Q. Well, if -- if you had to fill out this form

15 again --

16 A. Right.

17 Q. -- knowing what you know now, which address would

18 you put under the mailing address spot?

19 A. If -- if I would have known then what I know now,

20 I would have then put more than just one. I

21 would have, like -- to put -- because just when I

22 was told that the mail was undeliverable. And,

23 you know, if I have to put more information for

24 me to get it, okay, fine.

25 Because I thought that with all the mail

1 that I've been receiving, and I just put either
 2 the C-1135 Waal Street or the 11th Quartermaster
 3 Company 264 CSSB at that time, and I should still
 4 receive it. But now that I know that the mail is
 5 being undeliverable, well, maybe I probably got
 6 to put more information. But, you know, just
 7 now. Then, one address would have been fine.
 8 You know, like, the -- whether the building or
 9 either the unit. Either/or.

10 But now, knowing what I know now, I know
 11 now that in the -- you know, when I want to
 12 register to vote, to just be sure -- maybe I got
 13 to put the unit and the building number just to
 14 see if it's going to go through. Because it's --
 15 it's a tricky thing living on post, that I've
 16 still never understood that it's for some --

17 For some addresses on post, it's
 18 harder -- it's only when it come to the
 19 registration that it's harder for me to get my
 20 mail. But everything else, I don't have a
 21 problem with it.

22 Q. Well, for, like, the bank statement, though, I
 23 think you -- you said that you listed your unit
 24 address on the bank statement, though, did you
 25 not?

1 A. Right. And it was only one time. But before
 2 that, I was still receiving the documents.

3 Q. Uh-huh.

4 A. You know, I was still receiving the documents
 5 from the bank. But it was just one time they
 6 told me. And I discussed that with someone,
 7 like, "Well, I don't understand. I've been using
 8 this address all the time. I've been receiving
 9 documents from you. What's the problem?" So I
 10 had to talk with them.

11 And then, come to find out with the
 12 bank, they told me they wanted another address.

13 Q. And -- and do you remember when that occurred,
 14 when your conversation with the bank occurred?

15 A. That -- I do not recall when that happened.

16 Q. Was that before or after you filled out this
 17 voter registration form?

18 A. That, I do not recall.

19 Q. And after you filled out this form, did you give
 20 it back to the -- to the DMV examiner who you
 21 were working with for your license?

22 A. Yes.

23 Q. Okay. And so that examiner took -- took this
 24 voter registration form. And did they tell you
 25 what would happen to it?

1 A. He really didn't say much after that. He just
 2 took the document, said thank you, and he filed
 3 it for voter registration. That's what I do
 4 remember.

5 Q. Okay. And did he tell you that you would receive
 6 a voter registration card in the mail at some
 7 later time?

8 A. That, I do not recall. That -- all what we
 9 discussed when I was at the DMV. I just
 10 remember, you know, I registered to vote, gave
 11 them the form. And then everything else -- I do
 12 not recall everything else we talked about or
 13 what he told me. So...

14 Q. Well, now, before, I think you said you have been
 15 registered to vote in Tennessee, right?

16 A. Yes.

17 Q. And I think you mentioned Missouri at one point.
 18 Were you ever registered to vote there?

19 A. No. I was not registered -- I was still
 20 registered to vote in Tennessee. But I -- if I
 21 remember, I was able to vote. When it was the
 22 presidential election, I was still able to vote.

23 Q. And was that 2008 or '12, or do you remember?

24 A. No, it was 2008.

25 Q. Okay. All right. And so when you were

1 registered to vote in Tennessee, do -- do you
 2 remember when you registered then?

3 A. I believe when I got my driver's license, when I
 4 was 18.

5 Q. Okay. And when you registered to vote in
 6 Tennessee, did -- did you get a voter
 7 registration card in the mail?

8 A. That, I do not recall. I mean, it was when I was
 9 18. And I'm 30. So it's like, at that time -- I
 10 just remember, like, I was registered to vote.
 11 So I don't remember all the details, you know, at
 12 that time.

13 Q. Okay. Well, after you filled out this form
 14 and -- and gave it to DMV examiner, did you hear
 15 anything from the board of elections in response
 16 to this form?

17 A. As far as --

18 Q. Here.

19 Well, did -- did you receive anything --
 20 did you ever receive a voter registration card in
 21 the mail?

22 A. No, I did not.

23 Q. Okay. And -- and did you ever think about
 24 calling to find out why you hadn't received a
 25 voter registration card?

1 A. When I registered at the DMV?
 2 Q. Yes.
 3 A. I thought I was fine. After I did that I thought
 4 -- because I had never -- at the time, I thought
 5 I was fine. Once I registered to vote, okay, I'm
 6 good. You know, all I've got to do is just go to
 7 the polls and vote.
 8 Q. Okay. And so let's talk about when -- when you
 9 went to the polls and -- and voted.
 10 So in 2014, you went to the polls to
 11 vote. Was it in the -- in the primary election,
 12 which would have been in May of 2014, or was it
 13 the general election, which would have been in
 14 November of 2014?
 15 A. Well, what I do remember -- I know the sheriff --
 16 I mean, to answer that question, I do not know if
 17 it was the primary or the general election. But
 18 I know that the sheriff was running and the
 19 senator was running. I can't remember the names
 20 of everyone that was running.
 21 But -- but the answer to the question is
 22 I don't remember if it was the general or the
 23 primary election.
 24 Q. Well, if you filled out your voter registration
 25 form in April of 2014, you don't think you tried

1 to go and vote a few days after that, do you?
 2 A. Oh, as far as after April?
 3 Q. Yes.
 4 A. No, sir. I waited -- I waited until the early
 5 voting that was happening in the fall.
 6 Q. Okay. All right. So -- so you -- you voted
 7 in -- only in the fall of 2014?
 8 A. Right.
 9 Q. Okay. All right. So now I want to hand you a
 10 document. I think Ms. Riggs already has a copy
 11 of this document. And this is the document I
 12 was -- I was getting ready to hand you a moment
 13 ago. And I'm going to mark this one as Ealy
 14 Exhibit 2. And if you'll just hold on to those,
 15 the court reporter will collect those at the end
 16 of today's proceeding.
 17 A. All right.
 18 (Deposition Exhibit 2 is marked.)
 19 MR. McKNIGHT: Thank you, ma'am.
 20 Q. Mr. -- or Sergeant Ealy, rather, this is a
 21 document I'm going to mark as Exhibit 2.
 22 A. Uh-huh.
 23 Q. And I'm going to give you a moment to take a look
 24 at that. And let me know when you're ready for
 25 some questions.

1 A. Okay.
 2 Q. All right. Sergeant Ealy, do you recognize this
 3 document?
 4 A. I do.
 5 Q. And what is it?
 6 A. It's the provisional voting application.
 7 Q. And is this your signature? There's a -- there's
 8 a signature about midway down the page.
 9 A. Yes, it is.
 10 Q. Okay. And it's dated, it appears, October 24th,
 11 2014?
 12 A. Yes.
 13 Q. And I think you mentioned that you -- you
 14 attempted to vote early in 2014; is that right?
 15 A. Yes.
 16 Q. Okay. And -- and -- so you were attempting to
 17 vote early for the November 2014 general
 18 election; is that right?
 19 A. Correct.
 20 Q. All right. And on this form, I see your name
 21 here at the top, your full name.
 22 A. Uh-huh.
 23 Q. And then underneath of that, there's something
 24 called the residential address.
 25 A. Right.

1 Q. And -- and in parentheses, it says "street
 2 address where you now live."
 3 A. Right.
 4 Q. And you put "C-1135 Waal Street." Do you see
 5 that?
 6 A. Right.
 7 Q. And, now, why did you use that as the -- where
 8 it's asking where -- the address where you now
 9 live?
 10 A. Well, I use that address as far as -- because I
 11 was expecting to receive something back. So I
 12 said, okay, well, I'll use this address to --
 13 in -- in case I'm receiving something as far as
 14 voting, you know, to look -- for them to let me
 15 know if I -- if my ballot counted.
 16 Q. And, now, why did you not list the unit address
 17 here?
 18 A. Because I -- I -- to me, either/or -- from what
 19 I've been told, I can use either/or, either
 20 address and you'll still receive something.
 21 Q. And who told you that you could use either
 22 address?
 23 A. I mean, I was talking to at the time, when I
 24 first came to the unit -- I -- I do not recall
 25 the personnel was -- what soldier it was. But

1 who was -- when they were working in the mailing
 2 room, they say we use either address, when I was
 3 in 11 Quartermaster Company 264 CSSB.
 4 Q. Okay. And -- but no one at the DMV told you you
 5 could use either address, did they?
 6 A. No. The DMV just wanted an address.
 7 Q. And no one at the board of elections has -- has
 8 ever told you you could use either address?
 9 A. No. They didn't -- they didn't say that.
 10 Q. Okay. And -- and I see under here, under where
 11 it says "residential address," there's a --
 12 there's a space for mailing address. Do you see
 13 that?
 14 A. Yes, I do.
 15 Q. Okay. And it doesn't appear that there's any --
 16 anything filled in for mailing address. Do you
 17 see that?
 18 A. I do see that.
 19 Q. Okay. And -- and -- and I guess, again, why is
 20 it -- why did you -- do you know why you did not
 21 fill out anything under the mailing address in
 22 those blanks?
 23 A. As I can remember, I believe maybe it was --
 24 maybe I was in a rush to fill out the form, that
 25 I overlooked that block. That I -- so I saw

1 residential address and I was like, okay, I'm
 2 going to be fine.
 3 And granted, the people who were working
 4 there -- I mean were volunteering at the time,
 5 they didn't catch it either, that "Hey, Mr. Ealy.
 6 You need to put a mailing address on here also."
 7 So when I filled out the form, I was
 8 like, okay, I'm good. I just got residential
 9 address on here, so that -- that's fine. I'll be
 10 good enough with that.
 11 Q. And if you had put a mailing address on there,
 12 what address would you have put?
 13 A. I would have -- more than likely at that time I
 14 would have -- I would have probably put the C
 15 dash -- well, I probably would have put the --
 16 the company and the -- the unit on there at the
 17 time. If I'd -- if I would have -- if I would
 18 have caught it or they would have caught it and I
 19 was like, okay, I would have probably used the
 20 whole address at this time because they said they
 21 couldn't find it.
 22 I mean -- but that's only if I knew now
 23 what I -- if I knew then what I know now, I would
 24 have put more information on the document. But
 25 again, I thought this would be good enough to --

1 to get me through.
 2 Q. And I think you have Exhibit 1 in front of you --
 3 A. Uh-huh.
 4 Q. -- right?
 5 So for -- for Exhibit 1, you listed,
 6 under residential address, the -- the -- the
 7 unit.
 8 A. Right.
 9 Q. Your unit.
 10 And here, in Exhibit 2, for residential
 11 address you listed the C-1135 Waal Street
 12 address?
 13 A. Right.
 14 Q. And -- and do you know -- do you sometimes put
 15 either/or address when someone asks you what your
 16 residential address is? Or do -- do you know why
 17 in this case you would have put two different
 18 addresses when -- when asked what your
 19 residential address was?
 20 MS. RIGGS: Objection. I think it
 21 misstates what the document actually says, that
 22 he didn't fill it out him -- he didn't type that
 23 out.
 24 MR. McKNIGHT: Well, I'm not suggesting
 25 he -- he -- he typed it -- he typed it out here.

1 But -- but he did sign at the bottom saying
 2 that -- that this -- this information was
 3 correct. So I just -- I -- and it may just be
 4 that -- that someone else typed it out. I -- I
 5 just -- I just didn't know if there was a -- a
 6 particular reason when someone asks you what your
 7 residential address is, like which -- which do
 8 you put, typically.
 9 A. Since I'm on Fort Bragg -- because -- when I
 10 think about residential address, I'm thinking
 11 mailing and residential address. Even though
 12 those are two different things, you know, mailing
 13 address, your mail comes there; and residential
 14 address, I always thought that, you know, your
 15 mail might come there, too.
 16 But knowing now what I should have known
 17 then, is when I go register to vote, the mailing
 18 address is what really counts, not really the
 19 residential address, you know. So...
 20 Q. Well -- so -- and the reason why I ask that
 21 question, though, is you had brought up another
 22 address a moment ago, because we were talking
 23 about your physical address.
 24 A. Uh-huh.
 25 Q. And you mentioned a C dash, I think, 1647

1 Campobello Street. Is that right?
 2 A. Right.
 3 Q. And so that's the address where you actually
 4 live, right?
 5 A. Right.
 6 Q. That's where your barracks is?
 7 A. Uh-huh.
 8 Q. And C-1135 Waal Street is simply where you pick
 9 up your mail; is that right?
 10 A. Right.
 11 Q. Okay. So in -- in terms of this residential
 12 address, do you ever put C-1647 Campobello Street
 13 when someone asks you your residential address?
 14 A. I do not. I use the unit's address only because
 15 -- ever since I've been in the Army, I've always
 16 had to list the unit's address, no matter --
 17 me -- where the mail -- wherever the mail is
 18 going, that's what I have to list.
 19 Q. I see.
 20 And so the Campobello Street address, do
 21 you use that for anything?
 22 A. I do not. And that's -- not to confuse, you
 23 know, as far as when I want to receive mail,
 24 because if I put that, then I know that I'm going
 25 to have to deal with the unit say, "Sergeant

1 Ealy, you need to start putting the unit and --
 2 use this other address. You can't use the
 3 barracks one because we're not going to send mail
 4 directly to there."
 5 Q. I see.
 6 And -- and so I want to show you another
 7 document now that I'm going to mark as Ealy
 8 Exhibit 3. And I'm going to see if you recognize
 9 this.
 10 MR. McKNIGHT: All I'll give a copy,
 11 right now, to Ms. Riggs.
 12 (Deposition Exhibit 3 is marked.)
 13 Q. Take a moment to look at this document and let me
 14 know when you're ready for some questions.
 15 A. Okay. (Peruses document.)
 16 Okay. I'm ready.
 17 Q. All right. Sergeant Ealy, do you recognize this
 18 document that's been marked as Ealy Exhibit 3?
 19 A. Um -- hold on.
 20 Oh. You know what? Yeah. This is the
 21 one I had to mail in. Okay.
 22 Q. Is -- is this your handwriting on this document?
 23 A. It is.
 24 Q. Okay. And is this your signature at the bottom?
 25 A. Yes. However, this Wollaton Park, 2831 -- I

1 don't remember this one. I don't -- I don't
 2 recall this one.
 3 And also, at the bottom here, with 11th
 4 Quartermaster Company, I don't really recall this
 5 one. Everything else I do remember. I mean, I
 6 remember signing it. But this part here, I
 7 mean...
 8 Q. So -- so the handwriting in the lower left-hand
 9 corner is not yours?
 10 A. I'm not -- that, I am not saying.
 11 Q. Well, do -- do you remember completing another
 12 voter registration application around March of
 13 this year?
 14 A. Yes, I do remember.
 15 Q. Okay. And you remember signing one?
 16 A. Yes.
 17 Q. And -- and does this look like the voter
 18 registration application you filled out?
 19 A. It does look like the voter registration one I
 20 filled out.
 21 Q. And what prompted you to fill out this voter
 22 registration form?
 23 A. Because I wanted to register to vote, you know.
 24 It was like -- I mean, when the Southern
 25 Coalition contact -- for Justice contacted me and

1 we discussed about how my ballot had not been
 2 counted, I wanted to -- I wanted to register to
 3 vote, you know. So...
 4 Q. So they -- the Southern Coalition contacted you
 5 before March, before you filled this out, to --
 6 to tell you that -- that your -- your vote had
 7 not been counted in 2014?
 8 A. Right. I was in school, and they contacted me
 9 and told me, you know, you'll have to do another
 10 one. And -- yeah, I was like, okay, fine. You
 11 know, I don't have a problem with that.
 12 Q. And so who provided you the voter registration
 13 form?
 14 A. Because I have the document at home, the card.
 15 That, I do not -- I mean --
 16 Q. It's -- it's okay if you don't remember.
 17 Was it somebody at the
 18 Southern Coalition? I -- I --
 19 A. If I'm right -- if I'm right, I think it was the
 20 Southern Coalition who sent it to me.
 21 Q. I didn't know whether you had gotten it from the
 22 board of elections or a library or something like
 23 that.
 24 A. No. No. No. I -- I believe, if I'm right --
 25 Q. Okay.

1 A. -- I believe the Southern Coalition for Justice
 2 sent it to me. If I'm right. I mean...
 3 Q. And so you filled out this -- you got this form
 4 in the mail, then?
 5 A. I did.
 6 Q. And you filled it out. And -- and here, the --
 7 the residential address is in Box 4.
 8 A. Right.
 9 Q. Do -- do you see that?
 10 A. Uh-huh.
 11 Q. It says, "Residential address information." Then
 12 it says, underneath that, "Street Address where
 13 you live."
 14 A. Right.
 15 Q. Do you see that?
 16 Okay. And here you wrote "C-1135 Waal
 17 Street." And then after that, you wrote
 18 "189CSSB."
 19 A. Right.
 20 Q. Okay. Then "Fort Bragg" and so on.
 21 A. Uh-huh.
 22 Q. Now, before, when you had filled out your
 23 residential address information, you had listed
 24 either your unit address only --
 25 A. Uh-huh.

1 Q. -- or you listed this C-1135 Waal Street address
 2 only. Right?
 3 A. Right.
 4 Q. And on this form, you listed both the C-1135 Waal
 5 Street address and the 189 CSSB portion, right?
 6 A. Right.
 7 Q. Now -- now, why did you do that?
 8 A. Well, I -- I was unable to fit all of it.
 9 Because the space that's provided on this, I
 10 can't fit the 11th Quartermaster 189 CSSB, then
 11 the C-35 -- I mean, I can't -- I can't fit all of
 12 that on there. So I just put that -- and again,
 13 I made another mistake here. I look -- mailing
 14 address, I should have probably filled that out
 15 as well. So...
 16 Q. Would you have put your unit address as the
 17 mailing address, is that what you were thinking?
 18 You said you made a mistake. I was just
 19 trying to think about what -- what would you have
 20 done differently on the form.
 21 A. I mean, now -- now I would have -- I would have
 22 probably listed more information. Because I
 23 thought this -- this would be fine. You know,
 24 like, okay, I can just put this. Because I still
 25 listed C-1135 Waal Street address. And I put the

1 189 CSSB. Because I have to register to vote
 2 again, let me put a little bit more information.
 3 Like, do I have to give more information to
 4 register to vote? So that's -- that's the thing
 5 I keep -- I'm wondering, you know.
 6 Q. After you filled out this form, what did you do
 7 with it?
 8 A. I sent it in the mail. I mean, of course -- I
 9 mean, of course, received. I see April 16th.
 10 But it was -- I -- I did mail it off, you know.
 11 But it wasn't, like, the exact same day. But it
 12 was, like -- because something came down with the
 13 unit. So I was like, okay, when I get a chance
 14 to go to the post office, I'll mail it off.
 15 Q. And who did you mail it to?
 16 A. I wish I could remember who. But I was provided
 17 the information from the Southern Justice --
 18 Southern Coalition for Justice. They gave me an
 19 address who to send it to. But I believe, if I'm
 20 right, board of commissions.
 21 Q. Could it -- was it a Raleigh address? Do you
 22 remember whether you sent it to Raleigh or did
 23 you send it to Fayetteville?
 24 A. I do not remember. But it -- it was -- because I
 25 have to go back and look at the document, because

1 they had the address on there.
 2 Q. But you're thinking maybe it was a board of
 3 elections, perhaps?
 4 A. I'm not certain if it's board of commissions or
 5 board of elections. That, I'm not sure on.
 6 Q. It was a board anyway, though?
 7 A. Yes, I do remember.
 8 Q. Okay. All right. Good enough.
 9 And so you -- you sent -- you sent
 10 that -- this form in after you -- sometime after
 11 you filled it out. It looks like it was
 12 certainly received, at least, April 16th by -- by
 13 whoever you sent it to.
 14 A. Right.
 15 Q. And did you hear anything in response after you
 16 filled out this form? Did anyone from -- from
 17 any board of elections office contact you?
 18 A. No, I don't -- I don't -- I don't think any --
 19 anyone from the board of elections contacted me.
 20 Q. Well, earlier, I think you mentioned speaking
 21 with Terry Robertson.
 22 A. Oh, I'm sorry. Please -- I mean, as far as them
 23 calling me, no. I had to call them, you know,
 24 and -- and ask about -- and have a conversation
 25 about this.

1 Q. Okay. So you're saying you called Terry
 2 Robertson at some point after you submitted this;
 3 is that right?
 4 A. Yes.
 5 Q. And when did you do that?
 6 A. It was, I believe, last week or -- I mean, well,
 7 of course, it was before today. But I believe it
 8 was -- I mean, like, this past -- past week, I
 9 believe. I believe.
 10 Q. So you think sometime this past week?
 11 A. Yes, I believe.
 12 Q. Okay. All right. And when you spoke with
 13 Ms. Robertson, was it your understanding she
 14 works for the Cumberland County Board of
 15 Elections?
 16 A. I have to go back and look at the text and the
 17 information I wrote down.
 18 Q. Well, did you call a Fayetteville number to --
 19 when you called, or did you call a 910 number?
 20 A. I -- I got to look at my phone. I'm sorry. I
 21 have to look at the number that I dialed.
 22 Q. All right. That's fine.
 23 (The witness looks at cell phone.)
 24 A. It was a 910 number.
 25 Oh, that's right. Cumberland County

1 Board of Elections.
 2 Q. Okay.
 3 A. She's --
 4 Q. All right. And -- and -- and do you see on your
 5 phone when -- when you called her?
 6 A. Yeah.
 7 Q. What -- what date was that?
 8 A. Let me see here. (Looking at cell phone.)
 9 Okay. Yeah. It shows Friday.
 10 Q. Okay. So -- would that have been yesterday?
 11 A. Yes.
 12 Q. Okay. All right. So you spoke with
 13 Ms. Robertson yesterday --
 14 A. Uh-huh.
 15 Q. -- about this voter registration form.
 16 Now, why did you call her yesterday
 17 about this form?
 18 A. It was to get more information on the voter
 19 registration. I mean -- oh. Wait. I'm sorry.
 20 I'm sorry. I'm sorry. I -- I wrote it down.
 21 I'm sorry. (Looking at cell phone.)
 22 Oh. I was supposed to tell her that my
 23 earlier registrations were denied because the
 24 confirmations were returned undeliverable.
 25 That -- that's why I called her.

1 Q. Well, now, who told you to -- to call her and
 2 tell her that?
 3 A. Well, when I spoke to Ms. -- Southern Justice of
 4 Coalition -- Southern Coalition for Justice.
 5 Q. Okay. So they suggested you call Ms. Robertson
 6 and -- and talk to her about your voter
 7 registration application?
 8 A. Yes.
 9 Q. Okay. And so when you -- when you -- when you
 10 called Ms. Robertson and talked to her about
 11 your -- your voter registration application
 12 yesterday, do -- do you remember what -- what you
 13 talked about, what was said?
 14 A. Well, what I do remember is, when I talked with
 15 her, she -- she -- her and her assistant went to
 16 look -- look for my voter registration. And then
 17 I had to go through the process again, give her
 18 my information. And then they told me, "Okay,
 19 Mr. Ealy. Call back in two weeks to see if
 20 it's -- if you're registered." So I had to go
 21 through it again.
 22 Q. Well, you didn't have to fill out another
 23 registration application, did you?
 24 A. No. We did everything over the phone.
 25 Q. Okay. And did -- did you tell Ms. Robertson that

1 your unit address was now 11th Quartermaster
 2 Company 189 CSSB, Fort Bragg?
 3 A. Yes.
 4 Q. Okay. And this -- did you discuss this Wollaton
 5 Park address that's written down here, 4664
 6 Wollaton Park? Do you remember discussing that
 7 with her?
 8 A. What I do -- I only remember the 11th
 9 Quartermaster Company.
 10 Q. Okay. So you don't remember any discussion about
 11 Wollaton Park?
 12 A. No, I don't remember.
 13 Q. Okay. And -- and -- and there may not have been
 14 any discussion about that. I -- I don't know. I
 15 just was asking. I'm trying to figure out maybe
 16 why this was down here.
 17 Does the Wollaton Park address, this
 18 address that's listed here on this form, does
 19 that -- does that ring a bell for you? Does
 20 that -- does that have any significance for you?
 21 A. I -- I cannot say that it -- maybe there is some
 22 significance behind it. But that, I -- as far as
 23 I know, I don't -- I don't remember right now.
 24 Q. Okay. I mean, is that an address that it's at
 25 Fort Bragg? Is that -- if you know, is -- is

Page 65

1 that -- is that an address that you're familiar
2 with at Fort Bragg in any respect?
3 A. Not at this time.
4 Q. Okay.
5 A. No, not at this time.
6 Q. Okay. Well, did Ms. Robertson tell you that --
7 that you should be receiving a voter registration
8 card in the mail sometime in the next couple of
9 weeks?
10 A. No. She told me to call back in two weeks. She
11 said, "Call -- call back in two weeks."
12 That's -- that's what -- that's what she told me.
13 Q. Okay. Just -- just to check on the status of
14 your registration?
15 A. Right.
16 Q. Okay. All right. And did she tell you that she
17 was going to be mailing anything to this 11th
18 Quartermaster Company 189 CSSB address?
19 A. I do -- that, I do -- I don't -- I don't think
20 she told me that. I think it was just -- the --
21 the main things I remember from -- from the
22 conversation was just "call back in two weeks."
23 Q. Okay.
24 A. And that -- that's what really stuck with me out
25 of the whole conversation: I need to call back

Page 66

1 in two weeks.
2 Q. Now, why did you -- why did you give her that --
3 your unit address when you spoke with her?
4 A. I gave her that address because from the address
5 that they had on there, since they -- since they
6 weren't able to send it to that one, maybe if I
7 give them this address instead. Because I'll be
8 able to use either/or with everyone else, and
9 maybe -- maybe this one will work with them.
10 Q. Did -- did she -- did she ask you what the best
11 address was that -- that she could use to try to
12 mail you something?
13 A. That, I do not remember. I mean, if -- if it's
14 the best address, I don't remember if she asked,
15 "Hey, what's the best address I can send it to --
16 send something?" I just gave her -- just gave
17 her another one. Because if -- because it's
18 still the same building, same unit, and, you
19 know, this 11th Quartermaster 189 that I'm in
20 now, it -- the mail should still come to it.
21 So...
22 Q. And -- I mean, did she ask you what address
23 you -- you would use if you wanted to receive
24 something important in the mail?
25 A. That, I do not remember.

Page 67

1 Q. Okay. All right. All right. Fair enough.
2 But that -- that's why you -- you gave
3 her the -- you thought you'd tried -- you thought
4 that address would be a better address?
5 MS. RIGGS: Objection. Mischaracterizes
6 earlier testimony.
7 Q. Well -- again, what -- I don't -- I don't mean to
8 mischaracterize anything, you know, you're
9 saying.
10 But so -- so why -- do you remember
11 exactly why you did -- did give her this -- this
12 address, this -- the unit address?
13 A. Because, apparently, if -- if the C-1135 Waal
14 Street was not working, maybe they want another
15 address instead.
16 Q. And I think you said earlier that you had spoken
17 with various people at the Southern Coalition for
18 Social Justice about this case. Is that right?
19 A. Yeah. I did receive a phone call and called
20 Ms. Allison Riggs about it.
21 Q. Okay. And do you remember when you first spoke
22 with them?
23 A. It was when I was in Fort Lee, Virginia.
24 Q. And what -- would that have been -- I assume from
25 your earlier testimony, it was -- it was some --

Page 68

1 it was either March or before March of this year?
2 A. Right. Either before March of this year or
3 either in March. So...
4 Q. Okay. But you don't remember specifically when?
5 A. Yeah, I don't remember the exact date. I just
6 know it was either February or March.
7 Q. And I think you said they contacted you and --
8 and told you that your -- your provisional vote
9 from 2014 did not count; is that right?
10 A. Right. Right.
11 Q. Okay. And what else did you discuss about the
12 lawsuit?
13 A. That -- that was -- what I can remember, the main
14 thing is about the provisional vote and that I
15 need to -- that they was going to send me another
16 voter registration and -- and then we'll go from
17 there.
18 Q. And was Ms. Riggs the only person you spoke with,
19 with Southern Coalition, or did you speak with
20 someone else?
21 A. I -- I just remember mainly Ms. Allison Riggs.
22 That's -- that's the main person I remember.
23 Q. Okay. And did she tell you anything about
24 what -- what this lawsuit was about?
25 A. I mean -- well, it was just -- to me, I -- I

Page 69

1 thought we were just trying to do this voter
2 registration. But she did go over a lot of
3 details about it. But I was mainly just trying
4 to register to vote. That's what I remember.
5 Like, well, okay, okay, I can get some
6 help on this voter registration. That's --
7 that's -- that's what I -- I understand that's
8 what this really is about, voter registration.
9 So...

10 Q. Was helping you with your voter registration?
11 A. Well, yeah. That -- that's -- that's how I
12 understood it, to send it off again. You know,
13 like, okay, Mr. Ealy, we'll...

14 Q. Okay. Well, you said she told you a lot about
15 the law. Is there anything you remember
16 specifically?
17 A. Just the voter registration, like you need to,
18 you know, get it done. That's the main thing I
19 remember. I mean, she -- she did -- we -- we
20 talked about a lot. But it was -- mainly came
21 back to the voter registration.
22 Q. And -- and you said, I think, you talked to her
23 in March or before March, and then you must have
24 talked to her since. Is that -- is that fair to
25 say, that you talked to her after you submitted

Page 70

1 this form in March?
2 A. Well, yes. I -- we did talk some more after
3 that, you know, after I submitted the form.
4 Q. Okay. And did she -- did -- and she -- and I
5 think she must have told you to contact the --
6 the Cumberland County Board of Elections
7 yesterday?
8 A. Well, yes. I had. Yes.
9 Q. Okay. And other than, like, those two
10 conversations, were -- were there any others?
11 A. Not that I can remember. Because, I mean, I
12 counted it as -- my actions, I counted them as
13 harmless, you know, to get in touch with them.
14 You know, so it was like, well, what -- what's
15 the harm in me contacting them and letting them
16 know about this? I mean, I didn't know how big
17 this was.
18 Q. Yeah.
19 A. You know, I didn't know how big this was. I
20 heard about it, like, during the same-day voter
21 registration. It was something about that that
22 had got cast down. And to me, I just looked at
23 it as I was just voting. I mean, I didn't know
24 how big this -- this had become, you know. So...
25 Q. And I'm not in any way implying it's

Page 71

1 inappropriate for you to talk to Ms. Riggs at all
2 here. There's -- there's, in fact, nothing
3 inappropriate about that. That's -- that's
4 entirely appropriate for you to talk with
5 Ms. Riggs. But, you know, in the course of these
6 proceedings, I get to ask what you talked with
7 her about because she's --
8 A. Oh. Okay.
9 Q. -- she's not -- she's not your lawyer and --
10 and -- and things -- and things of that nature.
11 But I'm not -- I'm not suggesting in any way
12 you've done anything wrong.
13 A. Okay.
14 Q. We appreciate your time today here on a Saturday
15 being here --
16 A. Okay.
17 Q. -- and all that. You're not in any kind of
18 trouble or anything like that.
19 A. All right.
20 Q. That's not at all -- all we're trying --
21 A. I was wondering about that.
22 Q. What -- what we're trying to do, we're not trying
23 to catch you. We're trying to understand what
24 happened with respect to your voter registration
25 and that sort of stuff. And if it turns out

Page 72

1 there was a problem with you, we -- in terms of
2 the State, we want to fix that, if -- if there is
3 an issue. And -- and she's obviously trying
4 to -- to look at, you know, things that -- that
5 relate the allegations that the League of Women
6 Voters has -- and others have made in this
7 lawsuit.
8 So -- so you can breathe a little sigh
9 of relief, if -- if you're -- if you're concerned
10 about that.
11 MR. McKNIGHT: And -- and in looking
12 through my notes here, I don't think I have any
13 other questions for you, Mr. -- Sergeant Ealy, at
14 this time. And, you know, we just -- we
15 appreciate your time and -- and -- and -- and
16 spending some -- this with us here this
17 afternoon.
18 THE WITNESS: Yes.
19 MS. RIGGS: Sergeant Ealy, I just have a
20 couple quick questions, and then we'll get you
21 out to enjoy the nice weather.
22 THE WITNESS: Okay.
23 EXAMINATION
24 BY MS. RIGGS:
25 Q. You have received mail at C-1135 Waal Street

1 before, right?

2 A. I have.

3 Q. Okay. And it would just say "Alexander Ealy,

4 C-1135 Waal Street, Fort Bragg, North Carolina"?

5 A. Right.

6 Q. Okay. Can you look at Exhibit 1 real quickly?

7 A. Uh-huh.

8 Q. The -- the part that's on the top half, you

9 didn't type any of that out, right?

10 A. No. I -- I would suggest that -- from the date,

11 I would suggest that the personnel who was at the

12 DMV, they were the ones that type it out. They

13 just sit behind the computer and I tell them and

14 they just type it in.

15 Because -- I mean, I -- I know you asked

16 me about it earlier and everything. And yes,

17 this is my signature. But from looking at the

18 date of when I signed it because it -- it is

19 coming back, that at the DMV, it's just like that

20 little -- I don't know what it's called. But

21 it's the little digital sign things you sign on

22 there and everything else, they just kind of just

23 type on it. So...

24 Q. Right.

25 So they -- you give them your

1 information?

2 A. Uh-huh.

3 Q. And then --

4 "Yes"? Sorry. We have to be verbal.

5 A. Oh, I am sorry. Yes.

6 Q. And then they -- the DMV worker puts in the

7 information in the computer?

8 A. Correct.

9 Q. Okay. On both Exhibits 1 and Exhibits 2, you

10 have your phone number on there, right?

11 A. Yes.

12 Q. Do you see it on both exhibits?

13 A. Well, let me look at this one.

14 Q. That's 3. We want 2.

15 A. Oh. I am sorry.

16 Q. No. You're fine.

17 A. Okay. (Peruses document.)

18 Yes, I have my phone number on both.

19 Q. Did anyone -- after you submitted these, did

20 anyone from the Cumberland County Board of

21 Elections call you about your registration?

22 A. No. I don't think so. I mean, at least I -- I

23 don't remember anyone calling.

24 Q. Okay. And on the bottom of Exhibit 3, it looks

25 to me that this is a -- a copy and that there

1 might have been a Post-It at the bottom. Do you

2 see --

3 A. Yeah. I was about -- I was wondering about that,

4 like -- you know, I didn't know if I was kind

5 of -- I -- I didn't know if I was, like, maybe at

6 the time like, yes, the address, you know, and

7 everything, because -- I don't know. I was -- I

8 was wondering about that.

9 Q. Because it looks like some of the writing on the

10 bottom is cut off, right?

11 A. Well, yeah, because -- yeah, because I guess

12 there's more to be written. I mean, I -- I

13 probably should have asked about that, but, you

14 know.

15 Q. No, I don't think you saw that.

16 You don't know that you wrote that

17 Post-It note; is that right?

18 A. Right.

19 Q. Okay. You don't remember writing a Post-It note

20 on your application?

21 A. Right.

22 Q. Okay. When you talked to Ms. Robertson at the

23 county board of elections, she -- did she

24 indicate to you that the county board of

25 elections had tried to mail you things?

1 A. Yes. And there was a -- the address issue again.

2 That's -- that's what -- this is -- I think this

3 is what this is about, the address issue.

4 Q. Okay. Do you know how many soldiers,

5 approximately, live on Fort Bragg?

6 A. Right now, from what I heard, it was at least

7 50,000 troops.

8 MS. RIGGS: Okay. That's all I have,

9 unless Mr. McKnight has any follow-ups.

10 MR. McKNIGHT: No further questions from

11 me.

12 Again, we -- we -- we just appreciate

13 your time. And thank you for your service to our

14 country.

15 THE WITNESS: No problem. Any time.

16 THE VIDEOGRAPHER: This concludes the

17 deposition. The time is 2:42 p.m.

18 [SIGNATURE RESERVED]

19 [DEPOSITION CONCLUDED AT 2:42 P.M.]

20

21

22

23

24

25

1 ACKNOWLEDGEMENT OF DEPONENT

2
3 I, ALEXANDER EALY, declare under the
4 penalties of perjury under the State of North Carolina
5 that I have read the foregoing 76 pages, which contain a
6 correct transcription of answers made by me to the
7 questions therein recorded, with the exception(s) and/or
8 addition(s) reflected on the correction sheet attached
9 hereto, if any.

10 Signed this the ____ day of _____, 2015.

11
12
13 _____
Alexander Ealy

14
15
16
17
18
19
20
21
22
23
24
25

1 STATE OF NORTH CAROLINA)
) CERTIFICATE

2 COUNTY OF WAYNE)

3
4 I, JENNIFER C. CARROLL, Court Reporter and
5 Notary Public, the officer before whom the proceeding
6 was conducted, do hereby certify that the witness whose
7 testimony appears in the foregoing proceeding was duly
8 sworn by me; that the testimony of said witness was
9 taken by me to the best of my ability and thereafter
10 transcribed under my supervision; and that the foregoing
11 pages, inclusive, constitute a true and accurate
12 transcription of the testimony of the witness.

13 I do further certify that I am neither
14 counsel for, related to, nor employed by any of the
15 parties to this action, and further, that I am not a
16 relative or employee of any attorney or counsel employed
17 by the parties thereof, nor financially or otherwise
18 interested in the outcome of said action.

19 This the 18th day of May, 2015.

20
21
22
23
24
25

Jennifer C. Carroll, RPR, CRR
Notary Public #19923280118

1 ERRATA SHEET

2 Case Name: NAACP v. McCrory, et al.
3 Witness Name: ALEXANDER EALY
4 Deposition Date: Saturday, May 2, 2015

5	6 Page/Line	Reads	Should Read
7	___/___	_____	_____
8	___/___	_____	_____
9	___/___	_____	_____
10	___/___	_____	_____
11	___/___	_____	_____
12	___/___	_____	_____
13	___/___	_____	_____
14	___/___	_____	_____
15	___/___	_____	_____
16	___/___	_____	_____
17	___/___	_____	_____
18	___/___	_____	_____
19	___/___	_____	_____
20	___/___	_____	_____
21	___/___	_____	_____
22	___/___	_____	_____

23
24
25 Signature _____ Date _____

Page 1

1 IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

2 _____

3 NORTH CAROLINA STATE)
CONFERENCE OF THE NAACP,)
4 et al.,)
5 Plaintiffs,)
6 vs.) Case No. 1:13-CV-658
7 PATRICK LLOYD McCRORY, in his)
official capacity as Governor)
8 of North Carolina, et al.,)
9 Defendants.)

10 LEAGUE OF WOMEN VOTERS OF)
NORTH CAROLINA, et al.,)
11 Plaintiffs,)
12 and)
13 LOUIS M. DUKE, et al.,)
14 Plaintiffs-Intervenors,)
15 vs.) Case No. 1:13-CV-660
16 THE STATE OF NORTH CAROLINA,)
17 et al.,)
18 Defendants.)

19 UNITED STATES OF AMERICA,)
20 Plaintiff,)
21 vs.) Case No. 1:13-CV-861
22 THE STATE OF NORTH CAROLINA,)
et al.,)
23 Defendants.)
24 _____)
25 VIDEOTAPED DEPOSITION OF QUISHA MALLETTE

Page 2

1 THE VIDEOTAPED DEPOSITION OF
2 QUISHA MALLETTE

3 _____

4 2:25 P.M.
5 TUESDAY, MAY 19, 2015

6 _____

7

8 SOUTHERN COALITION FOR SOCIAL JUSTICE
9 1415 WEST HIGHWAY 54, SUITE 101
10 DURHAM, NORTH CAROLINA

11
12
13 By: Maren M. Fawcett, RPR
14
15
16
17
18
19
20
21
22
23
24
25

Page 3

1 APPEARANCES

2 Counsel for League of Women Voters Plaintiffs:
3 SOUTHERN COALITION FOR SOCIAL JUSTICE
BY: ALLISON RIGGS, ESQ.
4 1415 West Highway 54, Suite 101
Durham, NC 27707
5 (919) 323-3380
allison@southerncoalition.org

6
7 Counsel for the Plaintiffs-Intervenors Louis M. Duke:
8 POYNER SPRUILL, LLP
BY: JOHN W. O'HALE, ESQ.
9 301 Fayetteville Street, Suite 1900
Raleigh, NC 27601
10 (919) 783-2802
johale@poynerspruill.com

11
12 Counsel for the Defendants State of North Carolina and
Members of the State Board of Elections:

13
14 NORTH CAROLINA DEPARTMENT OF JUSTICE
BY: KATHERINE A. MURPHY, ESQ.
114 W. Edenton Street
15 Raleigh, NC 27603
(919) 716-6900
kmurphy@ncdoj.gov

16
17 Reported by:

18
19 DISCOVERY COURT REPORTERS
AND LEGAL VIDEOGRAPHERS
BY: MAREN M. FAWCETT, RPR
20 BY: BRENT TROUBLEFIELD, Videographer
4208 Six Forks Road, Suite 1000
21 Raleigh, NC 27609
(919) 649-9998
denise@discoverydepo.com

22
23
24 -oOo-
25

Page 4

1 INDEX

2 PAGE

3 EXAMINATION BY MS. RIGGS

4 EXAMINATION BY MS. MURPHY

5 -oOo-

6

7 (No exhibits marked.)

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 5

1 PROCEEDINGS
2 THE VIDEOGRAPHER: On record at 2:25 p.m.
3 Today's date is May 19th, 2015. This is the
4 videotaped deposition of Quisha Mallette taken in
5 the matter of the North Carolina State Conference
6 of the NAACP, et al. versus Patrick Lloyd
7 McCrory, in his official capacity as the Governor
8 of North Carolina, et al., case number 1:13CV658
9 and all related matters.
10 Would counsel please introduce themselves.
11 MS. RIGGS: My name is Allison Riggs from the
12 Southern Coalition for Social Justice and I
13 represent the League of Women Voters, Plaintiffs.
14 MR. O'HALE: My name is John O'Hale with the
15 Raleigh law firm of Poyner Spruill and I represent
16 the Duke Plaintiff-Intervenors.
17 MS. MURPHY: I'm Katherine Murphy with the
18 North Carolina Department of Justice. I represent
19 the Defendants.
20 THE VIDEOGRAPHER: And would the court
21 reporter please swear in the witness.
22 Whereupon,
23 QUISHA MALLETTE,
24 Having been first sworn or affirmed by the
25 Registered Professional Reporter and Notary Public to

Page 6

1 tell the truth, the whole truth and nothing but the
2 truth, testified as follows:
3 DIRECT EXAMINATION
4 BY MS. RIGGS:
5 Q. Good afternoon, can you state your full name
6 for the record?
7 A. Yes. My name is Quisha Renee Mallette.
8 Q. Thank you, Ms. Mallette. And where do you
9 currently live?
10 A. I currently live in Chapel Hill, North
11 Carolina.
12 Q. And what's your address?
13 A. My address is 207 Melville Loop, Apartment 4
14 in Chapel Hill.
15 Q. Okay. What's your date of birth?
16 A. 6/15/84.
17 Q. Okay. Ms. Mallette, have you ever had your
18 deposition taken before?
19 A. No.
20 Q. Okay. So I'll just go over the rules really
21 quickly so that we're all on the same page. The court
22 reporter is typing down everything you say. So we have
23 to be careful to give verbal answers. Sometimes when
24 we're in conversation we nod or shake our heads, but she
25 can't transcribe that. So instead of "uh-huh" or

Page 7

1 nodding, please say "yes." And we also, when we get
2 into conversation, we tend to talk over each other a
3 little bit. It's just normal, but it makes it hard for
4 the court reporter to transcribe. So I'll wait -- do
5 the best I can to wait till you're done answering a
6 question before asking my next one and, likewise, if you
7 wait for me to answer -- to finish asking my question
8 before you answer it, it will make her job a lot easier.
9 If you need to take a break, we can take a
10 break, just let me know. We'll probably finish the
11 question we're on and we can take a break.
12 Everything -- so the court reporter swore you
13 in. So everything that you say is truthful, just like
14 you were -- if you were testifying on the stand in
15 court. Do you understand all of that?
16 A. I do.
17 Q. Okay. And if you have any questions, stop me,
18 ask me to rephrase, happy to do any of that. I want to
19 make sure you understand the questions that I'm asking.
20 Is that okay?
21 A. That's okay.
22 Q. All right. Ms. Mallette, where are you
23 currently employed?
24 A. I'm currently a student at UNC at the law
25 school.

Page 8

1 Q. Okay. What year are you?
2 A. I just finished my first year.
3 Q. Do you have a summer job this summer?
4 A. I do. I have a very brief internship with the
5 Center for Civil Rights and then I'll be doing a study
6 abroad program.
7 Q. Okay. Where were you born?
8 A. I was born in Nashville, Tennessee.
9 Q. Okay. When did you move to North Carolina?
10 A. When I was three months old.
11 Q. And where did you move to?
12 A. I moved to Greenville, North Carolina.
13 Q. Okay. And with your family?
14 A. I did, yes, my parents.
15 Q. How long did you live in Greenville?
16 A. I lived in Greenville for most of my
17 childhood. I lived in Maryland when I was six and seven
18 and then moved back to Greenville up until I was 18.
19 Q. Okay. And where did you move -- where did you
20 go from Greenville when you were 18?
21 A. When I was 18 I went to college in Hampton,
22 Virginia at Hampton University.
23 Q. And where is that?
24 A. It's in Hampton, Virginia, the Hampton Roads
25 area.

1 Q. Okay. And what years approximately were you
 2 in Hampton Roads?
 3 A. I was there from fall 2002 until summer 2006.
 4 Q. What did you major in?
 5 A. History and Spanish.
 6 Q. After you graduated in 2006, where did you go
 7 next?
 8 A. After that I went to graduate school in
 9 Washington, D.C. I attended Howard University.
 10 Q. And what were you getting a graduate degree
 11 in?
 12 A. Communication and culture. It's like
 13 communication studies.
 14 Q. Okay. And about what years were you there?
 15 A. I was there from 2006 until 2008.
 16 Q. And then where did you go after you graduated
 17 from the grad school program?
 18 A. I went back to Greenville for a year and then
 19 I moved up to Raleigh. So I was in Raleigh right up
 20 until I started school in August.
 21 Q. Okay. Just so I can get my time line right --
 22 A. Sure.
 23 Q. -- that's probably about 2009 --
 24 A. Yes.
 25 Q. -- to 2014?

1 A. Yes.
 2 Q. And why did you go back to Greenville after
 3 you graduated?
 4 A. I decided that I did not want to pursue a
 5 Ph.D. program and so I wanted to take a slightly
 6 different route and needed a year to go back home and
 7 try to figure out my path.
 8 Q. Greenville was home --
 9 A. Yes.
 10 Q. -- at the time?
 11 A. Uh-huh.
 12 Q. And why did you move to Raleigh in 2009?
 13 A. I got a position with AmeriCorps with the
 14 Literacy Council and then after my AmeriCorps year I was
 15 able to continue as a full-time staff with them.
 16 Q. What kind of work did you do there?
 17 A. I worked for -- there is a Literacy Council
 18 and we -- I managed a youth academic support program and
 19 so it provided assistance for students who otherwise
 20 were experiencing failure in school.
 21 Q. Great. What -- what age of kids were you
 22 working with?
 23 A. Mostly ages 11 to 16.
 24 Q. Great. And then what -- what led you to
 25 decide to pursue a career in law?

1 A. Well, really, working with those students and
 2 their families. Several of them had been suspended from
 3 school or experienced other challenges in school and so
 4 I figured I want to consider pursuing education law and
 5 find more ways to advocate.
 6 Q. Great. Ms. Mallette, do you remember when you
 7 first registered to vote?
 8 A. Not really. I know I was -- I'm pretty sure I
 9 was 18.
 10 Q. Okay. And do you remember where was the first
 11 place you registered to vote?
 12 A. I believe it was in Greenville, North
 13 Carolina, probably at the DMV, but I'm not -- I can't
 14 recall exactly.
 15 Q. Okay. Did you register when you turned 18?
 16 A. I think so. I think I did.
 17 Q. And when you were in college and graduate
 18 school, did you maintain North Carolina as your -- your
 19 residence for voting?
 20 A. Yes. Yes.
 21 Q. Did you vote by absentee or vote when you were
 22 home from school?
 23 A. From what I recall, I think I did more voting
 24 when I was home. I may have also done absentee.
 25 Q. Okay. When -- have you been a regular voter

1 since you first registered to vote?
 2 A. I would say so.
 3 Q. Do you vote in primary elections and general
 4 elections?
 5 A. Generally I do.
 6 Q. And do you recall do you vote in presidential
 7 elections and what are sometimes called midterm
 8 elections?
 9 A. I think so.
 10 Q. Yeah, midterms --
 11 A. Usually in May?
 12 Q. No. Midterms would be November 2014, for
 13 example, November 2010, the non-presidential.
 14 A. Oh, I see. Oh, yes. Uh-huh. Uh-huh.
 15 Q. Okay. So the answer is yes?
 16 A. Yes.
 17 Q. Okay. Did you want to vote in November 2014?
 18 A. I did.
 19 Q. Why did you want to vote?
 20 A. I just think it's important since I have the
 21 opportunity to exercise the right to vote that I do.
 22 Q. Okay. Did you try to vote in November 2014?
 23 A. I did.
 24 Q. What happened when you tried to vote?
 25 A. Well, I started out trying to vote in Wake

1 County because I had not changed my registration to
 2 Chapel Hill and I figured I would be able to do that
 3 because that was -- I was registered there. So I went
 4 during the early voting cycle and when I got to the
 5 polls, I was told that if I did try to vote in Wake
 6 County, it would be very unlikely that my vote would
 7 count and that I should try voting in Orange County.
 8 So I got concerned about that and I think
 9 probably when I was on my way to Orange County I called
 10 the election protection hotline just to get a sense of
 11 what I needed to do. I had done a little bit of
 12 research online too just to see what happens in my
 13 scenario and I just didn't find much clear information.
 14 So when I got to Orange County, I basically
 15 told them the same story I did in Wake County, that I'm
 16 registered in Wake County, but I live in Orange County
 17 now and I wanted to be able to vote. And they seemed to
 18 be also very hesitant and they thought that I should
 19 have voted in Wake County and -- but I still insisted on
 20 the provisional ballot. And so I was able to
 21 eventually -- I had to sit in there for a little while,
 22 but I was able to vote provisionally and they gave me a
 23 slip to see I guess if my -- my vote would count, but I
 24 felt like it might not count at that point.
 25 Q. Do you know if it was in fact counted or not?

1 A. I don't.
 2 Q. Just to get my time line clear, you moved to
 3 Chapel Hill from Raleigh -- or from Wake County about
 4 when in 2014?
 5 A. I moved mid-August, 2014.
 6 Q. Okay. And at that point did you have still --
 7 you didn't have any ties -- did you have any ties to
 8 Wake County still?
 9 A. No, not -- not in terms of like parents or
 10 residency.
 11 Q. Okay. Do you remember which Wake County early
 12 voting site you went to?
 13 A. Yes, it was in the -- I think it's the Wake
 14 County office building right next to the courthouse.
 15 Q. Okay. And then do you remember what early
 16 voting site you went to in Chapel Hill?
 17 A. Yes. I believe it's the Jewish Student Center
 18 that's kind of just off campus.
 19 Q. Okay. Do you remember what day of early
 20 voting this was?
 21 A. I want to say it may have been a Thursday or a
 22 Friday, but I don't remember the day.
 23 Q. Okay. How long would you say this entire
 24 experience took you?
 25 A. Several hours. I'm not sure of the exact

1 time, but definitely several hours.
 2 Q. Okay. Had you done -- when you moved to
 3 Orange County, had you done anything to update any of
 4 your records with any agency about your move?
 5 A. Well, when I changed my address with the U.S.
 6 Postal Service I thought I saw a screen that said that I
 7 could update my voter registration and from what I
 8 recall I attempted to do that, but when I went back to
 9 check my registration location during the early voting
 10 period I realized that it had not been updated.
 11 Q. And you didn't -- when -- was during the early
 12 voting period the first time you realized that?
 13 A. Yes. That was the first time I realized it
 14 hadn't been updated and I thought I had changed it right
 15 when I was moving or preparing to move.
 16 Q. Okay. Do you have any knowledge of other
 17 students at Chapel Hill having problems like you had?
 18 A. Well, when I was at the Jewish Student Center
 19 I observed a student who seemed pretty excited that she
 20 had turned 18 and it would be her first year voting and
 21 she had not yet registered and so was told that she
 22 wouldn't be able to vote in that election cycle. And
 23 then it seemed like there were some other people in
 24 there who also would have to vote provisionally like I
 25 did.

1 Q. Okay. How did this whole process make you
 2 feel?
 3 A. I was really frustrated. I thought I was a
 4 pretty informed person and I tried to research and get
 5 some answers. I think I was most frustrated that the
 6 people working at the polls were a little confused about
 7 how to respond to me or deal with my situation.
 8 MS. RIGGS: Ms. Mallette, that's all the
 9 questions I have. Mr. O'Hale might have a
 10 question.
 11 MR. O'HALE: I don't have any questions.
 12 MS. RIGGS: All right.
 13 CROSS-EXAMINATION
 14 BY MS. MURPHY:
 15 Q. Okay. It sounds to me from your testimony
 16 like you anticipated some problems when you went to vote
 17 at the early voting site in Wake County; is that
 18 correct?
 19 A. Right. Well, I realized when I checked my
 20 voter registration during early voting period that it
 21 wouldn't be clear where I could vote.
 22 Q. Why did you check your registration status
 23 before -- during the early voting period?
 24 A. Right, I just wanted to make sure -- well,
 25 that's when I realized -- I was just doing the research,

1 as I mentioned, online and I realized that I -- I might
2 have an issue because I had moved to Orange County. And
3 I had assumed that I would be okay since I was still
4 registered in Wake County and because it was the early
5 voting period and that's why I decided to go ahead to
6 Wake County.

7 Q. So during the early voting period you first
8 thought, gee, I have moved, I wonder if I'm going to
9 have difficulty voting in Wake County?

10 A. Right. Well, as I mentioned, I thought I had
11 originally changed my registration when I moved. So I
12 realized that living in Orange County I would ultimately
13 need to vote in Orange County. It wasn't until the
14 early voting period that I realized that my registration
15 wasn't actually updated as I thought it would have been.

16 Q. Okay. So you did something with the U.S.
17 Postal Service and thought it had updated, but didn't
18 check whether it had or not until the early voting
19 period?

20 A. Right, that's when I realized it.

21 Q. Okay. And so when you went to vote in Wake
22 County, what conversation did you have with a poll
23 worker in Wake County?

24 A. So when I went to speak with -- you know, just
25 kind of stood in line and went to talk to the poll

1 worker, I don't remember the specific details of the
2 conversation, but basically I let them know that I was
3 planning to vote, that I currently live in Orange
4 County, but I'm registered in Wake County and I wanted
5 to be able to vote. And their initial reaction seemed
6 to be that I wouldn't be able to vote at all in Wake
7 County and then later they suggested that I might be
8 able to vote provisionally, but they really wouldn't
9 recommend it because they didn't think that my vote
10 would count.

11 Q. So you went to Orange County --

12 A. Yes.

13 Q. -- at that point and did not vote a
14 provisional ballot in Wake County?

15 A. I didn't. I was concerned that if I voted
16 provisionally in Wake County, but really would have been
17 able to vote -- it would have been better for me to vote
18 in Orange County, then I really would have lost my
19 opportunity.

20 Q. And what kind of research did you do?

21 A. Well, I went online and I think I was -- on
22 the Board of Elections they have a frequently asked
23 questions page, and I was -- I was actually looking
24 specifically for people who have changed county
25 residence because it was something that actually hadn't

1 really occurred to me since I knew I had moved, but I
2 hadn't thought about the difference in the county
3 residence. So I was trying to find information on that
4 and everything I found was really vague when it came
5 to -- to my concern. It basically, I don't know, it was
6 just very, very general in terms of what I could do at
7 this point and so that's why I decided that I needed to
8 just go ahead and try to vote.

9 Q. And are you talking about the State Board of
10 Elections website or the County Board?

11 A. I -- I think I was looking on the State Board
12 of Elections website.

13 Q. Okay. Did you call anyone at the State Board
14 or you just looked at the website?

15 A. I looked at the website. I don't remember if
16 I called anyone. I do remember being a little confused
17 about -- about how to proceed with the information that
18 was provided.

19 Q. Do you recall when you moved to Wake County
20 did you re-register in Wake County?

21 A. When I -- like when I first moved to Wake
22 County?

23 Q. Uh-huh.

24 A. I did at some point. I probably did during
25 early voting period, but I don't really recall the

1 details.

2 MS. MURPHY: Okay. I have no further
3 questions.

4 MS. RIGGS: Anything, John? Nope? We're
5 good.

6 THE WITNESS: Okay. Thank you.

7 THE VIDEOGRAPHER: This concludes the
8 deposition. The time is 2:44 p.m.

9 [SIGNATURE RESERVED.]

10 [DEPOSITION CONCLUDED AT 2:44 P.M.]

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 STATE OF NORTH CAROLINA)
 SS:)
 2 COUNTY OF WAKE)
 3
 4
 5 I, QUISHA MALLETT, declare under
 6 the penalties of perjury under the State of North
 7 Carolina that the foregoing is true and correct.
 8 Executed on this _____ day of _____
 9 2015, at _____, North Carolina.

10
 11
 12
 13 _____
 14 QUISHA MALLETT

15
 16
 17 This deposition was signed in my presence by
 18 _____, on the _____ day of
 19 _____, 2015.

20
 21
 22 _____
 23 Notary Public
 24
 25 My commission expires:

1 STATE OF NORTH CAROLINA
 2 COUNTY OF WAKE
 3 C E R T I F I C A T E
 4 I, MAREN M. FAWCETT, RPR, a Notary Public in
 5 and for the State of North Carolina, do hereby certify
 6 that there came before me on May 19, 2015, the person
 7 hereinbefore named, who had been previously sworn to
 8 testify to the truth and nothing but the truth of his
 9 knowledge concerning the matters in controversy in this
 10 cause; that the witness was thereupon examined under
 11 oath, the examination reduced to typewriting under my
 12 direction; and the transcript is a true record of the
 13 testimony given by the witness.

14 I further certify that I am neither attorney
 15 or counsel for nor related to or employed by, any
 16 attorney or counsel employed by the parties hereto or
 17 financially interested in the action.

18 Signed this the 29th day of May, 2015.
 19
 20

21 _____
 22 Maren M. Fawcett, RPR
 23 Notary Public - North Carolina
 24 Certificate No.: 200621500068
 25

1 TRANSCRIPTION CORRECTIONS
 2 Case Name: NAACP v. McCrory, et al.
 Witness Name: QUISHA MALLETT
 3 Deposition Date: May 19, 2015
 4

5	PAGE	LINE	READS	SHOULD READ
6	_____	_____	_____	_____
7	_____	_____	_____	_____
8	_____	_____	_____	_____
9	_____	_____	_____	_____
10	_____	_____	_____	_____
11	_____	_____	_____	_____
12	_____	_____	_____	_____
13	_____	_____	_____	_____
14	_____	_____	_____	_____
15	_____	_____	_____	_____
16	_____	_____	_____	_____
17	_____	_____	_____	_____
18	_____	_____	_____	_____
19	_____	_____	_____	_____
20	_____	_____	_____	_____
21	_____	_____	_____	_____
22	_____	_____	_____	_____
23	_____	_____	_____	_____
24	_____	_____	_____	_____
25	_____	_____	_____	_____

General Information

Court	United States District Court for the Middle District of North Carolina; United States District Court for the Middle District of North Carolina
Federal Nature of Suit	Civil Rights - Voting[441]
Docket Number	1:13-cv-00660