

SELMA, SHELBY COUNTY, & BEYOND

**ALABAMA'S UNYIELDING RECORD OF
RACIAL DISCRIMINATION IN VOTING, THE
UNWAVERING ALABAMIANS WHO FIGHT
BACK, & THE CRITICAL NEED TO RESTORE
THE VOTING RIGHTS ACT**

**REPORT TO THE HOUSE COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES**

AUGUST 16, 2021

ACKNOWLEDGEMENTS

This Report is dedicated to and made possible by the voters and advocates of Alabama, who continue to fight for a just and equitable democracy and demand full and equal access to the fundamental right to vote, despite the enduring obstacles placed in their path.

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Cover Photo: Representative John Lewis speaks to the crowd at the Edmund Pettus Bridge during a march marking the 55th anniversary of "Bloody Sunday" in March 2020. This was the last time Mr. Lewis returned to the site, and the image continues to inspire us to carry forward his legacy. *Photo by Joe Raedle/Getty Images, used under license.*

For the Southern Poverty Law Center: Caren E. Short & Rachel Knowles.



ABOUT THE SOUTHERN POVERTY LAW CENTER

The Southern Poverty Law Center is a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people.

For more information, visit www.splcenter.org.

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Executive Summary

The State of Alabama has never rested in its efforts to undermine its Black citizens' right to vote. Although its methods have evolved over time, its goal remains unchanged: to "establish white supremacy in this State," as the drafters of Alabama's constitution in 1901 frankly avowed.¹ Today, the State continues to seek to perpetuate majority white control over its institutions of government. Suppressing or denying the voting rights and political power of Black Alabamians is part and parcel of that endeavor.

Throughout its history, Alabama has created and enforced numerous obstacles to registering to vote, remaining an "active" voter, casting a ballot, and having that ballot counted, which disproportionately target and impact its Black residents. These obstacles have been the subject of some of the most important voting rights cases of the past century, including *Gomillion v. Lightfoot*,² *Reynolds v. Sims*,³ *City of Mobile v. Bolden*,⁴ and *Shelby County v. Holder*.⁵

Through the John Lewis Voting Rights Advancement Act ("H.R. 4"), Congress has the opportunity and the obligation to restore and strengthen the most effective civil rights legislation ever passed, the Voting Rights Act of 1965 ("VRA").⁶ The passage of this legislation would allow Black Americans in Alabama and across the nation to finally realize the as-yet unfulfilled promise of the Fifteenth Amendment: that no state will deny or abridge the right to vote based on race.⁷

Tireless advocates have fought and bled in Alabama in the struggle for voting rights. Here, Claudette Colvin and Rosa Parks ignited the year-long Montgomery bus boycotts. Here, in his home state, Representative John Lewis was brutally attacked by police on the Edmund Pettis Bridge in Selma on Bloody Sunday alongside Black

¹ *Alabama Constitutional Proceedings, 1901*, Vol. 1, at 8 (May 22, 1901), http://www.legislature.state.al.us/aliswww/history/constitutions/1901/proceedings/1901_proceedings_vol1/day2.html (hereinafter "1901 Proceedings").

² *Gomillion v. Lightfoot*, 364 U.S. 339 (1960) (holding a racially gerrymander violated the Fifteenth Amendment). This opinion is discussed *infra* Part I § III.

³ *Reynolds v. Sims*, 377 U.S. 533 (1964) (creating the "one-person, one-vote" standard for redistricting).

⁴ *City of Mobile v. Bolden*, 446 U.S. 55 (1980) (plurality opinion). This opinion is discussed *infra* Part I § VI.

⁵ *Shelby County v. Holder*, 570 U.S. 529, 546 (2013) (hereinafter "*Shelby County*"). This opinion is discussed, among other places, *infra* Part I § IX.

⁶ John Lewis Voting Rights Advancement Act, H.R. 4 (116th Cong.), <https://www.congress.gov/bill/116th-congress/house-bill/4>.

⁷ U.S. CONST. amend. XV.

Alabamians like Amelia Boynton and their allies. Their sacrifices pushed Congress to pass the VRA to ensure ongoing federal oversight for states like Alabama that had long disregarded the Constitution's command that every citizen have an equal say at the ballot box.

The VRA has been a powerful tool for the people of Alabama to challenge the State's racially discriminatory voter suppression measures. Through Alabamians' vigilance, the federal courts and the U.S. Department of Justice ("DOJ") stopped hundreds of discriminatory voting changes from taking effect. In 2013, however, Shelby County, Alabama prevailed in its effort to weaken the VRA when the U.S. Supreme Court suspended the coverage formula in Section 4 that determined which states and localities had to first obtain federal approval under Section 5's crucial preclearance provisions before implementing any voting changes.⁸

The State wasted no time clamping down on voting rights. Within 24 hours of the *Shelby County* decision, the State implemented a restrictive photo ID law and over the following months systematically closed dozens of photo ID-issuing offices in primarily Black communities, making it more difficult for Black voters to obtain the IDs they needed to vote under the new law. Today, the State routinely closes polling places in Black communities and purges eligible voters from the rolls, refuses to expand voting opportunities such as early and absentee voting, and denies the right to vote to thousands of formerly incarcerated persons.

These policies are disproportionately implemented in the State's Black Belt communities, which are majority-Black, largely rural counties along the center of the State.⁹ Because the region is rural, there is little public transportation and many residents

⁸ *Shelby County*, 570 U.S. at 557.

⁹ *About the Black Belt*, UNIV. OF ALA. CTR. FOR ECON. DEV. (2019), http://www.uaced.ua.edu/uploads/1/9/0/4/19045691/about_the_black_belt.pdf. Macon and Greene Counties each have a roughly 80% Black population; Lowndes (72.5%), Sumter (71.8%), Wilcox (71.3%), Bullock (70.7%), Dallas (70.5%), and Perry Counties (67.9%) exceed two-thirds; and Montgomery (59.0%), Hale (58.1%), and Marengo Counties (51.4%) have Black majorities. See *American Community Survey Demographic and Housing Estimates, 1-Year Estimates, Alabama Counties*, U.S. CENSUS BUREAU (2019), <https://data.census.gov/cedsci/table?g=0400000US01,01.050000&tid=ACSDP1Y2019.DP05&hidePreview=true>. During the era of slavery, the Black Belt was the location of the plantation economy and remained so during the "convict leasing" era in which Black people convicted of petty crimes were conscripted into forced labor. See generally Douglas A. Blackmon, *SLAVERY BY ANOTHER NAME: THE RE-ENSLAVEMENT OF BLACK AMERICANS FROM THE CIVIL WAR TO WORLD WAR II* (2008).

do not own vehicles.¹⁰ As a result, the numerous obstacles to voting imposed by the State have an outsized impact on these communities. In sum, Alabama’s practices are precisely targeted to restrict voting access for the State’s Black residents and insidiously carry forward the Jim Crow era’s most overtly discriminatory tactics such as the poll taxes and literacy tests which Alabama imposed for decades.

Throughout this Report, declarations from dozens of Alabamians illustrate the human impact of Alabama’s discriminatory laws, policies, and conduct, the severe burden they impose on voting rights, and the toll they take on the State’s Black voters, individually and collectively.

As just one example, Mary Frances of Mobile County, 81, has witnessed much of the State’s unbroken history.¹¹ She remembers poll taxes, literacy tests on the Constitution and Declaration of Independence, and the requirement to bring someone else to “vouch” for her to vote.¹² In response, she advocated with the Southern Christian Leadership Conference and was one of eight people to integrate Gulf Shores Beach in Alabama,¹³ and today she explains:

I vote because my grandmother taught me how important it was. She remembered slavery, and the soldiers coming to say slavery had ended when she was just a young girl. She was determined to make a difference for her family and encouraged all of us to vote. You can’t do a lot by yourself, but with a group, miracles can happen. I encourage my family and my grandchildren to vote. I don’t consider you to be a first-class citizen if you don’t vote.¹⁴

¹⁰ Second Amended Complaint, *Greater Birmingham Ministries v. Ala.*, No. 2:15-cv-02193-LSC, at 33-34 (Dec. 6, 2016) (hereinafter “GBM Second Amended Complaint”).

¹¹ See generally Mary Frances [Mobile County] Decl. ¶ 9 (June 19, 2021). This Report redacts the last name of each individual, identifying their county of residence instead. These declarations are submitted as exhibits to this Report.

¹² *Id.* ¶ 3.

¹³ *Id.* ¶ 9. For decades in the United States, public beaches were segregated until civil rights activists succeeded in their fight to integrate them. Erin Blakemore, *How Civil Rights Wade-Ins Desegregated Southern Beaches*, HISTORY.COM (Oct. 19, 2018), <https://www.history.com/news/how-civil-rights-wade-ins-desegregated-southern-beaches>.

¹⁴ *Id.* ¶ 8.

Even now, despite Alabama’s Secretary of State declaring he is “proud to report that the security of elections in Alabama is not in question,”¹⁵ the State continues to impose additional voting restrictions under the guise of preventing voter fraud that the State’s own data show to be exceptionally rare. The true purpose of these efforts is to deny eligible voters their rights.

Nevertheless, Alabamians continue to fight back. As Latasha from Jefferson County observes:

For the generations who had to live through the Jim Crow era before me, I needed to cast my vote. I want to be an agent of change for the future. I believe that voting gives you your voice and the ability to change laws to help generations down the line.¹⁶

This Report contains four Parts.

Part I traces Alabama’s long history of preventing its Black citizens from voting.

Despite fierce opposition from white Democrats, during Reconstruction in 1868, Alabama passed the first constitution in its history that included Black Alabamians in the drafting process. This was the State’s most progressive constitution, and included guarantees of equal rights, Black suffrage, and public financing for education. As white Democrats regained power post-Reconstruction, however, they systematically rolled back this progress. Ratified in 1901 with the express purpose of establishing white supremacy by law,¹⁷ Alabama’s current constitution included a constellation of provisions that disadvantaged, weakened, or outright excluded the economic, social, and political participation of Black Alabamians. In the following decades, the State instituted segregation in every aspect of life. It is no surprise that so many key moments of the civil rights movement in the 1960s happened here. And it was Alabama’s violent response to civil rights activists that shocked Congress into action, leading to the enactment of the VRA.

¹⁵ Phil Pinarski, *John Merrill: ‘The security of elections in Alabama is not in question,’* CBS 42 (Nov. 17, 2020), <https://www.cbs42.com/news/local/john-merrill-the-security-of-elections-in-alabama-is-not-in-question/>.

¹⁶ Latasha [Jefferson County] Decl. ¶ 10 (June 22, 2021).

¹⁷ *1901 Proceedings*, *supra* note 1 at 18.

The VRA provided powerful tools to protect voting rights. Among the new law’s most effective components were its “preclearance” provisions housed in Sections 4 and 5. Section 5 required “covered” states and localities to first present any planned voting or election changes to federal officials or a court for preclearance, while Section 4 provided the formula that determined which states and localities were covered based on their history of voting discrimination. At that time, only 19.4% of Black residents of voting age were registered to vote in Alabama—more than 50 percentage points behind the rate for white voters.¹⁸ Alabama readily qualified for preclearance from the outset and remained a covered jurisdiction until *Shelby County* struck down the coverage formula in 2013.

Preclearance empowered DOJ to block more than 100 voting rights changes from taking effect in Alabama between 1964 and 2013, but Alabama continued to resist these measures, taking several cases to the U.S. Supreme Court. In a seminal case that threatened to undermine section 2 of the VRA, which forbids the denial or abridgment of the right to vote based on race anywhere in the country, lower courts initially found that Mobile, Alabama had violated Section 2 when the city switched to an at-large voting scheme that diluted the voting power of its Black residents. Mobile appealed to the Supreme Court, which held that Section 2 requires proof not only of a discriminatory result but also of discriminatory intent, which the Court found the plaintiffs had not shown.¹⁹ Determined to protect the VRA from being undermined, advocates pushed Congress to clarify Section 2’s true expansive nature, and Congress amended the VRA in 1982 to make clear that the law does not require proving discriminatory intent; impact suffices.²⁰

Alabama’s ongoing voting rights violations were documented in a report to Congress prior to the reauthorization of the VRA in 2006.²¹ In the 1980s, multiple courts ruled that local Alabama jurisdictions relied on at-large voting systems with the purpose of limiting the voting power of the State’s large Black population.²² In the 1980s and 1990s, the State and its localities often adjusted the boundaries of its municipalities to

¹⁸ *Shelby County*, 570 U.S. at 546.

¹⁹ *City of Mobile*, 446 U.S. at 62.

²⁰ *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986) (“[T]he essence of a Section 2 claim is that a certain electoral law, practice, or structure interacts with social and historical conditions to cause an inequality in the opportunities” of minority voters to elect their preferred representatives).

²¹ James Blacksher, Edward Still, Nick Quinton, Cullen Brown, and Royal Dumas, *Voting Rights in Alabama 1982-2006*, at 6 (2006), <http://www.protectcivilrights.org/pdf/voting/AlabamaVRA.pdf> (hereinafter “2006 Report”).

²² See *infra* Part I § VII.A.

weaken Black voting power, including by adding new white neighborhoods while cutting out or overlooking nearby Black neighborhoods. In the 1990s, both federal courts and the DOJ rejected these redistricting plans which discriminated against Black Alabamians. And from the 1980s through the 2000s, the State made it difficult for Black Alabamians to serve as poll workers. Because of ongoing voting rights violations in Alabama and elsewhere, Congress reauthorized the VRA in 2006 for another 25 years with broad, bipartisan support.

Part II describes current conditions in Alabama as related to racial discrimination in voting and elections. The State's voting laws, policies and practices, including those enacted since 2013, have continued to disproportionately burden its Black voters and other voters of color.

Since *Shelby County*, the State has implemented and enforced a strict photo ID law, closed or reduced the hours of photo ID-issuing offices in Black communities, and systematically closed or changed polling locations in Black precincts. Moreover, in-person Election Day voting is often the only option for voters in Alabama. The State does not offer early voting, despite the flexibility these additional days would allow in resolving any issues that arise in voting, and sharply constrains absentee voting. If they can qualify for one of the very few acceptable reasons to request an absentee ballot, voters must submit a separate absentee ballot application for each election at least seven days in advance and must include a photocopy of their photo ID with their application. Once the voter receives their absentee ballot, they must either get it notarized or signed by two witnesses simultaneously. Even when Alabama expanded absentee ballot access in the 2020 election because of the COVID-19 pandemic, it did not lift the notary or two witness requirement. Further, the State resisted offering curbside voting for voters with disabilities, preventing one county from offering the service in 2016, fighting its implementation in 2020 all the way to the Supreme Court, and passing a law in 2021 to officially ban curbside voting. As the experience of students at Alabama A&M University shows, even registering to vote for the first time involves numerous setbacks, as the county registrar rejected many registrations without notice and placed many new voters on "inactive" status before their first election when the county misaddressed the students' registration notices.

The State also denies the right to vote to thousands of formerly incarcerated persons on the basis of a vague phrase—crime involving moral turpitude—with over a century of racist history. Whereas Black Alabamians make up 25 percent of the voting-age population, 50 percent of the Alabamians disenfranchised under this provision are Black. In 2017, the State Legislature passed a law clarifying which crimes are subject to this provision but engaged in no public education to ensure officials and voters were aware of and understood the new law. The process for a formerly incarcerated person to

confirm their right to vote is extremely complex and applications are often denied on technical grounds. Further, Alabama imposes an obligation to repay legal financial obligations associated with the disqualifying conviction in order to be eligible to vote, which amounts to a modern-day poll tax for many Alabamians. Despite the purported clarity the 2017 law provided for Alabama crimes, the State still provides no guidance about which federal or out-of-state convictions are subject to this law, resulting in unjust disenfranchisement for Alabama voters.

The State engages in extensive purges of voter rolls that go far beyond standard list maintenance. Alabama's postcard registration-confirmation process receives a paltry 2% response rate. The experiences of voters who receive confusing or erroneous information at the polls highlight the effects of this ineffective system.

Alabama's decentralized election infrastructure exacerbates the impact of the state's restrictive and confusing web of voting rules. Starting at the top, the Secretary of State actively restricts voting access and had failed to adequately train the myriad local officials and volunteers who administer each election. Indeed, the overlapping roles of local officials leaves voters confused and results in a lack of accountability. The State also limits the transparency of its election operations by charging an exorbitant fee to access the public voter list.

Recent voter registration and voting data indicate that removing preclearance has taken a significant toll. In 2020, white voter registration exceeded Black voter registration by more than 10 percentage points, and white voter turnout exceeded Black voter turnout by more than 8 percentage points. The dissent in *Shelby County* predicted these outcomes, and the significant barriers Part II describes play a significant role in what the data are only beginning to show.

Part III catalogs Alabama's extensive record of voting rights violations over the past 25 years which, along with its history and current conditions documented throughout this Report, make plain that Alabama must be covered under any new preclearance formula.

Under the most recently proposed preclearance formula, Alabama, its counties, and other subdivisions have been subject to a minimum of 13 final judgments, DOJ objection letters, consent decrees, and settlements, identifying at least 25 separate voting rights violations. These violations include discriminatory at-large voting systems which prevent Black Alabamians from electing representatives of their choice, racial gerrymandering which dilutes the voting power of Black Alabamians, and annexations which seek to reduce the political power of Black Alabamians. In at least one instance, an Alabama subdivision failed to comply with a DOJ objection letter and was forced to

vacate an election, and in at least three other instances, Alabama subdivisions have failed to submit proposed voting or election changes for DOJ preclearance altogether.

Together, these violations illustrate the protection the VRA has provided for Black Alabamians in furtherance of the Fourteenth and Fifteenth Amendments, and demonstrate that Alabama must be covered under any preclearance formula Congress chooses to adopt.

Part IV addresses Alabama's continuing endeavor to curtail voting rights through recent anti-voter legislation, reminiscent of the post-Reconstruction effort of Alabama and other Southern states to restrict the right to vote. The actions taken by the Alabama State Legislature this year are part of a wave of voter suppression resulting in at least 18 states restricting voting access in 2021 alone.²³ In Alabama, these new restrictive measures include shortening the window to receive absentee ballot applications, banning curbside voting, and tightening the timeline for runoff elections.

The State's relentless commitment to finding new ways to keep Black Alabamians from making their voices heard underscores the urgent need for Congress to take decisive action to protect their rights. The *Shelby County* Court invited Congress to create a new formula based on "current conditions."²⁴

Now, Congress has the power—and the responsibility—to craft a new preclearance formula grounded in current conditions to restore appropriate and necessary federal oversight to states like Alabama that actively harm Black voters and other historically disenfranchised communities. The Southern Poverty Law Center respectfully submits this Report to aid in that effort.

²³ *Voting Laws Roundup: July 2021*, BRENNAN CTR. FOR JUSTICE (July 22, 2021), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-july-2021>.

²⁴ *Shelby County*, 570 U.S. at 546.

Part I: Alabama’s Tradition of Voter Suppression

In Alabama, the United States Constitution’s promise of equal voting rights remains unfulfilled. The Fifteenth Amendment’s guarantee that “[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude” reflects Congress’ vision of a post-Civil War America in which Black men had equal access to the fundamental right to vote. In reality, however, aside from a brief period during Reconstruction, Alabama’s post-Civil War history has been marked by continued discrimination against its Black citizens—and securing the right to vote has been an integral part of Black Alabamians’ centuries-long fight for equal rights.

At the conclusion of the Civil War, former Confederate states including Alabama were required to ratify the Fourteenth Amendment and draft a Reconstruction constitution. Drafted with substantial participation from Black Alabamians, the 1868 Constitution was the State’s most progressive constitution guaranteeing equal rights, protecting and expanding the right to vote, including for Black men, and promoting economic and educational advancement. In 1869, Alabama ratified the Fifteenth Amendment, and like other Southern states saw a dramatic increase in Black political and economic power and representation in the ensuing years. Black men soon totaled almost 40 percent of all registered voters and turned out in dramatic numbers—over 90 percent in some elections.²⁵

By the mid-1870s, however, white Democrats had regained power and convened a new constitutional convention aimed at rolling back the hard-fought freedom of Alabama’s Black citizens. The resulting Alabama Constitution of 1875 was “designed [in part] to constrain the political power of African-Americans,” and effectively ended Reconstruction in the State.²⁶ While the “fear of federal authority postponed [many of the most severe] changes for a quarter century,”²⁷ the 1875 Constitution set the stage for Jim Crow by instituting practices like segregated schools and effectively reducing the funds available to provide social services.²⁸ Despite the lack of explicit language disenfranchising Black voters, the State imposed numerous restrictions on the right to vote for Black Alabamians in the succeeding decades. These practices included aggressive racial

²⁵ *An Assessment of Minority Voting Rights in the United States*, U.S. COMM’N ON CIVIL RIGHTS, 15-16 (2018).

²⁶ Wayne Flynt, *Alabama’s Shame: The Historical Origins of the 1901 Constitution*, ALA. L. REV. VOL. 53, 67, <https://www.law.ua.edu/pubs/lrarticles/Volume%2053/Issue%201/Flynt.pdf>

²⁷ *Id.* at 68.

²⁸ *Id.*

gerrymandering, electoral process changes targeted at low-income citizens and those who could not read, and granting the governor the power to appoint county election officials.²⁹ According to Alabama historian Wayne Flynt, if it were not for the fear of federal intervention, the State likely would have sought to more explicitly disenfranchise Black voters.³⁰

I. The Alabama Constitution of 1901 Sought to Establish White Supremacy by Law.

By 1901, Alabama's fears of federal intervention had subsided, and the State convened a new constitutional convention explicitly intended to "establish white supremacy in this State."³¹ This new constitution—drafted by 155 delegates, none of whom were Black³²—intended to permanently establish Black Alabamians as second-class citizens by enshrining segregation, racial discrimination in voting, and other racist policies into the law.

The convention drew inspiration from neighboring Mississippi, a "pioneer state in [the] movement" to establish white supremacy across all areas of life. In particular, Alabama replicated provisions designed to suppress the newly earned right to vote for Black men. For example, the State adopted Mississippi's practice of literacy tests, which provided that:³³

only those can vote who have been duly registered, and only those can register who can read, or understand when read to them, any clause in the Constitution. The decision as to who are sufficiently intelligent to meet the requirements of the understanding clause is exclusively in the hands of the registrars.³⁴

Even though certain members of the 1901 Convention expressed apprehension that literacy tests would disenfranchise some white voters, the Convention

²⁹ *Alabama Constitution of 1901*, ENCYCLOPEDIA OF ALA., <http://www.encyclopediaofalabama.org/article/h-3030> (last accessed Aug. 9, 2021).

³⁰ Flynt, *supra* note 26, at 68.

³¹ *1901 Proceedings*, *supra* note 1.

³² *Supra* note 29.

³³ *1901 Proceedings* at 8-9.

³⁴ *Id.* at 10-11.

adopted the practice, confident that the resulting “exclu[sion of] the great mass of ignorant [Black] voters”³⁵ would outweigh that concern.³⁶ Indeed, in the decades that followed, the State, through appointed county election officials, allowed white voters to vote even if they failed the literary test while denying Black voters the same privilege.³⁷

The drafters of the 1901 Constitution also crafted a felony disenfranchisement provision that targeted select felonies the drafters believed Black Alabamians were more likely to commit. To ensure the new provision captured as many Black Alabamians as possible, the drafters also included an undefined catch-all “crime involving moral turpitude” and delegated to appointed county registrars the authority to determine which felonies qualified. Responsible for administering voter registration, county registrars were often appointed with the goal that they capitalize on this discretion to disenfranchise as many Black voters as possible.³⁸

The 1901 Constitution’s constellation of restrictions proved quite effective. In under four years, the number of Black citizens eligible to register and vote dropped precipitously, from more than 180,000 in 1900 to fewer than 3,000 in 1903.³⁹

II. Alabama Imposed Segregation through Jim Crow Laws.

The 1901 Constitution laid the foundation for the scourge of Jim Crow laws and practices that came to define Alabama. Through the decades, Alabama embraced segregation and imposed further restrictions on Black Alabamians.⁴⁰ In 1915, the State made it unlawful for white female nurses to care for Black male patients. In 1927, the State

³⁵ This Report replaces any racial slur or outdated racist terms so as not to further perpetuate the harm they cause.

³⁶ *1901 Proceedings* at 11.

³⁷ Bettie [Madison County] Decl. ¶ 4 (June 11, 2021).

³⁸ The impact of the 1901 Constitution’s moral turpitude clause continues today, and is discussed at length in Part II § V.

³⁹ *Alive and Well: Voter Suppression and Election Mismanagement in Alabama*, at 6, S. POVERTY LAW CTR., (2020) (hereinafter “*Alive and Well*”).

⁴⁰ *Jim Crow Laws: Alabama, Alaska, Arizona, and Arkansas*, AMERICANS ALL, <https://americansall.org/legacy-story-group/jim-crow-laws-alabama-alaska-arizona-and-arkansas> (last accessed Aug. 9, 2021) (hereinafter “Jim Crow Laws”).

formally required racial segregation in schools. In 1928, the State made it a felony for Black Alabamians to use toilet facilities set aside for white residents.⁴¹

In 1932, the Tuskegee Institute and the U.S. Public Health Service conducted the infamous “Tuskegee experiments” in Macon, Alabama, in which researchers denied 600 Black syphilis patients access to penicillin—the treatment under study—or any treatment at all.⁴² In 1940, the State prohibited cohabitation among Black and white residents and mandated separate train cars for Black and white travelers in the State.⁴³ In 1945, the State passed a voting restriction requiring voters to pass literacy tests and show a full 12 months of employment preceding an election.⁴⁴

Over the course of the 20th century, Alabama segregated everything from schools to restrooms, beaches, swimming pools, team sports, and all forms of public transit.⁴⁵ It was this Alabama that inspired a generation of Black activists and allies, including former Congressman John Lewis, to dedicate their lives to the fight for civil rights for Black Americans.

III. Alabama Remained Center Stage During the Civil Rights Movement.

The fight for voting rights was central to the civil rights movement, and throughout the late 1950s and early 1960s was fought on the ground in many Alabama cities. In 1957, white residents of Tuskegee, Alabama lobbied the Alabama Legislature to redefine the boundaries of the city in an effort to reduce the political power of Black residents.⁴⁶ The Legislature complied without debate and redrew the city of Tuskegee to remove nearly all of the city’s Black voters to a district with no white residents.⁴⁷ After a citywide protest led by Black activists, Black voters filed a lawsuit that ultimately reached the United States Supreme Court. In its landmark 1960 decision *Gomillion v. Lightfoot*, the Court held that the Fifteenth Amendment prohibits states from drawing district lines with

⁴¹ *Id.*

⁴² *The Tuskegee Timeline*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/tuskegee/timeline.htm> (last accessed Aug. 9, 2021).

⁴³ *Jim Crow Laws*, *supra* note 40.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Gomillion*, 364 U.S. at 340.

⁴⁷ *Id.* at 341.

the purpose of denying equal representation to Black voters and struck down the Legislature's redrawing of Tuskegee's boundaries accordingly.⁴⁸

In February 1965, Jimmie Lee Jackson was murdered in Marion, Alabama.⁴⁹ He and several members of his family and the Zion United Methodist Church had joined a march protesting the arrest of James Orange, who was a field secretary for the Southern Christian Leadership Conference.⁵⁰ As state troopers and local police violently broke up the march, people fled into the surrounding buildings. Jackson and his mother found shelter in a local café, but the troopers entered and began to beat the people inside.⁵¹ A state trooper shot Jackson.⁵² As he ran from the building, troopers followed and continued to beat him until he collapsed.⁵³ Jackson died in the hospital several days later.⁵⁴

Jackson's death was the catalyst for a march of hundreds of Black activists and allies from Selma to the State Capitol in Montgomery demanding voting rights.⁵⁵ James Bevel, John Lewis and other SCLC advocates led the march.⁵⁶ As the activists peacefully approached the Edmund Pettus Bridge, they were confronted by a police blockade.⁵⁷ Expecting to be arrested, Lewis and the hundreds of other marchers stood in place. As white onlookers cheered, police on foot advanced on the protestors with clubs and tear gas while mounted police beat anyone attempting to retreat.⁵⁸ Newspaper

⁴⁸ *Id.* at 342.

⁴⁹ *Jackson, Jimmie Lee*, THE MARTIN LUTHER KING JR. RESEARCH AND EDUC. INST., STAN. UNIV., <https://kinginstitute.stanford.edu/encyclopedia/jackson-jimmie-lee> (last accessed Aug. 9, 2021).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*; *Selma to Montgomery March*, THE MARTIN LUTHER KING JR. RESEARCH AND EDUC. INST., STAN. UNIV., <https://kinginstitute.stanford.edu/encyclopedia/selma-montgomery-march> (last accessed Aug. 9, 2021).

⁵⁶ *Selma to Montgomery*.

⁵⁷ *Id.*

⁵⁸ *Id.*

photos and TV footage of “Bloody Sunday” shocked the nation—and finally prompted a response from Congress.⁵⁹

IV. Congress Responded with the Passage of the Voting Rights Act of 1965.

In August 1965, Congress passed the VRA to enforce the promise of the Fourteenth and Fifteenth Amendments and end voting discrimination. Congress expressly outlawed poll taxes, literacy tests, and other tests and devices it recognized to be purposefully designed and implemented as racist tools of voter suppression.

The VRA also required states and their subdivisions with a history of voting discrimination, including Alabama, to submit any voting or election-related changes for federal approval, a process known as “Section 5 Preclearance.” To “preclear” a voting or election change, a covered jurisdiction had to submit the change for federal administrative or judicial review. Section 4 provided the formula that identified the jurisdictions that were subject to preclearance based on their history of racial discrimination in voting.⁶⁰ Under the original coverage formula, a state or political subdivision was subject to preclearance if, on November 1, 1964:

- it employed a “test or device” restricting the opportunity to register to vote;
- less than 50 percent of its overall voting age population (regardless of race) was registered to vote; or
- less than 50 percent of its overall voting age population (again regardless of race) voted in the presidential election of 1964.⁶¹

Alabama immediately met Section 4’s coverage formula as the State employed one or more of the tests or devices defined by the VRA⁶² and less than 50 percent of the State’s overall voting-age population voted in the presidential election of 1964.⁶³ Further, at the time the VRA was passed, “only 19.4% of African Americans of

⁵⁹ *Id.*

⁶⁰ *Report on the Voting Rights Act*, ACLU, at 2 (2019) <https://www.aclu.org/report/aclu-report-voting-rights-act>.

⁶¹ The Voting Rights Act of 1965 § 4, Pub. L. 89-110, 79 Stat. 437, 438.

⁶² Determination of the Attorney General Pursuant to Section 4(b)(1) of the Voting Rights Act of 1965, 30 Fed. Reg. 9897 (Aug. 7, 1965).

⁶³ Determination of the Attorney General Pursuant to Section 4(b)(2) of the Voting Rights Act of 1965, 30 Fed. Reg. 9897 (Aug. 7, 1965).

voting age were registered to vote in Alabama,” which was more than 50 percentage points behind the registration rate for white voters.⁶⁴

The State remained subject to the VRA’s preclearance requirements from its inception through *Shelby County* in 2013.

V. The VRA Helped Block Discriminatory Voting Laws in Alabama.

Under the VRA, between 1969 and 2013, the Department of Justice (“DOJ”) blocked over 100 proposed voting changes in Alabama and led the state to revise or withdraw numerous others through its investigations into their potentially discriminatory impacts.⁶⁵ Through dozens of objection letters, DOJ cataloged Alabama’s relentless stream of tactics, from redistricting and annexations to changes to methods of elections, aimed at constraining the political power of Black Alabamians.⁶⁶

In 1970, for example, the Alabama State Legislature passed a bill requiring members of the Armed Forces and overseas voters registering by mail to fill out a questionnaire for which they could not request assistance. DOJ stopped this practice, writing that it would “in effect impose[] a literacy requirement for registration.”⁶⁷ In 1971, majority-white Autauga County attempted to change the election for County Commissioners and Board of Education members from district-based to at-large.⁶⁸ DOJ objected to these changes and preventing from taking effect because they would have the effect of “diluting [B]lack voting strength.”⁶⁹ In 1976, the State attempted to eliminate mass nominating conventions, the primary method by which Black voters in certain areas nominated candidates for office. DOJ objected to preserve this nomination process, observing that “the National Democratic Party of Alabama, a virtually all-black political

⁶⁴ *Shelby County*, 570 U.S. at 546.

⁶⁵ *Voting Determination Letters for Alabama*, U.S. DEP’T OF JUST., <https://www.justice.gov/crt/voting-determination-letters-alabama> (last accessed Aug. 8, 2021).

⁶⁶ *Id.*

⁶⁷ Voting Determination Letter, Mar. 13, 1970, <https://www.justice.gov/crt/case-document/file/1277176/download>.

⁶⁸ Voting Determination Letter, Mar. 20, 1972, <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/AL-1130.pdf>

⁶⁹ *Id.* at 1-2.

party, is the prime political party in Alabama which presently relies solely on the convention method of nomination.”⁷⁰

Voters like Annie of Tallapoosa County could sense the animosity towards Black voters during this period, yet persisted in their efforts to vote:

When we turned 18 years of age in 1978, some classmates and I went to the Courthouse in the County Seat of Dadeville, Alabama to register to vote. We young Black women walked into the courthouse. All the officials inside were white. They were watching to see what we did. It was frightening. But I knew how to stand up for myself. I told an official that I wanted to register to vote. He didn’t offer to help me. He acted like he didn’t care. I wasn’t sure we’d get registered but we held our ground. The officials took their time going through the process, but they registered us. I didn’t like their attitude, but afterwards, my friends and I were very happy to be new voters.⁷¹

VI. *City of Mobile v. Bolden* and the 1982 Reauthorization of the VRA.

In 1980, the Supreme Court issued its opinion in *City of Mobile v. Bolden*,⁷² a decision that threatened to fundamentally transform the protections of the VRA. From 1911 up to that point, the city of Mobile has been governed by a city commission elected by voters at-large, which enabled the city’s white majority to control the outcome of each election.⁷³ In an at-large election, all of a locality’s voters select all of the locality’s representatives by majority vote, giving the majority population the power to elect all the seats. In Alabama, this often means that the large Black minority population in many localities is prevented from electing a candidate of their choice. By contrast, in single-member districts, the voters of each district select a representative for their district by majority vote. If the districts are drawn representatively, then while certain districts may

⁷⁰ Voting Determination Letter, Jan. 16, 1976, 2 <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/AL-1260.pdf>

⁷¹ Annie [Tallapoosa County] Decl. ¶ 7 (June 15, 2021).

⁷² *City of Mobile*, 446 U.S. at 80.

⁷³ *Id.* at 58-60.

remain majority-white, other districts may remain majority-Black, providing a meaningful opportunity for Black voters to elect their preferred representatives.

Black Mobile residents filed a class-action lawsuit challenging the at-large election system under Section 2 of the VRA, alleging that the election scheme discriminated against the city's Black residents.⁷⁴ Section 2 of the VRA prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in a language minority group.⁷⁵

The lower courts initially found in favor of the Plaintiffs and altered the city's election structure to single-member districts.⁷⁶ However, the U.S. Supreme Court reversed in favor of the city and reinstated the at-large voting structure.⁷⁷ In yet another landmark decision originating from an Alabama voting restriction, the Court held that Section 2 only prohibits voting rules proposed with discriminatory intent, such that a showing of "disproportionate effects" alone is not enough to succeed on a Section 2 claim.⁷⁸ Mobile's success at the Supreme Court increased the evidentiary standard needed to succeed on a Section 2 VRA claim and thereby threatened the ability of plaintiffs across the country to succeed in future claims.

Fortunately, given that several provisions of the VRA were set to expire in 1982, voting rights activists persuaded Congress to undo the effects of *City of Mobile* as part of its reauthorization of the law. Congress amended Section 2 to clarify that courts may find a Section 2 violation by assessing the discriminatory effects of a voting rights measure and considering its results in the context of the totality of the circumstances, thus reinforcing the VRA's expansive protections.⁷⁹ In subsequent litigation that laid the new foundation for a Section 2 claim, the Court held that "the essence of a Section 2 claim is that a certain electoral law, practice, or structure interacts with social and historical

⁷⁴ *Id.*

⁷⁵ 42 U.S.C. § 1973.

⁷⁶ *City of Mobile*, 446 U.S. at 56.

⁷⁷ *Id.* at 61.

⁷⁸ *Id.* at 66.

⁷⁹ S. REP. NO. 97-417, at 3-4 (1982); see 52 U.S.C.A. § 10301(a)-(b).

conditions to cause an inequality in the opportunities” of minority voters to elect their preferred representatives.⁸⁰

VII. The State Continued to Discriminate Against Black Voters After the 1982 VRA Reauthorization.

In spite of the VRA’s renewed protections, Alabama continued to restrict the right of its Black citizens to vote. A report documenting voting discrimination in Alabama between 1982-2006 (and submitted into the Congressional Record in support of the VRA’s 2006 reauthorization) found that, pursuant to its authorities under the VRA, “[DOJ] objected to 46 Section 5 submissions from Alabama—seven from the State and 39 from local jurisdictions” and dispatched observers “to monitor elections 67 times.”⁸¹ The report made clear that Alabama continued to actively discriminate against Black voters and sought to undermine the VRA’s protections. As Chief Justice Roberts acknowledged in *Shelby County*, “even while subject to the restraining effect of [Section] 5, Alabama was found to have denied or abridged voting rights on account of race or color more frequently than nearly all other States in the Union.”⁸²

A. The State Adopted At-Large Voting to Prevent the Election of Candidates Black Alabamians Favored.

In 1986, a federal court found that Alabama had used at-large election systems for years to intentionally dilute Black voting power.⁸³ In its opinion, the court issued a broader condemnation of the State’s institutionalized segregation, writing that “[t]he State has consistently erected barriers to keep [B]lack persons from full and equal participation in the social, economic, and political life of the State.”⁸⁴ The decision had widespread effects across at least a dozen county commissions, nearly two dozen county boards of education, and over 100 municipalities, which all switched to single-member districts.⁸⁵

⁸⁰ *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986). The Court recently confirmed that Section 2 guarantees an election process that is “equally open” to minority voters. *Brnovich v. Democratic Nat’l Comm.*, 141 S. Ct. 2321, 2338 (2021).

⁸¹ *2006 Report*, *supra* note 21 at 5.

⁸² *Shelby County*, 570 U.S. at 582.

⁸³ *2006 Report* at 8 (citing *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1356-60 (M.D. Ala. 1986)).

⁸⁴ *Dillard*, 630 F. Supp. at 1360.

⁸⁵ *2006 Report* at 8-9.

The white political establishment in Alabama's Black Belt counties did everything in its power to undermine the order and resist the political power the decision had placed in the Black residents. In Wilcox County, for example, the white-controlled city council sought to maintain its white-voter majority by refusing to annex certain Black neighborhoods even as it worked to annex neighboring white communities.⁸⁶ In Etowah County, the majority-white county commission voted to exclude a newly elected Black commissioner from exercising the functions of his office, relegating him to the janitorial staff of the county courthouse.⁸⁷ The city of Valley agreed to adopt single-member districts for the 1992 elections but tried to annex 243 new people (only two of whom were Black) before drawing the district boundaries, a change DOJ stepped in to prevent.⁸⁸

After agreeing to a consent decree in 1988, Chilton County did nothing to implement it. The order required the county to seek legislative approval for a cumulative voting system.⁸⁹ Yet fifteen years later, "the Chilton County Commission still had not asked its local delegation to procure passage of a local act adopting the consent decree election system."⁹⁰ Then, an all-white group of citizens intervened in the case and petitioned the court to undo the order, arguing that federal courts could not require cumulative voting.⁹¹ The Alabama Attorney General sided with the white intervenors instead of seeking to enforce the agreement the State itself had consented to, before withdrawing from the matter.⁹² Facing pressure from the group of all-white citizens, the County Commission then adopted a resolution asking, among other things, for the passage of a local act that would reduce the size of the commission and repeal cumulative voting.⁹³ Fortunately, with Section 5 in place, Chilton County was denied preclearance for this plan.⁹⁴

⁸⁶ *Id.* at 11 (citing *Dillard v. City of Camden*, CA No. 87-T-1169-N (M.D. Ala, Jan. 17, 1990)).

⁸⁷ *Id.* at 12 (citing *Presley v. Etowah County Commission*, 869 F. Supp. 1555, 1560-63 (M.D. Ala. 1994)).

⁸⁸ *Id.*

⁸⁹ *Id.* at 14. "Cumulative voting allows voters in a multi-seat, multi-vote election to cast more than a single vote for any particular candidate of their choice." This system effectively allows a cohesive minority group to elect candidates of their choice. *Cumulative Voting in an Alabama County*, FAIR VOTE, <http://archive.fairvote.org/?page=531> (last accessed Aug. 7, 2021).

⁹⁰ *Id.*

⁹¹ *Id.* at 14-15.

⁹² *Id.* at 15.

⁹³ *Id.*

⁹⁴ *Id.*

B. Alabama Cities Selectively Annexed Neighborhoods to Maintain White Political Power.

Alabama cities have a long history of highly selective annexation—choosing to add white residents within their borders, while resisting efforts to incorporate more Black residents.⁹⁵ For example in 1987, the U.S. Supreme Court in *City of Pleasant Grove v. United States* rejected the city’s long efforts to resist integration through selective annexation. The city had sought a declaratory judgment to annex white residents, who aimed to avoid a desegregated school district in neighboring Jefferson County.⁹⁶ The city also sought to annex an empty parcel of land that would be developed into an exclusively white, upper-income community. At the same time, the city refused to annex two predominantly Black areas. After a federal court denied the city’s requests, the city appealed to the Supreme Court, which agreed with the lower court. In holding that the city’s efforts violated the VRA, the Court reasoned that “[t]o provide for the growth of a monolithic white voting bloc, thereby effectively diluting the black vote in advance . . . is just as impermissible a purpose as the dilution of present black voting strength.”⁹⁷

C. The State Proposed Racially Discriminatory Redistricting Plans Which Were Blocked by the Department of Justice and Federal Courts.

Preclearance also played a vital role in the redistricting process after both the 1990 and 2000 census. In the 1990s, there were at least 12 court challenges to redistricting plans in Alabama.⁹⁸ Although Alabama’s past failures led the Supreme Court to establish the “one person, one vote” standard, Alabama had not taken any steps to implement this principle in the State.⁹⁹ The legal challenges of the 1990s resulted in a state court approving a consent decree negotiated by Black political leaders and white state officials to increase the number of majority-Black state legislative districts.¹⁰⁰ Certain

⁹⁵ See, e.g., *Gomillion v. Lightfoot*, 364 U.S. 339 (1960) (acute redistricting in Tuskegee, Alabama that redefined the voting boundaries of the city from a square into an irregular 28-sided polygon, excluding all but five of its Black residents without losing a single white voter).

⁹⁶ *City of Pleasant Grove v. United States*, 479 U.S. 462, 465-66 (1987).

⁹⁷ *Id.* at 472.

⁹⁸ *1990s Redistricting Case Summaries*, NAT’L CONF. STATE LEGISLATURES, 1-5 (1998), https://www.ncsl.org/Portals/1/Documents/Redistricting/1990_Redistricting_Case_Summaries_PeterWattson.pdf.

⁹⁹ *2006 Report*, *supra* note 21 at 17 (citing *Reynolds v. Sims*, 377 U.S. 533, 558 (1964)).

¹⁰⁰ *Sinkfield v. Camp*, CA No. 93-689-PR (Cir. Ct. Montgomery Cty., May 12, 1993).

white residents sued to reverse this result, but the Supreme Court ultimately held they had no standing to challenge the accord.¹⁰¹

In another example following the 1990 census, DOJ refused to grant preclearance to redistricting plans proposed by Selma (for city council) and Dallas County (for school board), the city and county where the assault on the Edmund Pettus Bridge took place.¹⁰² After the Black populations of both the city and county increased, each proposed redistricting plans which “packed as many [B]lack voters as possible into a minority of districts [and] fragmented the remainder of the [B]lack population.”¹⁰³ Ultimately, both counties adopted representative districts and Black candidates won a majority of seats on both the Dallas County School Board and Selma City Council.¹⁰⁴

After the 2000 census, Black lawmakers led the effort to redraw Alabama’s state legislative and Congressional districts, working with lawmakers of both parties to establish fair, neutral redistricting criteria bolstered in part by the threat of federal oversight. As a result, Alabama obtained Section 5 preclearance on its redistricting plans, without supervision of a federal court for the first time.¹⁰⁵

D. The State Excluded Black Alabamians from Serving as Poll Workers.

Between 1982 and 2006, federal courts found proof of discriminatory intent in Alabama’s election practices on multiple occasions.¹⁰⁶ In one example, Black Alabamians alleged that the State’s method of appointing poll workers was discriminatory under Section 2 of the VRA. The court granted a preliminary injunction, ordering 65 of the State’s 67 counties to revise their practices to appoint more Black Alabamians as poll workers.¹⁰⁷ At trial, the court found that Alabama had discriminated in its selection of poll workers.¹⁰⁸ The court explained that the present echoed the past as the State had carried forward the same “atmosphere of fear and intimidation . . . with the result that polling

¹⁰¹ *United States v. Hays*, 515 U.S. 737, 739 (1995).

¹⁰² *2006 Report* at 10-11.

¹⁰³ *Id.* at 11.

¹⁰⁴ *Id.*

¹⁰⁵ *2006 Report*, *supra* note 21 at 23.

¹⁰⁶ *Id.* at 22.

¹⁰⁷ *Harris v. Graddick*, 593 F. Supp. 128, 138 (M.D. Ala. 1984) (*Graddick*).

¹⁰⁸ *Harris v. Siegelman*, 695 F. Supp. 517, 526 (M.D. Ala. 1988).

places across the state continue to be viewed by many [B]lacks as areas circumscribed for whites and off-limits to [B]lacks.”¹⁰⁹

VIII. Congress Overwhelmingly Reauthorized the Voting Rights Act in 2006.

The success of the VRA in safeguarding voting rights led to its uncontroversial reauthorization in 2006, as Congress passed, and President George W. Bush signed, the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act, a 25-year extension of the VRA.¹¹⁰ In doing so, President Bush became the fourth President to reauthorize the VRA, and did so with strong bipartisan support.¹¹¹ The bill passed the House of Representatives 390-33 and in the Senate 98-0.¹¹²

The 2006 reauthorization appeared to have cemented the central provisions of the VRA into the 2030s. Yet while the legislative and executive branches were focused on promoting and enforcing the VRA, one of the whitest and wealthiest counties in Alabama planned a challenge in the judiciary branch to two of the VRA’s core provisions to ensure the promise of the 2006 reauthorization would be short-lived.

IX. In *Shelby County v. Holder*, the Supreme Court Suspended the VRA’s Preclearance Formula.

In 2010, Shelby County, Alabama sued the United States Attorney General and requested a declaratory judgment that Sections 4(b) and 5 of the VRA were facially unconstitutional and a permanent injunction against their enforcement. The district court and Court of Appeals both rejected Shelby County’s claim, finding that Congress had properly reauthorized the VRA. However, the Supreme Court disagreed.

In *Shelby County*, the Supreme Court invalidated the VRA’s preclearance formula under Section 4(b). While the Court technically left Section 5’s preclearance system in place, no jurisdiction would be subject to its enforcement until Congress revised the coverage formula. Chief Justice John Roberts, writing for the Court’s majority,

¹⁰⁹ *Graddick*, 593 F. Supp. at 133.

¹¹⁰ Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, Pub. L. No. 109-246, 109th Cong. (2006).

¹¹¹ *Voting Rights Act Reauthorization 2006*, NAACP LDF (Feb. 16, 2018), <https://www.naacpldf.org/case-issue/voting-rights-act-reauthorization-2006/>.

¹¹² *Bush signs Voting Rights Act extension*, NBC NEWS (July 27, 2006), <https://www.nbcnews.com/id/wbna14059113>.

recognized that “[t]he Voting Rights Act of 1965 employed extraordinary measures to address an extraordinary problem.”¹¹³ The Court confirmed that the VRA, as originally enacted, was constitutional and appropriate to address the rampant racial discrimination evident in 1965.¹¹⁴ Nonetheless, the Court reasoned that “the [VRA] imposes current burdens and must be justified by current needs.”¹¹⁵ The Court held that Congress had failed to consider current conditions in reauthorizing a formula in 2006 that still looked to data from the 1960s and 1970s.¹¹⁶ The majority reached this conclusion over the dissent’s collection of extensive evidence from Shelby County in particular and Alabama as a whole that racial discrimination in voting access remained prevalent, even since 2006.¹¹⁷ Still, the Court preserved Section 5, and indicated preclearance can resume once “Congress . . . draft[s] another formula based on current conditions.”¹¹⁸

With this one decision, the Supreme Court put decades of voting rights progress at risk. As the subsequent Parts of this Report document, current conditions in Alabama demonstrate that the State has never divorced itself from its Jim Crow past. Congress must now take the Supreme Court’s invitation and pass the John Lewis Voting Rights Advancement Act to rectify the “current conditions” *Shelby County* facilitated. Just as the Court’s decision in *City of Mobile* demanded a response from Congress in 1982, *Shelby County* demands action from Congress today.

¹¹³ *Shelby County*, 570 U.S. at 534.

¹¹⁴ *Id.* at 545-46.

¹¹⁵ *Id.* at 535-36 (quoting *Nw. Austin Mun. Util. Distr. No. One v. Holder*, 557 U.S. 193, 203 (2009)).

¹¹⁶ *Id.* at 547-53.

¹¹⁷ Among many other examples, Justice Ginsburg recounted the findings of an FBI investigation into the City of Calera after it ignored the DOJ’s order denying preclearance of a redistricting plan. Recorded conversations captured State legislators referring to Black Alabamians with a racial slur in 2010 while planning to remove a gambling-related referendum from the ballot on the assumption that it might drive Black voter turnout. *Id.* at 584 (Ginsburg, J., dissenting).

¹¹⁸ *Id.* at 557.

Part II: Current Conditions in Alabama

For Black voters in Alabama, the past remains the present. More than 150 years since the ratification of the Fifteenth Amendment, Alabama continues to impose obstacles to the ballot box for Black voters. While most states have modernized and increased the accessibility of their election processes, Alabama remains wedded to its Jim Crow past. As described in Part I and continued in Part III, even when Alabama’s election practices have been successfully challenged, the State has consistently fought back or adapted to achieve the same discriminatory ends. In sum, Alabama has never wavered in its efforts to disenfranchise Black voters.

The *Shelby County* decision allowed the State to double down on its suppression efforts unabated. Relieved of the VRA’s preclearance requirement, the State passed, implemented, and enforced new restrictive and racially discriminatory voting laws and engaged in suppressive practices without the specter of federal oversight or intervention. Without the protection of the VRA’s preclearance requirement, Black voters have seen the threat to their voting rights amplified.

In Part II, we highlight the laws and practices which demonstrate Jim Crow is alive and well in Alabama today. This Part also features the declarations of Alabamians who have spoken out to share their voting stories, highlighting the deeply human impact of the State’s discriminatory actions. And we demonstrate how Black Alabamians, determined to exercise their right to vote, navigate the obstacles the State imposes. As Latasha, a voter in Jefferson County says:

Even though my experience [voting] was such a struggle, I was determined to vote on that day because voting is important to me and I couldn’t miss my chance. For the generations who had to live through the Jim Crow era before me, I needed to cast my vote. I want to be an agent of change for the future. I believe that voting gives you your voice and the ability to change laws to help generations down the line. Without your voice, you are silent.¹¹⁹

¹¹⁹ Latasha [Jefferson County] Decl. ¶ 10 (June 22, 2021).

And as John, another voter in Jefferson County, recalls “[m]y father instilled all his children with an understanding of the importance of voting. I vote in every election. I think it is my responsibility. But it is not always easy.”¹²⁰

I. Alabama Implemented a Strict Photo ID Law for In-Person Voting Immediately After *Shelby County*.

Within 24 hours of the Supreme Court’s decision in *Shelby County*, Alabama brought into effect its voter photo identification law (the “photo ID law”), which required voters to present an approved form of photo identification to vote.¹²¹ The Alabama Legislature had approved the measure in 2011, but chose not to implement it, understanding it was unlikely to receive preclearance given that similar laws across the country had been blocked because they harmed voters of color.¹²² The State was also well aware of *Shelby County*’s challenge to the preclearance process, and anticipated that federal oversight might soon be lifted.¹²³ Fittingly, as soon as the Supreme Court invalidated the coverage formula, Alabama moved with startling speed to implement the photo ID law, while simultaneously erecting systematic barriers that made it more difficult for Black Alabamians to comply.¹²⁴

A. Photo ID Laws Disproportionately Harm Voters of Color and Do Not Serve Any Legitimate State Interest.

Studies have revealed the actual and intended impact photo ID laws have on Black Americans.¹²⁵ According to one study, photo ID laws have resulted in a turnout

¹²⁰ John [Jefferson County] (*John I*) Decl. ¶ 4 (June 19, 2021).

¹²¹ Maggie Astor, *Seven Ways Alabama Has Made it Harder to Vote*, N.Y. TIMES (June 23, 2018), <https://www.nytimes.com/2018/06/23/us/politics/voting-rights-alabama.html>.

¹²² Peter Dunphy, *When it Comes to Voter Suppression, Don’t Forget About Alabama*, BRENNAN CTR. FOR JUSTICE (Nov. 5, 2018), <https://www.brennancenter.org/our-work/analysis-opinion/when-it-comes-voter-suppression-dont-forget-about-alabama> (“State officials did not even submit the new ID law for federal review at that time, likely because the Department of Justice had previously blocked similar requirements five separate times, finding them discriminatory.”).

¹²³ *Democracy Diminished: State and Local Threats to Voting Post-Shelby County Alabama vs. Holder*, NAACP, 7 (May 3, 2021) https://www.naacpldf.org/wp-content/uploads/Democracy-Diminished_as-of-5.2.21.pdf.

¹²⁴ The law went into effect on June 3, 2014. *Photo Voter ID*, ALA. SEC’Y OF STATE, <https://www.sos.alabama.gov/alabama-votes/voter/voter-id> (last accessed Aug. 6, 2021).

¹²⁵ *Issues Related to State Voter Identification Laws*, U.S. GOV’T. ACCOUNTING OFFICE, <https://www.gao.gov/assets/gao-14-634.pdf> (last accessed Aug. 6, 2021).

decline amongst Black voters that is four times higher than for white voters.¹²⁶ Another study finds that strict photo ID laws can be expected to “depress. . . Black turnout by 8.6 points” in primary elections.¹²⁷ And as recently as 2012, the Department of Justice found that Texas could not demonstrate that its photo ID law would not harm the rights of voters of color—in part due to the cost of obtaining a photo ID, which would fall heaviest on Black voters.¹²⁸

As discussed below, the text and implementation of Alabama’s photo ID law demonstrate that it too harms the rights of Black voters. In Alabama, obtaining a photo ID is time-consuming and expensive, burdens likely to fall hardest on rural and low-income Black Alabamians. The State makes even its “free” photo IDs difficult to obtain for these voters. Further, like other states, Alabama claims that its photo ID law is intended to curb rampant voter fraud, despite the fact that there is no evidence such rampant fraud exists.

1. Requiring Photo Identification to Vote is Burdensome and Has a Chilling Effect on Voting

Obtaining a photo ID is burdensome for older, lower-income, and rural voters. Supporting documents such as birth certificates, passports, social security cards, and copies of mortgages all cost money to procure, in addition to the fees required for acquiring the photo ID itself (\$36.25 for a driver’s license in Alabama).¹²⁹ For example, to obtain a birth certificate in Alabama (one of the forms of identification required to get a satisfactory photo ID), the voter needs to provide a photo ID or driver’s license (a circular process), or needs to locate utility bills in their name that are no more than six months old, a vehicle registration or title, a property tax bill, or correspondence concerning their social security card, among other forms of identification.¹³⁰ Many renters do not have

¹²⁶ *Id.* at 39.

¹²⁷ *Voting in America: The Potential for Voter ID Laws, Proof-of-Citizenship Laws, and Lack of Multi-Lingual Support to Interfere With Free and Fair Access to the Ballot Before the House Administration Subcommittee on Elections*, 117th Cong. 4-5 (May 24, 2021) (testimony of Nazita Lajevardi), <https://docs.house.gov/meetings/HA/HA08/20210524/112670/HHRG-117-HA08-Wstate-LajevardiN-20210524.pdf>.

¹²⁸ Sari Horwitz, *Texas Voter-ID Law is Blocked*, WASH. POST (Aug. 30, 2012), https://www.washingtonpost.com/world/national-security/texas-voter-id-law-struck-down/2012/08/30/4a07e270-f2ad-11e1-adc6-87dfa8eff430_story.html.

¹²⁹ *Document Requirements and Fees*, ALA. LAW ENFORCEMENT AGENCY, <http://www.alea.gov/dps/driver-license/document-requirements-and-fees> (last accessed Aug. 8, 2021).

¹³⁰ Vital Records ID Requirements, ALA. DEP’T PUB. HEALTH (last visited July 1, 2021).

access to these types of documents, and individuals living with others may not receive any utility bills in their own name. Pamela, a voter in Tuscaloosa County, recalls “ha[ving] to show a lot more documentation and jump[ing] through more hoops” when she last renewed her license in 2020, just so she could vote with a valid photo ID.¹³¹

Alabama professes to offer the option of a free photo ID for voters but makes it difficult to obtain. Specifically, a voter must visit their county registrar’s office *in person*. These IDs cannot be obtained by mail, even for older voters or voters with disabilities.¹³² Voters in rural and impoverished areas, many of whom are Black, often lack access to a car and rely on limited public transportation creating a barrier to obtaining a free photo ID. Further, most counties only have one county registrar’s office, located in the county seat, and offices are only open during weekday working hours, when many Alabamians themselves are at work.¹³³ Consequently, obtaining a free photo ID becomes effectively impossible for many of the voters most in need.

Rosalind of Butler County had to take her 91-year-old parents, who both have mobility challenges, to obtain new photo IDs to vote in the 2016 election.¹³⁴ To do so, she had to drive them to the courthouse and push both of them in wheelchairs up a steep ramp.¹³⁵ Fortunately, Rosalind was able to assist her parents, who otherwise may have been disenfranchised. Yet, once her parents obtained their photo IDs, they still needed to make a photocopy of them to include with their absentee ballots. Again, they were fortunate: Rosalind had a photocopier at home. Otherwise, the nearest place her parents could have found a photocopier was a library 22 miles away.¹³⁶

In 2015, Greater Birmingham Ministries, the Alabama State Conference of the NAACP, and others challenged Alabama’s photo ID law in federal court. The complaint

¹³¹ Pamela [Tuscaloosa County] Decl. ¶ 7 (June 17, 2021).

¹³² *Application for Free Alabama Photo Voter Identification Card*, ALA. SEC’Y OF STATE, <https://www.sos.alabama.gov/sites/default/files/voter-pdfs/candidate-resources/ApplicationForFreeALPhotoVoterIdCard.pdf> (last accessed July 28, 2021).

¹³³ There are more than one county registrar’s office in counties with more than one courthouse. See County Board of Registrars: Functional Analysis & Records Disposition Authority. See *County Board of Registrars: Functional Analysis & Records Disposition Authority*, 4 (Apr. 28, 2021), https://archives.alabama.gov/officials/rdas/local/registrar_rda.pdf.

¹³⁴ Rosalind [Butler County] Decl. ¶ 3-5 (June 6, 2021).

¹³⁵ *Id.* ¶ 5.

¹³⁶ *Id.* ¶¶ 6-8.

details both the difficulty of obtaining a photo ID and the burden the State's law imposes on voters, particularly Black voters.¹³⁷

Debra Silvers, a Black resident of Greene County and a plaintiff in the *Greater Birmingham Ministries* lawsuit, experienced firsthand how extreme Alabama's photo ID law is.¹³⁸ When Ms. Silvers' house burned to the ground, she lost her home and most of her possessions, and all of her identity documents, including her birth certificate, social security card, and non-driver photo ID.¹³⁹ It took Ms. Silvers many months and numerous visits to the Alabama Health Department and Department of Human Services (a 20-mile round trip) and the Social Security Office (a 90-mile round trip) to replace birth certificates and social security cards for herself and her children.¹⁴⁰ Ms. Silvers did not have access to a car and was one of the 844,000 residents of rural Alabama without access to intercity transportation services. To make these trips, Ms. Silvers had to use her scarce financial resources to pay for private transportation to get the new documents.¹⁴¹

Even after all these trips, Ms. Silver could only obtain photocopies of her non-driver photo ID.¹⁴² Ms. Silvers arrived at the polls for the March 1, 2016, primary with these photocopies, yet she was turned away because she did not have her *original* non-driver photo ID.¹⁴³ Despite her herculean efforts to obtain a photo ID, the State of Alabama denied her the opportunity to vote.¹⁴⁴

Another example featured in the lawsuit is Elizabeth Ware, a 60-year-old Black voter from Mobile County who lost her non-driver photo ID in 2014.¹⁴⁵ Ms. Ware lives on a fixed income, does not have reliable access to transportation, and has health concerns that limit her ability to use the bus.¹⁴⁶ Ms. Ware's family members occasionally

¹³⁷ See generally *GBM* Second Amended Complaint, *supra* note 10.

¹³⁸ *Id.* ¶ 30.

¹³⁹ *Id.* ¶ 32.

¹⁴⁰ *Id.* ¶¶ 33, 34.

¹⁴¹ *Id.*

¹⁴² *Id.* ¶¶ 34, 57.

¹⁴³ *Id.* ¶ 35.

¹⁴⁴ *Id.* ¶ 37.

¹⁴⁵ *Id.* ¶¶ 38, 39.

¹⁴⁶ *Id.* ¶ 41.

give her rides, but their work schedules prevent them from giving Ms. Ware a ride during the day when the license-issuing offices are open.¹⁴⁷

Ms. Ware arranged a ride to the Mobile County Board of Registrars in October 2016 in the hopes of obtaining a photo ID card so she would have the proper photo identification that would allow her to vote.¹⁴⁸ When she arrived, election officials turned Ms. Ware away, informing her that she was ineligible for a free photo voter ID because they are only available to people who have never had another acceptable form of photo ID.¹⁴⁹ Left without any form of photo ID that would permit her to vote despite her best efforts, Ms. Ware has not been able to vote in any election since.¹⁵⁰

Photo ID laws have a demonstrable chilling effect on voting.¹⁵¹ A study by the U.S. Government Accountability Office found that strict photo ID laws reduce turnout by two to three percentage points.¹⁵² In a state like Alabama, where Doug Jones defeated Roy Moore by less than 21,000 votes (and less than two percentage points) in a 2017 Special Election, the impact of such a decrease in turnout can be determinative.¹⁵³

2. Photo ID Laws Do Not Decrease Voter Fraud.

While the State claims its photo ID law is “designed to preserve the credibility and integrity of the electoral process,” in reality, the law is a purported solution in search of a non-existent problem.¹⁵⁴ As SPLC, news organizations, academic institutions, the Department of Justice, and others have extensively documented, voter

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* ¶ 42.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* ¶ 43.

¹⁵¹ Philip Bump, *Voter ID laws in Kansas and Tennessee dropped 2012 turnout by over 100,000 votes*, WASH. POST (Oct. 9, 2014), <https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/>.

¹⁵² *Issues Related to State Voter Identification Laws [Reissued on February 27, 2015]*, GOV'T ACCOUNTABILITY OFFICE (Sept. 19, 2014), <https://www.gao.gov/products/gao-14-634>.

¹⁵³ *Alabama Election Results: Doug Jones defeats Roy Moore in U.S. Senate Race*, N.Y. TIMES (Dec. 12, 2017), <https://www.nytimes.com/elections/results/alabama-senate-special-election-roy-moore-doug-jones>.

¹⁵⁴ Zachary Roth, *Alabama governor falsely claims state made deal with feds on voter ID*, MSNBC (Dec. 3, 2015), <https://www.msnbc.com/msnbc/alabama-gov-falsely-claims-state-made-deal-feds-voter-id-msna738201>.

fraud in general, and voter impersonation in particular, is practically nonexistent.¹⁵⁵ Study after study has indicated that the prevalence of voter fraud is near zero, with incidence rates ranging between 0.0003 and 0.0025 percent nationally.¹⁵⁶ This finding led the Brennan Center for Justice to note that it is more likely an American “will be struck by lightning than . . . impersonate another voter at the polls.”¹⁵⁷ Even the Heritage Foundation, a conservative think tank, has only identified one case of proven voter impersonation in Alabama since 1979.¹⁵⁸ Absentee ballots are also highly secure. The Heritage Foundation points to fewer than 20 convictions or official findings of absentee ballot fraud in Alabama over the past 40 years.¹⁵⁹

Justin Levitt, a professor at Loyola Law School who is currently on leave to serve as the White House’s Senior Policy Advisor for Democracy and Voting Rights, tracked news reports alleging voter fraud between 2000 and 2014, a period during which more than one billion votes were cast.¹⁶⁰ His analysis found only 31 instances of voter fraud attributable to voter impersonation, the only type of voter fraud a photo ID law can hope to prevent.¹⁶¹ As Professor Levitt explains, “requirements to show ID at the polls are designed for pretty much one thing: people showing up at the polls pretending to be somebody else in order to each cast one incremental fake ballot.”¹⁶² The data are unequivocal: a handful of voter impersonation allegations do not remotely justify the significant burdens photo ID requirements impose on Black voters.

The voter fraud myth is a favorite of Alabama Secretary of State John Merrill, who has dedicated significant State resources to “fighting” it, including during the depths

¹⁵⁵ *Debunking the Voter Fraud Myth*, BRENNAN CTR. FOR JUSTICE (Jan. 31, 2017), <https://www.brennancenter.org/our-work/research-reports/debunking-voter-fraud-myth>.

¹⁵⁶ *Id.*

¹⁵⁷ Justin Levitt, *The Truth About Voter Fraud*, BRENNAN CTR. FOR JUSTICE (2007) https://www.brennancenter.org/sites/default/files/2019-08/Report_Truth-About-Voter-Fraud.pdf.

¹⁵⁸ *Election Fraud Cases*, HERITAGE FOUND. (last accessed Aug. 2, 2021), <https://www.heritage.org/voterfraud/search?state=AL>.

¹⁵⁹ *Id.*

¹⁶⁰ Justin Levitt, *A comprehensive investigation of voter impersonation finds 31 credible incidents out of one billion ballots cast*, WASH. POST (Aug. 6, 2014), <https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/>.

¹⁶¹ *Id.* (explaining that the majority of photo identification laws are not designed to prevent voter fraud with absentee ballots, coercion, vote buys, or fake registration forms).

¹⁶² *Id.*

of the COVID-19 pandemic when the virus was devastating the State’s Black community. Today, the Secretary of State’s office allocates public resources to maintain a website—StopVoterFraudNow.com¹⁶³—which encourages Alabamians to report suspected election fraud or campaign finance violations. These reports are then reviewed by public officials in the Legal and Elections divisions to determine if further action is needed.¹⁶⁴ The system is not designed to strengthen election security in any meaningful way: anyone with an internet connection can submit whatever they want, with no requirement that their allegations ever be substantiated.¹⁶⁵ In a local interview in August 2019, Merrill referenced 928 instances of alleged voter fraud reported through the form.¹⁶⁶ In fact, out of these 928 reports, the State identified only two or three instances of actual misconduct.¹⁶⁷ Merrill misleadingly cites these online submissions as if they are all credible or confirmed instances of wrongdoing to argue for restrictive voting measures.¹⁶⁸ In the absence of reliable evidence, the Secretary of State’s office intimidates voters and risks undermining Alabamians’ confidence in the State’s elections, while using the myth of voter fraud to burden thousands of Black Alabama voters.¹⁶⁹

B. Alabama Closed Photo ID Issuing Locations in Predominantly Black Counties.

At the same time the State was moving to implement the photo ID law, it was making it harder for Black Alabamians to obtain a valid photo ID. Soon after the photo ID law went into effect, then-Alabama Governor Robert Bentley announced the closure of 34 DMV offices, with the closures concentrated in the counties with the highest

¹⁶³ *Stop Voter Fraud Now*, ALA. SEC’Y OF STATE, <https://www.sos.alabama.gov/alabama-votes/stop-voter-fraud-now> (last accessed Aug. 8, 2021).

¹⁶⁴ Press Release, *Secretary Merrill Issues Reminder to Report Voter Fraud*, (Jan. 21, 2020), <https://www.sos.alabama.gov/newsroom/secretary-merrill-issues-reminder-report-voter-fraud>.

¹⁶⁵ *Stop Voter Fraud Now*, *supra* note 163.

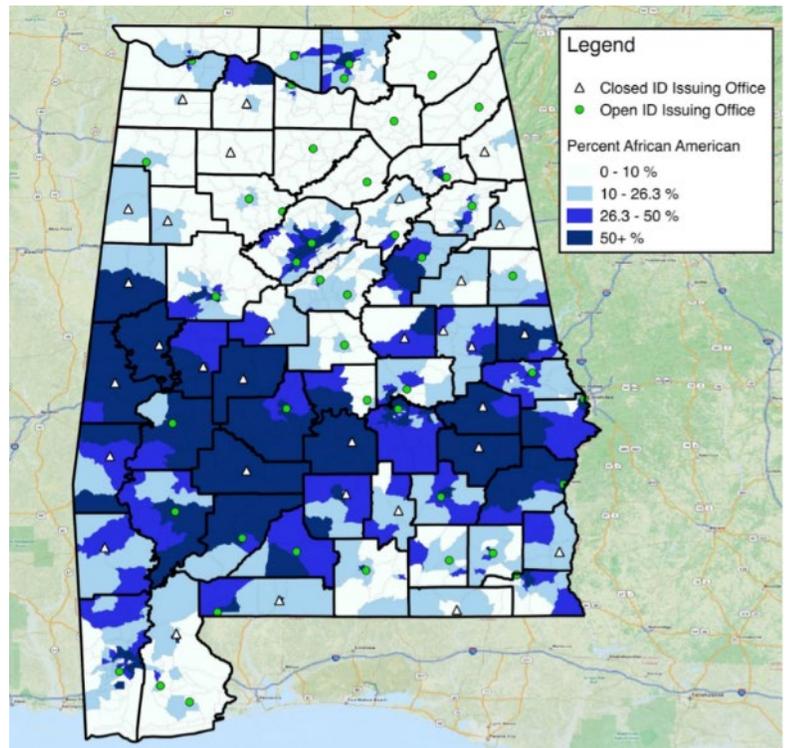
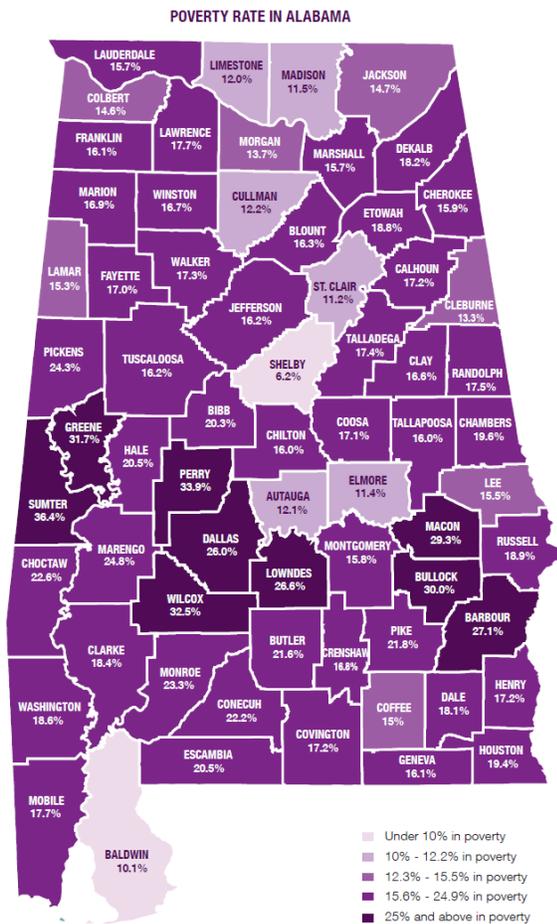
¹⁶⁶ *Alive and Well* at 20.

¹⁶⁷ *Id.* (“In other words, there have not been 928 credible reports of voter fraud turned over to the secretary of state’s office. Rather, a web page with an online form received 928 submissions.”).

¹⁶⁸ *Id.*; Sean Ross, *Merrill Rebuts SPLC Claim That Voter Fraud Is Non-Existent – Cites Six Recent Alabama Convictions*, YELLOWHAMMER NEWS (Aug. 2019), <https://yellowhammernews.com/merrill-rebuts-splc-claim-that-voter-fraud-is-non-existent-cites-six-recent-alabama-convictions/>.

¹⁶⁹ According to an October 2020 Gallup poll, 53% of respondents believe people casting fraudulent ballots is a major problem. Justin McCarthy, *Confidence in Accuracy of U.S. Election Matches Record Low*, GALLUP (Oct. 8, 2020).

percentage of Black residents.¹⁷⁰ Alabama cited budgetary concerns as the reason for closing part-time license-issuing offices and explained that it was merely closing the locations that issued the fewest licenses annually. But the closures hit rural communities and majority-Black communities the hardest.¹⁷¹



¹⁷⁰ Kyle Whitmire, *As it turns out . . . Bentley's driver's license closures were racial, after all*, AL.COM (Jan. 5, 2017), https://www.al.com/opinion/2017/01/as_it_turns_out_bentleys_drive.html. ("[T]he Black Belt has always suffered the worst from Alabama's sins, leaving its citizens with the least means the farthest distance from basic necessities, be it a job, simple trip to the grocery store, utilities like broadband internet. And now a place to get a driver's license.").

¹⁷¹ The map on the left showing the poverty rate in Alabama is from *Barriers to Prosperity Data Sheet 2021*, ALABAMA POSSIBLE, https://alabamapossible.org/wp-content/uploads/2021/05/AP_FinalDataSheet_2021_Web-compressed.pdf. The map on the right showing polling place closures is from A. Gitlin & C. Famighetti, *Closing Driver's License Offices in Alabama*, BRENNAN CTR. FOR JUSTICE (Oct. 8, 2015), <https://www.brennancenter.org/our-work/analysis-opinion/closing-drivers-license-offices-alabama>.

At the time of the DMV closures in 2015, 26.3 percent of the total Alabama population was Black, with Black residents comprising more than 50 percent of the population in eleven counties. Driver's license offices were closed in eight of these eleven counties, leaving only three majority-Black counties with a license-issuing office.¹⁷² In addition, under Alabama's plan, license-issuing offices closed in all six counties in which Black residents comprised over 70 percent of the population.¹⁷³ Conversely, forty license-issuing offices remained open in the fifty-five Alabama counties in which white residents comprised more than 50 percent of the population.¹⁷⁴

Even if a voter can make it to a driver's license office during the limited opening hours, the overall costs pose a real barrier for Black Belt voters who face severe socioeconomic challenges. For example, Macon County has a poverty rate of 29.3 percent (nearly three times the national average), and Lowndes County has a 26.6 percent poverty rate.¹⁷⁵

Following local and national outcry over the closures, Governor Bentley reluctantly announced that service would return to the closed offices, but only required that service return for at least one day per month. As Representative Terri Sewell of Alabama's 7th District stated at the time, the State did the "bare minimum"¹⁷⁶ to address the problem it created:

The state of Alabama still must ensure that all Alabamians have an equal opportunity to obtain driver's licenses, which are the most popular form of identification used for voting. Alabama cannot require photo identification for voting and then make decisions to close DMV offices in communities that

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ Christopher Famighetti, *Closing Driver's License Offices in Alabama*, BRENNAN CTR. FOR JUSTICE (Oct. 8, 2015), https://www.brennancenter.org/our-work/analysis-opinion/closing-drivers-license-offices-alabama#_edn3.

¹⁷⁵ *Macon County, Alabama*, <https://www.census.gov/quickfacts/fact/table/maconcountyalabama/HCN010212#HCN010212> (last accessed August 1, 2021); *Lowndes County, Alabama*, <https://www.census.gov/quickfacts/lowndescountyalabama> (last accessed August 1, 2021).

¹⁷⁶ Brian Lyman, *Alabama Will Reopen Closed DMV Offices in Black Counties*, GOVERNING (Oct. 20, 2015), <https://www.governing.com/archive/drivers-license-offices-will-reopen-on-limited-basis.html>.

are disproportionately African American, rural, and low income.¹⁷⁷

The U.S. Department of Transportation launched an investigation into the DMV closures and the limited reopening plan and found that the closures and service reductions were racially discriminatory and had “a disparate and adverse impact on the basis of race.”¹⁷⁸ Finally, Alabama agreed to reinstitute expanded service and ultimately agreed to increase the hours for license-issuing offices in Black Belt counties.¹⁷⁹ In his statement announcing the agreement, then-Secretary of Transportation Anthony Foxx explained:

DMVs play a critical role in the day-to-day functioning of the American people, including ensuring their ability to drive to work and other essential services and to get proper identification needed to vote or open a bank account. No one should be prevented from accessing these services based on their race, color or national origin.¹⁸⁰

But, even after the outcry and federal investigation, access to these DMV services remains paltry in majority-Black counties.

For example, a resident of Cullman, Blount, or Marshall counties (each of which is overwhelmingly white) has the luxury of five days per week of regular DMV hours. Yet residents of Bullock, Hale, Greene, Perry, Sumter, or Wilcox counties (each a majority-Black county that experienced closures) are limited to six hours of service on just one weekday per week.¹⁸¹ Lowndes County, another Black Belt county, offers just four and a half hours of service on one day per week, while Macon County offers just five and a half hours of service, two days per week.¹⁸²

¹⁷⁷ *Id.*

¹⁷⁸ Astor, *supra* note 121.

¹⁷⁹ *Feds: Alabama to expand driver's license office hours after probe*, AL.com (Dec. 28, 2016), <https://www.al.com/news/montgomery/2016/12/feds-alabama-to-expand-drivers.html>.

¹⁸⁰ *Id.*

¹⁸¹ *Supra* note 179.

¹⁸² *ALEA Driver License Offices*, ALA. LAW ENFORCEMENT AGENCY, <https://www.alea.gov/dps/driver-license/driver-license-offices> (last accessed July 1, 2021); [Lowndes County Driver's License Office Hours & Appointments \(dmvoffice.net\)](https://www.alea.gov/dps/driver-license/driver-license-offices); [Macon County | Alabama Law Enforcement Agency \(alea.gov\)](https://www.alea.gov/dps/driver-license/driver-license-offices).

Alabama's conduct demonstrates that without federal oversight it will continue to erect racially discriminatory barriers to voting.

II. Alabama Closed Dozens of Polling Places in Black Communities Post-*Shelby County*.

Since *Shelby County*, Alabama has closed, consolidated, or changed dozens of polling places across the State, predominantly targeting poor, rural, and Black neighborhoods. Previously, any locality subject to preclearance which planned to alter a polling location had to both provide sufficient notice to impacted voters and satisfy preclearance.¹⁸³ *Shelby County* removed these safeguards, enabling Alabama to systematically close polling places in Black precincts with impunity. Rampant poll closures and changes have caused excessively long lines and voter confusion, and have prevented many voters from casting a ballot.

Between the *Shelby County* decision and September 2019, Alabama closed at least 72 polling locations across 23 counties.¹⁸⁴ Many of these closures occurred without public notice, even though in some counties, these polling place closures accounted for a decrease of nearly a quarter of the county's total polling places.¹⁸⁵ Thirty-four percent of Alabama counties closed at least one polling location, including many of those in the Black Belt.¹⁸⁶

While the closure of an individual polling place may not draw national media attention, voters in that community feel the loss acutely. Alabama law does not require counties or local jurisdictions to notify voters of these changes, and the Secretary of State's office has no centralized database to document precinct closures across the State

¹⁸³ See U.S. COMM'N ON CIVIL RIGHTS, *An Assessment of Minority Voting Rights Access in the United States* 169 (2018), https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf.

¹⁸⁴ Leadership Conference Education Fund, *Democracy Diverted* (2019), <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf> (hereinafter "*Democracy Diverted*").

¹⁸⁵ *Id.*; Mary Sell, *In some counties, Alabama voters have lost a quarter of their polling places since 2010* (Nov. 2, 2018), <https://birminghamwatch.org/counties-alabama-voters-lost-quarter-polling-places-since-2010/>.

¹⁸⁶ *Democracy Diverted* at 38; Mary Sell, *In some counties, Alabama voters have lost a quarter of their polling places since 2010* (Nov. 2, 2018), <https://birminghamwatch.org/counties-alabama-voters-lost-quarter-polling-places-since-2010/>.

to help keep voters informed.¹⁸⁷ This is particularly burdensome in Alabama, where voting in person on Election Day is the only option for the vast majority of voters.¹⁸⁸

Therefore, voters must often rely on word-of-mouth, local media reports, or social media to learn what election officials should have told them ahead of time—information as basic as confirming where to vote.¹⁸⁹ For example, Sandra from Calhoun County learned that her polling location had changed because her neighbor told her, but this change was never publicized in the newspaper or on TV—voters had to find out via word of mouth.¹⁹⁰ People like Ja’Kimeya from Jefferson County volunteer with organizations like My Vote Matters to fill the void left by Alabama election officials to inform the public about poll closures and other important details such as voter registration deadlines and procedures.¹⁹¹

Counties often rely on misleading or pretextual justifications for closing polling locations.¹⁹² For instance, in Etowah County, Alabama, where 15 percent of the population is Black,¹⁹³ election officials claim they closed polling places because “new federal regulations prohibit[] voting locations at schools” and “voting at churches will eventually become an issue.”¹⁹⁴ This is not true. There are no federal, state, or local regulations requiring that polling places be removed from schools or churches.¹⁹⁵

¹⁸⁷ Taylor C. McInerney et al., *Alabama After Shelby v. Holder: Polling Place Changes and Access to Polling Place Information*. J. OF POLICY PRACTICE & RESEARCH. (Nov. 11, 2020) at 171, available at <https://link.springer.com/content/pdf/10.1007/s42972-020-00018-7.pdf>.

¹⁸⁸ See Part II § III.

¹⁸⁹ H.R.1, the “For the People Act” “require[s] states to provide notice (in a way that accounts for local linguistic preferences) of polling place changes at least seven days before an election.” H.R. 1, 117th Cong. (2021).

¹⁹⁰ Sandra [Calhoun County] Decl. ¶¶ 4-5 (July 10, 2021).

¹⁹¹ Ja’Kimeya [Jefferson County] Decl. ¶ 8 (June 21, 2021).

¹⁹² ALABAMA ADVISORY COMM. TO THE U.S. COMM’N ON CIVIL RIGHTS, *Barriers to Voting in Alabama*, at 39, <https://www.usccr.gov/files/2020-07-02-Barriers-to-Voting-in-Alabama.pdf> (hereinafter “*Barriers to Voting*”).

¹⁹³ *Democracy Diverted* at 40.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

Similarly, election officials often use compliance with the Americans with Disabilities Act (ADA) as an excuse for polling place closures.¹⁹⁶ The National Disability Rights Network (“NDRN”) notes that, in fact, “[t]he disability community does not encourage polling place closures” and advises that “the ADA should never be used as the impetus to close large numbers of polling places.”¹⁹⁷ The NDRN instead advocates for low-cost permanent or temporary fixes that can improve existing polling places to prevent their relocation, consolidation, or closure. Disability voting rights specialist Michelle Bishop explains that “we don’t make polling places accessible by closing them. We make them accessible by making them accessible.”¹⁹⁸

Additionally, certain counties consolidated multiple precincts into one polling location under the guise of reducing costs, which creates long lines as more and more voters are sent to a single location.¹⁹⁹ These consolidations directly impact the voters who have the least access to public transit to get to the polls and the internet to research their new polling location.²⁰⁰ The Alabama Advisory Committee to the U.S. Commission on Civil Rights has questioned this practice and recommended that the State “seek information regarding the effect of [sic] particular populations with an eye towards notice, transportation and transparency with the regards to the basis for closures.”²⁰¹

As voter declarations below demonstrate, many voters do not discover their polling place location has changed until they arrive at their previous location on Election Day and find it closed or find that they are no longer registered at that location. They also encounter long lines because the few remaining polling locations struggle to accommodate so many additional voters.

This wave of polling place closures, and the haphazard manner in which they have been carried out, inflict considerable burdens on Black Alabamians attempting to exercise their right to vote.

¹⁹⁶ *Id.* at 39; *Barriers to Voting*, *supra* note 192 at 39.

¹⁹⁷ *Blocking the Ballot Box: Ending Misuse of the ADA to Close Polling Places*, NAT’L DISABILITY RIGHTS NETWORK, 11, 36 (Jan. 2020) https://www.ndrn.org/wp-content/uploads/2020/01/NDRN_Blocking_the_Ballot_Box_2020.pdf.

¹⁹⁸ *Id.* at 9.

¹⁹⁹ *Barriers to Voting*, *supra* note 192 at 39-40.

²⁰⁰ *Id.* at 39.

²⁰¹ *Id.* at 41.

When Karen, a voter in Colbert County, went to vote on Election Day for the 2016 presidential election, she discovered that her regular polling location in her neighborhood had closed without notice and would no longer be her voting location for state and federal elections.²⁰² However, Karen believes this location remains her polling place for city and municipal elections.²⁰³ Karen’s new voting location is much farther from her home and to get there, she must traverse U.S. Highway 72.²⁰⁴ Karen “do[es] not feel safe trying to drive across that highway.”²⁰⁵ Moreover Karen’s new polling location has no crosswalks and is not accessible by public transportation.²⁰⁶ Karen, who was born in 1953, cannot recall missing a state or national election since she was 18.²⁰⁷ While she was able to vote in 2016, she is worried that her new polling location will interfere with her ability to vote in future elections.²⁰⁸

Even when the State does notify voters of changes to their polling location, it often provides incorrect information. During the midterm elections in 2014, Ethel, a voter in Mobile County, received a letter informing her that her usual polling location had changed.²⁰⁹ But, when Ethel and her husband arrived at the location identified in the letter, their names were not on the list of registered voters. Ethel and her husband had to drive back to their usual polling location where they were able to cast their ballots. Jennifer, another Alabama voter, had a similar experience in 2019 when the postcard she received advising her of a new polling location was incorrect.²¹⁰ Jennifer was sent back to her usual polling location.

The following additional examples illustrate poll closures in specific counties and how such closures have affected Alabamians and their communities.²¹¹

²⁰² Karen [Colbert County] Decl. ¶ 7, 10 (June 18, 2021).

²⁰³ *Id.* ¶ 10.

²⁰⁴ *Id.* ¶ 7.

²⁰⁵ *Id.* ¶¶ 8-9.

²⁰⁶ *Id.* ¶ 9.

²⁰⁷ *Id.*

²⁰⁸ *Id.* ¶ 11.

²⁰⁹ Ethel [Mobile County] Decl. ¶ 4 (June 6, 2021).

²¹⁰ Jennifer [Alabama] Decl. ¶ 3 (June 15, 2021).

²¹¹ For further data on poll closures in Alabama, see *Democracy Diverted*, *supra* note 184 at 58.

A. Jefferson County Has Closed at Least 11 Polling Places.

Jefferson County, which has a large (43.5%) Black population and closed at least 11 polling places.²¹² Willie, a voter in Jefferson County, had been voting in the same location for 20 years before finding out on Election Day for a local election that his polling location had changed.²¹³ Willie arrived at his polling place at Tom Harbin Farm Center as he had done for two decades, but his name was no longer on the list.²¹⁴ Thankfully, the poll worker was able to provide him with the address of his new polling location, 15 miles further away from Willie's home.²¹⁵ Had Willie not had the time or transportation to make the extra drive, he would not have been able to vote in that election.²¹⁶ He had never received written notification of the change.²¹⁷

In 2016, Krystal did not receive any notification that her polling place in Jefferson County had changed.²¹⁸ As she pulled into the parking area of her polling place while talking to her roommates, she "remarked . . . that there were only a few cars there."²¹⁹ Fortunately, one of her roommates was able to tell her where to find her new polling location.²²⁰ Once she arrived at her new location, Krystal had to wait in line for eight and a half hours to vote.²²¹ During the 2020 election, she waited for approximately three hours.²²²

Two to three months prior to the 2018 election, Brenda received a postcard informing her that her polling location was the Fairfield Police Department, where she has

²¹² Jefferson County, Alabama, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/jeffersoncountyalabama> (last accessed Aug. 8, 2021); Mary Sell, *In some counties, Alabama voters have lost a quarter of their polling places since 2010* (Nov. 2, 2018), <https://birminghamwatch.org/counties-alabama-voters-lost-quarter-polling-places-since-2010/>.

²¹³ Willie [Crenshaw County] Decl. ¶ 4 (June 4, 2021).

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.* ¶ 5.

²¹⁸ Krystal [Jefferson County] Decl. ¶ 5 (June 22, 2021).

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.* ¶ 6.

²²² *Id.* ¶ 7.

been voting for almost 50 years.²²³ When she arrived at the polling station on Election Day, she waited in line, showed her photo ID, and then was told her polling place had moved. She was told to go to C.J. Donald Middle School, where the same thing happened.²²⁴ Eventually, on her third attempt, Brenda was able to vote at Miles College, a completely different location, where she had never voted before.²²⁵ She was so frustrated with her experience that she remarked to the people working at the polling location that “[i]t’s almost like you don’t want me to vote.”²²⁶

Other Jefferson County voters have arrived at their usual polling place only to find it empty. Dana encountered a note on the door of Fultondale First Baptist Church confirming what she had already deduced: she could not vote there.²²⁷ Fortunately, despite the lack of public transit in Dana’s rural area, she was able to make it to the new location to vote.²²⁸ John had the same experience—he showed up to vote at his usual polling location, only to find an empty church with no clear sign or poll workers to direct voters to the new location.²²⁹ He saw another potential voter simply give up and go home instead of trying to find the correct location. After walking around the road, John found a sign and ultimately found his new polling location, but he wonders “how many people gave up and never got to vote” due to the location change without notice.²³⁰ “Whether it is changing the polling location without any notice, or [or the issue he had with] changing my party registration, or making me wait in a long line, I figure these are just the ways that the people in charge of our elections have of tricking people, and of discouraging us from trying to vote.”²³¹

The COVID-19 pandemic added to the confusion voters face around polling place closures. Sheila, a poll watcher in Jefferson County, described the experience of

²²³ Brenda [Jefferson County] Decl. ¶ 4 (June 7, 2021).

²²⁴ *Id.* ¶ 5.

²²⁵ *Id.*

²²⁶ *Id.* ¶ 6.

²²⁷ Dana [Jefferson County] Decl. ¶ 5 (June 9, 2021).

²²⁸ *Id.*

²²⁹ John [Jefferson County] (*John II*) Decl. ¶ 4 (July 13, 2021).

²³⁰ *Id.* ¶ 5.

²³¹ *Id.* ¶ 12.

voters in a low-income neighborhood in Ensley whose polling location moved multiple times over the course of 2020.²³²

The usual polling place at the East Ensley Public Library at 900 14th Street, in Ensley, had been closed during the pandemic and this caused the precinct to be temporarily moved for the primary runoff election, and there was no easily visibly [sic] signage that directed voters to the new location at the Ensley Park Recreation Center.

This is a low-income neighborhood, where many people traveled by bus to vote. For the General Election on November 3, 2020, the situation was reversed. Voters of Precinct 2290 East Ensley Library were showing up at the Ensley Park Recreation Center Precinct 2040, only to be turned away and sent back to their usual voting location at 900 14th Street, in Ensley. Those voters that traveled to the Ensley Park Recreation Center by bus were disappointed to learn of the change. Some decided not to vote at all. Also, there was no sign at the Ensley Park Recreation Center to notify voters of the change in their polling location.²³³

B. Mobile County Closed at Least Ten Polling Places Without a Clear Explanation.

Mobile County, Alabama has a 36.2% percent Black population and has closed at least ten polling places.²³⁴ As is commonplace, the county neither provided a clear explanation for why it decreased polling locations nor provided notice of such closures. According to the county commissioner, the population has “outgrown” polling locations, leading to a counterintuitive decrease in polling locations in favor of fewer, larger locations.²³⁵

²³² Sheila [Jefferson County] Decl. (July 19, 2021).

²³³ *Id.* ¶ 10-11.

²³⁴ *Mobile County, Alabama*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/mobilecountyalabama> (last accessed Aug. 8, 2021).

²³⁵ Mary Sell, *In Some Counties, Alabama Voters Have Lost a Quarter of Their Polling Places Since 2010*, BIRMINGHAMWATCH (Nov. 2, 2018), <https://birminghamwatch.org/counties-alabama-voters-lost-quarter-polling-places-since-2010/>.

Doris, a voter in Mobile County has seen her designated polling location move three times since 2008, each time farther and farther from her home.²³⁶ She used to be able to walk to vote, but she had to drive several miles to her new polling location for the 2020 election.²³⁷ With so many Mobile County voters heading to a reduced number of polling locations, Doris has experienced long lines and has had difficulty finding parking.²³⁸ When Doris and her brother arrived at their polling place to vote in the 2020 election, they had to park on the sidewalk and then walk a long distance to the polling place—a particularly difficult challenge for her brother who uses a cane.²³⁹ Doris recalls that when they arrived to vote around 7:00 a.m., there were already approximately 100 people in line to vote.²⁴⁰ Prior to the 2020 election, Doris recalls that there was often no line to vote, or at most a small line of 20 people.²⁴¹

C. A City in Baldwin County Reduced Its Number of Polling Places Despite a Rising Population.

After the 2012 election of the city's first Black mayor in Daphne, a city in Baldwin County that has experienced 15 percent population growth since the 2010 census, the Daphne City Council passed a redistricting plan that resulted in the consolidation of the city's seven polling places into two.²⁴²

Three of the five closures were the polling places most Black residents used.²⁴³ Further, the drafters of the redistricting plan that prompted the consolidation did not assess the impact the plan would have on the Black voting-age population for each precinct, an analysis that would have been required prior to *Shelby County*.²⁴⁴ According to a contemporaneous analysis by the Voting Rights Institute at the Georgetown University Law Center, the poll closures were expected to require voters in districts with sizeable Black populations to "travel more than 2-1/2 miles away from their current

²³⁶ Doris [Mobile County] Decl. ¶¶ 3-4 (June 8, 2021).

²³⁷ *Id.*

²³⁸ *Id.* ¶ 5.

²³⁹ *Id.* ¶¶ 6-7.

²⁴⁰ *Id.* ¶ 8.

²⁴¹ *Id.* ¶ 10.

²⁴² John Sharp, *Alabama city battles questions over closing precincts near black voters*, AL.com (Jan. 13, 2019), <https://www.al.com/news/mobile/2016/08/alabama-city-battles-questions.html>.

²⁴³ *Id.*

²⁴⁴ *Id.*

polling place, while preserving the polling locations for most of the city's heavily white districts."²⁴⁵

Willie, a Daphne resident, has experienced first-hand the impact of the polling place closures in his city.²⁴⁶ Willie, who is a regular poll worker, has noticed that polling places are being moved out of Black neighborhoods, causing long lines at the remaining locations.²⁴⁷ Willie recalls that voting used to take five to ten minutes; "[n]ow you have to wait in long lines and can run out of time." Motivated by his father's poll tax certificate, which he still keeps today, Willie remains a regular voter. He observes, however, that many fellow Alabamians are discouraged from showing up to vote because of the long lines they inevitably expect to face.²⁴⁸

D. Madison County Closed Four Polling Locations Despite Its Growing Population.

Since 2012, Madison County has closed four polling locations despite 13% population growth between 2010 and 2020,²⁴⁹ and an increase of 40,000 registered voters between 2016 and 2020.²⁵⁰ Madison County is 24.3 percent Black²⁵¹ and includes the city of Huntsville.

The history of racial discrimination in voting is not lost on Bettie of Madison County. Bettie grew up watching her mother protest to demand the right to vote after Black voters like her were subjected to literacy tests prior to the enactment of the VRA. Today, Bettie's mother is 99 years old and insists on voting in person. Bettie recalls seeing poll workers handing out literacy tests and seeing Black voters fail those tests and be

²⁴⁵ *Id.*

²⁴⁶ Willie [Baldwin County] Decl. (June 8, 2021).

²⁴⁷ *Id.* ¶ 7.

²⁴⁸ *Id.* ¶¶ 10, 18.

²⁴⁹ *Madison County, Alabama Population 2021*, WORLD POPULATION REV., <https://worldpopulationreview.com/us-counties/al/madison-county-population> (last accessed Aug. 8, 2021).

²⁵⁰ Kellie Miller, *Voter turnout in Madison County slightly higher than state average*, WAFF (Nov. 6, 2020), <https://www.waff.com/2020/11/06/voter-turnout-madison-county-slightly-higher-than-state-average/>; *Democracy Diverted*, *supra* note 184 at 58.

²⁵¹ *Madison County, Alabama: Population: Black, 2019 American Community Survey 5-Year Estimates*, COMMERCIAL APPEAL, <https://data.commercialappeal.com/american-community-survey/madison-county-alabama/population/black/num/05000US01089/> (last accessed June 25, 2021).

turned away from the polls, while white voters would state that they could not read and would still be permitted to vote. Bettie stated that in the 2020 election, she had to have her niece drive her 30 minutes to Huntsville to vote, where hundreds of people stood in line for about two to three hours to vote. She was able to move up in line due to her age, but “even if [she] had to wait in that line, [she] still would have voted.”²⁵² Notably, older voters who do not know they are eligible to move to the front of the line are often not informed of this right by poll workers when they arrive at the polls and end up waiting in line.

III. Alabama Continues to Strictly Limit Most Voters to In-Person Voting on Election Day.

The limited voting options Alabama provides to its citizens compound the burdens of its photo ID law and polling place closures. Today, the vast majority of Alabamians must vote in person on Election Day despite the clear national trend towards early voting and universal absentee voting. The State has spent years administering absentee voting laws that even Secretary of State John Merrill admits are “long-outdated.”²⁵³ Further, the State refuses to provide for early voting, resists efforts to modernize voter registration (in contrast with neighboring states²⁵⁴) and continues to oppose reforms such as curbside voting—a policy the U.S. Department of Justice has recommended for years—that would increase access for older voters and voters with disabilities.²⁵⁵ Many Alabamians would also quite simply prefer to vote absentee, given their lack of access to transit and other barriers to reach their polling location.²⁵⁶ And there is no legitimate reason they should not be granted that right.

²⁵² Bettie [Madison County] Decl. ¶ 4 (June 11, 2021).

²⁵³ John Sharp, *After Midterms, will Alabama reform the way you vote?*, AL.COM (Nov. 18, 2018), <https://www.al.com/election/2018/11/after-midterms-will-alabama-reform-the-way-you-vote.html>.

²⁵⁴ Alabama does not offer same-day or automatic voter registration, despite the increasing prevalence of these reforms across the country. *Automatic Voter Registration*, NAT’L CONF. STATE LEGISLATURES (Feb. 8, 2021), <https://www.ncsl.org/research/elections-and-campaigns/automatic-voter-registration.aspx>.

²⁵⁵ *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities*, U.S. DEP’T OF JUST., https://www.ada.gov/ada_voting/ada_voting_ta.pdf (last accessed July 19, 2021). During the COVID-19 pandemic, the Centers for Disease Control also recommended curbside voting. *Polling Locations and Voters*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html> (last accessed July 19, 2021).

²⁵⁶ See Part II § III.B.3.

During the pandemic, Alabama expanded absentee voting options but kept burdensome obstacles in place. Absentee voters, including those living alone or with only one other adult, still had to satisfy the photo ID and witness requirement, at great risk to themselves and others.²⁵⁷ Alabama provided no exception to these requirements for individuals with conditions that made them more vulnerable to COVID-19. Once again, these burdens fell disproportionately on the State's Black voters, who were more likely to live alone and more likely to suffer from conditions that made them more vulnerable to contracting and suffering severe complications from COVID-19.²⁵⁸

A. The State Does Not Offer Early Voting.

Alabama is one of only 11 states that does not offer in-person early voting²⁵⁹ and Secretary of State Merrill has boasted that "[t]here is no future for early voting as long as I'm [S]ecretary of [S]tate."²⁶⁰ Lieutenant Governor Will Ainsworth has similarly tweeted that he will "fight universal mail-in voting and no-excuse early voting" because the practices are "an invitation for disaster, fraud, ballot-harvesting, confusion and mayhem."²⁶¹ There is no evidence, however, that early voting produces any of the harms imagined in this parade of horrors. Alabama itself has not experienced such harms (in fact, as discussed below, its experience with early in-person absentee voting during the COVID-19 pandemic was indisputably positive), nor has it identified evidence from other states to justify rejecting this opportunity to expand voting access. The diehard opposition of Alabama elected officials to early voting demonstrates their commitment

²⁵⁷ See Part II § III.B.1-2.

²⁵⁸ *Characteristics of COVID-19 Patients—Mobile County, Alabama, 2020*, MOBILE CNTY. HEALTH DEP'T (Apr. 30, 2020), http://mchd.org/Documents/BulkDocuments/News_4272020122529pm_COVIDSURVREPORT04.27.20.pdf.pdf (last accessed July 21, 2021); Colleen Walsh, *COVID-19 Targets Communities of Color*, HARVARD GAZETTE, (Apr. 14, 2020), <https://news.harvard.edu/gazette/story/2020/04/health-care-disparities-in-the-age-of-coronavirus/>; *Alabama Public Health Daily Case Characteristics: 4/28/20*, ALA. DEP'T OF PUB. HEALTH, <https://www.alabamapublichealth.gov/covid19/assets/cov-al-cases-042520.pdf>.

²⁵⁹ Allan Holmes, *In Alabama, A Long History of Suppressing Black Votes Continues*, CTR. FOR PUB. INTEGRITY (Oct. 21, 2020), <https://publicintegrity.org/politics/elections/us-polling-places/alabama-long-history-of-suppressing-black-voting-continues/>.

²⁶⁰ *Id.*

²⁶¹ John Sharp, *After absentee voting shatters records, what's next for early voting in Alabama?*, AL.COM, (Nov. 16, 2020), <https://www.al.com/election/2020/11/after-absentee-voting-shatters-records-whats-next-for-early-voting-in-alabama.html>.

to placing undue hardships on both the State's voters and the State's weak election infrastructure rather than prioritizing protecting voters' rights.²⁶²

In reality, early voting is proven to be extremely beneficial for voters and the election system alike. It reduces stress on the voting system on Election Day, reduces long lines, improves poll worker performance, allows for early identification and correction of registration errors and voting system glitches, expands access for voters choosing between casting a ballot and their health, safety, jobs, income, family, or personal obligations, and increases voter satisfaction.²⁶³ Limiting access to the ballot box for most Alabamians to a single weekday contributes to long wait times, often in the rain or extreme heat:

- Lujan, a voter in Madison County, has "learned through experience that when you vote in the South, you expect to wait in long lines, so you come prepared. When I voted in person during the 2020 national election, I made sure I had enough water and I brought some snacks to tide me over. It's just what you do here. I waited about three hours to cast my ballot in person on 11/3/20."²⁶⁴
- Wilfred, a voter in Lee County, knows that "typically [he must] wait in line for close to two hours" to vote.²⁶⁵ While he is entitled to two hours of paid leave to vote on Election Day, he "always take[s] a full day paid leave because 2 hours would not be enough to drive to my polling station, wait in long lines and then commute to work."²⁶⁶
- Sonya, a voter from a rural part of Clark County, says she must "carefully plan when [she is] going to vote." She rearranges her schedule to avoid facing issues with crowds and long lines at her polling place. In her words, "[i]t is an inconvenience that I have assumed because voting is a priority for me."²⁶⁷

²⁶² The State's weak election infrastructure is discussed further in Part II § VII.

²⁶³ Diana Kasdan, *Early Voting: What Works*, BRENNAN CTR. FOR JUSTICE, at 1 (Oct. 31, 2013), https://www.brennancenter.org/sites/default/files/2019-08/Report_VotingReport_Web.pdf (hereinafter "*What Works*").

²⁶⁴ Lujan [Madison County] Decl. ¶ 3 (June 25, 2021).

²⁶⁵ Wilfred [Lee County] Decl. ¶ 5. (June 10, 2021).

²⁶⁶ *Id.* ¶ 5.

²⁶⁷ Sonya [Clark County] Decl. ¶ 4 (June 20, 2021).

- Amanda, a voter in Madison County, drove by her polling place on Election Day 2020 and witnessed a line winding “through the parking lot, around the corner and through several neighborhood streets.”²⁶⁸ Amanda was able to return to the polling place after work instead, but many Alabamians do not have the same flexibility.
- Torrey, a voter in Lee County, prepared for a long wait at the polls on Election Day 2020, and brought water.²⁶⁹ He ultimately waited two hours in line, and concluded there were not enough voting machines at the polling place to deal with the number of voters.
- Brandon, a voter in Russell County, explains that he had to wait over an hour to vote in the 2020 general election. He witnessed many other voters leave the line.²⁷⁰
- Thomas, a voter in Montgomery County, waited in a one-to-two hour line on Election Day 2020 despite being disabled.²⁷¹
- Shannon, a disabled veteran and voter in Lee County, explains that lines to vote on Election Day can be anywhere from one to four hours long because there are not enough polling locations for the number of voters in her area.²⁷² On Election Day 2020, she waited in line with her daughter for three hours.²⁷³ Further, her polling place does not have disabled parking, and does not make water or seating available, which “makes it challenging for disabled and elderly voters to wait in line for such long hours.”²⁷⁴

Additionally, many Black Alabama voters feel unsafe waiting in these long lines because of the racist attitudes of white residents. When Jamie, a voter in Mobile County, went to vote during the 2008 election, she recalls that:

²⁶⁸ Amanda [Madison County] Decl. ¶ 6 (June 23, 2021).

²⁶⁹ Torrey [Lee County] Decl. ¶ 6 (June 20, 2021).

²⁷⁰ Brandon [Russell County] Decl. ¶ 3-5 (June 13, 2021).

²⁷¹ Thomas [Montgomery County] Decl. ¶ 3 (June 23, 2021).

²⁷² Shannon [Lee County] Decl. at ¶¶ 3, 7 (July 13, 2021).

²⁷³ *Id.* ¶ 7.

²⁷⁴ *Id.* ¶ 8.

there were lines around the block in 2 directions. A truck roared past us with confederate flags flying, and men in the back with guns screaming “N[*****], you ain’t gonna to [sic] vote today, N[*****]!” It was terrifying, savage, and brutal, and hard to believe it was 2008 in America. The men in line told the women (some with children) to run inside for their safety, but nobody moved or ran—we all stood our ground to stand up for our right to vote, and we did vote. Even though we were able to vote, that experience underscores how scary it still is to be Black in America, the daily challenges we face, and how much work we still have to do to protect our democracy.²⁷⁵

As Kelvin, a voter in Madison, recalls of his 2020 Election Day experience:

As I was getting out of my truck, there were white adults (who were around my age, about 50 years old) making comments loud enough for me to hear. I remember one said “There they go again” in a tone that did not make me feel comfortable as a black man. . . . I walked in the direction of the church to go vote, and there were other younger people, around the age of college students, also walking to church to go and vote. After I walked about 25 yards, I turned around. I decided that because my truck was brand new and the people with the lounge chairs saw me get out of it, that I did not feel comfortable leaving the truck there while I went to vote. I did not want them to do something to the truck.²⁷⁶

Kelvin was forced to return to his polling place later in the day.²⁷⁷ As Alabamians like Jamie and Kelvin return to the polls each election, these experiences remain fresh in their memory.

Early voting would relieve the burdens Alabama’s one-day-only system places on voters. According to a Brennan Center for Justice study identifying early voting

²⁷⁵ Jamie [Mobile County] Decl. ¶ 4-6 (June 9, 2021).

²⁷⁶ Kelvin [Madison County] Decl. ¶ 6-7 (June 26, 2021).

²⁷⁷ *Id.* ¶ 9.

best practices, in-person early voting in states across the country “eliminated or alleviated the administrative burdens on Election Day and caused less voter frustration.”²⁷⁸

Moreover, Alabama’s reluctance to expand early voting cuts against the clear preference of voters nationally. Whereas in the early 1990s, less than one in ten voters cast a ballot prior to Election Day, in the 2018 midterm elections more than 40 percent of voters nationwide voted early.²⁷⁹ In 2020, 34.2 percent of Black voters voted early in-person nationwide (the most of any racial group analyzed), demonstrating that restricting early voting has a particularly acute impact on Black voters.²⁸⁰ In Alabama, the incredible demand for in-person absentee voting during the 2020 election, which occurred in the weeks prior to Election Day, demonstrates that voters would enthusiastically welcome an early voting option were it regularly offered.²⁸¹

B. The State Places Undue Restrictions on Absentee Voting.

Alabama only allows absentee voting in exceptionally narrow circumstances, and imposes burdensome restrictions on those that do qualify. The State’s requirement that voters have a qualifying reason to vote absentee stands in contrast with 34 other states, which allow voters to cast a ballot by mail without a state-approved reason.²⁸² Election officials only accept an absentee ballot application from a qualifying voter if they

²⁷⁸ *What Works*, *supra* note 263 at 5.

²⁷⁹ Michael P. McDonald, *A Brief History of Early Voting*, Huffington Post (Sept. 28, 2016), https://www.huffpost.com/entry/a-brief-history-of-early_b_12240120; *Alive and Well*, *supra* note 168 at 23; Ursula Perano, *More than 100 million Americans voted early in 2020*, AXIOS (Nov. 3, 2020), <https://www.axios.com/2020-2016-vote-turnout-early-voting-e9da9e9c-df3d-46ac-ae81-2dea53e23993.html>. The latest draft of “For The People Act” provides a mandate that every state provides for at least two weeks of in-person early voting in federal elections, for at least 10 hours per day with some early morning and evening hours. SPLC support these reform efforts. H.R. 1, 117th Cong. (2021).

²⁸⁰ *VOPP: Table 1: States with No-Excuse Absentee Voting*, NAT’L CONF. STATE LEGISLATURES (May 1, 2020), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-1-states-with-no-excuse-absentee-voting.aspx>.

²⁸¹ See Part II § III.B.3.

²⁸² *States with No-Excuse Absentee Voting*, NAT’L CONF. STATE LEGISLATURES (May 1, 2020), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-1-states-with-no-excuse-absentee-voting.aspx>.

receive the application at least seven days prior to an election, meaning that a last-minute issue can make casting a vote impossible.²⁸³

These restrictions do not account for the lived reality of many Alabama voters who cannot vote in person for any number of reasons, like an unexpected change in a work schedule, caregiving responsibilities, or a family emergency. While the State permits voters to apply for an emergency absentee ballot, the process to do so is complex and not designed to support voters who, by definition, are already facing challenges.²⁸⁴ As discussed further below, the State also mandates absentee voters provide a copy of their photo ID and have their ballot signed by either a notary or two-witnesses.

Alabama's onerous restrictions on absentee voting effectively disenfranchised Benny, a voter in Tuscaloosa County, whose work regularly requires an out-of-town commute that does not allow him to schedule where or when he will be working.²⁸⁵ Given his unpredictable work schedule, Benny has been unable to vote in person since 2016,²⁸⁶ despite "know[ing] the critical importance of voting and [being] registered to vote in Alabama."²⁸⁷ Benny has lost confidence in his ability to meet the requirements for an absentee ballot. He remembers that in 2020, "my wife and daughters sent me a text with a photo showing that they had all voted while I had been unable to get home in time to cast my ballot."²⁸⁸

Jacob, a voter in Madison County, also was stymied by the narrow requirements for voting absentee when he tried to assist his son following a major

²⁸³ See *Absentee Voting Information*, ALA. SEC'Y OF STATE, <https://www.sos.alabama.gov/alabama-votes/voter/absentee-voting> (last accessed July 19, 2021).

²⁸⁴ For medical emergencies, the State requires a signed physician's report. In addition, while the application may be returned by a designee, that process requires a designee to also complete a section of the application. For voters who have unforeseen work circumstances, they must deliver the application by hand to the Absentee Election Manager. The same requirement applies to caregivers of persons who require emergency medical treatment. Lastly, a voter may request an emergency absentee ballot if "a family member to the second degree of kinship by affinity or consanguinity died within five days before an election." See *Application for Emergency Absentee Ballot*, ALA. SEC'Y OF STATE, <https://www.sos.alabama.gov/sites/default/files/FINAL%20Emergency%20Absentee%20Application%208-1-2019.pdf> (last accessed July 19, 2021).

²⁸⁵ Benny [Tuscaloosa County] Decl. ¶ 12 (June 18, 2021).

²⁸⁶ *Id.* ¶ 12.

²⁸⁷ *Id.*

²⁸⁸ *Id.* ¶ 10.

motorcycle accident in October 2020.²⁸⁹ Since his son could not walk or get out of the hospital, he was unable to request an absentee ballot without assistance.²⁹⁰ “It should have been easier to get him a ballot using a doctor’s excuse or something, but there was nothing set up²⁹¹. . . I tried everything I could think of and eventually I said, ‘Man, I guess he won’t be voting this year!’” Jacob says that he had previously voted in every election since he was 18-years-old.²⁹²

Tammy from Jefferson County planned to vote via absentee ballot due to her poor health and limited mobility but by the time she went online to request an absentee ballot, the deadline had passed.²⁹³ Tammy never received any information or notifications about the deadlines for absentee voting, so she was unable to vote in the 2020 election.²⁹⁴ Tammy summarized her experience with absentee voting by saying, “[i]t is frustrating to have to go through hoops to try to qualify for absentee voting and there is no warning or information about the deadline.”²⁹⁵

Alabama does provide a limited in-person absentee voting option for eligible absentee voters but does so in a manner that is burdensome for voters and, until the 2020 Election, unknown to most. To vote absentee in-person, voters must travel to their Absentee Election Manager’s office at the county courthouse, request and fill out an absentee ballot application, provide an accepted photo ID, and then fill out and return their absentee ballot to the Absentee Election Manager—the State does not offer any ballot drop boxes, a solution many states have adopted to make it easier to return absentee ballots.

The experiences of Alabama voters demonstrate the burdens this system places on them:

- Walter, a voter in Jefferson County, explains that during the 2020 Election: “My family and I had to wait in line hours before voting in-person absentee. During this time, we had to continue to feed the parking meter. Some other people in

²⁸⁹ Jacob [Madison County] Decl. ¶ 9-10 (June 21, 2021).

²⁹⁰ *Id.*

²⁹¹ *See supra* note 284.

²⁹² *Id.* ¶ 11.

²⁹³ Tammy [Jefferson County] Decl. ¶¶ 6-7 (June 22, 2021).

²⁹⁴ *Id.* ¶ 8.

²⁹⁵ *Id.* ¶ 11

line, who forgot to feed the meter, received parking tickets. There was a way to get the cost of the ticket refunded or dismissed but you had to go to be processed at the Birmingham, Alabama City Hall, if you could prove you were in line to vote. However, it was a time consuming process.”²⁹⁶

- Sheena, a voter in Lee County, who attempted to vote in-person absentee during the 2020 election, remembers, “[w]e waited in line for about an hour. When I requested the absentee ballot, the official said that my ballot had been mailed. I explained that it had been a month or so and I had not yet received it. I asked to vote absentee in person like others were doing. I said I would discard the other ballot if it ever arrived. In a loud voice, the official said ‘No, because you could try to vote twice.’ I was surprised and noted that would be against the law but left. To be completely honest, I was ashamed when he said loudly enough for everyone to hear that I could not vote. White people seem to think that we Blacks are completely ignorant and illiterate. I have better sense than to vote twice. I hate being talked down to.”²⁹⁷
- Lashanda, a voter in Madison County, had to wait in line for an hour and to return her absentee ballot.²⁹⁸ This long wait interfered with her childcare arrangements forcing her to call her child’s father to pick her son up so she could continue to wait in line.²⁹⁹ Lashanda “has always voted and plan[s] to continue voting,” but she worries that people will be discouraged from voting if options for returning absentee ballots are taken away and absentee voting is further curtailed.³⁰⁰

1. Alabama Requires a Photo ID to Obtain an Absentee Ballot.

Voters who qualify to vote absentee must overcome unnecessary hurdles. In 2019, the State enacted a new law requiring absentee voters to submit a copy of a valid photo ID with their absentee ballot application.³⁰¹ This new absentee ballot photo ID

²⁹⁶ Walter [Jefferson County] Decl. ¶ 6 (June 22, 2021).

²⁹⁷ Sheena [Lee County] Decl. ¶ 6 (June 8, 2021).

²⁹⁸ Lashanda [Madison County] Decl. ¶ 3 (June 22, 2021).

²⁹⁹ *Id.*

³⁰⁰ *Id.* ¶ 7

³⁰¹ ALA. CODE § 17-9-30(b).

requirement is in addition to the State’s in-person photo ID law.³⁰² According to Secretary of State John Merrill the new law was intended to “streamlin[e] the process to verify absentee voters” and “[the State] was making the submission of an absentee application easier and more efficient for all who are eligible.”³⁰³

But just as photo ID laws for in-person voting are a solution to a nonexistent problem, so too are photo ID laws to verify absentee voters. Not only does the requirement not address a real challenge, it does not even meaningfully address the purported challenge the State claims exists.³⁰⁴ The State has no way to confirm the submitted photo identification actually matches the voter who mailed the ballot.

Instead, requiring voters to make a photocopy of their photo ID to vote via absentee ballot simply creates an additional barrier to vote, as many Alabama voters do not own a photocopier or live near a place where they can make photocopies. As State Representative Prince Chestnut explained, “[I] think we all know the intent behind these types of laws. . . .The incremental steps of erecting barriers to voting is something that is concerning and obliges all who love democracy to be watchful.”³⁰⁵

For Elaine of Jefferson County, who uses a wheelchair and has had five knee replacements due to a degenerative condition, getting a photocopy of her photo ID was a huge burden.³⁰⁶ Elaine does not have a photocopier at home, and she had to call a number of friends for assistance, which put her up against the ballot application return deadline.³⁰⁷ For voters like Elaine, who lived in Alabama under segregation, the right to vote is sacrosanct. She says, “[v]oting is very important to me because I want to make sure I don’t ever lose my rights. I know what not having rights is like because of what I went through when I was a little girl, in the early 1960’s.”³⁰⁸

Margaret, a voter in Mobile County, had successfully voted absentee in 2017, but was unaware of the change in the law and believes her absentee ballot

³⁰² The State’s Photo ID law is discussed *supra* Part II § I.

³⁰³ Adam Powell, *Chestnut speaks out against new absentee ballot rules*, SELMA TIMES JOURNAL (Aug. 6, 2019), <https://www.selmatimesjournal.com/2019/08/06/chestnut-speaks-out-against-new-absentee-ballot-rules/>.

³⁰⁴ *Id.*

³⁰⁵ *Id.*

³⁰⁶ Elaine [Jefferson County] Decl. ¶ 3 (June 10, 2021).

³⁰⁷ *Id.* ¶ 7.

³⁰⁸ *Id.* ¶ 12.

application for the 2020 election was rejected because she did not include a copy of her photo ID.³⁰⁹ During the 2020 election, Margaret applied for an absentee ballot because she was temporarily staying with her daughter in Georgia to assist in taking care of her disabled granddaughter.³¹⁰ When her absentee ballot did not arrive (and did not receive any notification from the State), she had to take a bus back to Mobile, AL to vote in person: “I bought a Megabus ticket from Atlanta, GA to Mobile, AL for about \$46. The bus ride was not luxurious; it was over 300 miles and more than 5 hours long.”³¹¹ Fortunately, she was able to successfully vote in person.³¹²

Helen of Jefferson County remembers working to register Black voters in the 1960s by helping them study for the literacy tests.³¹³ She believes she has voted “in nearly all elections” since she registered at that time.³¹⁴ Today, she is in a wheelchair with limited mobility and votes absentee.³¹⁵ Helen says, “I am still committed to serving the people of my community and, whenever I run into someone who mentions voting, I like to give people a pep talk about how important it is to exercise their rights.”³¹⁶ While Alabamians consistently demonstrate their resilience and navigate the hurdles Alabama imposes, voting access should not be as hard as the State makes it.

2. Alabama Requires a Notary or Two Witnesses When Signing an Absentee Ballot.

If a voter can overcome the obstacles to qualifying for an absentee ballot and obtaining a copy of their photo ID, the voter must still take the additional step of having their signature either notarized *or* witnessed by two adults simultaneously.³¹⁷ Alabama’s policy is an outlier, as it is one of only three states which requires two

³⁰⁹ Margaret [Mobile County] Decl. ¶ 5 (Aug. 10, 2021).

³¹⁰ *Id.* ¶ 4.

³¹¹ *Id.* ¶ 7.

³¹² *Id.* ¶ 8.

³¹³ Helen [Jefferson County] Decl. ¶¶ 4-5, 11 (Aug. 5, 2021).

³¹⁴ *Id.* ¶ 14.

³¹⁵ *Id.* ¶ 15.

³¹⁶ *Id.*

³¹⁷ Madeleine Carlisle & Abigail Abrams, *The Supreme Court’s Alabama Ruling Could Disenfranchise Thousands of High Risk Voters*, TIME (Oct. 23, 2020), <https://time.com/5903449/supreme-court-restricts-voting-alabama>.

witnesses,³¹⁸ and one of only 12 states to require any witness at all.³¹⁹ Alabama was the only state to keep the two-witness requirement in place for the 2020 election.³²⁰

The requirements are particularly difficult for voters who have mobility challenges, are ill or immunocompromised, live alone, live longer distances from neighbors, or do not have easy access to a notary. For Rosalind in Butler County, the policy meant having her brother drive 15 miles to sign her parents' ballot envelopes as a second witness.³²¹ If a voter fails to have their ballot notarized or witnessed by two people, it will not be counted.

The State's refusal to remove this obstacle during the COVID-19 pandemic (which became the subject of litigation filed by SPLC, discussed *infra*³²²) placed voters such as Kathleen in the precarious position of navigating public health guidance in order to cast an absentee ballot during the primary election in June 2020.³²³

Here I am, using an absentee ballot that should allow me to vote without encountering other people during the pandemic, and I had to find two people to either witness my vote or go out in public to get my ballot notarized. It just didn't make any

³¹⁸ *VOPP: Table 14: How States Verify Absentee Ballots*, NAT'L CONF. STATE LEGISLATURES (Apr. 17, 2020), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-14-how-states-verify-voted-absentee.aspx>.

³¹⁹ Mississippi, Missouri, and Oklahoma require the notarization of absentee ballots. Alaska, Louisiana, Minnesota, North Carolina, Rhode Island, South Carolina, Virginia, and Wisconsin require witness signatures. *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options*, NAT'L CONF. STATE LEGISLATURES (Sept. 24, 2020), <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx> (select tab titled "Processing, Verifying, and Counting Absentee Ballots" and scroll down to the chart "Verifying Authenticity of Absentee/Mailed Ballots.")

³²⁰ The only two states which require two witnesses by law are North Carolina and Rhode Island. *Id.* After a lawsuit, Rhode Island agreed to end its two-witness or notary requirement for the 2020 Election. *R.I. ends witness, notary requirements for vote by mail in 2020 election*, ABC 6 (July 28, 2020), <https://www.abc6.com/r-i-ends-witness-notary-requirements-for-vote-by-mail-in-2020-election/>. In North Carolina, a court refused to block the witness requirement completely, but state legislators had previously agreed to reduce the requirement to one witness. Court won't halt witness requirement for N.C. absentee ballots, ASSOC. PRESS (Sept. 3, 2020), <https://apnews.com/article/708e29810e203821475f17a34a616344>.

³²¹ Rosalind [Butler County] Decl. ¶ 8 (June 6, 2021).

³²² This litigation, *People First of Alabama v. Merrill*, No. 2:20-cv-00619 (N.D. Ala. May 1, 2020), is discussed further in Part II § III.D.

³²³ Kathleen [Madison County] Decl. ¶ 3 (June 30, 2021).

sense to me. In the end, I asked two friends who were properly self-isolating during the pandemic and willing to act as witnesses.³²⁴

Moreover, Alabama law does not require that election officials notify a voter that their ballot was rejected and contains no obligation that a voter be given an opportunity to cure an absentee ballot.³²⁵ In states with a cure procedure, voters receive timely notice of a defect in their ballot and are given time to “cure” the defect to ensure their ballot is counted. Alabama has not yet made data available on ballot rejections for the 2020 election, during which an unprecedented 318,000 Alabamians voted absentee. In 2018, the State rejected 1,368 absentee ballots, which amounted to 2.4 percent of absentee ballots returned.³²⁶ In many states, ballot rejection rates are consistently higher for Black voters—in some instances, twice as high as those for white voters.³²⁷ (Alabama, however, does not break down its ballot rejection figures based on race.)³²⁸

3. The State Temporarily Expanded Absentee Ballot Access During the COVID-19 Pandemic with Great Success.

The State’s experience during the COVID-19 pandemic demonstrates the strong demand among Alabama voters for absentee voting, and the State’s ability to conduct a secure election while providing its citizens this option. Secretary of State Merrill adopted an emergency rule to permit voters to use the public health crisis as grounds for

³²⁴ *Id.* ¶ 6.

³²⁵ *Cure period for absentee and mail-in ballots*, BALLOTPEDIA (last accessed June 29, 2021), https://ballotpedia.org/Cure_period_for_absentee_and_mail-in_ballots.

³²⁶ *Rejected absentee/mail-in ballots in the 2016 and 2018 elections*, BALLOTPEDIA, https://ballotpedia.org/Rejected_absentee/mail-in_ballots_in_the_2016_and_2018_elections (last accessed July 28, 2021).

³²⁷ See Elise Viebeck & Beth Reinhard, *In Florida, voters of color and young voters have had ballots flagged for possible rejection at higher rates than others*, WASH. POST (Oct. 30, 2020), https://www.washingtonpost.com/politics/florida-rejected-ballots/2020/10/30/0bba976a-186f-11eb-befb-8864259bd2d8_story.html. Sophie Chou & Tyler Dukes, *In North Carolina, Black Voters’ Mail-In Ballots Much More Likely to Be Rejected Than Those From Any Other Race*, PROPUBLICA (Sept. 23, 2020), <https://www.propublica.org/article/in-north-carolina-black-voters-mail-in-ballots-much-more-likely-to-be-rejected-than-those-from-any-other-race>.

³²⁸ See *supra* note 326.

voting absentee.³²⁹ This allowed any Alabamian who feared contracting or transmitting COVID-19 at the polls to vote absentee during the pandemic.³³⁰ Many counties even offered extended hours and days for in-person absentee voting to accommodate the demand.³³¹ As a result, the 2020 election shattered the State's record for the most absentee ballots cast in an election.³³²

Again, more than 318,000 Alabama voters (14 percent of all voters) voted absentee during the COVID-19 pandemic and, despite the previously stated fears of Alabama officials regarding opening up additional voting methods, the State held a secure election.³³³ A spokesperson for Governor Kay Ivey stated that "Alabama had a successful election day, even despite the pandemic," and specifically cited the enhanced availability of absentee voting.³³⁴ Despite the surge in absentee ballots and his skepticism about the security of absentee voting, even Secretary of State Merrill declared in a post-election press release that he was "proud to report that the security of elections in Alabama is not in question."³³⁵

Clearly, the Secretary of State's and Lieutenant Governor's fears about fraud in early voting were not borne out in Alabama, where significantly more voters could

³²⁹ "If the occurrence of a state of emergency . . . renders substantial compliance with this article impossible or unreasonable for a group of qualified voters . . . the Secretary of State . . . may adopt an emergency rule to allow those qualified voters to vote by absentee ballot." ALA. CODE § 17-11-3(f).

³³⁰ Conner Board, *Absentee Voting in Alabama: Secretary of State John Merrill Shares What You Need to Know*, WZDX Fox (Sept. 22, 2020), <https://www.rocketcitynow.com/article/news/politics/elections/absentee-voting-in-alabama-secretary-of-state-john-merrill-november-election-2020/525-8515ed8c-70e5-4c94-885c-70d9e5c80b0d>.

³³¹ *Montgomery County Courthouse extends hours for absentee voting*, WSFA 12 NEWS (Oct. 9, 2020), <https://www.wsfa.com/2020/10/09/montgomery-county-courthouse-extends-hours-absentee-voting/>; Jack Helean, *In-person absentee voting starts Saturday in Jefferson County*, ABC 33/40 NEWS (Oct. 16, 2020), <https://abc3340.com/news/local/in-person-absentee-voting-starts-saturday-in-jefferson-county>.

³³² Lazario Gamio, et al., *Record-Setting Turnout: Tracking Early Voting in the 2020 Election*, N.Y. TIMES <https://www.nytimes.com/interactive/2020/us/elections/early-voting-results.html?searchResultPosition=1> (last updated Nov. 12, 2020).

³³³ *Id.*

³³⁴ John Sharp, *After absentee voting shatters records, what's next for early voting in Alabama?*, AL.COM (Nov. 16, 2020), <https://www.al.com/election/2020/11/after-absentee-voting-shatters-records-whats-next-for-early-voting-in-alabama.html>.

³³⁵ Press Release, John H. Merrill, Ala. Sec'y of State, *Secretary of State John H. Merrill Confirms Dominion Voting Systems Not Certified for Use in Alabama* (Nov. 17, 2020), <https://www.sos.alabama.gov/newsroom/secretary-state-john-h-merrill-confirms-dominion-voting-systems-not-certified-use-alabama>.

choose to vote “early” in-person with an absentee ballot than in any prior election. The decision to offer absentee ballots to any eligible voter and to extend early in-person absentee voting hours created a more accessible, in-demand service for Alabamians that should be permanently implemented through both statewide no-excuse absentee voting and at least two weeks of early in-person voting.

C. The State Fights Against Reasonable Measures Like Curbside Voting that Support Older Voters and Voters with Disabilities.

Curbside voting is a critical accessibility accommodation for older voters and voters with disabilities to cast their ballots without having to enter a polling location by allowing voters to submit their ballot to an election worker outside of the polling place. The Department of Justice has long suggested the practice as a remedy for voting facilities with ADA violations, and the U.S. Centers for Disease Control and Prevention recommended that states consider curbside voting during the COVID-19 pandemic so voters could avoid crowded indoor settings.³³⁶

Prior to 2021, no provision of Alabama law specifically addressed curbside voting and in 2016, Hale County sought to implement the service. As a harbinger of things to come, Secretary of State Merrill informed Hale County that the practice was illegal and ordered the county to immediately cease and desist from offering it as an option.³³⁷ In the 2020 election, despite the accessibility and public health need, Alabama refused to offer curbside voting.³³⁸ Then in 2021, over the objections of Black legislators, the Legislature officially banned the practice statewide. Secretary of State Merrill praised this development, asserting that “[b]y keeping the ballot in the hands of the voter, we ensure each vote is counted accurately, honestly, and independently from any poll worker or third party.”³³⁹ He provided no evidence to support why offering curbside voting would impact the accuracy or integrity of an election.

The State’s opposition to curbside voting is a significant obstacle to voters with disabilities. Betty, a voter in Jefferson County who uses a wheelchair, had

³³⁶ See *Project Civic Access Fact Sheet*, U.S. DEPT. OF JUST. (last accessed June 29, 2021), <https://www.ada.gov/civicfac.htm>.

³³⁷ Ainsley Allison, *Secretary of State’s office shuts down curbside voting in Hale County*, ABC 33/40 NEWS (Nov. 8, 2016), <https://abc3340.com/news/election/secretary-of-states-office-shuts-down-curbside-voting-in-hale-county>.

³³⁸ See generally Part II § III.D.

³³⁹ *Alabama governor signs bill to ban curbside voting*, AP (May 26, 2021), <https://apnews.com/article/al-state-wire-alabama-bills-voting-health-72ad59fa58777feb539d83d22b63ec5c>.

to wait outside in line for an hour to vote during the 2020 election.³⁴⁰ While she knows that people with disabilities are often allowed to go in early, she noted there were no poll workers to assist her.³⁴¹ Joyce, a Perry County voter, has a sister who is paraplegic and cannot access her polling place because it has no ramp.³⁴²

For voters like Carolyn, from Russell County, the State's failure to provide reasonable accommodations causes physical pain and prevents her from voting:

I have bad arthritis in my back. I also have a lung disease. I'm on oxygen and pretty much stay home. But I really wanted to vote in person, always have. . .When I got [to my polling place] the line was out the door. I ended up leaving and going home, because I was in so much pain from standing there. I stood there for 15-20 minutes and then left. . . . It is almost unreasonable for me to try to vote. I did not get to vote and, I was really annoyed, disappointed.³⁴³

As Dr. Eric Peebles, who lives with cerebral palsy, explains, “[c]urbside voting is routinely accessible to voters [in peer states] without issue, and voters’ ballots are protected, secure, and counted.”³⁴⁴ Dr. Peebles would have voted curbside in the 2020 Election if the option were made available to him, as it would have allowed him to avoid dangerous person-to-person contact inside the polling place. Voters in many states—including Mississippi³⁴⁵ and Texas³⁴⁶—successfully cast their ballots in this manner in

³⁴⁰ Betty [Jefferson County] Decl. ¶ 4 (June 12, 2021).

³⁴¹ *Id.* The State's lack of poll workers and inadequately resourced elections infrastructure is discussed *infra* Part II § VII.

³⁴² Joyce [Perry County] Decl. ¶¶ 3-4 (June 25, 2021).

³⁴³ Carolyn [Russell County] Decl. ¶ 4-5 (June 29, 2021).

³⁴⁴ Dr. Eric Peebles, *COVID-19, curbside voting ban in Alabama exacerbate difficulties for voters with disabilities like me*, AL.COM (June 3, 2021), <https://www.al.com/opinion/2021/06/covid-19-curbside-voting-ban-in-alabama-exacerbate-difficulties-for-voters-with-disabilities-like-me.html>. Dr. Peebles was also a named plaintiff in *People First*, discussed in Part II § III.D.

³⁴⁵ *COVID-19 Elections FAQs*, MISS. SEC'Y OF STATE, <https://www.sos.ms.gov/content/documents/elections/COVID%20Elections%20FAQs.pdf> (last accessed July 20, 2021).

³⁴⁶ *Curbside Voting*, TEX. SEC'Y OF STATE, <https://www.sos.state.tx.us/elections/forms/covid/curbside-voting-a-english.pdf> (last accessed July 20, 2021).

2020, but because of Alabama’s ardent and unconscionable opposition to this common-sense accommodation, no one in Alabama could.

D. The State Spent Extensive Public Resources Fighting Voting Access During the COVID-19 Pandemic.

On May 1, 2020, SPLC and its co-counsel sued Secretary Merrill on behalf of People First of Alabama, Greater Birmingham Ministries, the Alabama State Conference of the NAACP, and four voters with medical conditions that made them especially vulnerable to death or serious illness from COVID-19 for violating the First and Fourteenth Amendments, the ADA, and the VRA in the State’s continued enforcement of restrictive voting practices during the COVID-19 pandemic.³⁴⁷ Plaintiffs filed an amended complaint on July 6, 2020, adding two additional voters and Black Voters Matter Capacity Building Institute as plaintiffs.

The amended complaint sought declaratory and injunctive relief to prevent the State, during the 2020 general election, from enforcing the two-witness or notary requirement on absentee ballots, the absentee ballot photo ID requirement, and the Secretary of State’s prohibition on curbside voting.³⁴⁸ As the lawsuit lays out in vivid detail, these requirements had an especially acute impact upon older voters, voters with disabilities, and Black voters—all of whom were disproportionately impacted by the pandemic.³⁴⁹

The District Court ruled for the Plaintiffs, enjoining the photo ID and witness requirements and lifting the ban on curbside voting for specific voters during the 2020 general election.³⁵⁰ In a 197-page opinion, District Judge Abdul K. Kallon held that the State “unduly burden[ed] the fundamental Constitutional rights of Alabama’s most vulnerable voters and violate[d] federal laws designed to protect America’s most marginalized citizens.”³⁵¹ The State appealed the decision to the Eleventh Circuit, and the District Court denied a request to stay its decision pending appeal. In the interim, voters

³⁴⁷ Representing Plaintiffs in the lawsuit were the Southern Poverty Law Center, the NAACP Legal Defense & Educational Fund, Inc., Alabama Disabilities Advocacy Program (ADAP), the American Civil Liberties Union (ACLU), the ACLU of Alabama, and the law firm O’Melveny. Complaint, *People First of Alabama v. Merrill*, No. 2:20-cv-00619, at 66-77 (N.D. Ala. May 1, 2020).

³⁴⁸ *Id.* at 52-54.

³⁴⁹ *Id.* at 26-29.

³⁵⁰ *People First of Alabama v. Merrill*, 491 F. Supp. 3d 1076 (N.D. Ala. 2020).

³⁵¹ *Id.* at 1092.

cast their ballots pursuant to the District Court’s order, free from the burdensome photo ID and witness requirements for absentee ballots. Counties that wished to implement curbside voting were now free to consider doing so.

Two weeks later, the Eleventh Circuit partially stayed the District Court’s ruling and reinstated the witness and photo ID requirements pending appeal but preserved the ruling allowing curbside voting for counties that wanted to provide the option to voters with physical disabilities.³⁵² The State sought an emergency order from the U.S. Supreme Court to also stay the ruling on curbside voting, which the Court granted, meaning the State could once again prevent curbside voting while the appeal proceeded.³⁵³

Rather than provide reasonable—and recommended—accommodations to voters trying to exercise their hard-fought right to vote during a public health emergency that was claiming the lives of millions of people and at least 11,510 Alabamians,³⁵⁴ the State spent substantial public resources to fight common sense, humane, and secure voting access measures all the way to the Supreme Court. Eventually, because the District Court’s order only applied to the 2020 election and Election Day had passed, both the State and Plaintiffs withdrew their appeals.

Justice Sotomayor, in her dissent from the Supreme Court’s granting of the stay on curbside voting, wrote that election officials were ready, willing, and able to help voters such as Plaintiff Howard Porter, Jr.—a Black man in his seventies who suffers from asthma and Parkinson’s disease—and “[t]his Court should not stand in their way.”³⁵⁵ Her dissent echoed what Alabama’s Black voters have known for generations—unless stopped, Alabama *will* stand in their way.

IV. Alabama’s Voting Restrictions Impact Black First-Time Voters on College Campuses.

The voting restrictions described in the preceding three Sections have an acute impact on first-time voters. College students who are excited to take part in their first elections soon discover how difficult it is to vote in Alabama. As in many other places,

³⁵² Complaint, *supra* note 347.

³⁵³ *Merrill v. People First of Alabama*, 141 S. Ct. 25 (2020) (granting stay).

³⁵⁴ *Tracking Coronavirus in Alabama: Latest Map and Case Count*, N.Y. TIMES (July 30, 2021), <https://www.nytimes.com/interactive/2021/us/alabama-covid-cases.html>.

³⁵⁵ *Merrill*, 592 U.S. at 27-28 (Sotomayor, J., dissenting).

the increasing influence of college students in elections has resulted in efforts to make it more difficult for students to vote in Alabama.³⁵⁶

Alabama A&M University (“AAMU”) is a historically Black college and the voting experiences of AAMU students serve as a telling example of what it is like to try to vote as a young Black person in Alabama.³⁵⁷ To facilitate student civic engagement, AAMU has added components to its freshman orientation program and created a dedicated team of staff.

Despite these efforts, many students were surprised to learn their names were not on the rolls when they arrived to vote in person on Election Day in 2018, even though they had registered on time.³⁵⁸ Several AAMU representatives met with Madison County’s Chairman of the Board of Registrars many times to determine why the students’ registrations were not recognized on Election Day.³⁵⁹ The Chairman informed AAMU staff that “if a student made an error on the registration form, the Board of Registrars was not required to let students know that their applications were denied.”³⁶⁰ In addition to failing to inform students of these purported mistakes, the Board of Registrars shredded all voter registration forms they deemed unacceptable, so there was no way to determine what errors, if any, the students had made or even to confirm which students had successfully registered.³⁶¹ In response, AAMU was forced to further increase its investment in its voter registration program by having at least two staffers review every student’s voter registration application in an attempt to resolve any conceivable error before submission.³⁶²

Compounding this problem, many students were removed from active status in 2018 when the Madison County Board of Registrars sent voter registration cards

³⁵⁶ Jordan [Mobile County] Decl. ¶ 8 (July 17, 2021) (“They are making it hard for college students to vote. They are making it harder for everyone to vote.”); see also Greta Anderson, *Tug-of-War Over Students’ Votes*, INSIDE HIGHER ED (Nov. 12, 2019), <https://www.insidehighered.com/news/2019/11/12/students-across-country-faced-voting-barriers-election-day>.

³⁵⁷ *About*, ALA. A & M UNIV., <https://www.aamu.edu/about/> (last accessed July 28, 2021).

³⁵⁸ *Id.* ¶ 8.

³⁵⁹ *Id.*

³⁶⁰ *Id.* ¶ 9.

³⁶¹ *Id.*

³⁶² *Id.* ¶ 10.

to outdated campus addresses.³⁶³ When these registration cards were returned “undelivered,” the county marked these students as inactive.³⁶⁴ Even though this was the county’s mistake, the county did not help the students, who could not vote a regular ballot in the 2018 election and were thus disenfranchised due to the county’s mistake.³⁶⁵

Even worse, the students only learned of their disenfranchisement after enduring long lines at the AAMU campus. In 2018, more than 800 students turned out at the AAMU polling place—a significant increase from the previous total of around 200. The polling place was not prepared to handle a high turnout election.³⁶⁶ More than 500 students waited in line only to find out that they were labeled “inactive” when it was finally their turn to vote.³⁶⁷ Poll workers allowed these students to fill out provisional ballots but “AAMU later learned that these students’ ballots were not counted because their addresses had not been verified through the return postcards”—the same postcards that the county had sent to the wrong addresses.³⁶⁸ These students submitted new registrations at the polling location, but because Alabama does not allow same-day voter registration, the students still, despite all their efforts, were not permitted to cast ballots in the 2018 election.³⁶⁹

These young voters faced significant challenges during the 2020 election as well.³⁷⁰ “AAMU was concerned that if the campus was shut down and students sent home because of COVID-19, they would not be on campus on election day.”³⁷¹ AAMU officials proactively educated registered students on how to request an absentee ballot and how to return it to the Madison County courthouse, so the students could make appropriate plans.³⁷² AAMU also attempted to create an on-campus absentee ballot return location

³⁶³ *Id.* ¶¶ 11-12.

³⁶⁴ *Id.* ¶ 11.

³⁶⁵ *Id.*

³⁶⁶ *Id.* ¶ 17.

³⁶⁷ *Id.*

³⁶⁸ *Id.*

³⁶⁹ *Id.* ¶ 19.

³⁷⁰ *Id.* ¶ 21.

³⁷¹ *Id.* ¶ 22.

³⁷² *Id.*

in case that might assist students who remained in the area to vote, but the Circuit Clerk rejected AAMU's application.³⁷³

AAMU provided daily transportation from the campus to the courthouse for several weeks to help the students who remained return their absentee ballots.³⁷⁴ Still, students had to wait in line for hours to submit their ballots.³⁷⁵ While at the courthouse, students reported "racist remarks and actions directed at them by onlookers criticizing their attempt to vote."³⁷⁶ The courthouse would not provide security for the students, even after a school official reported these incidents to the Circuit Judge.³⁷⁷ AAMU officials "just kept reminding the students waiting of those who came before them in the past [and the] fight for voting rights."³⁷⁸

Joyce from Madison County also took note of the obstacles AAMU students faced as they tried to vote on Election Day in 2020. She said that poll workers asked students to show other forms of ID besides their student IDs and many were asked to show their social security card, which most people do not regularly carry, and which they were not required to show.³⁷⁹ Poll workers also erroneously told out-of-state students that they should have voted in the state they came from, even though they lived and registered to vote in Alabama.³⁸⁰

Monica, AAMU's University Service and Learning Coordinator, was involved in many of these civic engagement efforts. While she believes she has made a significant difference in AAMU students' lives, students' voting challenges came with a personal toll:

I believe this has been the hardest work I have ever done both physically and emotionally. I understand that if I don't do this work these young people may not vote, they may never vote,

³⁷³ *Id.* ("The only location in Madison County to case early in-person absentee ballots was the courthouse. The Circuit Clerk denied AAMU's request to allow us to host in-person absentee voting on campus, which is allowed under Alabama state law and encouraged by Alabama Secretary of State John Merrill.").

³⁷⁴ *Id.* ¶ 23.

³⁷⁵ *Id.* ¶ 27.

³⁷⁶ *Id.* ¶ 28.

³⁷⁷ *Id.*

³⁷⁸ *Id.*

³⁷⁹ Joyce [Madison County] Decl. ¶ 8 (July 9, 2021).

³⁸⁰ *Id.*

and I have one shot to educate and motivate them to not just complete the application, but to show up no matter what, on every election day. It's not just my job, I truly believe in voter protection, and voter-turn-out is my personal and professional responsibility.³⁸¹

Students at other Alabama colleges have faced similar challenges. For example, Jordan, a student at the University of South Alabama, had a “traumatizing” experience trying to vote in the 2018 election.³⁸² Initially, poll workers did not allow Jordan to vote at his polling location because his address on his state ID did not match his campus address, and they sent him to another location in a different zip code.³⁸³ The poll workers at the second location told Jordan he was not registered there either and sent him back to the first location.³⁸⁴ After many hours and numerous phone calls to state officials, the poll workers finally accepted Jordan’s student ID as confirmation of his current address.³⁸⁵ Jordan said that this experience made him lose faith in government.³⁸⁶

Ja’Kimeya, a first-time voter at Auburn University, was confused when she tried to vote on campus, but could not due to being registered at a different address.³⁸⁷ She was not offered a provisional ballot, and ultimately was unable to vote.³⁸⁸ Yet the experience made her:

more determined than ever to vote, to educate myself on voting, and to help other students to vote. I volunteered to work at an organization called My Vote Matters and did some marketing for the organization, trying to come up with strategies that would engage young people and make voting easier, that would explain the jargon and procedures in a way that students would understand. We used social media, graphics, and music to explain the Electoral College and how

³⁸¹ Monica [Madison County] Decl. ¶ 30 (July 19, 2021).

³⁸² Jordan [Mobile County] Decl. ¶ 8 (July 17, 2021).

³⁸³ *Id.* ¶ 4.

³⁸⁴ *Id.* ¶ 5.

³⁸⁵ *Id.* ¶ 6.

³⁸⁶ *Id.* ¶ 8.

³⁸⁷ Ja’Kimeya [Jefferson County] Decl. ¶ 3, 6 (June 22, 2021).

³⁸⁸ *Id.* ¶ 7.

voting and elections actually work. I never told my manager at My Vote Matters that I was not allowed to vote because I felt ashamed. I knew voting was so important and I felt bad because I had made a mistake.³⁸⁹

Alabama's election system turns what should be a positive experience for young voters into an experience that causes shame, confusion, and wariness.

V. Alabama's Moral Turpitude Law Perpetuates a Legacy of Race-Based Felony Disenfranchisement.

Alabama's felony disenfranchisement law today emanates from one of the most shameful periods in the State's history. The Chair of the Alabama Constitutional Convention of 1901 opened the proceedings by announcing, "what is it that we want to do? Why, it is within the limits imposed by the Federal Constitution to establish white supremacy in this State."³⁹⁰ The Chair went on to explain, "if we would have white supremacy, we must establish it by law."³⁹¹ And that is exactly what the delegates did. The resulting 1901 Constitution banned interracial marriage, prohibited school integration,³⁹² and implemented poll taxes, among other racist, retrogressive provisions.³⁹³ While many of these enactments were subsequently nullified by the United States Supreme Court and acts of Congress, the Constitution laid the foundation for the State's racially discriminatory voter suppression today.

Among the discriminatory provisions of the 1901 Constitution was Section 182, which disqualified Alabamians who committed a wide range of crimes from registering and voting:

The following persons shall be disqualified both from registering, and from voting, namely: . . . **those who shall be convicted of** treason, murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses, perjury,

³⁸⁹ *Id.* ¶ 8.

³⁹⁰ *1901 Proceedings*, *supra* note 1 at 8.

³⁹¹ *Id.* at 9.

³⁹² *Alabama Makes Racial Segregation Mandatory*, EQUAL JUST. INITIATIVE, <https://calendar.eji.org/racial-injustice/sep/3> (last accessed Aug. 7, 2021).

³⁹³ ALA. CONST. art. VIII § 178.

subornation of perjury, robbery, assault with intent to rob, burglary, forgery, bribery, assault and battery on the wife, bigamy, living in adultery, sodomy, incest, rape, **miscegenation**, crime against nature, or any crime punishable by imprisonment in the penitentiary, or of any infamous crime **or crime involving moral turpitude**.³⁹⁴

The Convention's delegates believed that Black people more frequently committed the crimes selected for this list.³⁹⁵ While Section 182 explicitly identified many specific crimes, it also included a catch-all at the end encompassing any "crime involving moral turpitude." This vague language granted tremendous discretion to county registrars to reject voter registrations.³⁹⁶ In effect, county registrars were given license to exclude Black Alabamians from the franchise for almost any prior conviction.³⁹⁷ A newspaper owned by then-Alabama Governor William Dorsey Jelks advised readers that "the [county] registrars were 'the milk in the cocoanut' of the plan" to ensure white supremacy.³⁹⁸ The plan succeeded: by January 1903, this provision had disqualified ten times as many Black Alabamians as white Alabamians.³⁹⁹

Eighty-four years after the ratification of the 1901 Constitution, the U.S. Supreme Court in *Hunter v. Underwood* struck down Section 182, finding it was enacted with a racially discriminatory purpose in violation of the Equal Protection Clause of the Fourteenth Amendment.⁴⁰⁰ Undeterred, Alabama continued to apply the stricken provision to felonies, reasoning—without any basis in the Supreme Court's opinion—that the ruling only reached misdemeanors.⁴⁰¹

³⁹⁴ ALA. CONST. § 182 (emphasis added).

³⁹⁵ *Hunter v. Underwood*, 471 U.S. 222, 227 (1985).

³⁹⁶ *Alive and Well*, *supra* note 166 at 10.

³⁹⁷ See Appellants Br. at 3, *Thompson v. Alabama* (11th Cir. Mar. 18, 2021) (hereinafter "*Thompson Appellants Br.*").

³⁹⁸ *Id.* at 4 (collecting sources).

³⁹⁹ *Id.*

⁴⁰⁰ *Hunter*, 471 U.S. at 229-32. Even today, the Alabama Legislature's website gives no indication that this provision has been invalidated. Alabama Legislature, *Constitution of Alabama 1901* (last visited June 28, 2021), http://alisondb.legislature.state.al.us/alison/CodeOfAlabama/Constitution/1901/Constitution1901_toc.htm.

⁴⁰¹ See Ala. Op. Atty. Gen. No. 92-48, 1991 WL 11870138 (Nov. 4, 1991).

And in 1996, the Alabama Legislature passed Constitutional Amendment 579, restoring the “moral turpitude” clause to the state Constitution. This amendment did not list any specific crimes but barred voting by any “person convicted of a felony involving moral turpitude” unless that person’s rights were later restored.⁴⁰² Amendment 579 implemented verbatim a proposal, first introduced in 1973 when George Wallace was still Alabama’s governor, that sought to collapse the full list of crimes as redundant to the all-encompassing moral turpitude category.⁴⁰³ The Alabama Legislature introduced and passed this provision 23 years later without deliberation or debate.⁴⁰⁴ But this could not hide their discriminatory purpose. After all, at the time Amendment 579 was adopted, approximately 70% of the State’s prison population was Black. And through this new provision, the State began again a discriminatory system parallel to the one the Supreme Court had invalidated as unconstitutional in *Hunter*.⁴⁰⁵

The reenactment of the moral turpitude clause preserved, and carried into the present, Alabama’s racially discriminatory tradition.⁴⁰⁶ Yet again, the discretion of appointed county registrars guided the decision on which felonies involve moral turpitude, leaving interpretation to dozens of separate counties. The State provided no guidance and, on several occasions, claimed that it could not issue a complete list.⁴⁰⁷ As a result of this system, many counties banned outright the registration of any voter convicted of any felony.⁴⁰⁸

By 2017, an estimated 286,000 Alabamians had lost their right to vote because of Amendment 579.⁴⁰⁹ This amounted to 7 percent of the overall voting-age population. Fully 50% of those disenfranchised (143,000) are Black, even though Black

⁴⁰² ALA. CONST. amend. 579.

⁴⁰³ *Id.*

⁴⁰⁴ *Thompson Appellants Br.* at 5-6.

⁴⁰⁵ *Barriers to Voting, supra* note 192 at 23.

⁴⁰⁶ *Thompson Appellants Br.* at 7 n.3.

⁴⁰⁷ *Alive and Well, supra* note 166 at 10; *Thompson Appellants Br.* at 7-8 (collecting Alabama Attorney General pronouncements from 1970, 1985, and 2005 that each asserted the “Office cannot provide an exhaustive list of every felony involving moral turpitude”).

⁴⁰⁸ Plaintiffs’ Evidentiary Submissions in Support of Preliminary Injunction Ex. D at 3, *Thompson v. Alabama*, No. 2:16-CV-783, ECF No. 66-4 (Declaration of Synethia E. Pettaway).

⁴⁰⁹ See Christopher Uggen et al., *6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement*, Table 3 (2016), <https://www.sentencingproject.org/wp-content/uploads/2016/10/6-Million-Lost-Voters.pdf> (estimating 286,266 disenfranchised Alabamians).

Alabamians make up only 25 percent of the State’s voting-age population.⁴¹⁰ In other words, the provision disenfranchised 15 percent of otherwise eligible Black voters in the State compared to only 5 percent of otherwise eligible white voters.

It was not until 2017—and only after significant efforts from advocacy organizations—that the Alabama Legislature specified for the first time precisely which offenses under State law qualify as crimes of moral turpitude.⁴¹¹ The legislation also clarified that these crimes count “only when [the Alabamian was] convicted ... in a degree constituting a felony.”⁴¹²

Once the State finally provided an authoritative list of which crimes constitute “moral turpitude,” many Alabamians who previously believed they had been disenfranchised realized they were eligible to register to vote, and many more were for the first time eligible to apply for their rights to be restored.⁴¹³ Yet Alabama did not engage in any public education to alert thousands of Alabamians that they were in fact eligible to register to vote, had a path to restore their rights, or had never lost their right to vote in the first place.⁴¹⁴ At the same time, the State pressed forward with purging from the voter rolls persons convicted of any of the listed offenses.⁴¹⁵

A. The State’s Enforcement of the Moral Turpitude Law Carries on Jim Crow’s Legacy.

Alabama discourages voting by making it extremely difficult for its citizens to navigate the maze of requirements created by the moral turpitude law. The State’s voter registration form warns prominently that the applicant is not eligible to vote if they have “been convicted of a disqualifying felony,” but fails to identify the felonies that are

⁴¹⁰ *Id.*, Table 4; *Thompson* Appellants Br. at 9.

⁴¹¹ Moral Turpitude Act of 2017, HB282 (codified at ALA. CODE § 17-3-30.1).

⁴¹² *Id.*

⁴¹³ *Barriers to Voting*, *supra* note 192 at 23.

⁴¹⁴ *Alive and Well*, *supra* note 166 at 4, 11.

⁴¹⁵ ALA. CODE § 17-4-3. It is unclear whether Alabama provides notice by mail of this purging, as the statute also requires.

in fact disqualifying.⁴¹⁶ As a result, many eligible voters do not attempt to register or cast their vote, believing they cannot or fearing prosecution.⁴¹⁷

Those who do try to restore their rights face a daunting and confusing process so riddled with obstacles that it often requires the assistance of lawyers or volunteer organizations for the voter to successfully navigate the system. Kerri, of Tuscaloosa County, is one such advocate who has helped many Alabamians who “were interested in reinstating their voting rights, [but] did not understand the process for applying for reinstatement.”⁴¹⁸ Among them was Cassius Lanier, who was sworn in as a Tuscaloosa City Councilmember earlier this month, after a rocky court battle over whether his conviction barred him from office, and then winning a special election by nearly 400 votes.⁴¹⁹

And in Tallapoosa County, Melinda has helped several hundred young Black men regain their voting rights.⁴²⁰ She describes how these men had no idea they were eligible to apply to restore their voting rights, but Melinda took on this responsibility and guided them through the process and in some cases even accompanied them to the polls to ensure they could cast their vote.⁴²¹ Melinda explains that “[i]n my small town of Dadeville, 300 votes made a big difference, helping to install a Mayor who hopefully will be more responsive [to the needs of her community] than the previous one.”⁴²²

Before a person with a disqualifying conviction can register to vote, they must receive a Certificate of Eligibility to Register to Vote (“CERV”) from the Board of Pardons and Paroles (the “Board”), a confusing process for applicants requiring the

⁴¹⁶ See *State of Alabama Voter Registration Form*, ALA. SEC’Y OF STATE (Mar. 8, 2021), <https://www.sos.alabama.gov/sites/default/files/voter-pdfs/nvra-2.pdf>.

⁴¹⁷ *Barriers to Voting*, *supra* note 192 at 26.

⁴¹⁸ Kerri [Tuscaloosa County] Decl. ¶¶ 5-6 (June 22, 2021) (The name of the assisted individual mentioned in the declaration is not redacted because he went public with his story.)

⁴¹⁹ *Cassius Lanier sworn in as District 7 Tuscaloosa City Council Member*, WVUA23 (Aug. 4, 2021), <https://wvua23.com/cassius-lanier-sworn-in-as-district-7-tuscaloosa-city-council-member/>; Jason Morton, *District 7 special election: By almost 400 votes, electors choose Cassius Lanier over Sonya McKinstry*, TUSCALOOSA NEWS (July 27, 2021), <https://www.tuscaloosaneews.com/story/news/2021/07/27/district-7-special-election-voters-choose-lanier-over-mckinstry/5376882001/>.

⁴²⁰ Melinda [Tallapoosa County] Decl. ¶ 3 (June 12, 2021).

⁴²¹ *Id.* ¶ 8

⁴²² *Id.* ¶ 9

assistance of volunteer organizations.⁴²³ According to Alabama law, the Board must grant a CERV so long as the applicant (1) has completed their sentence, (2) has no pending felony charges against them, and (3) has paid all fines, court costs, fees, and victim restitution (“legal financial obligations”) ordered by the sentencing court for the disqualifying felony or felonies.⁴²⁴ Contrary to these clear instructions, the Board routinely denies applications for other reasons. The hurdles are so significant that often applicants need to work with an outside organization to successfully navigate the process.

As one example, the Board refuses to approve an application if the listed offense does not exactly match the offense of conviction.⁴²⁵ In practice, applicants are often confused about the name of the offense they were convicted of, especially in cases when a plea deal changed the categorization of the offense. Looking up the official record requires access to the state court system database, which requires a subscription and \$150 annual fee. Thus, even getting this one detail right often requires retaining an attorney.⁴²⁶

Further, while the applicant must have finished serving their sentence and completed any probation or parole, the requirement to have paid back all restitution, fines, fees, and court costs relating to their disqualifying felony can be incredibly burdensome. Several offenses in Alabama carry high mandatory minimum fines.⁴²⁷

Many Alabamians previously convicted of a felony have difficulty obtaining a well-paying job and these legal and practical barriers often prove insurmountable, especially with the addition of legal financial obligations. In addition the board mistakenly imposes additional obligations beyond what the law demands. While Alabama law requires payment of pre-conviction legal financial obligations related to the disqualifying felony before restoring voting eligibility, the law does not require the payment of additional fees imposed post-conviction. Nevertheless, the Board often mistakenly requires payment of these additional post-conviction fees before it approves restoration

⁴²³ In less than a year, the volunteer Alabama Voting Rights Project helped more than 2,000 voters restore their registration and navigate the CERV procedure. Press Release, SPLC, *Alabama Voting Rights Project helps 2,000 people cast ballots in Alabama, but many more do not know they can vote* (Mar. 29, 2019), <https://www.splcenter.org/news/2019/03/29/alabama-voting-rights-project-helps-2000-people-cast-ballots-alabama-many-more-do-not-know>.

⁴²⁴ ALA. CODE § 15-22-36.1(a)-(b). There are certain particularly severe offenses for which the Board does not have authority to grant a CERV. *See Id.* § 15-22-36.1(g).

⁴²⁵ *Alive and Well*, *supra* note 166 at 11.

⁴²⁶ *Id.* at 11-12.

⁴²⁷ *Barriers to Voting*, *supra* note 192 at 25.

of an individual's voting rights.⁴²⁸ Adding to the confusion is the belief among some Alabamians with a non-disqualifying felony conviction that they too have to pay back legal financial obligations before they can vote, even though their conviction does not disqualify them from voting at all.⁴²⁹

Arthur of Mobile County has never voted.⁴³⁰ Now in his 60s, he spent many years of his life incarcerated for nonviolent offenses.⁴³¹ When he completed his incarceration in 2014, he assumed he could not vote. However, he discovered that as a result of the 2017 law, his convictions did not bar him from voting.⁴³² He sought assistance to register to vote and learned that he has an outstanding \$300 fine that must first be paid.⁴³³ Arthur has no idea how this can be:

During all the time that I was in prison, any money that I ever owed, to my parole officer, or any other legitimate expense, was deducted from any payments I'd received as part of work release; the court calls in your fines and they take it out of your check. Officials had set up a payment plan right from the start for me to pay my probation fees and my parole officer, and I knew about those all along and paid them.⁴³⁴

⁴²⁸ *Id.* at 27. Further, the Alabama Attorney General has directed that the "collection fee" must be paid first before many of the costs Alabama law requires to be repaid for a CERV. Alabama Att'y Gen. Op. 2011-049 (Mar. 30, 2011), <https://www.alabamaag.gov/Documents/opin/2011-049.pdf>.

⁴²⁹ Connor Sheets, *Too poor to vote* (Oct. 4, 2017), <https://www.al.com/news/2017/10/too-poor-to-vote-how-alabamas.html>.

⁴³⁰ Arthur [Mobile County] Decl. ¶ 3 (July 6, 2021).

⁴³¹ *Id.* ¶¶ 3-4, 9.

⁴³² *Id.* ¶ 6; compare *Id.* ¶ 3 (Arthur was convicted of "drug possession, theft and third-degree burglary"), with *Crimes Involving Moral Turpitude*, ALA. SEC'Y OF STATE, (2017), <https://www.sos.alabama.gov/sites/default/files/voter-pdfs/Updated%20Version%20of%20Moral%20Turpitude%20Crimes.pdf> (not listing these crimes and degrees as moral turpitude felonies) (last accessed Aug. 8, 2021).

⁴³³ Arthur [Mobile County] Decl. ¶ 6.

⁴³⁴ *Id.* ¶ 7.

As a result of this surprise fee, Arthur has not been able to register to vote. As he says, “Why would I have to pay for the right to vote, something that never should have been taken from me?”⁴³⁵ “All we have are our voting rights.”⁴³⁶

Much like the poll taxes of the past, the State’s approach to the repayment of legal financial obligations prevents eligible voters, especially from communities of color, from being able to access the ballot box. Alabama is the seventh poorest state in the country,⁴³⁷ with 15.6 percent of Alabamians living below the federal poverty threshold.⁴³⁸ These differences are even more stark considering race. While 11.7 percent of white Alabamians live in poverty, 27 percent of Black Alabamians do.⁴³⁹ The median income for a white Alabamian stands at \$57,935, but the median income for a Black Alabamian is \$33,928.⁴⁴⁰ Several Black Belt counties have high poverty rates that are nearly triple the national average of 12.3 percent.⁴⁴¹ For example.⁴⁴²

County	Poverty Rate	Black Population
Sumter	36.4%	71.8%
Perry	33.9%	67.9%
Wilcox	32.5%	71.3%
Greene	31.7%	80.1%
Bullock	30.0%	70.7%
Macon	29.3%	80.7%

⁴³⁵ *Id.* ¶ 8.

⁴³⁶ *Id.* ¶ 10.

⁴³⁷ *Barriers to Prosperity*, *supra* note 171.

⁴³⁸ The federal poverty threshold is currently just \$26,172 per year for a family of four. *Id.*

⁴³⁹ *Id.*

⁴⁴⁰ *Id.*

⁴⁴¹ *Id.*

⁴⁴² *Id.*; *Alabama Black Population Percentage by County*, INDEXMUNDI (last visited July 19, 2021), <https://www.indexmundi.com/facts/united-states/quick-facts/alabama/black-population-percentage#table>.

For too many Alabamians living in poverty, payment of legal financial obligations is an insurmountable obstacle to restoring their right to vote.

B. The State Also Fails to Clarify Which Out-of-State and Federal Crimes Involve Moral Turpitude.

Even though the 2017 list identified the Alabama crimes that affect the right to vote, determining which federal or out-of-state crimes qualify depends, once again, on county registrar discretion with no State guidance. Under the 2017 law, convictions outside of Alabama (whether in federal or state court) are disqualifying when “if committed in this state, [they] would constitute one of the offenses listed in this subsection.”⁴⁴³ The complex nature of state and federal criminal codes makes it difficult, if not impossible, to line up equivalent offenses. The State does not provide guidance on the matter, leaving these critical and complex determinations to county registrars, who often do not have legal training.⁴⁴⁴

The case of Angelique Harris of Madison County provides an illustrative example. Over the course of several years, Ms. Harris attempted to register to vote, but was denied by a county registrar who cited her federal conviction.⁴⁴⁵ The registrar justified the decision because the *name* of her federal offense has a similar name as one on the 2017 list of Alabama crimes of moral turpitude, ignoring that the Legislature understood that reliance on the names of statutes was insufficient for determining which out-of-state and federal convictions should apply.⁴⁴⁶ Rather, it is the elements of the crime of conviction that must be equated.⁴⁴⁷ In the case of Mrs. Harris, the elements of her federal conviction do not line up to any of the disqualifying Alabama felonies listed.⁴⁴⁸ Although she registered on time, her registration was never granted, and she was not permitted to vote in the 2020 election.⁴⁴⁹ Through her counsel the Southern Poverty Law Center,

⁴⁴³ ALA. CODE § 17-3-30.1(c)(48).

⁴⁴⁴ See *infra* Part II § VII.B.

⁴⁴⁵ See Supplemental Brief, *In the Matter of Angelique Harris*, No. 71619 (Ala. Probate Ct. Oct. 13, 2020), https://www.splcenter.org/sites/default/files/documents/supplemental_briefing_on_voter_registration_of_ms._angelique_harris.pdf.

⁴⁴⁶ *Id.* at 2.

⁴⁴⁷ *Id.*

⁴⁴⁸ *Id.* at 5-7.

⁴⁴⁹ *Id.*

Campaign Legal Center, and Robin Drake, Esq., Ms. Harris is appealing her denial of registration through Alabama state courts.⁴⁵⁰

Alabama's elected officials must do better. Thanks to the work of rights restoration advocates, the Alabama Legislature recently made it easier for Alabamians housed in the Alabama Department of Corrections who were not convicted of a disqualifying felony to vote by absentee ballot.⁴⁵¹ Yet the Legislature continues to impose additional barriers for Alabamians who have been released and who are eligible to vote under Alabama law. Even when the Legislature adopted the 2017 revisions that defined which State crimes are disqualifying, it did so with the express purpose to give "full effect" to the explicitly white supremacist 1901 Constitution.⁴⁵² While Alabama's Jim Crow voting restrictions have evolved, the State continues to find new ways to prevent eligible Black Alabamians from voting.

VI. Alabama Unjustifiably Purges Thousands of Registered Voters from the Voter Rolls.

Alabama uses a flawed system to maintain its voter rolls, to the detriment of Black voters. Under federal law, States are required to regularly update their voter rolls to ensure their accuracy.⁴⁵³ If a State determines a voter is no longer eligible (whether due to moving, passing away, or becoming inactive), they are removed from the voter rolls. The process by which a state routinely removes voters who have moved is known as list maintenance. The manner in which states conduct list maintenance varies greatly, and Alabama employs a process which inappropriately removes—or purges—eligible voters from the voter rolls, thereby unduly reducing the pool of eligible voters. This process can have an acute impact on Black voters. Prior to *Shelby County*, covered jurisdictions needed to obtain federal preclearance before purging their voter rolls. Now that Alabama is no longer subject to federal oversight, it purges significantly more voters than it did under federal preclearance requirements, disproportionately impacting Black Alabamians.

⁴⁵⁰ *Harris v. State of Alabama*, S. POVERTY LAW CTR., <https://www.splcenter.org/seeking-justice/case-docket/harris-v-state-alabama> (last visited Aug. 5, 2021).

⁴⁵¹ Act No. 2019-507, Ala. S.B. 301 at 20 (enacted June 10, 2019) (codified at ALA. CODE § 17-11-3(8)), <https://arc-sos.state.al.us/ucp/B19161AA.A1H.pdf>. However, the remainder of this law imposed highly restrictive photo ID requirements for absentee voting. See *Id.* (codified in scattered sections of ALA. CODE § 17).

⁴⁵² See ALA. CODE § 17-3-30.1(a)(2)(a); e.g., *1901 Proceedings*, *supra* note 1 at 8-10.

⁴⁵³ National Voting Rights Act of 1933, 52 U.S.C. § 20507.

A recent Brennan Center for Justice analysis⁴⁵⁴ demonstrates the impact *Shelby County* has had on voter purges across the country, and specifically in Alabama:

Shelby County . . . After preclearance ended in 2013, the county's removal rate more than doubled, from 5.0 percent of registered voters to 10.4 percent. In 2014, more than 18 percent of the county's voters were purged. In 2012, the provisional ballot rate was 0.15 percent [of votes cast], virtually identical to the national average of 0.16 percent. Following years in which the county purged an average of 10 percent of voters, the provisional ballot rate tripled to 0.45 percent.

Montgomery County . . . From 2009 to 2012, when preclearance was required, the average two-year removal rate was 4.7 percent of registered voters, well below the national average. But after *Shelby County* effectively ended preclearance, the removal rates increased dramatically, nearly tripling to 12.0 percent. . . . In the two years ending in 2014, a period covering the cessation of preclearance, Montgomery County had a massive purge in which 21 percent of voters were removed. Subsequently, the provisional ballot rate shot up from 0.31 percent [of votes cast] in the 2012 presidential election to more than 1 percent in the 2016 election.⁴⁵⁵

Far from being transparent about its voter registration and purging practices, the State goes to great lengths to obfuscate its conduct. In 2020, for example, the Secretary of State announced that voter registration surpassed 3.7 million people.⁴⁵⁶ If true, this would have equated to over 90 percent of the voting-age population, a preposterous claim. In reality, according to the U.S. Census Bureau, the percentage of

⁴⁵⁴ Jonathan Brater, Kevin Morris, Myrna Perez, and Christopher Deluzio., *Purges: A Growing Threat to the Right to Vote*, BRENNAN CTR. FOR JUSTICE (2018), https://www.brennancenter.org/sites/default/files/2019-08/Report_Purges_Growing_Threat.pdf.

⁴⁵⁵ *Id.* at 25-26.

⁴⁵⁶ Press Release, John H. Merrill, Ala. Sec'y of State, *Secretary of State's Office Breaks 3.7 Million Registered Voters Ahead of November 3 General Election* (Nov. 2, 2020), <https://www.sos.alabama.gov/newsroom/secretary-states-office-breaks-37-million-registered-voters-ahead-november-3-general>.

registered voters was around 67 percent.⁴⁵⁷ Furthermore, Alabama law does not require the State to notify a voter personally if they have been purged. Instead, the county is supposed to publish the names of removed voters in each county in the newspaper.⁴⁵⁸ This indirect form of notice often results in voters being surprised when they arrive at a polling place and are told they are ineligible to vote. Since Alabama does not have same day registration, these voters will be disenfranchised.⁴⁵⁹

A. Alabama’s Flawed Voter Registration System Threatens Alabamians’ Right to Vote.

Responsible maintenance of voter rolls is not controversial: election officials should regularly update the voter rolls to reflect when registered voters die, move, or become ineligible.⁴⁶⁰ Alabama, however, inappropriately removes voters from its rolls, using an inaccurate and unreliable methodology, under the guise of voter roll maintenance.⁴⁶¹

⁴⁵⁷ *Reported Voting and Registration for States: November 2020*, U.S. CENSUS BUREAU, <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html> (last accessed Aug. 11, 2011).

⁴⁵⁸ ALA. CODE § 17-4-10 (directing publication “in a newspaper of general circulation in the county once a week for two consecutive weeks in November or December of each year in which the statewide voter file maintenance is conducted”).

⁴⁵⁹ The Help America Vote Act mandates the use of provisional ballots nationwide as a failsafe mechanism to ensure all eligible voters have their votes counted. Alabama provides provisional ballots to voters whose eligibility or registration status is questioned at a polling place. After a voter casts a provisional ballot, it is not counted until the State determines a voter’s eligibility. Often times, poorly trained poll workers do not understand the mechanics of provisional ballots, and voters may be denied or have to argue with a poll worker to obtain one. *Provisional Ballots*, NAT’L CONF. STATE LEGISLATURES, <https://www.ncsl.org/research/elections-and-campaigns/provisional-ballots.aspx>

⁴⁶⁰ Jonathan Brater, *Calls for More Purges Rest on Shaky Data*, BRENNAN CTR. FOR JUSTICE (Oct. 19, 2018), <https://www.brennancenter.org/our-work/analysis-opinion/calls-more-purges-rest-shaky-data> (hereinafter “*Calls for More Purges*”). There are a number of provisions in H.R. 1, or the “For the People Act,” that would help remedy some of the voter maintenance problems outlined in this Section. All of the changes aimed at modernizing voter registration would help the citizens of Alabama, especially with alleviating some of the issues with the postcard system by prohibiting purging of voters based on an undelivered postcard. Additionally, H.R. 1 strengthens protections around provisional ballots, which might give Alabama voters more confidence in their provisional ballots should they have to cast one. H.R. 1, 117th Cong. (2021).

⁴⁶¹ *Id.* (“No one objects to voter roll maintenance. . . . But when officials don’t use appropriate safeguards or transparency, eligible voters are at risk of being taken off the rolls erroneously or without notice.”).

The National Voter Registration Act of 1993 (“NVRA”) was passed to protect registered voters and established requirements that guide states in maintaining accurate voter rolls. The NVRA provides that states must undertake a routine, uniform, nondiscriminatory process for removing voters who are no longer eligible to vote for reason of the voter’s death or change in residence.⁴⁶² Each covered state’s process must comply with the VRA and cannot have a disparate impact on voters based on race. Further, no systematic removal of voters can take place during the 90 days before any federal election.⁴⁶³ Both the NVRA, and the Help America Vote Act of 2002 (“HAVA”), provide that states cannot remove a voter from the rolls exclusively for failure to vote.⁴⁶⁴

Based on these federal laws, Alabama implemented a process by which it mails non-forwardable postcards to every registered voter to confirm the voters’ registered addresses. If the postcard bounces back as undeliverable, the State sends a second, forwardable postcard. If the individual does not return the second postcard, the State places the voter on the inactive list. If the voter then fails to vote in the next two federal elections, the State purges them from the voter rolls.⁴⁶⁵

The State’s registration confirmation process simply does not work, and as a result voters are mistakenly removed from the voter rolls. Between 2016 and 2018, Alabama sent 416,632 confirmation notices, but more than 55 percent were returned as “undeliverable.”⁴⁶⁶ In that same period, only 2 percent of Alabama voters successfully confirmed their registration this way.⁴⁶⁷ Subsequently, Alabama purged 69,545 voters from the voter file for “failing” to respond to these postcards, which voters may have inadvertently missed or which were never properly delivered.⁴⁶⁸ Low-income voters,

⁴⁶² 52 U.S.C. § 20507; *The National Voter Registration Act of 1993 (NVRA)*, U.S. DEP’T OF JUST., <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra> (last visited Aug. 2, 2021).

⁴⁶³ *The National Voter Registration Act of 1993 (NVRA)*, U.S. DEP’T OF JUST., <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra> (last visited Aug. 2, 2021).

⁴⁶⁴ See *Husted v. Randolph Institute*, 138 S. Ct. 1833, 1842 (2018) (explaining that “the Failure-To-Vote Clause, both as originally enacted in the NVRA and as amended by HAVA, simply forbids the use of nonvoting as the sole criterion for removing a registrant”).

⁴⁶⁵ *Id.*

⁴⁶⁶ *Alive and Well*, supra note 166 at 19.

⁴⁶⁷ *Id.*

⁴⁶⁸ *The Election Administration and Voting Survey: A Report to the 115th Congress*, US ELEC. ASSISTANCE COMM’N, https://www.eac.gov/sites/default/files/eac_assets/1/6/2016_EAVS_Comprehensive_Report.pdf (2016). Alabama’s mailing system is riddled with problems, which have extended all the way through the State, going so far as to impact U.S. Representative Mo Brooks, who arrived at his precinct to find himself

students, and voters of color are more likely to rent and to move more often, with the result that this error-prone confirmation process is that much more likely not to reach them successfully.⁴⁶⁹

In addition to the State's purge practices, right-wing organizations often attack and pressure majority-Black counties into purging voter rolls.⁴⁷⁰ One example is the Public Interest Legal Foundation ("PILF"), which publishes lists of counties with voter rolls that it alleges are inflated by ineligible voters.⁴⁷¹ PILF alone contacted over 250 jurisdictions between 2017 and October 2018, including 12 majority Black counties in Alabama, in an attempt to get these jurisdictions to purge their voter rolls.⁴⁷² Groups such as PILF cherry-picks data to support their claims. In reality, the claims of bloated voter rolls made by PILF and organizations like it often "appear[] to be false."⁴⁷³

During the 2021 legislative session, and following years of advocacy, Alabama lawmakers modified this process. Under the new law, which will take effect in 2025, election officials will no longer send a postcard to every registered voter.⁴⁷⁴ Instead, election officials will draw information from state and federal databases to identify registered voters who may have moved, and send those voters a forwardable postcard.⁴⁷⁵ It is not yet clear how many more voters a forwardable postcard will reach than the prior first-round mailings that the State did not allow the postal service to forward. While this is a slight improvement on a flawed process, voters remain at risk.

B. Faulty List Maintenance Procedures Prevent Eligible Voters from Casting Regular Votes.

Many Alabama voters have been told by poll workers that they have been purged from the voter rolls or made inactive when, in fact, they are active, eligible voters and properly registered. Under Alabama law, inactive voters are permitted to confirm their

marked inactive even though his name was on the ballot for reelection. *Alive and Well*, *supra* note 166 at 17.

⁴⁶⁹ *Alive and Well*, *supra* note 166 at 19.

⁴⁷⁰ *Calls for More Purges*, *supra* note 460.

⁴⁷¹ *Id.*

⁴⁷² *Id.*

⁴⁷³ *Id.*

⁴⁷⁴ ALA. CODE § 17-4-30.

⁴⁷⁵ ALA. CODE § 17-4-30(a).

registration at their correct polling place on Election Day and vote a regular or provisional ballot (depending on whether their polling location has changed), but there have been reports of confusion at polling places about how to handle these requests.⁴⁷⁶

The confusion caused by the State's flawed list maintenance places voters at risk of disenfranchisement. A poll worker told Jenene, a voter in Russell County, that "[she] was an 'inactive' voter" in the 2016 General Election, even though she saw her name on the poll worker's table.⁴⁷⁷ After advocating for herself and explaining that there must be a mistake, Jenene was finally able to vote, but the poll worker never gave her an explanation as to why she was originally told that she was inactive.⁴⁷⁸

William from Morgan County had a similar experience when a poll worker told him that "[he] was purged from the system."⁴⁷⁹ William had proactively obtained a paper copy of his registration from the county courthouse a few months prior, so he knew he was properly registered and should have been permitted to cast his ballot.⁴⁸⁰ After advocating for himself and involving the poll worker's supervisor, William was able to fill out a ballot and vote.⁴⁸¹ This experience made William think that if he had not questioned the poll worker and defended his own right to vote, nobody would have done it for him, and he would not have been able to vote in that election. William wonders how older Black people who may not know they can ask questions and advocate for themselves are treated at the polls and whether they are often turned away when, in fact, they are registered to vote.⁴⁸²

Willie, a voter in Baldwin County, has served as a poll worker in Alabama through multiple elections and has witnessed multiple voters surprised to find themselves marked inactive or purged from voter rolls who then had to vote via provisional ballot.⁴⁸³

Alabama voter Curtis, a resident of Jefferson County, went through this himself when he arrived to vote in a Birmingham city election and found himself removed

⁴⁷⁶ *Id.*

⁴⁷⁷ Jenene [Russell County] Decl. ¶¶ 6, 8 (June 3, 2021).

⁴⁷⁸ *Id.* ¶ 8.

⁴⁷⁹ William [Morgan County] Decl. ¶ 4 (June 19, 2021).

⁴⁸⁰ *Id.* ¶ 4-5.

⁴⁸¹ *Id.* ¶¶ 5-7.

⁴⁸² *Id.* ¶ 9.

⁴⁸³ Willie [Baldwin County] Decl. ¶ 14 (June 8, 2021).

from the voter list with no explanation.⁴⁸⁴ Curtis was unable to vote at this time because the poll workers did not give him enough information on how to remedy this situation.⁴⁸⁵

Arametta, a voter in Calhoun County, experienced myriad issues while trying to vote absentee in the 2020 presidential election, including fears she had been purged from the voter rolls.⁴⁸⁶ She received an envelope with the incorrect name on it and the envelope contained only instructions on how to apply for an absentee ballot, but the application itself was not inside. She attempted to remedy this issue with the Calhoun County Board of Elections, but she never received a replacement envelope and was not able to vote. She never received an explanation as to what happened, leaving Arametta worried that she was unknowingly purged from the voter rolls.

Fortunately, organizations such as the Alabama NAACP are available to assist voters. Benard, a voter in Limestone County and the President of the Alabama NAACP, recalls that the organization “assisted several people who were told they were not registered to vote. These people were being purged from the voting rolls due to inactivity for two or more election cycles. Each person with whom we made contact was restored to the voter rolls.”⁴⁸⁷

While the list maintenance process has changed for the better under Alabama law beginning in 2025, the flawed process remains for registered voters over the next four years and a lack of training and oversight risks the removal of eligible voters from the rolls.⁴⁸⁸

VII. Alabama’s Decentralized and Neglected Election Infrastructure Undermines the System’s Effectiveness.

Alabama’s decentralized and neglected election infrastructure both actively causes and fails to remedy the challenges Alabama voters face. It is a system designed to fail.

⁴⁸⁴ Curtis [Jefferson County] Decl. ¶ 6 (June 8, 2021).

⁴⁸⁵ *Id.* ¶ 9.

⁴⁸⁶ Arametta [Calhoun County] Decl. (June 10, 2021).

⁴⁸⁷ Benard [Limestone County] Decl. ¶ 2-4 (Aug. 11, 2021).

⁴⁸⁸ *Infra* note 682.

In the United States, the responsibility for election administration largely takes place on the state and local level.⁴⁸⁹ This Section describes how Alabama has created a system in which a patchwork of county officials share vital election-related responsibilities and can act with relative autonomy, with profoundly adverse consequences for Black voters. These county officials often operate in the absence of formal statewide guidance, resulting in Alabama’s 67 counties each having distinct electoral processes.⁴⁹⁰ In each county, responsibility for election administration is shared among the Secretary of State’s office, the county Board of Registrars, probate judges, and poll workers.⁴⁹¹ The consequence is a system which lacks transparency, oversight, and accountability—all to the detriment of Alabama voters and Black voters in particular.

A. Alabama’s Secretary of State Champions Voter Suppression.

The State’s failures in election administration begin at the top. The Secretary of State is the chief election official and theoretically serves in an oversight capacity. The Secretary of State is responsible for recording vote totals, certifying ballots, monitoring campaign finance filings, and providing uniform guidance to election officials throughout the State when necessary. The Secretary of State also has rulemaking authority over the State’s election laws.⁴⁹²

The current Secretary of State, John Merrill, exceeds his mandate and uses his office not to help voters, but instead to advance an agenda centered on voter suppression. Throughout his tenure, Merrill has developed a reputation for seeking to restrict voting access, spreading disinformation, and engaging in racist and inappropriate interactions with constituents through his personal social media accounts.

Instead of advancing the interest of the State’s voters, Merrill works to limit access to the ballot box. As has been detailed throughout Part II, Merrill’s opposition to voting access is well documented. Merrill opposes early voting, expanded absentee voting, and curbside voting, while championing restrictive practices such as the State’s

⁴⁸⁹ *Election Administration at State and Local Levels*, NAT’L CONF. STATE LEGISLATURES (Feb. 3, 2020) <https://www.ncsl.org/research/elections-and-campaigns/election-administration-at-state-and-local-levels.aspx>.

⁴⁹⁰ *The State and Local Role in Election Administration: Duties and Structures*, CONGRESSIONAL RESEARCH SERVICE, at 18 (Mar. 4, 2019) <https://crsreports.congress.gov/product/pdf/R/R45549>.

⁴⁹¹ *Id.*

⁴⁹² *Office of the Secretary*, ALA. SEC’Y OF STATE, <https://www.sos.alabama.gov/sos-office> (last accessed Aug. 5, 2021).

photo ID and witness requirements and voter purges.⁴⁹³ His office routinely puts out statements perpetuating the well-documented myth of voter fraud and misleads the public about critical information regarding voter registration or new state election laws.⁴⁹⁴

For example, after the State enacted a law banning so-called crossover voting (voting in one party's primary and then participating in the primary runoff of the other party), the State widely publicized that it had purportedly uncovered hundreds of violations, which would have exposed voters to potential jail time.⁴⁹⁵ Yet after a review of the 674 accused crossover voters, only 140 cases were found.⁴⁹⁶ But to Secretary of State Merrill, the facts were secondary to his true goal of intimidating voters from exercising their right to vote.⁴⁹⁷ In another example of Merrill's office failing to advance the interests of voters, during the 2017 special Senate election, Alabama's flawed system of maintaining voter rolls resulted in 339,000 voters being marked as "inactive" prompting a letter from SPLC to the Alabama Secretary of State raising concerns about the State's failure to properly ensure the accuracy of its voting rolls.⁴⁹⁸

In his personal capacity, Merrill uses Twitter and Facebook to attack his constituents.⁴⁹⁹ One example, highlighted below, is a Twitter thread from April 2020 discussing the State's absentee ballot photo ID requirement during the COVID-19 pandemic. In response to a voter's concern about needing access to photocopiers or a smartphone and printer to properly complete an absentee ballot application, Merrill replied offering to come to the voter's home to teach him how to use a printer as well as other everyday tasks like tying his shoes, and by telling the voter he should "make sure that you know how to get a copy of your ID made while you're buying cigarettes or

⁴⁹³ See *supra* Part II § III.

⁴⁹⁴ Press Release, John H. Merrill, ALA. SEC'Y OF STATE, *Alabama's 3.5 Million Registered Voters Continues to Shatter State Records* (July 25, 2019) <https://www.sos.alabama.gov/newsroom/alabamas-35-million-registered-voters-continues-shatter-state-records>.

⁴⁹⁵ *Fewer Crossover Voters Than Estimated*, AP (Nov. 4, 2017) <https://apnews.com/article/6a075032c19c4ff5a7a5da91c205308d>.

⁴⁹⁶ *Id.*

⁴⁹⁷ *Alive and Well*, *supra* note 166 at 15.

⁴⁹⁸ Letter from J. Richard Cohen, President & CEO, S. Poverty Law Ctr., to John H. Merrill, Ala. Sec'y of State (Aug. 18, 2017) (on file with the author).

⁴⁹⁹ Mike Cason, *In Facebook Exchange, John Merrill Tells Man He Should Consider Sex Change*, AL.COM (Nov. 22, 2020), <https://www.al.com/news/2020/11/in-facebook-exchange-john-merrill-tells-man-he-should-consider-sex-change.html> (2020).

alcohol.”⁵⁰⁰ Merrill has also used his Twitter account to amplify disinformation such as about Black Lives Matter’s “war on whites” and to make insulting remarks to a male voter who paints his fingernails.



Merrill’s approach to voting rights in Alabama is just the latest chapter in the State’s history of racial discrimination in voting. His failure to protect the rights of Alabama voters demonstrates that, if left to its own devices, Alabama will continue to promote, create, and enforce restrictive, burdensome, and racially discriminatory voting laws.

⁵⁰⁰ John Merrill (@JohnHMerrill) Twitter (Apr 21, 2020 1:38 PM), <https://twitter.com/JohnHMerrill/status/1252652987241172992>.

B. The State Places Wide Discretion with County-Level Election Officials Whom It Does Not Adequately Train.

Voting and elections in Alabama are administered on the county level. Responsibility for managing the system is dispersed among a handful of different officials, the three most important of which are county registrars, poll workers, and probate judges. In large part because of the State's failure to invest adequately in its election infrastructure, county election offices are often under-resourced, understaffed, underqualified, and undertrained. Nevertheless, as also discussed in previous sections, these officials are given broad authority and discretion to make judgments and decisions that determine whether a voter is able to cast their ballot.

1. County Registrars.

County registrars are responsible for maintaining the voter rolls, but do not need to possess any level of expertise or background to hold the position. A county registrar simply must be qualified to vote, live in the county, have graduated high school, and "possess the minimum computer and map reading skills necessary to function in the office."⁵⁰¹ Given these minimal requirements, it is imperative the State properly train county registrars to succeed.

The maintenance of voter rolls requires processing registrations, approving or denying registration applications, removing individuals from the voter list if they have moved, passed away, or gone inactive, and assigning voters to precincts.⁵⁰² If a county register is not qualified or well-trained, it can create obstacles for voters who may have their registration wrongly denied⁵⁰³ or who may be improperly removed from the rolls.

For example, Rochelle, an African-American and Native-American resident of Jefferson County, had her registration wrongly denied after being incarcerated. "The person at the [county registrar's office] insisted that I had to have my record expunged in order to registered to vote. This turned out to be incorrect, but it took me about five times visiting the [county registrar's office] over six months to a year to sort this out."⁵⁰⁴ Rochelle was ultimately able to re-register, but only after she received assistance from an outside

⁵⁰¹ *Id.*

⁵⁰² ALA. CODE § 17-3-2.

⁵⁰³ *See supra* Part II § V.

⁵⁰⁴ Rochelle [Jefferson County] Decl. ¶ 7 (July 7, 2021).

organization.⁵⁰⁵ “If I had not had help from the Dannon Project, I...would not have been able to register to vote.”⁵⁰⁶ For Rochelle, voting is very important, as she shared:

My mama, my grandmama, and my great-grandmama were denied voting. My people have been oppressed, disrespected, killed, not allowed to make a living, and treated as fourth-class citizens. I don’t usually share things with people, but I feel I have to share my story because we all should have a voice, and I choose to believe that my vote counts.⁵⁰⁷

2. Poll Workers.

Poll workers have one of the most critical roles in administering Alabama’s elections: managing precincts on Election Day. Poll workers are the primary on-the-ground officials responsible for running each voting precinct. They must be prepared to both physically manage the precinct—from setting up the polling location to handling any problems that arise with voting machines— and be ready to answer any voter questions that may arise.⁵⁰⁸ These may include questions about voter eligibility, proper polling locations, photo ID requirements, provisional ballots, and many other topics. Studies have found that given the burdens involved in poll workers’ important duties, “when [poll workers] are faced with a decision on how to apply policies to which they may be uncertain they choose to require voter ID or not based upon their personal beliefs or normative judgments about what they believe those laws should be.”⁵⁰⁹ The way poll workers are trained (by probate judges, discussed below) to respond to such situations often makes the difference in whether a voter is able to successfully cast a ballot or is unjustly disenfranchised.

Melinda, a voter in Tallapoosa County, has at times volunteered to accompany voters to the polls out of concern that poll workers would not know the

⁵⁰⁵ *Id.* ¶ 10.

⁵⁰⁶ *Id.* ¶ 11.

⁵⁰⁷ *Id.* ¶ 4.

⁵⁰⁸ ALA. CODE § 17-13-9.

⁵⁰⁹ *Hearing on Voting in America: The Potential for Voter ID Laws, Proof-of-Citizenship Laws, and Lack of Multi-Lingual Support to Interfere With Free and Fair Access to the Ballot Before the H. Comm. on H. Admin.*, 117th Cong. 1-2 (May 24, 2021) (testimony of Dr. Lonna Rae Atkeson), <https://docs.house.gov/meetings/HA/HA08/20210524/112670/HHRG-117-HA08-Wstate-AtkesonL-20210524.pdf>.

rules.⁵¹⁰ Other voters, like Jenene in Russell County, have been improperly told they are ineligible to vote or are an inactive voter.⁵¹¹ In Jenene's case, she "was determined to vote," and insisted that she was eligible.⁵¹² The poll worker stepped aside to make a phone call about the issue and returned saying the problem had "been fixed," and then permitted Jenene to vote.⁵¹³ In this case, the poll worker making the effort to check the issue made the difference between Jenene being able to vote and being turned away.

William, a voter in Morgan County, explained that during the 2017 Alabama Senate Election, he arrived at his regular polling place to vote and was informed by a poll worker that he had been purged from the system.⁵¹⁴ A few months prior, William had gone to the courthouse to get a paper copy of his registration, which he showed the poll worker.⁵¹⁵ Like Jenene, he advocated for himself and was given a ballot by the election supervisor, but he is unsure whether it was a provisional ballot or not.⁵¹⁶ Williams knows not all voters would react similarly:

My situation makes me think about if this is how things are going when there are no black poll watchers in Alabama. If I had walked out of the church when I learned that I was purged, these ladies [the white poll workers] would not have stopped me. How are elderly black people who don't show some emotions being treated? For me, being of a younger generation, I was not going to take no for an answer.⁵¹⁷

In addition to providing inadequate training to poll workers, some counties do not adequately staff polling locations. As with other consequences of the State's inadequate provision of resources to election administrators, understaffing polling locations burdens poll workers and voters alike. Betty, a wheelchair-bound voter in Jefferson County, was forced to wait in an hour-long line to vote on Election Day 2020

⁵¹⁰ Melinda [Tallapoosa County] Decl. ¶ 8 (June 12, 2021).

⁵¹¹ Jenene [Russell County] Decl. ¶ 8 (June 3, 2021).

⁵¹² *Id.*

⁵¹³ *Id.*

⁵¹⁴ William [Morgan County] Decl. ¶ 4 (June 19, 2021).

⁵¹⁵ *Id.* ¶ 5.

⁵¹⁶ *Id.* ¶ 7.

⁵¹⁷ *Id.* ¶ 9.

due to understaffing at her precinct.⁵¹⁸ While Betty was able to wait to cast her vote, many other voters, some of whom wait in even longer lines on Election Day, may not be able to do the same and could lose their opportunity to vote.

3. Probate Judges.

Elected probate judges serve as county-level chief election officials,⁵¹⁹ yet the State does not require them to possess any legal education.⁵²⁰ Despite their title, Alabama law does not grant probate judges the explicit power to oversee elections.⁵²¹ Rather, probate judges are tasked with preserving official records and providing “necessary election supplies,” which includes delivering a list of qualified voters to the county sheriff prior to an election.⁵²² Otherwise, their responsibilities are undefined. The lack of defined responsibilities allows each individual probate judge to have significant autonomy over their level of engagement in election administration, including over their responsibility to select⁵²³ and train⁵²⁴ poll workers. If a probate judge fails to properly select and train poll workers, it can dramatically impact whether Alabamians can exercise their right to vote.

⁵¹⁸ Betty [Jefferson County] Decl. ¶ 4 (June 12, 2021).

⁵¹⁹ ALA. CODE § 12-13-31.

⁵²⁰ Alabama is one of only four States which does not require its probate judges to possess a legal education. Counties may independently require probate judges to be attorneys. Generally, the State only requires that probate judges be at least 18 years old, a registered voter, a resident in the district they seek to represent for one year prior to an election, a state resident for one year, a U.S. citizen for one day, and not over the age of 70 when they run. Ivana Hrynskiw, *Elected without experience: Alabama probate judges*, AL.COM (Oct. 19, 2018), <https://www.al.com/news/birmingham/2018/10/elected-without-experience-alabama-probate-judges.html>.

⁵²¹ ALA. CODE § 17-13-9.

⁵²² *Id.*

⁵²³ Poll workers are appointed to their positions by the county probate judge, sheriff, and clerk of the circuit court. *State by State Compendium: Election Worker Laws and Statutes*, U.S. ELEC. ASSISTANCE COMM’N. at 1-2 (3rd ed. May 2016), <https://www.eac.gov/assets/1/28/Compendium.2016.pdf>.

⁵²⁴ Under Alabama law, poll workers are to be trained by “the authority charged with holding the election,” which is often the county probate judge. *Id.*

C. The Structure of the State’s Election System Stymies Proper Oversight, Accountability, & Transparency, and Puts Voters and Election Workers at Risk.

Administering and overseeing Alabama’s elections and holding election administrators accountable is difficult given the diffuse nature of the State’s election infrastructure. While the ultimate responsibility for the State’s election performance should rest with the highest elections official—the Secretary of State—the election system’s disjointed and diffuse organizational structure enables the Secretary of State and other officials to deflect accountability or wield their authority in unaccountable and even pernicious ways.

For example, while the Secretary of State does not technically supervise members of the Board of Registrars, the Secretary of State is authorized under Alabama law to remove a registrar “for cause.”⁵²⁵ On the one hand, it is essential for election officials including registrars and poll workers to be held accountable to voters, ensuring they provide all of the services and assistance within their mandate and they carry out their duties within the bounds of the law. With 67 counties and three registrars per county, poor performance often goes unnoticed, as discussed further below, leaving voters at risk of disenfranchisement.

On the other hand, there is presently a national crisis for elections officials, who in numerous states are reporting being subjected to significant harassment and threats, are resigning in alarming numbers, and face the threat of fines or prosecution under laws newly passed in various states in 2021 for refusing to carry out the greatly expanded restrictions on voting access.⁵²⁶ It is essential that election workers be protected from anti-voter attacks, while being held accountable under a fair system that includes due process and an opportunity to be heard. In 2019, the Secretary of State removed a registrar in Russell County, but only after an investigation was conducted and, following

⁵²⁵ ALA. CODE § 17-3-3.

⁵²⁶ John Kruzel, *Threats of violence spark fear of election worker exodus*, THE HILL (Aug. 2, 2021), <https://thehill.com/homenews/campaign/565722-threats-of-violence-spark-fear-of-election-worker-exodus>; Jonathan Chait, *The Republican Plot to Turn Poll Workers Into Vote Suppressors*, INTELLIGENCER (May 17, 2021), <https://nymag.com/intelligencer/article/vote-suppression-state-poll-worker-election-penalty-criminal-fine.html>; Tom Hamburger, Rosalind S. Helderman and Amy Gardner, *‘We are in harm’s way’: Election officials fear for their personal safety amid torrent of false claims about voting*, WASH. POST (Aug. 11, 2021) https://www.washingtonpost.com/politics/election-officials-threats/2021/08/11/bb2cf002-f9ed-11eb-9c0e-97e29906a970_story.html.

a hearing, a judge determined the registrar was improperly telling voters they could register using their business addresses.⁵²⁷

Layered atop a weak oversight and accountability system is the State's apparent hostility to transparency, highlighted by the cost of the State's voter file, its ineffective Open Records Act, and its lack of public meeting requirements for key election officials. A state's voter file contains biographical information on all of its registered voters, except for any information the state chooses to keep confidential. The information contained in the voter file is critical for state political parties and advocacy organizations who may want to know about the State's voters, whether it is to assist a candidate's campaign, or to monitor list maintenance practices.⁵²⁸ Under Alabama law, while political parties receive a free copy of the statewide voter file,⁵²⁹ outside organizations must pay an excessively high fee set by the Secretary of State's office.⁵³⁰ At \$0.01 per voter,⁵³¹ the cost of Alabama's voter file is an estimated \$37,000.⁵³² The prohibitive cost of the voter file prevents voting rights organizations from effectively monitoring changes to voter rolls, such as happens with the State's regular voter purges.⁵³³ Organizations must order a copy of the voter file at various points in time to capture the changes the State is making, paying the fee each time.⁵³⁴

In Alabama, the voter file is considerably more expensive than in any other state.⁵³⁵ Obtaining the voter file is free of charge in many states, including Arkansas, Florida and North Carolina, or of minimal charge in many others, such as in Colorado

⁵²⁷ *East Ala. Voter Registrar Removed from Position, Effective Immediately*, WSFA12, <https://www.wsfa.com/2019/07/22/merrill-removes-voter-registrar-position-effective-immediately/>

⁵²⁸ See *supra* Part II § VI.

⁵²⁹ *Access To and Use Of Voter Registration lists*, NAT'L CONF. STATE LEGISLATURES (Aug. 5, 2019), <https://www.ncsl.org/research/elections-and-campaigns/access-to-and-use-of-voter-registration-lists.aspx>.

⁵³⁰ *Voter Information Fee Schedule*, ALA. SEC'Y OF STATE, <https://www.sos.alabama.gov/sites/default/files/form-files/sosVoterListFeeSchedule.pdf> (last accessed June 30, 2021).

⁵³¹ *Supra* note 530.

⁵³² *Availability of State Voter File and Confidential Information*, U.S. Elec. Assistance Comm'n, at 2 (Oct. 29, 2020), https://www.eac.gov/sites/default/files/voters/Available_Voter_File_Information.pdf.

⁵³³ The State's voter purge practices are discussed *supra* Part II § VI.

⁵³⁴ *Alive and Well*, *supra* note 166 at 17.

⁵³⁵ See *supra* note 532.

(\$50), Georgia (\$250) or Pennsylvania (\$20).⁵³⁶ Even in states with higher fees, such as Louisiana (\$5,000) and Mississippi (\$1,100), the cost of the voter file is vastly less prohibitive than in Alabama.⁵³⁷

Alabama's Open Records Act gives Alabama citizens the right to view all public records.⁵³⁸ In theory, the Open Records Act provides Alabama voters with an avenue to uncover the records of public officials involved in election administration—providing vital insight into how and why certain decisions are made, such as how the State enforces its photo ID requirement or why it chooses to close certain polling locations.

But in Alabama, public officials are not required to respond to a request for public records within any particular timeframe.⁵³⁹ As a result, the average turnaround time for a request is 76 days,⁵⁴⁰ a statistic which has led Alabama to be ranked last in the nation in open records request compliance.⁵⁴¹ This response time creates an obstacle for most people to gain access to requested information, as the remaining recourse for voters is litigation. Given the costly nature of litigation, private citizens can only rarely afford to bring an Open Records Act lawsuit.⁵⁴² These barriers to oversight have created a system where public officials know that if they delay responding to an open records request long enough, the odds are the request will fade into memory.⁵⁴³

Lastly, voters do not have the same level of access to the meetings of public officials as their peers in other states, particularly at the county level.⁵⁴⁴ Despite the pivotal role they play, probate judges and boards of registrars are not required to hold public meetings, post regular updates, or solicit public input.⁵⁴⁵ While county commissions do

⁵³⁶ *Id.*

⁵³⁷ *Id.*

⁵³⁸ ALA. CODE § 36-12-40.

⁵³⁹ *Id.*

⁵⁴⁰ Kyle Whitmire, *Whitmire: Alabama is dead last for open records. The Legislature could fix that*, AL.COM, <https://www.al.com/news/2021/03/whitmire-alabama-is-dead-last-for-open-records-the-legislature-could-fix-that.html>.

⁵⁴¹ *Id.*

⁵⁴² *See Alive and Well*, *supra* note 166 at 16.

⁵⁴³ *Id.*

⁵⁴⁴ *Id.*

⁵⁴⁵ *Id.*

host public meetings, which often touch on election-related issues, these meetings represent the exception rather than the rule.⁵⁴⁶

The State's failure to build effective oversight and transparency into the elections system compounds the need for federal oversight through H.R. 4.

VIII. Recent Voting and Turnout Data in Alabama Show the Need for Preclearance.

In her dissent in *Shelby County*, Justice Ginsburg warned that suspending the preclearance requirements of the VRA when those very requirements have succeeded in reducing discriminatory changes to voting laws "is like throwing away your umbrella in a rainstorm because you are not getting wet."⁵⁴⁷ Justice Ginsburg predicted that without preclearance, the gains achieved through the VRA would be eroded.⁵⁴⁸ Post-*Shelby* events in Alabama, including recent declines in Black voter registration and turnout, vindicate that prediction.

Both the majority and the dissenting opinions in *Shelby County* agreed that enormous progress had been made since the VRA became law in 1965, and both credited the VRA with these improvements.⁵⁴⁹ The majority, however, found that the VRA's "extraordinary" provisions were no longer justified by "current conditions."⁵⁵⁰ In reaching that conclusion, the majority relied on voter registration and turnout data from 2004 (the latest data Congress had available when reauthorizing the VRA) and 2012 (the latest data available to the Court). These data, the Court observed, showed that registration and turnout rates for white and Black voters in the six originally covered Southern states (including Alabama) had approached "parity."⁵⁵¹ Rather than recognizing that on the road to parity the VRA's preclearance requirement continued to block many voting rights violations, and treating those attempted violations as evidence of the continuing need for the VRA's protections, the majority concluded that the VRA's work was done.⁵⁵²

⁵⁴⁶ *Id.*

⁵⁴⁷ *Shelby County v. Holder*, 570 U.S. 529, 590 (2013) (Ginsburg, J., dissenting).

⁵⁴⁸ *Id.* at 592-93.

⁵⁴⁹ *Id.* at 547-48 (majority opinion), 565-66 (dissent).

⁵⁵⁰ *Id.* at 536 (majority opinion).

⁵⁵¹ *Id.* at 547-48 (citing H.R. Rep. No. 109-478 at 12 (2006); Census, Reported Voting and Registration, by Sex, Race and Hispanic Origin, for States, Table 4b (2012)).

⁵⁵² *See id.* at 553.

As Alabama, freed from the constraints of VRA preclearance, proceeded to implement strict photo ID laws, purge voters from the registration rolls, close polling locations and DMV offices, and adopt the other burdensome and discriminatory voting practices detailed in this Report, the State’s post-*Shelby County* voting patterns have come to look very different. In the two most recent election cycles, Black registration and turnout has fallen below that of whites. The table below presents the 2004 and 2012 results relied on by the *Shelby County* Court alongside the results from the 2018 and 2020 elections.

Figure 1. Voter Registration and Turnout in Alabama⁵⁵³

	2004	2012	2018	2020
Registration				
White	73.8	75.3	70.1	71.0
Black	72.9	69.0	67.4	60.6
Turnout				
White	62.2	61.6	51.6	62.9
Black	63.9	63.4	49.6	54.8

As these data show, voting “parity” no longer exists in Alabama. In 2020, white registration exceeded Black registration by more than 10 percentage points, and white turnout exceeded Black turnout by more than 8 percentage points. Strikingly, while white voter registration and turnout have remained relatively stable since 2004, Black voting participation has declined significantly. These declines, moreover, have come in spite of the intensified organizing efforts of Black voting activists and the extraordinary efforts of Black Alabamians to overcome the obstacles placed in their path. In other words, the State’s post-*Shelby County* restrictions are having their natural and predictable effects in suppressing the Black vote. Justice Ginsburg’s fears of “backsliding” in the absence of a potent VRA have proven prophetic.⁵⁵⁴

⁵⁵³ These data show the percentage of “white alone” and “Black alone” voting-age citizens who registered to vote and voted in Alabama, using Census data. Data from 2012, 2018 and 2020 come from Census, Reported Voting and Registration, by Sex, Race and Hispanic Origin, for States, Table 4b. See generally <https://www.census.gov/topics/public-sector/voting/data/tables.html>. Data from 2004 come from the same analysis, then designated Table 4a. See *supra* note 551.

⁵⁵⁴ *Shelby County*, 570 U.S. at 583 (Ginsburg, J., dissenting).

When the *Shelby County* decision was issued, then-Governor Robert Bentley hailed it as a historic ruling that at long last recognized that the days of racial discrimination in voting in Alabama were over. “As governor, I can assure you we’re not going to have discrimination in the state of Alabama based on race, especially related to voting,” Bentley promised at the time.⁵⁵⁵ As this Report shows, the Governor failed to keep that promise. Before resigning in disgrace in 2017, Bentley, among other things, pushed through the State’s racially discriminatory photo ID law,⁵⁵⁶ closed photo ID-issuing DMV offices in what a federal agency determined was a racially discriminatory manner,⁵⁵⁷ and defended what a federal court determined was a racially discriminatory legislative redistricting plan.⁵⁵⁸

In claiming that preclearance was no longer needed, Governor Bentley also pointed to the fact that, at the time, 27 percent of Alabama state legislators were Black, similar to the overall population.⁵⁵⁹ But that number, too, has since decreased.⁵⁶⁰ Meanwhile, Alabama remains one of the few states that since Reconstruction has never elected a Black person to statewide executive office—not a single Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Auditor or Commissioner of Agriculture—or to the U.S. Senate.⁵⁶¹ None of the other states where this is true, except Mississippi, has as large a Black population as Alabama. All 19 of Alabama’s Supreme Court justices and intermediate appellate judges, selected in statewide “at large” elections,

⁵⁵⁵ *Gov. Robert Bentley says Voting Rights Act decision “may be the most significant ruling in my lifetime,”* AL.COM (June 25, 2013, updated Mar. 7, 2019), <https://www.al.com/wire/2013/06/gov-robert-bentley-says-voting.html>.

⁵⁵⁶ The photo ID law is discussed *supra* Part II § I.

⁵⁵⁷ The closure of DMV offices is discussed *supra* Part II § I.B.

⁵⁵⁸ The racially discriminatory redistricting plan is discussed *infra* Part III § I.D.

⁵⁵⁹ *Supreme Court halts use of key part of voting law*, AP (June 25, 2013) <https://apnews.com/article/government-and-politics-supreme-courts-courts-voting-race-and-ethnicity-871be7654df041549cf74eb1a1d377ca>.

⁵⁶⁰ *State Legislator Demographics*, NAT’L CONF. STATE LEGISLATURES, <https://www.ncsl.org/research/about-state-legislatures/state-legislator-demographics.aspx> (last accessed Aug. 9, 2021).

⁵⁶¹ *Analysis: 10 states still haven’t elected minority statewide*, AP (Sept. 3, 2016) <https://apnews.com/article/6d70082a5f854109aee7874e915c6631>; *Alabama Current Officials*, MYTIMETOVOTE.COM, <https://www.elections.mytimetovote.com/elected-officials/alabama.html> (last accessed Aug. 9, 2021).

are white, and no Black Alabamian has won election to one of these courts in more than two decades.⁵⁶²

In Alabama, the rainstorm of racial discrimination in voting access has not let up. Alabamians need, and deserve, an umbrella again.

⁵⁶² *In State with 27% Black Population, All Alabama Appellate Judges Are White*, Equal Justice Initiative, Mar. 11, 2020, <https://eji.org/news/all-alabama-appellate-judges-are-white-in-state-with-27-percent-Black-population/>; *Lawsuit: Current election system of Alabama appellate judges discriminates against blacks*, AL.COM, https://www.al.com/news/birmingham/2016/09/voting_rights_lawsuit_seeks_to.html.

Part III: Voting Rights Violations in Alabama

In 2019, Representative Terri Sewell, who represents Alabama's 7th Congressional District (including Selma), introduced the John Lewis Voting Rights Advancement Act (H.R. 4),⁵⁶³ which soon passed the United States House of Representatives.⁵⁶⁴ Despite the House's passage of the bill, the United States Senate never held a vote on the legislation.

The latest version of the bill⁵⁶⁵ creates a new coverage formula for determining which states and subdivisions will be subject to federal preclearance under Section 5 of the VRA.⁵⁶⁶ Consistent with the Supreme Court's direction to address "current conditions," the updated coverage formula considers each jurisdiction's track record over a 25-year rolling "look back" period. Under the new coverage formula, federal preclearance applies statewide if a state, together with its subdivisions, has committed:

- 15 or more "voting rights violations" during the past 25 calendar years; or
- 10 or more "voting rights violations" during the past 25 calendar years, at least one of which was committed by the state itself.

The legislation defines a "voting rights violation" to include any:

- final judgment finding a violation of the Fourteenth or Fifteenth Amendments;
- final judgment finding a violation of the VRA;
- final judgment denying the request of a state or subdivision for a declaratory judgment under Section 3(c) or Section 5 of the VRA;
- objection by the Attorney General under Section 3(c) or Section 5 which thereby prevents a voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting from being enforced;
- consent decree, settlement, or other agreement resulting in the alteration or abandonment of a voting practice.

⁵⁶³ Press Release, Congresswoman Terri Sewell, *Sewell, Leahy introduce The Voting Rights Advancement Act* (Feb. 26, 2019), <https://sewell.house.gov/media-center/press-releases/sewell-leahy-introduce-voting-rights-advancement-act>.

⁵⁶⁴ Press Release, Congressman Jerry Nadler, *House Passes H.R. 4, the Voting Rights Advancement Act of 2019*, <https://nadler.house.gov/news/documentsingle.aspx?DocumentID=394165/>

⁵⁶⁵ This Report uses the text of the House-passed legislation from the 116th Congress because, as of this writing, an updated version of the bill has not been introduced in the 117th Congress.

⁵⁶⁶ H.R. 4, Voting Rights Advancement Act of 2019, § 3 (passed the House of Representatives Dec. 6, 2019); S. 4263, John Lewis Voting Rights Advancement Act, § 4 (introduced in the Senate July 22, 2020).

This Report uses this formula as a basis for its analysis in this Part, but recognizes that Congress may ultimately select a different coverage formula. The voting rights violations highlighted in this Part demonstrate Alabama must be covered under any coverage formula Congress chooses.⁵⁶⁷

I. Alabama and Its Subdivisions Have Been Subject to Numerous Final Judgments Finding Voting Rights Violations.

A. *White v. Alabama* (1996).⁵⁶⁸

After a district court entered a controversial settlement agreement retaining Alabama’s “at-large system” of electing appellate judges, a Black voter and a judge on the Court of Criminal Appeals, who had alleged that the at-large system was unconstitutional, appealed as intervenors, seeking to overturn the settlement.⁵⁶⁹ The remedy ordered by the district court, pursuant to the settlement agreed to by the State, would have created a commission to appoint appellate judges that would have purportedly ensured that the Black voters of Alabama had at least two “representatives of their choice” on each court. It also would have increased the size of the Supreme Court of Alabama and the State’s courts of appeals.⁵⁷⁰ Under the plan, voters would no longer elect appellate judges. Rather, the selection of appellate judges would be placed in the hands of a commission. On appeal, the intervenors argued that both remedies exceeded the court’s authority under Section 2 of the VRA.

In its opinion, the Eleventh Circuit first held that Section 2 does not allow a commission to appoint officeholders citizens should elect.⁵⁷¹ The court explained that “[a] judicial remedy fashioned under [S]ection 2 must . . . enhance the ability of the plaintiffs to *elect* their candidates of choice. Any remedy that has the effect of eliminating this essential element of choice is invalid[.]”⁵⁷² The proposed commission would have done

⁵⁶⁷ This Report does not endeavor to identify each and every settlement, unreported case or DOJ objection that resulted in a “voting rights violation” as defined in the House version of the legislation. It is clear, however, that Alabama’s record triggers the coverage formula—despite the high number of violations required and the limited definition of what constitutes a voting rights violation.

⁵⁶⁸ 74 F.3d 1058 (11th Cir. 1996).

⁵⁶⁹ *Id.* at 1062.

⁵⁷⁰ *Id.* at 1061.

⁵⁷¹ *Id.*

⁵⁷² *Id.* at 1069-70.

the opposite, taking the selection of judges out of the hands of voters.⁵⁷³ The Eleventh Circuit also rejected the rationale that this commission could serve as a “proxy for black voters.”⁵⁷⁴

Next, the court held that the district court did not have the authority to increase the size of Alabama’s appellate courts in its effort to achieve proportional representation.⁵⁷⁵ The court cited its own precedent which had held that “federal courts may not mandate as a [S]ection 2 remedy that a state or political subdivision alter the size of its elected bodies.”⁵⁷⁶ The court also noted that the district court’s remedy, if implemented, would injure parties before it by “depriving them of their right to vote.”⁵⁷⁷ Accordingly, the Eleventh Circuit vacated the district court’s judgment.⁵⁷⁸

B. *Dillard v. City of Greensboro, Alabama (1997)*.⁵⁷⁹

Black citizens of Greensboro, Alabama brought a lawsuit claiming that the “at-large system” used to elect its City Council members violated Section 2 of the VRA.⁵⁸⁰ Under an at-large system, every candidate is elected city-wide rather than representing separate geographic districts. As is well documented, such systems dilute the voting power of Black populations, because every candidate is selected by a city-wide majority vote.⁵⁸¹

Greensboro conceded its at-large system violated Section 2 and entered into a consent decree.⁵⁸² Thereafter, however, Greensboro proposed multiple redistricting plans as a purported remedy for this violation that the DOJ refused to preclear because they continued to improperly hinder Black voters from electing candidates of their

⁵⁷³ *Id.* at 1070.

⁵⁷⁴ *Id.*

⁵⁷⁵ *Id.* at 1072.

⁵⁷⁶ *Id.* (citing *Nipper v. Smith*, 39 F.3d 1419, 1532 (11th Cir. 1994) (en banc)).

⁵⁷⁷ *Id.* at 1075.

⁵⁷⁸ *Id.*; see also *White v. Alabama*, 922 F. Supp. 552 (M.D. Ala. 1996) (denying further relief).

⁵⁷⁹ 956 F. Supp. 1576 (M.D. Ala. 1997).

⁵⁸⁰ *Id.* at 1576.

⁵⁸¹ *Dillard v. City of Greensboro*, 74 F.3d 230, 231 at n.1 (11th Cir. 1996).

⁵⁸² *Id.* at 231.

choice.⁵⁸³ Eventually the district court adopted Plaintiffs' proposed single-member districting plan.⁵⁸⁴ Greensboro appealed the court's adoption of the plan to the Eleventh Circuit, which remanded the case so that the plan could be reconsidered in light of new Supreme Court precedent in *Miller v. Johnson*.⁵⁸⁵ On remand, the court appointed a Special Master to recommend a redistricting plan for Greensboro in accordance with explicit instructions and legal standards provided by the court.⁵⁸⁶

With the assistance of the Special Master, the district court approved a new system of five separate districts—three of which had a Black population of two-thirds or greater of voting-age residents—fulfilling the “one-person, one-vote principle” of the Equal Protection Clause of the Fourteenth Amendment and resolving the Section 2 violation.⁵⁸⁷ The court entered a judgment and injunction ordering Greensboro and those acting on its behalf to follow this system in all current and future City Council elections.⁵⁸⁸

C. *Allen v. City of Evergreen, Alabama (2014)*.⁵⁸⁹

Plaintiffs brought this action against the City of Evergreen, Alabama under Section 2 and Section 5 of the VRA and the Fourteenth and Fifteenth Amendments, challenging the then-current and proposed redistricting plans for Evergreen's City Council.⁵⁹⁰ Plaintiffs alleged both racial discrimination and inequitable apportionment of voting districts.⁵⁹¹ While the City of Evergreen is 62 percent Black, the Black population in Evergreen is compact, so three concentrated and contiguous districts with significant Black majorities can easily be drawn.⁵⁹² Yet, Evergreen's proposed redistricting plan

⁵⁸³ *Id.* at 231-32.

⁵⁸⁴ *Id.* at 232.

⁵⁸⁵ *Dillard*, 74 F.3d 231 (citing *Miller v. Johnson*, 515 U.S. 900, 916 (1995)).

⁵⁸⁶ *Dillard*, 956 F. Supp. at 1577.

⁵⁸⁷ *Id.* at 1581-82.

⁵⁸⁸ *Id.* at 1582.

⁵⁸⁹ *Allen v. City of Evergreen, Alabama*, 2014 WL 12607819 (S.D. Ala. Jan. 13, 2014).

⁵⁹⁰ *Id.* at *1.

⁵⁹¹ *Id.*

⁵⁹² *Allen v. City of Evergreen*, 2013 WL 1163886, at *1 (S.D. Ala. Mar. 20, 2013).

packed the majority of the Black population into two districts that were each more than 86 percent Black while retaining three districts with white voter majorities.⁵⁹³

At the request of the parties, the court enjoined the planned August 28, 2012 election, which would have used the challenged maps.⁵⁹⁴ Further, the court enjoined the use of the 2012 redistricting plan and the new voter eligibility system pending preclearance, and ordered a special election in place of the planned election.⁵⁹⁵ It also appointed a Special Master to oversee the establishment of an accurate list of voters.⁵⁹⁶

In July 2013, the Supreme Court's decision in *Shelby County v. Holder* relieved Alabama and its subdivisions, including the City of Evergreen, from the preclearance requirements of Section 5. In light of *Shelby County*, Plaintiffs moved for summary judgment on their constitutional claims and filed a motion asking the Court to subject Evergreen to federal oversight pursuant to § 3(a) and § 3(c) of the VRA through December 31, 2020.⁵⁹⁷ Under Section 3, a federal court can subject a state or political subdivision to federal oversight upon finding a constitutional violation.⁵⁹⁸ The district court granted Plaintiffs' motion for summary judgment on the constitutional claims and granted Plaintiffs' Section 3 motion.

The court also enjoined Evergreen from changing City Council district boundaries without satisfying the preclearance requirements of § 3(c) or one of its exceptions. Additionally, the court enjoined Evergreen from changing the standards for determining which registered voters are eligible to participate in Evergreen's municipal elections without first satisfying these preclearance requirements. Finally, the court ordered Plaintiffs to identify an individual to serve as a representative to the Evergreen City Council and who would specifically represent Plaintiffs on annexation matters.⁵⁹⁹

⁵⁹³ *Id.*

⁵⁹⁴ *Id.*

⁵⁹⁵ *Id.*; *Allen*, 2014 WL 12607819 at *1.

⁵⁹⁶ *Allen*, 2014 WL 12607819 at *1.

⁵⁹⁷ *Id.*

⁵⁹⁸ *Id.*

⁵⁹⁹ *Id.* at *1-2.

D. *Alabama Legislative Black Caucus v. Alabama* (2017).⁶⁰⁰

The Alabama Legislative Black Caucus and the Alabama Democratic Conference challenged 36 state legislative districts as racial gerrymanders in violation of the Fourteenth Amendment and the VRA.⁶⁰¹ Plaintiffs argued that race was an unconstitutionally predominant factor when the drafters of the redistricting plan held constant the demographics of the preceding districts, where “most of the existing majority-Black districts were underpopulated by at least five percent.”⁶⁰² The three-judge district court rejected Plaintiffs’ claims and Plaintiffs appealed to the Supreme Court.

The Supreme Court reversed because the district court’s opinion analyzed the claim as it applied to the state “as a whole” rather than “district-by-district.”⁶⁰³ The Court pointed out that while statewide evidence may be used to prove racial gerrymandering in a particular district, “a showing that race-based criteria did not significantly affect the drawing of some Alabama districts . . . would have done little to defeat a claim that race-based criteria predominates in some districts.”⁶⁰⁴

On remand, the district court analyzed the redistricting plan on a district-by-district basis. It held that race was an unconstitutionally predominant factor in the drawing of 14 of the 36 challenged voting districts.⁶⁰⁵ As a result, the court evaluated these districts under strict scrutiny and found that 12 of the 14 districts (three Senate and nine House districts) were racial gerrymanders.⁶⁰⁶ In the remaining two districts, the court found the redistricting was justified by the State’s interest in complying with the VRA and accepted the State’s reliance on statements made by two incumbent members of the Alabama Legislative Black Caucus at redistricting committee meetings.⁶⁰⁷

Having found that each of the 12 racially gerrymandered districts violated the VRA and the Constitution, the court granted judgment for Plaintiffs with respect to

⁶⁰⁰ *Ala. Legislative Black Caucus v. Alabama*, 231 F. Supp. 3d 1026 (M.D. Ala. 2017).

⁶⁰¹ *Id.* at 1032-1033.

⁶⁰² *Id.*

⁶⁰³ *Ala. Legislative Black Caucus v. Alabama*, 575 U.S. 254, 262 (2015).

⁶⁰⁴ *Id.* at 263-64.

⁶⁰⁵ *Ala. Legislative Black Caucus*, 231 F. Supp. 3d at 1033.

⁶⁰⁶ *Id.*

⁶⁰⁷ *Id.*

each of these legislative districts and enjoined the use of the 12 districts in all future elections.⁶⁰⁸

E. *People First v. Merrill (2020)*.⁶⁰⁹

As discussed in Part II § III.D, voters and voter advocacy organizations sued the Secretary of State for violations of the First and Fourteenth Amendments, the Americans with Disabilities Act, and the VRA regarding the state's photo ID and witness requirements, and the State's prohibition on curbside voting during the pandemic. The district court concluded that the State violated the rights of Alabama voters with respect to all three issues and issued a preliminary injunction.⁶¹⁰ Specifically, the district court found that during the 2020 election, the photo ID requirement, witness requirement, and curbside voting prohibition placed an undue burden on certain plaintiffs' fundamental right to vote; the photo ID requirement and curbside voting prohibition violated certain plaintiffs' rights under the ADA; and the witness requirement violated certain plaintiffs' rights under the VRA.⁶¹¹ While this ruling was on appeal, Alabama voters were able to vote free from the photo ID and witness requirements.

Two weeks later, the Eleventh Circuit reinstated the photo ID and witness requirements by staying the district court ruling,⁶¹² and the Supreme Court expanded the stay so the State could again prevent curbside voting.⁶¹³ Because the election occurred before the case could be finally resolved, the case ended without any further rulings. No other court ultimately reached the merits and none of these decisions overturned the district court's determination that the witness requirement violated the VRA.

⁶⁰⁸ *Id.* at 1348.

⁶⁰⁹ *People First of Alabama v. Merrill*, 491 F. Supp. 3d 1076 (N.D. Ala. 2020).

⁶¹⁰ *Id.*

⁶¹¹ *Id.*

⁶¹² *People First of Alabama v. Merrill*, No. 20-13695-B (11th Cir. 2020).

⁶¹³ *Merrill v. People First of Alabama*, 141 S. Ct. 25 (2020).

II. The Department of Justice Has Interposed Objections Under Section 5 on Numerous Occasions Preventing Proposed Voting Changes in Alabama.

A. Tallapoosa County (1998).⁶¹⁴

Pursuant to Section 5 of the VRA, Tallapoosa County submitted plans to the U.S. Attorney General to reduce its number of county commissioners from 6 to 5, and to implement a new redistricting plan for the county. The redistricting plan would have reduced the power of the Black population in the county by ensuring that no district had over 50 percent population of individuals who were Black and of voting age, while also spreading out the incumbent candidates to raise the odds that they would be reelected.⁶¹⁵

The Department of Justice review noted the long history of noncompliance in Tallapoosa County with constitutional, statutory, and court mandated requirements to protect the right to vote and to afford minority voters equal electoral opportunity. Notably, the county previously sought to implement an at-large method of election in the 1970s without seeking requisite preclearance, resulting in a Section 5 enforcement action brought by minority residents.⁶¹⁶ Ultimately, following a formal DOJ objection in 1983, the county obtained the requisite preclearance. However, 1990 Census data revealed that the county had not adopted a properly apportioned districting plan until the DOJ again brought suit in 1993 under Section 2.⁶¹⁷

To remedy these issues, the county agreed to a consent decree establishing a temporary redistricting plan for the County Commission that temporarily expanded the Commission to six members. The expansion permitted the county to create a plan in which no white incumbent would have to oppose another white incumbent or to run in a majority-Black district.⁶¹⁸ For the 1998 election and every subsequent election, the consent decree mandated that the county adopt a five-member plan with at least one district having a majority-Black voting age population.⁶¹⁹ However, in 1996, the county adopted a plan that did not have a single district with a majority-Black voting age population. While the county subsequently amended the plan to increase the Black

⁶¹⁴ Objection Letter from Acting Assistant Attorney General Bill Lann Lee to E. Paul Jones, Dep't of Just. (Feb. 6, 1998).

⁶¹⁵ *Id.* at 2.

⁶¹⁶ *Id.* at 1.

⁶¹⁷ *Id.* at 2.

⁶¹⁸ *Id.*

⁶¹⁹ *Id.* at 3.

voting-age population by 2.5 percent, giving a narrow majority in one of the five districts, the DOJ review found that Black voters would not have a fair opportunity to elect a candidate of choice under the plan.⁶²⁰

The DOJ objection letter to the 1998 redistricting plan found that the proposal gave impermissible weight to protecting the electoral opportunity of white incumbents, while suppressing minority voting strength.⁶²¹ The objection letter concluded that Tallapoosa County had not met its Section 5 burden of demonstrating the proposed changes were not discriminatory in purpose or effect.⁶²²

B. City of Alabaster (Shelby County) (2000).⁶²³

In 2000, the City of Alabaster submitted information to the DOJ detailing 42 annexations to City Council wards, made between March 1992 and March 2000. The DOJ objected to two of the annexations, which it referred to as “Ward 1 annexations.”⁶²⁴

According to census data, residents of color made up 11 percent of the City of Alabaster’s population, but 68.2 percent of Ward 1. The proposed annexations would have added 179 White registered voters and just two Black registered voters to Ward 1, resulting in a white majority there and eliminating any area in which minority voters might have the opportunity to elect a candidate of their choice.⁶²⁵

The DOJ found, with respect to the two Ward 1 annexations, that the City of Alabaster had not carried its burden of showing that the post-annexation voting system will fairly reflect the strength of the minority community, and further concluded that Alabaster had not met its burden of demonstrating that the annexations were not discriminatory in purpose or effect.⁶²⁶ The DOJ formally objected to the Ward 1 annexations, preventing them from taking effect absent an order from a federal court.⁶²⁷

⁶²⁰ *Id.* at 4.

⁶²¹ *Id.* at 5.

⁶²² *Id.*

⁶²³ Objection Letter from Assistant Attorney General Bill Lann Lee to J. Frank Head, U.S. Dep’t of Just. (Aug. 16, 2000).

⁶²⁴ *Id.* at 2.

⁶²⁵ *Id.*

⁶²⁶ *Id.* at 3-4.

⁶²⁷ *Id.* at 4.

C. Mobile County (2007).⁶²⁸

In 1988, Mobile County, pursuant to decisions of the Alabama Supreme Court, changed its election procedure for filling vacancies on the County Commission from special elections to appointment by the Governor of Alabama.⁶²⁹ A three-judge federal panel ordered the State to submit this change for preclearance under Section 5. The DOJ inquiry focused on whether filling vacancies by direct appointment rather than election will lead to discriminatory results.⁶³⁰

One of the impacted single-member districts was District 1, which was over 63 percent African American.⁶³¹ The DOJ found that the racial makeup and electoral choices of District 1 had long afforded the opportunity for Black District 1 residents to elect candidates of their choice to the County Commission. There was no indication that District 1 voters would have selected the same person selected by the Governor in prior vacancies.⁶³² Accordingly, direct appointment would drastically reduce minority voters' opportunity to elect a District 1 representative of their choice to the Mobile County Commission.⁶³³

Alabama therefore failed to carry its burden, and the DOJ prevented the switch from special elections to gubernatorial appointment to fill any District 1 vacancy on the Mobile County Commission.⁶³⁴

D. City of Calera (Shelby County) (2008).⁶³⁵

In 2008, the City of Calera submitted a plan to redistrict the city and make 177 annexations for Department of Justice review. Most notably, the proposed annexations would have broken up the city's only majority-Black district, which had

⁶²⁸ Objection Letter from Assistant Attorney General Wan J. Kim to Troy King and John J. Park, Jr., U.S. Dep't of Justice (Jan. 8, 2007).

⁶²⁹ *Id.* at 1.

⁶³⁰ *Id.* at 2.

⁶³¹ *Id.* at 3.

⁶³² *Id.*

⁶³³ *Id.*

⁶³⁴ *Id.*

⁶³⁵ Objection Letter from Acting Assistant Attorney General Grace Chung Becker to Dan Head, U.S. Dep't of Justice (Aug. 25, 2008).

elected African-American candidates for the past 20 years.⁶³⁶ The DOJ found that the city did not meet its burden of demonstrating that the proposed redistricting plan did not have a discriminatory purpose or effect.⁶³⁷

The objection letter referred to Supreme Court precedent holding that post-annexation election systems must equitably reflect the post-annexation voting strength of the minority community within a given city.⁶³⁸ Here, Calera failed entirely to provide any reliable population information charting the impact of the 177 annexations. While the city suggested that the newly annexed areas were 20 percent Black, it did not substantiate these estimates. In failing to provide any basis to evaluate the annexations, the city failed to meet its burden of proof.⁶³⁹ Further, the city had opportunities to consider alternative methods of redistricting that could have better afforded Black voters the opportunity to elect a candidate of their choice, but the Calera City Council did not pursue these opportunities.⁶⁴⁰

III. Alabama and Its Subdivisions Have Entered Into Numerous Settlements & Consent Decrees Resulting in the Alteration or Abandonment of Voting Practices.

A. Alabama State Conference of the NAACP v. Pleasant Grove (2019).⁶⁴¹

The Alabama State Conference of the NAACP and two Pleasant Grove residents brought a lawsuit seeking to enjoin the city of Pleasant Grove, Alabama from continuing to elect its City Councilmembers on an at-large basis, alleging this violated Section 2 of the VRA as well as the Fourteenth and Fifteenth Amendments. The district court denied a motion to dismiss, finding all of the claims plausible.⁶⁴²

The parties reached a settlement agreement which they proposed to the court.⁶⁴³ Specifically, the city proposed addressing the vote dilution claims tied to its at-

⁶³⁶ *Id.* at 2.

⁶³⁷ *Id.* at 1.

⁶³⁸ *Id.* at 1-2.

⁶³⁹ *Id.* at 2.

⁶⁴⁰ *Id.* at 3.

⁶⁴¹ 2019 WL 5172371 (N.D. Ala. Oct. 11, 2019).

⁶⁴² *Id.* at *1.

⁶⁴³ *Id.*

large election system by transitioning to a system of cumulative voting. The court endorsed the proposal, looking to both Eleventh Circuit case law and scholarly support for cumulative voting as a means to address vote dilution.⁶⁴⁴

At the parties' request, the court enjoined Pleasant Grove and those acting on its behalf from conducting elections for City Council under the at-large, numbered-place election system.⁶⁴⁵ Under the cumulative voting framework that the consent decree implemented, each voter within Pleasant Grove can cast as many as five total votes in city council elections (given the city's five members), either for different candidates, all for one candidate, or some combination however they choose.⁶⁴⁶ Further, the plan required Pleasant Grove to develop and implement a plan to educate its residents, election administrators, and poll workers about cumulative voting. Pleasant Grove was also required to "request its state legislative delegation to enact legislation providing for election of the City's council by cumulative voting."⁶⁴⁷

B. *Jones v. Jefferson County Board of Education (2019)*.⁶⁴⁸

Plaintiffs filed a lawsuit under Section 2 of the VRA and Fourteenth Amendment, alleging that the at-large multimember district used to elect board members for the Jefferson County School District violated the right of Black citizens to an equal opportunity to participate in the political process.⁶⁴⁹ At the time, the Board was elected from two electoral districts, with four members being elected at large from a "multi-member" district that is 70.5 percent white, and with a fifth member being elected from a single-member "sub-district" which is 50.13 percent Black.⁶⁵⁰ In fact, prior to 1975, all five Board members were elected at large, and only white candidates have ever been elected in the at-large district.⁶⁵¹

The parties agreed to settle the litigation. In its order approving the proposed settlement, the court found based on "undisputed facts in the record" that the

⁶⁴⁴ *Id.* at *1-2.

⁶⁴⁵ *Id.* at *2.

⁶⁴⁶ *Id.*

⁶⁴⁷ *Id.* at *3.

⁶⁴⁸ 2019 WL 7500528 (N.D. Ala. 2019).

⁶⁴⁹ *Id.* at *1.

⁶⁵⁰ *Id.* at *1-2.

⁶⁵¹ *Id.* at *2.

at-large district denies Black voters the opportunity to participate in the political process and to elect representatives of their choice in violation of Section 2 of the VRA and the Fourteenth Amendment.⁶⁵² The court ordered that the at-large multimember district shall not be used for any school board elections held after 2020. In its place, the court adopted a “Remedial Map” which divides the multimember district into four single-member districts. Further, following the release of each new census, the school board was required to review the Remedial Map to determine if it remains compliant with Section 2 of the VRA and other relevant state and federal laws. If it does not, the Board must notify plaintiffs before adopting a revised map, and must work collaboratively before submitting any plan for the court’s review.⁶⁵³

C. Consent Decrees Preventing Voting Changes from Taking Effect Until Precleared by the Department of Justice.

On numerous occasions prior to *Shelby County*, local jurisdictions in Alabama effectuated voting changes without obtaining DOJ preclearance as required by Section 5. In one instance, the jurisdiction proceeded in the teeth of a DOJ objection letter specifically forbidding adoption of the change. These jurisdictions’ willful disregard for the law led to lawsuits by the Department of Justice or private plaintiffs resulting in consent decrees in which the non-compliant jurisdiction agreed to halt further implementation of the voting change and comply with their obligation to submit the change for preclearance.

United States v. City of Calera (2008).⁶⁵⁴ The City of Calera submitted for Section 5 review 177 annexations and a related redistricting plan that proposed a change in the boundaries for City Council voting districts.⁶⁵⁵ As noted above, the DOJ interposed an objection under Section 5, finding that Calera had not met its burden of establishing that the proposed voting changes would not have a discriminatory purpose or effect on minority voters.⁶⁵⁶ Nevertheless, Calera proceeded with municipal elections using the district boundaries that included the annexations to which the DOJ had objected.⁶⁵⁷

⁶⁵² *Id.*

⁶⁵³ *Id.*

⁶⁵⁴ Consent Decree, *United States v. City of Calera*, No. CV-08-BE-1982 (N.D. Ala. Oct. 29, 2008).

⁶⁵⁵ *Id.* at 2.

⁶⁵⁶ *Id.* at 2-3.

⁶⁵⁷ *Id.* at 3.

The DOJ brought suit and the court entered a consent decree. Under the terms of the consent decree, the city was enjoined from allowing the winners of the improperly held municipal elections to take office unless the DOJ agreed to withdraw its objection, and from administering any election using the 177 annexations and concomitant redistricting plan unless DOJ granted preclearance.⁶⁵⁸

Ultimately, the DOJ refused to reconsider its objection and Calera was forced to hold new elections.⁶⁵⁹ The consent decree was subsequently modified to enable Calera to adopt an interim at-large voting system and then a new system of voting for City Council members.⁶⁶⁰

Etowah County Voters League v. City of Hokes Bluff (1998).⁶⁶¹ Plaintiffs sued the city after it annexed land without obtaining preclearance under Section 5, even after being formally advised by the DOJ that the annexations constituted changes affecting voting that required preclearance.⁶⁶² The court entered a consent decree enjoining the city from further implementation of the voting changes unless and until preclearance was obtained.⁶⁶³

Etowah County Voters League v. City of Glencoe (1998).⁶⁶⁴ Plaintiffs sued another Alabama city after it too annexed land without obtaining preclearance under Section 5, even after being formally advised by the DOJ that the annexations constituted changes affecting voting that required preclearance.⁶⁶⁵ The court entered a consent decree enjoining the city from further implementation of the voting changes unless and until preclearance was obtained.⁶⁶⁶

⁶⁵⁸ *Id.* at 4-5.

⁶⁵⁹ John A. McDonald, *Justice Department officials again refuse to approve Calera's 2008 elections*, AL.com (Mar. 24, 2009), https://www.al.com/spotnews/2009/03/us_department_of_justice_offic.html.

⁶⁶⁰ Judgment and Order Modifying Consent Decree, *United States v. City of Calera*, No. CV-08-BE-1982 (N.D. Ala. Oct. 23, 2009).

⁶⁶¹ Consent Judgment and Decree, *Etowah County Voters League v. City of Hokes Bluff*, No. CV-98-AR-1785 (N.D. Ala. Aug. 14, 1998).

⁶⁶² *Id.* at 2-3 and Exh. B.

⁶⁶³ *Id.* at 3.

⁶⁶⁴ Consent Judgment and Decree, *Etowah County Voters League v. City of Glencoe*, No. CV-98-PT-1786 (N.D. Ala. Sept. 3, 1998).

⁶⁶⁵ *Id.* at 2-3 and Exh. B.

⁶⁶⁶ *Id.* at 3.

Henderson v. City of Oneonta (1998).⁶⁶⁷ A Black plaintiff sued the city after it annexed certain properties, changed polling hours, moved the city's only polling location, and switched from paper ballots to voting machines without seeking preclearance under Section 5.⁶⁶⁸ The court entered a consent decree in which the Defendants acknowledged their failure to submit the voting changes for preclearance and agreed to be enjoined from implementing the changes until the changes were submitted and precleared.⁶⁶⁹

* * *

As set forth above, there are, at a minimum, 13 separate final judgments, DOJ objection letters, settlements and consent decrees involving Alabama and its subdivisions over the past 25 calendar years. These actions comprise at least 25 separate voting rights violations, as some of the relevant actions involve multiple violations (*e.g.*, the 12 separate racial gerrymanders found by the *Alabama Legislative Black Caucus* court and the two improper City of Alabaster annexations that were the subject of the DOJ objection letter). Several of the voting rights violations were committed by the State itself, with others committed by numerous counties and other subdivisions. And this is without taking into account other known instances of racially discriminatory voting-related practices that may not satisfy the technical definition in H.R. 4, such as the U.S. Department of Transportation's 2016 findings with regard to the State's closures and service reductions at photo ID-issuing DMV offices in majority-Black communities.

By any measure, Alabama would and should qualify for coverage under the preclearance formula set forth in the John Lewis Voting Rights Advancement Act.

⁶⁶⁷ Consent Order and Decree, *Henderson v. City of Oneonta*, No. CA-98-AR-2491, at 2-3 (N.D. Ala. Dec. 29, 1998).

⁶⁶⁸ *Id.* at 3-4.

⁶⁶⁹ *Id.* at 4.

Part IV: Recent Legislative Proposals

Alabama has joined the host of states who have passed restrictive voting measures in the aftermath of the 2020 election.⁶⁷⁰ Just as Alabama and other southern states rolled back voting rights during the post-Reconstruction era, Alabama is part of a national movement today aimed at undermining democracy and restricting access to the ballot box for Black Americans. In the 2021 legislative session, the Alabama Legislature passed eight new election-related laws, many of which escaped national attention. There is ample reason to doubt elected officials' claims that the new laws aim to ensure election security, given the State's history of restricting ballot access for other purposes.

Among these purported reforms, the Legislature shortened the absentee voting window by reducing the number of days voters have to request an absentee ballot by mail.⁶⁷¹ Previously, the State accepted applications until five days before an election but moving forward the State will only accept applications received seven days prior to an election. Paradoxically, lawmakers supporting the bill cited post office delays as the reason for an earlier deadline. Of course, an earlier deadline requires voters to submit applications even earlier, increasing the chances that a post office delay will cut off a voter's ability to obtain and return an absentee ballot. While the law does implement a helpful change, starting absentee ballot counts at 7:00am on Election Day rather than at noon, this change does nothing to help voters to actually cast those ballots.

As discussed above,⁶⁷² Alabama also banned curbside voting, and now prohibits election officers and poll workers from taking any ballots to or from the polling place on Election Day.⁶⁷³ Secretary of State Merrill led the State's opposition to curbside voting, expending public resources to fight any implementation of curbside voting all the way to the Supreme Court.⁶⁷⁴ Debates over the bill initially stalled when legislators raised

⁶⁷⁰ *Supra* note 23.

⁶⁷¹ Act No. 2021-364, Ala. HB 538 (enacted May 6, 2021) (codified in scattered sections of ALA. CODE § 17-11), <https://arc-sos.state.al.us/ucp/L0614123.A11.pdf>; Brandon Moseley, *Deadline to file for absentee ballot extended to seven days before elections*, ALA. POLITICAL REPORTER (June 2, 2021), <https://www.alreporter.com/2021/06/02/deadline-to-file-for-absentee-ballot-extended-to-seven-days-elections/>.

⁶⁷² See Part II § III.C.

⁶⁷³ Act No. 2021-535, Ala. HB 285 (enacted May 26, 2021) (codified at ALA. CODE § 17-6-4), <https://arc-sos.state.al.us/ucp/L0633653.A11.pdf>; *Alabama governor signs bill to ban curbside voting*, ASSOCIATED PRESS (May 26, 2021), <https://apnews.com/article/al-state-wire-alabama-bills-voting-health-72ad59fa58777feb539d83d22b63ec5c>.

⁶⁷⁴ See Part II § III.D.

concerns about the need for curbside voting to address accessibility challenges for Alabamians with disabilities, but the bill eventually passed on the last day of the legislative session.⁶⁷⁵

In addition, the Legislature passed two new laws reducing the length of time between the general election and a runoff election from six weeks down to four.⁶⁷⁶ This is likely to strain the State's weak election infrastructure. This move is likely in response to similar efforts in Georgia, where Black voters played a pivotal role in flipping two Republican-held Senate seats after a runoff election.⁶⁷⁷ In Georgia, the state legislature passed a sweeping voter suppression bill into law in response to those elections, which included reducing the number of weeks for a runoff election from nine weeks to four.⁶⁷⁸

Another law changed the timing of municipal elections (which take place every four years) so that they will now occur in "off years"- the year after federal and state elections. For example, while the next federal and state general election will occur in 2024, municipal elections will take place in 2025.⁶⁷⁹ Although State officials supported the measure because of the difficulty of preparing voting machines before an election, officials ignored the burden on voters from multiplying the number of elections that occur.⁶⁸⁰ Moreover, for no clear reason, this law does not apply to midsize cities whose population is between 25,000 and 49,999 people, which will remain aligned with federal and state election years.⁶⁸¹ This bifurcated system will confuse voters and increase the burden of participating in elections. All of the barriers identified in this Report, including

⁶⁷⁵ Kim Chandler, *Alabama Senate delays vote on curbside voting ban*, AP (Apr. 22, 2021), <https://apnews.com/article/alabama-government-and-politics-voting-voting-rights-senate-elections-e0b603359d5610703cee1adcc07b3620>.

⁶⁷⁶ Act No. 2021-157, Ala. SB 119 (enacted Apr. 6, 2021) (codified in scattered sections of ALA. CODE), <https://arc-sos.state.al.us/ucp/L0585271.A11.pdf>; Act No. 2021-164, Ala. SB 31 (enacted Apr. 7, 2021) (codified in scattered sections of ALA. CODE), <https://arc-sos.state.al.us/ucp/L0586681.A11.pdf>.

⁶⁷⁷ Richard Fausset, Jonathan Martin, and Stephanie Saul, *Democrats Win Both Georgia Races to Gain Control of the Senate*, N.Y. TIMES (Jan. 6, 2021), <https://www.nytimes.com/2021/01/06/us/politics/warnock-loeffler-ossoff-perdue-georgia-senate.html>.

⁶⁷⁸ Stephen Fowler, *What Does Georgia's New Voting Law SB 202 Do?*, GEORGIA PUBLIC BROADCASTING (Mar. 27, 2021), <https://www.gpb.org/news/2021/03/27/what-does-georgias-new-voting-law-sb-202-do>.

⁶⁷⁹ Act. No. 2021-157, Ala. SB 119 (enacted Apr. 6, 2021) (codified at scattered sections of ALA. CODE §§ 11-46 and 17-11-12), <https://arc-sos.state.al.us/ucp/L0585271.A11.pdf>.

⁶⁸⁰ See, e.g., Elizabeth Summers, *Municipal elections moved to off set presidential election years*, SAND MOUNTAIN REPORTER (July 9, 2021), http://www.sandmountainreporter.com/free_share/article_91d920c4-e0f0-11eb-b16f-d7bad4f97233.html.

⁶⁸¹ See Act No. 2021-157 § 1 (amending ALA. CODE § 11-46-6); ALA. CODE § 11-40-12 (classifying cities).

travel to the polling place for rural voters who do not own cars, polling place changes, and the narrow grounds available for and difficulty of requesting an absentee ballot—which voters must overcome during every election—will now occur more frequently.

In a small victory following more than five years of advocacy, the State adjusted how it conducts its list maintenance process every four years.⁶⁸² Under the new procedure, the State will send a forwardable postcard to every person it believes may have moved. If the voter does not return the postcard within 90 days, the voter will be marked inactive. If the voter does not vote in two subsequent general elections, they will be purged. While this is an improvement over the current process, it is unclear to what extent changing to forwardable mail will improve the State's paltry 2 percent return rate.⁶⁸³ Additionally, there is no indication that the State will allocate any of the million dollars it claims the new process will save towards any voting access measures.⁶⁸⁴

Finally, the State enacted the misleadingly-titled Voter Confidence Act.⁶⁸⁵ This law creates a pilot project that will audit three voting locations in separate counties after the November 2022 general election. The audit will test and "confirm the accuracy of the originally reported election outcome."⁶⁸⁶ Secretary of State Merrill claims this initiative is intended to "increase voter confidence in Alabama elections"⁶⁸⁷ while at the same time acknowledging that there is in fact no cause for concern over election integrity in Alabama.⁶⁸⁸ This new bill was passed in the wake of numerous baseless claims of fraud in the 2020 elections, and following the announcement of post-election audits being

⁶⁸² Act No. 2021-534, Ala. HB 314 (enacted May 26, 2021) (codified at ALA. CODE §§ 17-4-30, 17-4-31), <https://arc-sos.state.al.us/ucp/L0633652.A11.pdf>.

⁶⁸³ See *supra* Part II § VI.A.

⁶⁸⁴ *New Voter Roll Maintenance Process Will Save State Almost One Million Dollars Every Four Years*, CLARION (May 27, 2021), <https://www.theclarion.org/?p=5173>.

⁶⁸⁵ Act No. 2021-446, Ala. HB 116 (enacted May 14, 2021) (codified in a new section of ALA. CODE § 17), <https://arc-sos.state.al.us/ucp/L0621327.A11.pdf>.

⁶⁸⁶ Press Release, John H. Merrill, Alabama Sec'y of State, *Secretary of State Works with Legislature to Increase Voter Confidence in Alabama* (May 24, 2021), <https://www.sos.alabama.gov/newsroom/secretary-state-works-legislature-increase-voter-confidence-alabam> a.

⁶⁸⁷ *Id.*

⁶⁸⁸ *Id.* ("This audit will confirm what our voters already know – that Alabama offers fair, honest, and transparent elections.").

conducted in several other states, including Arizona⁶⁸⁹ and Michigan.⁶⁹⁰ Rather than increasing voter confidence, conducting election audits when no valid concern exists over election integrity only serves to, at best, cast doubt on legitimate election results and, at worst, intimidate voters of color and suppress voting in future elections.⁶⁹¹

The passage of these laws by the Alabama Legislature should remind Congress of the precarious state of voting rights today, and the pivotal moment the country faces. As states discover new, and resurrect old, ways to disenfranchise Black Americans, Congress has the power and the obligation to protect this most fundamental of rights by passing the John Lewis Voting Rights Advancement Act.

⁶⁸⁹ Katie Benner, *Justice Dept. Warns States on Voting Laws and Election Audits*, N.Y. TIMES (July 28, 2021), <https://www.nytimes.com/2021/07/28/us/politics/justice-department-elections-audits.html>.

⁶⁹⁰ Clara Hendrickson, *Michigan completes most comprehensive post-election audit in state history: What it showed*, DETROIT FREE PRESS (Mar. 2, 2021), <https://www.freep.com/story/news/politics/elections/2021/03/02/michigan-election-audit-results/6884982002/>.

⁶⁹¹ Ben Giles, *Justice Department: Arizona Senate Audit, Recount May Violate Federal Law*, NPR (May 6, 2021), <https://www.npr.org/2021/05/06/994246426/justice-department-shares-concerns-with-arizona-senate-audit-recount>.

Conclusion

The time to pass the John Lewis Voting Rights Advancement Act is now. In 2013, the Supreme Court suspended preclearance under the VRA because it found Congress based the coverage formula on “decades-old data and eradicated practices.”⁶⁹² In its place, the Court invited Congress to enact a new remedy that “speaks to current conditions.”⁶⁹³ As this Report demonstrates, current conditions demand action.

Since it was released from the federal oversight preclearance required, Alabama has imposed multiple new barriers that have impeded Black Alabamian’s access to registration and voting:

- While awaiting the outcome of *Shelby County*, the State prepared a restrictive photo ID law for in-person voting. Immediately after the Court issued its decision, Alabama implemented this law.
- Shortly after the photo ID law went into effect, the State made it more difficult for Black voters to obtain those photo IDs by closing DMV offices in predominantly Black communities, leaving ample offices open in white neighborhoods.
- Alabama has closed numerous polling places in Black communities, often without notice, making it difficult for Black voters to find where to vote and leading to long lines and extensive confusion on Election Day that results in disenfranchisement.
- These closures have all the more impact because Alabama severely limits voting options other than in-person Election Day voting. Even as the State expanded the extremely narrow grounds for requesting an absentee ballot during the pandemic, it retained burdensome requirements to have the ballot notarized or signed by two witnesses and to include a photocopy of a photo ID with the application, tantamount to a modern-day poll tax.
- Alabama imposes strict procedures for registration and voting and rejects voter registrations based on technicalities or errors committed by election officials. As a result, first-time voters, voters

⁶⁹² *Shelby County*, 570 U.S. at 551.

⁶⁹³ *Id.* at 557.

who have moved or changed their names, voters with “non-Anglo” names, and voters whose registration has not changed at all, among other voters, may discover after waiting in long lines that the State has rejected their registration.

- Alabama’s “moral turpitude” law continues a long history of race-based felony disenfranchisement that was a cornerstone of the 1901 Alabama Constitution’s aim to establish white supremacy by law. The State fails to educate its election officials and voters about which crimes fall under the law’s purview, imposes a requirement to pay fines and court fees before registering to vote which functions as a poll tax, and provides no clarity about which federal and out-of-state offenses impact Alabamians’ right to vote.
- The State regularly purges voters from the voter rolls by relying on mailings to confirm registered addresses, despite knowing that this process results in only two percent of the State’s voting population successfully confirming their registration.
- Alabama compounds these problems by maintaining a decentralized and neglected election infrastructure administered by officials who are undertrained, underqualified or outright hostile to voters, placing them at perpetual risk of disenfranchisement. While the State’s chief election official spends his time insulting voters and finding new ways to suppress their rights, poll workers and registrars administering the system receive inadequate training, guidance, and resources to properly carry out their critical roles.
- Voting and registration among Black voters has decreased in recent elections while that of white voters remains relatively unchanged, confirming that the absence of preclearance is taking a measurable toll on Black Alabamians’ access to the polls.

Over the past 25 years, the State and its subdivisions have also committed at least 25 separate voting rights violations under the language of H.R.4, demonstrating the success of the VRA in providing a tool for Black Alabamians to have their rights vindicated. Further, the Alabama Legislature continues to pass new laws imposing barriers to the right to vote, and Black Alabamians need H.R. 4’s protection as they continue to fight back.

The lived experiences Alabamians share in this Report provide Congress with clear and compelling evidence of how Alabama and its localities have continued their unyielding tradition of systematically disenfranchising Black citizens. These are the “current conditions” in Alabama, which cry out for Congress to pass the John Lewis Voting Rights Advancement Act.

As Daphne of Madison County reminds us:

Voting is enormously important. . . because it is how I use my voice in my democracy. As a woman, and as a person of color, I often feel that my needs, values and beliefs are ignored. I vote faithfully because it is my chance to have a say in my democracy. I would overcome any obstacle placed in my way, but I believe voting should be easy and convenient for all eligible voters.⁶⁹⁴

When *Shelby County* removed the “umbrella” of protections that preclearance provided,⁶⁹⁵ it left Black Alabamians exposed and vulnerable to further curtailments of their voting rights. And that is precisely what has happened. Black Alabamians are now caught in a downpour of voter suppression and discrimination. We urge Congress to act swiftly to pass the John Lewis Voting Rights Advancement Act and restore the voting rights protections that the Black citizens of Alabama so desperately need.

⁶⁹⁴ Daphne [Madison County] Decl. ¶ 3 (June 25, 2021).

⁶⁹⁵ *Shelby County v. Holder*, 570 U.S. 529, 590 (2013) (Ginsburg, J., dissenting).

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EXHIBIT 1

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Amanda [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Madison County in Alabama.
3. I lived in Georgia for 13 years. I first voted for George W. Bush in 2004. I then voted for Barack Obama in the historic 2008 presidential election. On the day of this election I got to the polling place at 9am. I had my two children with me, ages one and five. They were all bundled up for the cold, and I brought snacks and their sippy cups. We did not finish voting until 1:30 or 2:00 in the afternoon. I again voted for Obama in 2012. The line was long but not as long, maybe an hour. I did not have my children with me this time. That was my last vote in Georgia. We always lived in mostly white areas, in the city of Austell in Cobb County, so access to the polls was no problem.
4. My initial vote for Barack was partially due to the historic nature. I never thought that I would live to see a man that looked like me and my family make it into the running. I wasn't too keen on his political stance on some issues, but again, it was historic in nature. Looking back, I'm glad I aligned with him.

5. I then lived in Arkansas for three years before moving to Huntsville, Alabama. I had no trouble registering to vote in Alabama. I did it when I applied for my Alabama driver's license. They sent me a voting card in the mail telling me where my polling location was.
6. For the 2020 presidential election there was an option to vote absentee, but I prefer to go to the polls. I'm old school. I drove by the polling place on Election Day, November 3, during the day and the line was very long. The polling place was my [REDACTED] [REDACTED]. The line went through the parking lot, around the corner and through several neighborhood streets. I went back after work and the line was shorter. It took about 45 minutes. The folks from the [REDACTED] were giving the people in the line snacks and water, making sure everyone stayed hydrated. The crowd was a mix of Republicans and Democrats. I knew that because some people had pins or stickers on their clothing that said "Trump" or "Biden."
7. I vote because I consider it my civic duty. It's very important to make every voice heard and every vote count, not only for myself but also for my kids.
8. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

9. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

10. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/23/2021

Date

EXHIBIT 2

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Annie [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of [REDACTED] in Tallapoosa County, Alabama. My residence address is [REDACTED] [REDACTED], AL [REDACTED]
3. I have lived at this address since 1985 when I bought the house for myself and my two girls. They're grown and off in their own places, so it's just me here now.
4. My polling place is [REDACTED]
[REDACTED] [REDACTED], Alabama.
5. I was born on [REDACTED] 1960. I went to a segregated all-Black school in the early years and at some point, the school was integrated. It was different going to school with black and white children. My friends and I realized that we couldn't hang back, but we weren't sure how to make ourselves heard. We were all in the 4-H Club, and one of our teachers entered me to represent our high school in a 4-H speaking competition in the state capitol. When I was accepted, she invited me home with her for the weekend and she worked with me on my speech. She showed me how to stand up tall and talk to an audience as a published speaker. My topic was Agriculture and Cultivation. On the day of the competition, she drove me to Montgomery. It

was a brand-new experience for me, being in such a big city. I was a little bit scared, but excited, too. When my turn came, I stood up on a stage and gave my speech. I won first prize, a \$50 bond. I'm grateful to that teacher. After this experience, I knew how to stand up and speak my mind.

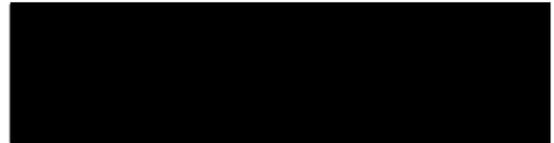
6. My friends and I all knew about Martin Luther King, Junior. We'd been told about him all our lives. Even though we were only eight or nine years old when he was killed, we were eager to be a part of the world he pictured in his Dream Speech. We wanted to be active, and we wanted to vote.
7. When we turned 18 years of age in 1978, some classmates and I went to the Courthouse in the County Seat of Dadeville, Alabama, to register to vote. We young Black women walked into the courthouse. All the officials inside the courthouse were white. They were watching to see what we did. It was frightening. But I knew how to stand up for myself. I told an official that I wanted to register to vote. He didn't offer to help me. He acted like he didn't care. I wasn't sure we'd get to register but we held our ground. The officials took their time going through the process, but they registered us. I didn't like their attitude, but afterwards, my friends and I were very happy to be new voters.
8. The first time I voted, I had to go downtown to do it. I can't remember why. But I went down there to vote in the Presidential election between Ronald

Regan and Jimmy Carter. My friends and I all liked Carter and called him the Peanut Man. He got my first vote.

9. When I was growing up, my mother wasn't registered to vote. Her generation didn't see the use of voting and maybe they were put off by how hard it would be to register. But after I started voting, my mom changed her mind and registered. She became a voter, too.
10. When Obama ran for President in 2008, my friends and I were all so excited about the possibility of having a Black president. We worked hard to get people registered to vote and get them to the polls. Usually, the [REDACTED] [REDACTED] polling place never had long lines, but those years when Obama ran, the lines were out the door. We had to wait over an hour to vote, but nobody minded. It was exciting just to be in that line and have a chance to vote for the first Black president of the United States.
11. I vote in every election. I don't think I've missed a single one. If there is a county, city, state or national election, I vote. There are police at the polling place, but I do not think they are there to intimidate. All of us voters are friendly with them. I make myself friendly to everyone.
12. Voting is important to me because it gives me a chance to satisfy my inner self. I vote for people who I think would be good for our whole country. I

always feel good about the people I vote for. If they win, I know I helped them do that. If they lose, they still got my vote.

13. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
14. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness in this litigation.
15. I declare under penalty of perjury that the foregoing is true and correct.



6-15-2021
DATE

EXHIBIT 3

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Arametta [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Calhoun County in Alabama and my residence address is [REDACTED].
3. I have some severe medical problems, which were flaring up during the 2020 Presidential election. There was no way for me to go vote in person, so I called the Calhoun County Board of Elections on October 25th and requested an Absentee Ballot.
4. The letter I received from the Board of Elections arrived promptly (October 29), but there were two issues with it.
5. First, the envelope contained the wrong name – it said Rebecca [REDACTED] instead of Arametta [REDACTED]. The address & other information was correct. The incorrect envelope and instructions are attached as Exhibit A.
6. Second, the envelope contained instructions for how to apply for an Absentee Ballot, but no application form, so I wasn't sure what action I could take.
7. I found it very concerning that the letter was sent to the wrong name, and wondered if my name was still in the voter records. I was also unsure of

how to proceed, as there was no form to complete, and I was nervous about what might happen if I took any action based on a document that had been sent to the wrong name.

- 8.** As soon as I received it, I called the Calhoun County Board of Elections to report the error. They told me to fill it out & return it anyway. How I could do this with no application form was unclear, and I asked for a replacement to be sent to my correct name. They said they would send a replacement, but they never did. As a result, I was not able to vote. As my health has deteriorated, I need absentee voting to be able to vote.
- 9.** This experience left me feeling helpless, frustrated and disappointed. Why would they leave out the application form? I'm wondering if I have been purged from the voter rolls because of the wrong name issue, and feeling like my vote doesn't matter or count.
- 10.** I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
- 11.** I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

12. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/10/2021

Date

Exhibit A
[Incorrect envelope and instructions]

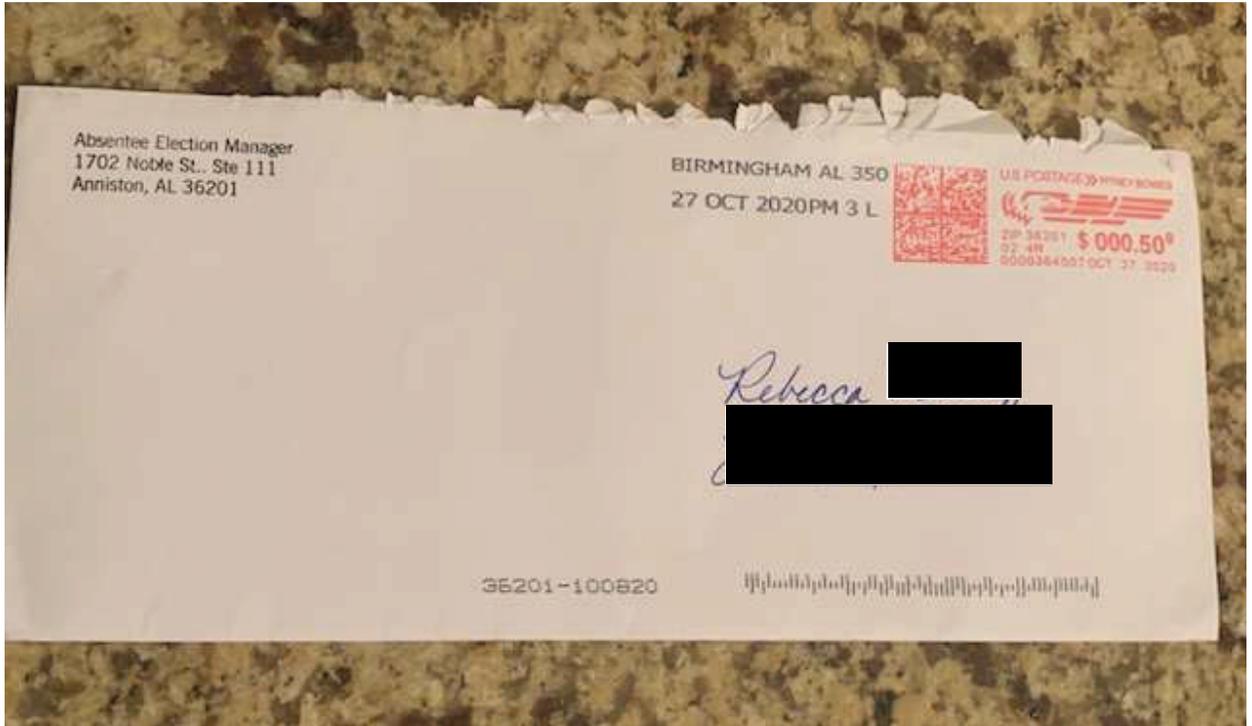


Exhibit A

[Incorrect envelope and instructions]

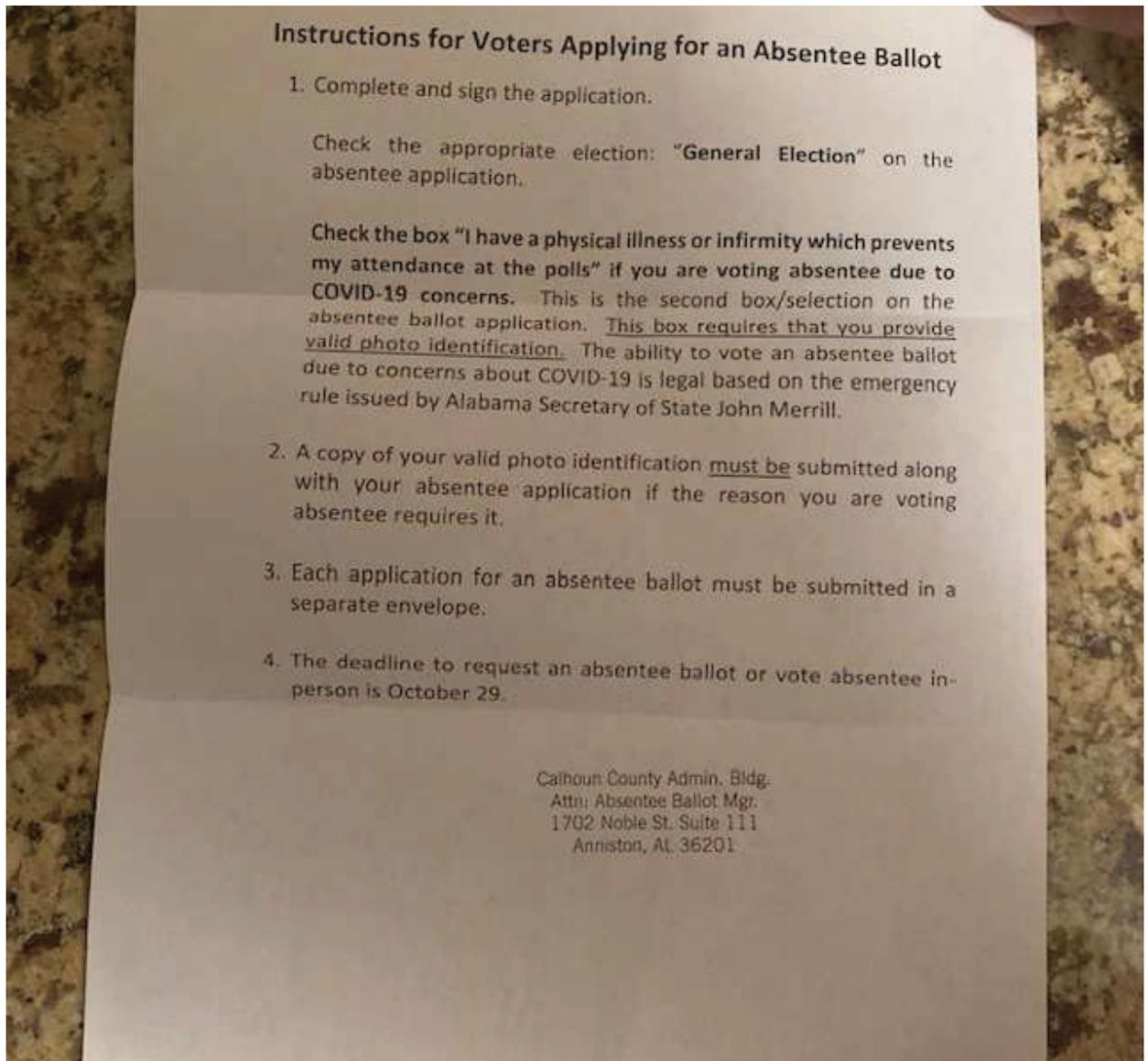
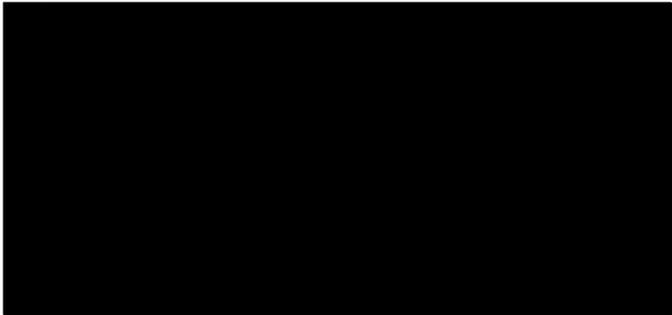


EXHIBIT 4

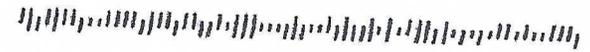


MOBILE AE 366
7 JUL 2021 11 PM 2 L



Fair Fight Action
Voter Protection - Declarations
1270 Caroline Street, NE
Suite D120-430
Atlanta, GA 30307

30307-295440



**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Arthur [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Mobile County in Alabama.
3. I have never voted. I was incarcerated, on and off, from 1984 through 2014, and was never in good enough standing to be able to vote. I had been addicted to drugs for all those years, which led me down a wrong path. I was imprisoned only for non-violent offenses, including drug possession, theft and third-degree burglary.
4. I have now been out of jail and drug free since 2014. I was locked up for a long time, but during that time I enhanced my knowledge about how the world works. If you go to a law library you can educate yourself a lot about things, so you become more aware of what's going on in the political realm, the laws.
5. When Miss Kay (Ivey) became governor of Alabama in 2017, she signed the Moral Turpitude Act, where many formerly jailed people could get their voting rights back. I lived in Pritchard, Alabama, and heard that the Mission of Hope, an outreach program for drug addiction in Mobile, was holding a meeting on its premises where I would be able to get the right

form to fill out to get my voting rights reinstated, and that there would be professionals there who would help me file the right paperwork.

6. But prior to that, I had also learned that the charges which I was put in prison for, these charges never should have disqualified me from my right to vote in the first place. However, when I went to the Mission of Hope, the professional – maybe she was a social worker – told me that in order for me to get my voting rights back (which were, as I said, unlawfully denied to me in the first place) I would have to pay a “fine” of \$300. She did not offer any further explanation, she said she was only notifying me that that’s what was in my record.
7. To me, that did not make any sense. During all the time that I was in prison, any money that I ever owed, to my parole officer, or any other legitimate expense, was deducted from any payments I’d received as part of work release; the court calls in your fines and they take it out of your check. Officials had set up a payment plan right from the start for me to pay my probation fees and my parole officer, and I knew about those all along and paid them. I had no knowledge of any other “fine.” The probation office never told me about it, and the parole officer never had it on my file.

8. And so, I refused to pay a so-called fine for something that I had not been notified of previously, without explanation. Why would I have to pay for the right to vote, something that should never have been taken from me?
9. I graduated high school in 1978 but am only now completing college and will get a degree in Social Work at Bishop State Community College. I've taken psychology and history classes, along with other courses. I still need to finish basic algebra to get that degree, but I hope to graduate soon. I'm disabled and can no longer work, so I'm on Medicaid.
10. I have studied and learned that throughout history, our politicians have been criminalizing a system. I educated myself enough to know these things. I have also studied Black history in depth. I realized that we need to pay attention to what's going on, and that all we have are our voting rights. We all just want the same things in life.
11. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
12. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

13. I declare under penalty of perjury that the foregoing is true and correct.



7-6-21

Date

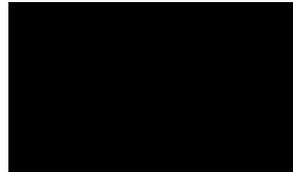
EXHIBIT 5

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Benard [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Limestone County, Alabama.
3. This declaration is about my knowledge, working in the role of President of the Alabama NAACP, of voters who have experienced difficulties voting in Alabama.
4. In October 2020, the Alabama NAACP assisted several people who were told they were not registered to vote. These people were being purged from the voting rolls due to inactivity for two or more election cycles. Each person with whom we made contact was restored to the voter rolls.
5. In November 2020, ten voters reported to the Alabama NAACP their difficulties voting in the November General Election. Their difficulties included voter intimidation, long lines at polling places, and failure to receive absentee ballots requested from the Secretary of State's office. These problems are documented in the report titled *AL NAACP 2020 GOTC Status Report* found in Exhibit A of this declaration. As a result of these reported voting difficulties, I have recommended to my board of directors that the Alabama NAACP conduct Get-Out-The-Vote (GOTV) efforts year-round.

Voter education should be a daily part of our lives and the Alabama NAACP has a team that is willing and able to perform the groundwork.

6. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
7. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
8. I declare under penalty of perjury that the foregoing is true and correct.

A large black rectangular redaction box covering the signature area.

8/11/2021

Date

Exhibit A
AL NAACP 2020 GOTC Status Report (Page 1 of 5)

AL NAACP 2020 GOTV STATUS REPORT

PROJECT SUMMARY

NOVEMBER 29, 2020

STATE LEADERSHIP PROJECT (GOTV)

BENARD SIMELTON, AL NAACP PRESIDENT

STATUS SUMMARY

From Nov. 1-29, 2020, the Alabama NAACP, its branches, and coalition partners participated in and hosted several GOTV activities and events to help increase the involvement and turnout of voters for the 2020 General Election. Activities include voter registration drives; early absentee voting announcements including social media digital ads; website improvements to include voting information education; assistance with early absentee voting; rides to the polls; phone banking; text banking; radio advertising; newspaper advertising and literature drops. The State Conference President visited 6 counties on Election Day to GOTV and to ascertain any irregularities from voters in-line. The State Conference Executive Director along with the State Conference Office Administrator maintained an Election HQ that fielded questions on Election Day and refereed voters to Branches for rides to polls and assisted with identifying attorneys to be available to field legal questions on Election Day. The Alabama NAACP provided 1,000 care comfort kits to voters at 22 voting locations. In addition to the comfort kits, the Alabama NAACP provided masks to riders and people at the polls. Gloves, sanitizing wipes, and Lysol was provided to branches and 1 professional steaming machine to clean vehicles after each ride was provided to a branch upon request. Continued assistance was also given to elderly and disabled people by ensuring they were able to advance to the front lines at their polling locations. The Alabama NAACP also targeted several precincts throughout the state that had low voter turnout in predominately black areas to remind them to vote and to schedule rides to the polls for them. In October 2020, the Alabama NAACP assisted several people who were told they were not registered to vote. This was due to people being purged from the voting rolls due to inactivity for two or more election cycles. Each person with whom we made contact, was restored to the voter rolls. Funds have been set aside to address complaints of voter suppression and intimidation beginning January 2021. Complaints submitted to us are in this report.

PROJECT OVERVIEW

GOTV ACTION ITEMS	# PEOPLE REACHED	NOTES
Voter Registration	13,838	AL NAACP Branches & Coalition Partners: SPLC, ENUF, Alabama Arise, ACIJ & The People's Plaza
Early Absentee Voting	25,165	AL NAACP Branches
Phone Banking	41,674	AL NAACP Branches
Text Banking	21,419	AL NAACP Branches
Rides to the Polls	562	AL NAACP Branches
Radio & Print Advertising for the Alabama Black Belt & Tri Counties (Colbert, Lauderdale & Lawrence Co)	18 Black Belt Counties & 9 additional targeted counties	AL State NAACP: 9 additional counties include: Madison, Jefferson, Montgomery, Lawrence, Talladega, Tallapoosa, Mobile, Lauderdale and Elmore
Billboards	15 Digital Billboards	

COMPLAINTS/PLANS TO ADDRESS COMPLAINTS

1

Exhibit A

AL NAACP 2020 GOTC Status Report (Page 2 of 5)

Voter Intimidation 11/3/2020, 2:33 PM, Mobile, AL

Voter was being challenged because her name was misspelled. A law enforcement officer with the sheriff's department actually ran a **background check** on her.

PLANS TO ADDRESS:

- The Alabama NAACP will meet with Mobile PD to discuss **why** this happened and suggest ways to ensure it does not happen in the future. We feel it would be a good idea for the MPD to better educate its officers as this has the appearance of racial profiling.

Voter Intimidation 11/3/2020, 1:58 PM, Mobile, AL

Two police SUVs at the entrance of polling place. Blacks are in the minority at this gerrymandered polling site and the presence of police is seen as threatening and intimidating. Team 2 followed up with complainant who said she was able to vote but knows dozens of Black voters who felt unsafe going to this location. **Officers had blue lights flashing and had been, to her account, stationed there for at least several hours.**

PLANS TO ADDRESS:

- The Alabama NAACP will meet with Mobile PD to discuss their reasoning for this type of police presence at a polling place when they have not been called or when people are not breaking any laws. We believe their time would be better spent in other areas of greater need and not polling locations.

Polling Place 11/3/2020, 1:20 PM, Madison, AL

Extremely long voting line. See Twitter footage: <https://twitter.com/coryqiggles/status/1323676464928141314>

PLANS TO ADDRESS:

- This area needs to be canvassed to see how many polling locations are in the area and to also advocate to have an increased number of polling locations. Locations such as housing authorities, Boys & Girls Clubs, and even recreation and senior centers.

Incident 11/3/2020, 10:29 AM, Mobile, AL

Incident filed by the J. Averhart Campaign. Police was summoned to the polling location to restrict the dissemination of campaign material for an African American candidate. Police Chief (Baptiste) was called and followed up by NAACP. Apparently, someone made a complaint of voting materials being handed out and the officer did not know the rules—**which is a problem in itself**. Chief Baptiste corrected his officer and sent a directive to the entire Mobile Police Department on ruling governing handing out voter information.

PLANS TO ADDRESS:

- This is another issue that must be addressed with the Mobile PD. The AL NAACP has been in contact with Mr. Averhart who is willing to join us in meeting with the MPD to discuss this issue further and how it would be a opportunity for MPD to educate its officers on the law and legal rules and policies related to campaigning.

Voter Intimidation/Suppression 11/3/2020, 10:00 AM, Coosada, AL

The caller went to vote in Coosada, however, when they gave her the ballot, all the Republicans names were typed in, but the Democratic names had to be written in. The caller was concerned because some of the voters would not be able to write in the names; thereby, not being able to properly vote like the Republican voters.

PLANS TO ADDRESS:

- The Alabama NAACP seeks to discover why there was a difference in Democrat and Republican ballots. We will contact the elections manager for this county to discuss why this happened and to find out what steps are being taken to ensure it doesn't happen in the future.

Polling Place 11/3/2020, 6:59 AM, Phenix City, AL

People have been in line for hours and it was just announced that the polls would open at 8:00 AM instead of the previously published and normal time of 7:00 AM.

PLANS TO ADDRESS:

- The Alabama NAACP will have a discussion with the election manager in this county to see what types of messaging was used in this case. We will suggest there be more credible locations and outreach mechanisms

Exhibit A

AL NAACP 2020 GOTC Status Report (Page 3 of 5)

in place for people to contact regarding upcoming elections. There should be ONE cohesive message on when, where, and what time voting is to occur. The distinction always needs to be made on time zones too.

Absentee Ballots 11/2/2020, 7:07 PM, Cottondale, AL

Person sent application request for an absentee ballot in early October. The Secretary of State's website says that it was mailed on October 14th, but I have not yet received it. The only accommodation that the local polling office will make is that I can complete a provisional ballot in person on the day of the election. Person is unable to do that, which is why they asked for an absentee ballot. The wife did receive her. Both application requests were mailed on the same day, from the same post office, with the same postage.

PLANS TO ADDRESS:

- Alabama does not have a tracker in place for requested ballots that have been sent via mail. There is a ballot tracker once you have turned in your ballot. There needs to be both an online mechanism and dedicated phone line to track your ballot request 24/7. This is a discussion for the Secretary of State and we will request a meeting with him.

Report 11/1/2020, 10:00 AM, Birmingham, AL

Local news report: "In Alabama, some felons are wrongly being barred from voting. "The article details how a 2017 state law narrowed the list of felony convictions that barred offenders from ever voting. But many valid applications are still being denied. "Many people with qualifying felony convictions continue to face unnecessary obstacles and some give up when they are wrongly turned away." <https://www.al.com/news/2020/10/in-alabama-some-felons-are-being-wrongly-barred-from-voting.html>

PLANS TO ADDRESS:

- There must be a concerted effort to ensure ALL convicted felons who qualify, have their rights restored. There needs to be a conversation about automatic restoral once a person is released from jail. Fines and fees that have not been paid should not be a barrier, however, it is. There needs to be a discussion for funding for voter restoration in this state. Similar to the program in Florida.

Polling Place 10/29/2020, 12:24 PM, Tuscaloosa, AL

"Voters in Tuscaloosa County have waited in excessively long lines, the Alabama Democratic Party said Thursday with one voter waiting five-hours without getting in the courthouse and another had to leave before casting a ballot after waiting four-hours in line." <https://apnews.com/article/virus-outbreak-alabama-elections-voting-fraud-and-irregularities-tuscaloosa-7b3866e95439398e29c1deeb0d6f139f>

PLANS TO ADDRESS:

- One way to alleviate this type of problem would be to have Saturday absentee voting. There should also be a dedicated person from each political party present to ensure fairness. There should also be more than one site to allow for early absentee voting.

Courts 10/21/2020, 11:00 AM, Montgomery, AL

"Supreme Court Blocks Curbside Voting in Alabama"-NPR

"At issue was the decision by the Alabama secretary of state to ban counties from allowing curbside voting, even for those voters with disabilities and those for whom COVID-19 is disproportionately likely to be fatal."

<https://www.npr.org/2020/10/21/926472968/supreme-court-blocks-curbside-voting-in-alabama-an-option-during-pandemic>

- There needs to be an honest study occurring between members of both political parties in the interest of curbside voting. There are elderly and disabled people who would greatly benefit from this service. Even those who are not classified as elderly or disabled should have the right and opportunity to vote via curbside if it conveniences them. That is the overall goal. Making sure people can vote at their convenience.

Polling Place 10/19/2020, 12:00 PM, Opelika, AL

7-hour line for in-person absentee voting for a total of about 100 people to vote in that time. Many were turned away or left because the line would not have been able to vote before closing.

- Again, more polling locations would help to alleviate this type of problem. This is also an opportunity to educate since when people are in line before the office closes, they should stay in line and be allowed to vote.

Polling Place 10/19/2020, 11:20 AM, Montgomery, AL

Person says that they were voting absentee and that everyone was given a clipboard to fill out their application. Person says there were big blue "Vote Democratic" stickers on the back of the clipboard. Person further says the sample ballots given out that were Democratic sample ballots.

Exhibit A

AL NAACP 2020 GOTC Status Report (Page 4 of 5)

- If this actually occurred, there must be education provided to those who manage the polling places to ensure no political party's information is affixed to any voting machines, tables, desks, notepads, clipboards, or pens and pencils. Campaigning is 30ft outside of polling locations only.

Ballots 9/6/2020, 8:48 AM, Mobile, AL

Person printed out request for an absentee ballot and mailed it out 6 weeks ago. Still have not received it.

PLANS TO ADDRESS:

- Again, another opportunity to discuss ballot tracking with the county registrar in this county. This is a discussion for the Secretary of State and we will request a meeting with him to make our suggestions. Much of these actions will happen in the early new year.

CONCLUSIONS/RECOMMENDATIONS

The State Leadership Project strategies that most align with the Alabama NAACP are protecting the vote, voter protection, messaging, and mass mobilization. It is the recommendation of the Alabama NAACP that GOTV efforts be conducted year-round. Voter education should be a daily part of our lives and the Alabama NAACP has a team that is willing and able to perform the groundwork. Basic voter education is gravely needed in this state. The mere fundamental of reading ballots was a critical issue during this past election cycle. Providing education for absentee ballot completion, ID expiration requirements, how to locate poll locations, and even becoming a poll worker are high issues of concern. Frequent contact with newly registered and inactive registered voters increases voter turnout and assures voters that they are a part of the political decision-making process as evidenced in Mobile County, AL – assisting 19,000 people to early vote! 31 AL NAACP branches registered a record number of people for the 2020 General Election. We realize that if you ask people to register to vote, they are likely to say yes, however, when we fail to follow-up with people, we likely lose them. Voter registration is pivotal and needs to be an ongoing occurrence. Political participation, such as community organizing and social activism reflect a more active and engaged

Exhibit A

AL NAACP 2020 GOTC Status Report (Page 5 of 5)

community, which welcomes diversity and a better understanding of your neighbors. There is much work to be done in Alabama, but the good news is the Alabama NAACP is here and ready to continue the good work, form new coalition partners, and help shape an Alabama that represents everyone.

EXHIBIT 6

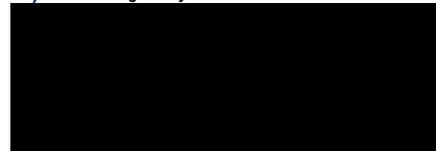
**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Benny [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of [REDACTED] in Tuscaloosa County in Alabama.
3. I have lived at this address for almost six years with my wife of 21 years and my two daughters, who are 19 and 20 years old.
4. I was born in Alabama in 1980. In 2002 my family moved to California to be closer to my wife's family.
5. While in California I was able to pursue higher education, first at American River College where I received an Associate Degree in Behavioral Science. I then transferred to California State University, Sacramento where I majored in philosophy with a government minor, taking courses in political science, history and government. In the course of my studies, I became fascinated with the structure and history of governments. It was then that I came to realize the tremendous importance of voting. During my 12 years as a California resident, I voted regularly, always availing myself of the ability to vote-by-mail, also known as absentee voting.

6. In 2014 my family moved to New York State where I began my career as a private investigator. During this time, I was registered to vote in New York.
7. In 2016 my family moved back to my home state of Alabama. Very soon thereafter I tried to register to vote. Although I had several forms of identification, I was initially unable to register because I had not yet obtained my Alabama driver's license. Within a couple of months, I had obtained my Alabama driver's license and became a registered Alabama voter.
8. I was certified by the Alabama Private Investigation Board in 2016 and have been working as a licensed private investigator in Alabama and Mississippi for almost six years. Private Investigator License attached as Exhibit A.
9. I work in surveillance both for my own company and for other entities. My surveillance work requires me to commute every day, usually out of town and sometimes to Mississippi. I am not able to schedule where I will be working or when. It is determined by the demands of the surveillance job.
10. Because of the nature of my work, it has not been possible for me to get to my polling place in time to vote on Election Day. This has been true throughout the time since 2016 that I have been living in Alabama. In fact, on Election Day last November, my wife and daughters sent me a text with a photo showing that they had all voted while I had been unable to get home in

time to cast my ballot. Photo of Wife and Daughters on Election Day attached as Exhibit B.

11. Although I need to vote absentee because of my work, I do not have what is considered a qualifying excuse for absentee voting under Alabama law.
12. I know the critical importance of voting and am registered to vote in Alabama. However, I have not been able to vote since 2016 because I can not get to my polling place on election day and do not qualify for an absentee ballot under Alabama law.
13. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
14. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
15. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:


6/18/2021

Date

Exhibit A

Private Investigator License

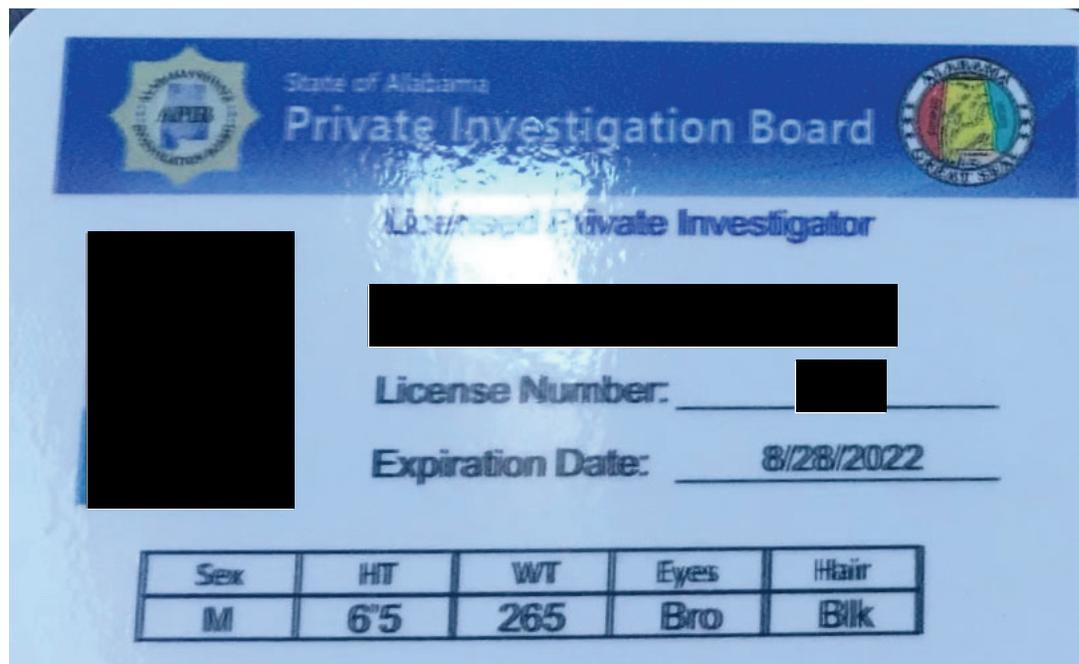


Exhibit B
Photo of Wife and Daughters on Election Day



EXHIBIT 7

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Bettie [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Madison County in Alabama.
3. I have been voting since I was eligible to vote. Voting is important to me because I saw my mother fight for her right to vote. My family participated in protests demanding the right to vote. My mother was not allowed to vote until 1965. I saw the poll workers giving literacy tests to potential voters. If a Black person couldn't pass the literacy test, they were turned away. If a Black person didn't know how to read, they usually said, "I can't read" and were turned away. White people generally said, "I don't read" and were permitted to vote. My mother is 99 years old and to this day insists on voting in person. She drilled into me the importance of voting and I have done the same with my children.
4. In the 2020 presidential election, I had to go to Huntsville to vote; there was no place for me to drop off my ballot in Madison. Huntsville is about 30 minutes away. My niece drove me. When we arrived, I saw hundreds and hundreds of people waiting in line for two to three hours. Because of my age, I was able to move to the front of the line and did not have to wait in

that line. Even if I had to wait in that line, I still would have voted. My niece and I would have taken turns waiting in line so I could rest.

5. Separate from this incident, when I voted in 2008, I lived in Michigan.

When I arrived at my polling location, a poll worker told me that the polling center had been moved about a mile away. I used to vote at a neighborhood school but it had been moved to a recreation center right on the line that divides Detroit from East Point. I drove to the new polling place and waited for a long time outside.

6. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

7. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

8. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:


6/11/2021

Date

EXHIBIT 8

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Betty [REDACTED] I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County in Alabama.
3. Voting is very important to me because it allows me to have a voice and to speak how I feel about the candidates and issues.
4. It was challenging for me to vote in the November 2020 election. When I arrived at [REDACTED] which is the place where I vote, it was very crowded and appeared to be understaffed. The line was so long—I had to wait outside in line for an hour. This was particularly challenging because I am in a wheelchair. I had understood that some people in wheelchairs had been allowed to go in early, but there were no poll workers outside to assist me, so I had to wait in line.
5. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
6. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

7. I declare under penalty of perjury that the foregoing is true and correct.



6/12/2021
Date

BIRMINGHAM AL 350

18 JUN 2021 PM 4 L



Fair Fight Action
Voter Protection - Declarations
1270 Caroline Street, NE
Suite D120-430
Atlanta, GA 30307

30307-295440

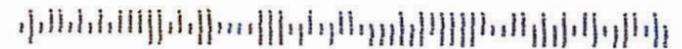


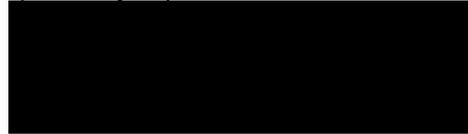
EXHIBIT 9

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Brandon [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Russell County in Alabama.
3. I waited an hour in line to vote in the 2020 General Election.
4. My polling place is at [REDACTED] in Phenix City, Alabama. Our area is between two time zones. We are on Eastern Time and just 40 minutes south of us is on Central. I thought that there might have been some confusion around the time zones because the lines were so long. But the lines were just as long at [REDACTED] as at other polling places in the area. I saw lines that were about an hour or more long.
5. I had to call in late for work. Luckily, I have the flexibility that allowed me to stay and wait the hour. Others didn't. I witnessed many people have to leave the line because they couldn't take the time.
6. It was very cold that day. I saw many elderly people sitting in cars who were then allowed to go to the front of the line. The police were circulating and helping the older people to go to the head of the line since the poll workers were inside and not working outside. It would have been helpful if there were poll workers outside who could have given us updates.

7. It would be better for the voters in our area if we had more voting machines at the polling places, so that people don't have to wait so long to vote on a weekday when many of us have to work.
8. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
9. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
10. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/13/2021

Date

EXHIBIT 10

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Brenda [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.

2. I am a resident of Jefferson County in Alabama.

3. Voting is very important to me, and I never miss an election. I was taught that voting is my right as an American citizen. I also grew up watching my parents work very hard to exercise their rights to vote. I remember that my mother and father had to go to classes so that they could pass the tests at the polls. I remember my father teaching other people how to sign their names, because you had to be able to do that to vote. My parents had to pay poll taxes in order to vote when I was young. For all these reasons, I am a dedicated voter.

4. About two years ago, I believe in 2018, I had to go to three different polling places in order to cast my vote. Two to three months before the election, I received a postcard telling me that my polling place was at the [REDACTED]
[REDACTED], where I had always voted since I started voting, almost fifty years ago.

5. On Election Day, I went to vote at the [REDACTED]. After I had stood in line and showed my identification to a poll worker, they told me

that my voting place had moved, and I needed to go to [REDACTED]. I drove there, stood in line, and showed my identification to a poll worker, who told me that I had to go to [REDACTED]. I drove to [REDACTED], where I also stood in line and showed my identification to a poll worker before I was finally able to vote. I was so frustrated that I told the people working there, “It’s almost like you don’t want me to vote.”

6. Fortunately, I am retired and have a car and the lines at each polling place were only a few minutes long, so I had the time and the ability to go from place to place. It would have been exhausting if I had had to walk, as these polls were several miles apart from one another.
7. My voting location is now permanently at [REDACTED] as far as I know, and I have since voted there in a local election.
8. For the 2020 General Election, my daughter and I decided to vote by absentee ballot because of COVID-19. We called the number listed on the election information postcard and requested our absentee ballots at least one month before Election Day. Our absentee ballots did not arrive promptly, so we called again and the person who answered the phone took my information again and said that they would send absentee ballots to us. They did not check to see if our first request had ever been processed. Finally, our absentee ballots arrived, but it was so close to the election that we did not

trust that they would arrive on time if we mailed them back. We drove to the City Hall in Bessemer, Alabama, about ten miles away, to return our ballots.

9. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
10. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
11. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/7/2021

Date

EXHIBIT 11

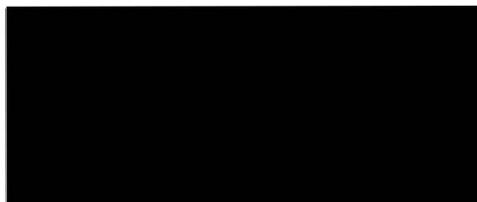
**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Carolyn [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Russell County in Alabama.
3. I have bad arthritis in my back. I also have a lung disease. I'm on oxygen and pretty much stay home. But I really wanted to vote in person, always have. I used to be able to do all these things. My husband never did vote but I used to jump in the car and go vote. It's hard for me now.
4. My polling place is [REDACTED] [REDACTED] [REDACTED] [REDACTED], in Phenix City, a 10 minute drive from my home. By the time I got to the polls for the 2020 Presidential Election, the anxiety had built up that I would be in too much pain to wait in line. When I got there the line was out the door. I ended up leaving and going home, because I was in so much pain from standing there. I stood there for 15-20 minutes and then left so I do not know how long the line was timewise. It is almost unreasonable for me to try to vote.
5. I did not get to vote, and I was really annoyed, disappointed.
6. It would be best if I could vote at home absentee. And I thought about absentee. I knew I could mail it in but didn't know how to get it. I have a 50

year old son and 40 year old daughter. I know they would have helped me but I don't want to bother my older kids. They have lots of responsibilities themselves. Once I tried to vote in person I just gave up.

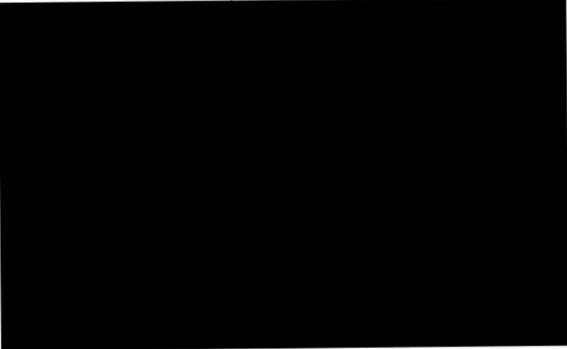
7. Lots of people have challenges—all kinds of disabilities. I know quite a few people, young people with challenges like slow learning, slow reading or can't read, where the ballot is a problem for them, they don't understand it, so they just don't vote. If people knew how to get help more people might vote.
8. If wheel chairs were accessible, it would be a lot better. I do not have my own wheel chair.
9. I have to get someone to take me.
10. I am concerned about what goes on in this country. It is my right and my duty to get out there and vote. Many people have lost their lives in order for us to vote. Like Martin Luther King. That's what I tell my children. Go Vote! Do it for your countr9. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
11. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

12. I declare under penalty of perjury that the foregoing is true and correct.



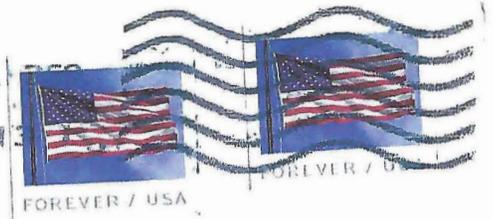
06-29-2021

Date



MONTGOMERY AL

29 JUN 2021 PM



Fair Fight Action
Voter Protection - Declarations
1270 Caroline Street, NE
Suite D120-430
Atlanta, GA 30307

30307-255440

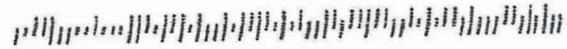


EXHIBIT 12

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Curtis [REDACTED] I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County in Alabama.
3. I have been a voter in Birmingham for many years, and voted at the same polling place from 2002 to 2012.
4. Approximately 10 years ago I went to my usual voting place, the [REDACTED] [REDACTED], to vote in a local (city) election.
5. City elections in Birmingham are held on a Tuesday in October, and are held in odd years, not the same years as county, state, and federal elections.
6. When I went to my usual voting location, which was a [REDACTED], I was told that I was not on the rolls for that location for that election, and to try a nearby [REDACTED].
7. I was not notified in advance of any change in my polling location.
8. I did not know where this [REDACTED] was, and did not have time to go looking for it or to start over at a new polling location. The poll workers did not give me that information.
9. As a result of this, I was not able to vote in that election.

10. When I went back to my original voting site at the school to vote in the next, even-year election, I was able to vote there.
11. I moved after 2012 and have had no problems voting at my current location.
12. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
13. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
14. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/8/2021

Date

EXHIBIT 13

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Dana [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County in Alabama.
3. When I voted in the 2020 presidential election, I waited in line outside for at least 90 minutes. While I was in line, I noticed several elderly people leave rather than wait in line. Some people were notified that if they were of a certain age, they could move to the front of the line. Some people opted to do this while others chose not to, feeling it was unfair to others waiting in line. Other people left the line to get chairs.
4. While I was waiting in line, some trucks with Trump flags and supporters drove by several times blowing their horns. I felt intimidated by this because I associated Trump supporters with racism based on previous actions during the social justice issues from the summer. Furthermore, the trucks drove by several times which meant it was intentional. Despite this, I was determined to vote. Local police and the Sheriff were present at the polling location. I am unsure of what they were doing there especially because they have not been present at my polling location for previous elections.

5. On a separate occasion, for a local election (I can't recall which one), my polling place had been changed. I found out about the change when I arrived to vote at [REDACTED], my regular polling place. There was a note on the door advising voters to go to a different location. The new location, [REDACTED], was about three miles away. I live in a rural area where public transportation is not available. Fortunately, I have a personal vehicle and drove to [REDACTED] and was able to vote.
6. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
7. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
8. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:
[REDACTED]

[REDACTED]

6/9/2021

Date

EXHIBIT 14

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Daphne [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Madison County in Alabama.
3. Voting is enormously important to me because it is how I use my voice in my democracy. As a woman, and as a person of color, I often feel that my needs, values and beliefs are ignored. I vote faithfully because it is my chance to have a say in my democracy. I would overcome any obstacle placed in my way, but I believe voting should be easy and convenient for all eligible voters. Election Day should be a national holiday so that we would not have to take time off from work and school to vote, and more effort should be made to make the lines shorter and the process more efficient.
4. I have never personally had any problem registering to vote in Alabama. But with all the issues that were raised publicly before the 2020 presidential election cycle, I went personally to the County registration office well before Election Day, to make sure my registration was current and I would be eligible to vote. They had moved the registration site without notice that I saw, but I was able to go to the new location and had no further problem confirming my eligibility.

5. I generally find out the location of my polling place by telephoning the office of my State Representative or the county election officials.
6. I have had to wait in line for more than an hour and a half in every past presidential election cycle. During the 2020 election for president, I got to the polling place at [REDACTED] at 5:30 am with my two adult children, with folding chairs. The polls were to open at 7:00 am. There were already about 25 voters in line ahead of us. We needed to get to work and school, so we did this in order to vote as early as possible. There was no available restroom or water.
7. As early as we arrived, it still took until nearly 7:30 before we could get into the polling place. There were only three voting stations; so even though there were enough people checking identification and confirming eligibility, we had to wait while voters before us completed the process. Each voter must fill out a paper ballot and then place it into a machine.
8. Our polling place has remained the same for many years. A few years ago they did move it once, and they placed a marquee out front that I saw a few days ahead of Election Day. But then they moved it back again and we have not had a problem getting there. We drive to the polling place, as there is no public transportation available.

9. The only time I ever felt uncomfortable or intimidated at the polling place was during 2000 presidential election, when there were competing party representatives in the parking lot pushing one another out of the way to hand me written materials. Nobody from the polling place seemed to be doing anything about it, even though it was within about 30 feet of the polls. I walked around them and continued to the polls.
10. In the current political climate, I would not be comfortable voting by mail because I would be afraid my ballot would be lost or discarded. I want to see it placed in the machine at the polls to be counted. But if I were incapacitated and had to vote absentee, I would be uncomfortable putting a copy of my driver's license into the envelope with my ballot, much less on the outside of the envelope. I do not feel trust in my government and do not want my identification submitted with my ballot. If it were the only way I could vote, I would do it, and I do have a copy machine at home. But I think it is oppressive to require this. As a taxpaying, faithful voter, I think I should not be placed in such a compromising position.
11. I also would not want any requirement that an absentee ballot must be notarized. My daughter recently had to have something notarized, and it was extremely difficult to find a notary. Our local banks do not have notaries

available, in fact. So even for non-disabled people this creates a barrier; if I were incapacitated, I do not know how I would do it.

12. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
13. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
14. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/25/2021

Date

EXHIBIT 15

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Doris [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Mobile County in Alabama and my residence address is [REDACTED].
3. I have been voting here since I moved down here about 30 years ago, and I've lived in the same home all that time. Up until 2008, my polling place had always been at [REDACTED], which is pretty close to my home – I could walk there if I wanted to take a long, brisk walk.
4. Starting with the 2008 presidential election, my polling place has been moved three times. In 2008, it was moved to the [REDACTED], which is maybe a mile further on than the old location, when I drive there. Later on, my polling location was moved to [REDACTED], which is close to the [REDACTED]. Then, for the November 2020 presidential election, my polling place was moved again, to the [REDACTED], which is even further away from my home.
5. In the November 2020 election, at our new polling place at [REDACTED], that was the first time in Mobile that I've had problems with long lines and parking when I went to vote. I always go to the polling place

early - when it first opens for the day at 7AM – so I can get my voting taken care of. When my husband was alive, we used to leave the house at 6:30AM or a quarter to 7 to go vote.

6. In November 2020, I went to vote with my brother. When we got there, we had trouble finding parking. The parking lot was full and there wasn't any nearby parking on the street. My brother walks with a cane, so we couldn't park far away. We drove around for a time until we spotted someone leaving a spot across from part of the school – it wasn't really a proper parking spot because we had to drive up on the sidewalk a bit to park there, but we hadn't found anyplace else so we parked there where the other driver was leaving.
7. After we parked, we had to walk some distance to get to where we could cross the street to get to the building and then around the back of the building to the end of the line. It wasn't a long walk for me, but it was long for my brother because he walks with a cane.
8. By the time we got in line, there was a line of about a hundred people and there were more coming. That was sometime between 7 and 7:30AM. We would have gotten in line sooner but it took us a while to find a parking spot.
9. After waiting about 20 minutes in line, we finally got around the corner to the front of the building where we could see the entrance. After that, a lady who had already voted saw us when she was leaving the polling place, and

she said to my brother “You’ve got a cane, you can go to the front of the line and so can seniors.” There were still about 60 people ahead of us, but now that we knew we could both go up front, we did that. In all the time we were waiting before, none of the poll workers came down the line to tell us we could go to the front. When we left our spot to go up front, there were still a lot of people behind our old spot in line, and more people kept coming.

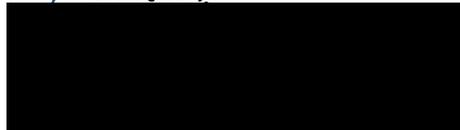
10. Before this election, I’d never had a long line like that before at any of my polling places in Mobile – either there was no line or it was less than 20 people. And I didn’t have parking problems at the other polling places – either they had plenty of parking, or even if they didn’t, there weren’t a lot of people there at the same time, so parking wasn’t a problem.

11. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

12. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

13. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:

A large black rectangular redaction box covering the signature area.

6/8/2021

Date

EXHIBIT 16

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Elaine [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County in Alabama and my residence address is [REDACTED].
3. I am 66 years old. I have had five knee replacements due to a degenerative condition. My knee is still very bad and so I need to use a wheelchair. That is why I have been voting by absentee ballot in recent years.
4. For the 2020 presidential election, the absentee voting process was very long and difficult for me because of two things. First, I had to send a photocopy of my driver's license with the application, which was not simple. Second, the application was confusing – I filled it out and then got told I had marked a wrong box on the form, even though that box certainly seemed to apply to me. So, I had to get a new application sent to me and fill that one out.
5. When the 2020 election was coming up, I called the County well ahead of the election to ask for my absentee ballot application – I wanted to make sure I had enough time to get my ballot and get it in. The first time I called, they told me it was too early to request my absentee application, and that I

had to wait and call back after it got to two weeks before absentee voting started. So, that's what I did.

6. By the time I called the County again to get my application, I had heard there were some changes. I asked if I would need anything besides the application itself. They told me I would need to send a copy of my driver's license with the application. This was new. I had been voting absentee for 3 or 4 years by then, and I didn't have to send a copy of my license before.
7. I knew there was only so much time to get a copy of my license and get my application in by the deadline. I don't have a photocopier at home. I figured my daughter could get a copy made, but I did not want to put her through the trouble if I could find another way – she lives about a 30-minute drive from me and I knew she was very busy at that particular time. I called different friends to see if one of them could come over to my place, pick up my driver's license, take it somewhere to make a copy, and then bring me back my license and the copy. But I couldn't find a friend to do that. By this point, I was running out of time to make the deadline for getting my application back to the County.
8. My daughter could get a copy of my license since she is the director of a library where I have my library card, so she had a copy of my driver's license on file there. One of my daughter's co-workers happened to live

around the corner from me and was happy to pick up my application from me and give it to my daughter so she could add the copy of my driver's license. My daughter went to the Courthouse to turn in my absentee application, but there was a long line there, so she mailed it.

9. The absentee application I sent to my daughter was actually the second form that I filled out for a ballot for that election. When I first got an absentee ballot application for that election, it was different from what I had used before. In the place where you check a box to give your reason for an absentee ballot, there were two different boxes about being disabled. The first box was a "simple" one that just said that a physical illness or infirmity kept you from going to the polls. That box said you had to send in an ID. The second box was more complicated – it listed particular medical conditions and said you had to have one of those conditions and it kept you from certain things, such as standing for a length of time or walking unassisted, and you had to be at least 65 or disabled. If you checked the complicated box, it said you didn't need to send in an ID. The second box seemed to apply to me, so I checked that one. I wanted to be sure I was filling the form out correctly, so I called the County. I had to call about four different times because the phone just rang and no one answered. Finally, my call got answered and I spoke with two people - [REDACTED]. They

explained that no one answered before because the office was in the process of moving. They also told me that I should have checked the other box about disabilities, the “simple” one. They sent me out a new form to fill out. By that point, I was getting close to the application deadline, so that was another reason I needed my daughter’s help to get the application in.

10. When I got my ballot and filled it in, I needed two witnesses to sign the envelope. My daughter drove out to my home. Then she and my neighbor from around the corner were my witnesses and signed my envelope.
11. All the things I had to do to vote absentee in 2020 were so complicated and I had to make sure to meet all the deadlines. So, when next election comes up, I think I will just have to find a way to get to the polls with my wheelchair and vote there, instead of trying to handle all the complications.
12. Voting is very important to me because I want to make sure I don’t ever lose my rights. I know what not having rights is like because of what I went through when I was a little girl, in the early 1960’s.
13. We didn’t have a car then, so we had to take the bus. One time, when I was about 7, my mother and I got on a bus and she went to the back. But the bus was moving and I didn’t like walking on a moving bus, so I just sat down up front. The bus driver saw me sitting up front and called out “Whose child is this? She can’t be up here.” My mother hurried up to the front, took my hand

and quickly pulled me out of the seat and to the back of the bus. I couldn't keep steady while the bus was moving and I got smashed into things as she moved me to the back. I was very upset with my mother and asked her why she pulled me like that in such a hurry – she said “it was either that or lose my child”.

14. Another time, when I was in elementary school, I was going home from school and needed to use the bathroom. There was a restaurant along the way, so I went to use the bathroom there. I also saw a drinking fountain and I was thirsty too. I stopped to take a quick drink, but a white man came out and yelled at me. He was angry and said “You can't drink at this fountain. This one is for white people. That other one over there is for colored.” I looked at the other fountain. It was all muddy so I didn't drink at all. Then I saw the bathroom and I wanted to use that. He got angry about that too. He said I couldn't use that one, it was for whites. By this time, I was scared and upset and I just left and headed home. I tried to “hold on” for the bathroom until I got home, but I didn't manage long enough. I ended up wetting myself, including the new trench coat my mother had bought me for when it rained. I was worried – I thought I would get in big trouble for that at home. But when I told my mother what happened, she just pulled me close and hugged me tight.

15. Growing up in Birmingham, I also remember when the 16th Street Baptist Church was blown up and the four girls inside were killed. They were just a few years older than me.

16. My mother also showed me how important it was to vote. The first time I went with her to vote, I was 6 or 7 years old. We had to wait in a long line, about 4 or 5 blocks long. I needed to go to the bathroom, but my mother would lose her place if she got out of line. She promised me an ice cream if I could just hold on. So, we stayed.

17. For all these reasons, it is very important to me to vote.

18. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

19. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

20. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:


6/10/2021

Date

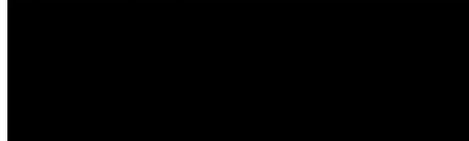
EXHIBIT 17

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Ethel [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Mobile County in Alabama.
3. I vote regularly and experienced a problem with voting once in the past ten years. I have lived at the same address for many years and my polling place has always been at the [REDACTED]
[REDACTED]
4. However, during the midterm elections in 2014, I received a letter telling me that my polling place had been moved to a [REDACTED]. My husband and I both went to vote at the [REDACTED], but when we arrived, we were told that we were at the wrong polling place. They did not have our information and advised us to return to our usual polling place. We drove back to our usual polling place and were able to cast our ballots there.
5. I was upset when this occurred because it took us over 2 hours to vote. In addition, if we had gone to the poll later in the evening, we might not have arrived at old polling place in time to vote.
6. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

7. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
8. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/6/2021

Date

EXHIBIT 18

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Helen [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County, Alabama.
3. I am a retired Professor of English from [REDACTED] University and have lived in Alabama for my whole life.
4. I was a senior at Miles College in Fairfield, Alabama in the early 1960s. We were required to meet a community service requirement for graduation and, to fulfill my requirement, I helped register voters in Alabama.
5. The Voting Rights Act of 1965 had not yet passed and it was very hard to register to vote in Alabama. Many Black voters were required to complete literacy tests to register, even though many could not read.
6. During 1963-4, under the leadership of Rev. [REDACTED], I was among a group of college students that went to people's homes in neighborhoods in and around Birmingham to help them register to vote. We were given a list of mostly Black communities because it was a Black voter registration program.
7. When we reached people, we offered to prepare them for the literacy tests they might face when trying to register to vote. If they needed help, we had a

sheet of paper with the questions they might expect and answers they should be prepared to learn.

8. Some people were hostile when we knocked on their doors. We were told by Rev. [REDACTED] that we should not argue with people and were instructed to turn away if they were hostile.
9. One time, an older Black woman pulled a shot gun on myself and a fellow volunteer. She told us to get off her property because she said that the white lady that she worked for told her that she did not need to vote.
10. We went house by house through the community areas we were assigned. Some people were eager to sign up and vote, and grateful that we walked them through the process. Others were hostile and had been told that they didn't need to vote.
11. When we knocked on someone's door and they needed help, we would help them fill out their application and assist them with studying for the literacy test. A lot of Black people whose doors we knocked on could not read. Some others did not know where they had to go downtown to register to vote.
12. Our Miles College group had the assistance of two young white students, who attended another college. They would come to Birmingham with us, and we would pair off – one Black student and one white. We would work

the neighborhoods together, committed to reaching as many people as we could in their homes.

13. I did much of this work alongside my longtime friend, [REDACTED]. We were proud of the work we did, despite the challenging circumstances, and called ourselves "The Explorers."
14. I have voted in nearly all elections I have been eligible for since I registered to vote in the 1960s. I did not have to take a literacy test when I went to register to vote for the first time. The woman who collected my application saw that I was a college student and said I didn't need the test. I took that to mean that she figured because I was a college student, I likely knew the answers to the test.
15. I now am in a wheelchair and have limited mobility, so I vote by absentee ballot. I am still committed to serving the people of my community and, whenever I run into someone who mentions voting, I like to give people a pep talk about how important it is to exercise their rights.
16. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
17. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

18. I declare under penalty of perjury that the foregoing is true and correct.



August 5, 2021
Date

EXHIBIT 19

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Ja’Kimeya [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County, AL.
3. In 2016 I was a freshman at Auburn University in Alabama. I was unfamiliar with voting procedures but I wanted to vote in the presidential election, even though I was uncertain what to do. That would have been my first time voting. I registered to vote and when I needed to enter my address, I put down my permanent address in [REDACTED]
4. I received a postcard confirming that I was registered to vote. I do not recall receiving a postcard that said where my polling place was. I did not realize there was only one place near your permanent address that you could vote.
5. All over the campus there were signs and banners encouraging students to vote. On Election Day I went to the polling place in Auburn with a friend. I had heard through word of mouth that this location was where the Auburn students voted.
6. When I got to the registration table, the woman said I was not registered and I couldn’t vote. I was confused. Something had happened because I knew I was registered to vote. The woman did not explain to me why I wasn’t

registered or that I could only vote at the polling place near my permanent address. I didn't know that to vote in Auburn, I would have had to list my college address on the registration form. It was very confusing.

7. I was not offered a provisional ballot. I called my mom, because I didn't know what to do. I was worried and thought this might be some type of discrimination because I'm African American. I also called my grandfather. He called the Secretary of State to find out why I was not allowed to vote. Rather than looking up my registration and explaining that I could only vote at the assigned polling place, the Secretary of State got mad at my grandfather and asked him how he got his phone number. (My grandfather had gotten it from his polling place.) My friend didn't know what to do either. So we left the polling location. The result was I didn't vote in that election.
8. However, there were some positives to what happened. I became more determined than ever to vote, to educate myself on voting, and to help other students to vote. I volunteered to work at an organization called My Vote Matters and did some marketing for the organization, trying to come up with strategies that would engage young people and make voting easier, that would explain the jargon and procedures in a way that students would understand. We used social media, graphics, and music to explain the

Electoral College and how voting and elections actually work. I never told my manager at My Vote Matters that I was not allowed to vote because I felt ashamed. I knew voting was so important and I felt bad because I had made a mistake.

9. In 2020 my entire family went to the polling place in [REDACTED] together, which was the [REDACTED]. I didn't update my registration and was surprised that I could vote in a different location than near my home in [REDACTED]. I was worried that I wouldn't be able to vote this time, too. It's very confusing. Again, I don't recall getting a postcard about where to vote.
10. Because of COVID we could vote by absentee ballot and drop off the ballot in person at designated locations and times. We decided to vote early to avoid the crowds on Election Day. But it turned out, there was a crowd waiting to vote at the courthouse. We waited in line for a very long time, for 4 hours. We thought about leaving and trying on a different day but that was the only day my mom could take off work, so it wasn't possible. We decided to stick it out.
11. Even though there was a long wait, the poll workers were nice and there were chairs, water and snacks. The directions were clear. The poll workers verified that you were in the right place, had the right ID, etc. and then gave

you a verification sticker while we were in line. We had to show our driver's license, other ID, and fill out the application for an absentee ballot. When it was finally our turn, we filled out our absentee ballots and turned them in. It went smoothly. I felt so much better than the first time I tried to vote because I was with my whole family.

12. In the future, I will vote with my family whenever I can. I still feel nervous about voting on my own.
13. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
14. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
15. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:


6/22/2021

Date

EXHIBIT 20

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Jacob [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Madison County in Alabama.
3. I've been registered to vote in Madison County since June 2000, when I came back from serving abroad in Japan. Before that I was registered to vote in Florida, Santa Rosa County.
4. Since I was in my teenage years, I've known how important voting is: every vote counts. I was having my doubts for a while, but the last election was proof that our votes do count.
5. Looking at history, with what people actually had to do to vote – the poor, the Black population – getting killed while they try to vote or are to get people out to vote, like Medgar Evers. That all has a lot to do with why I think voting is so important.
6. In recent years, I've voted in person at the [REDACTED]. I haven't had much trouble voting, myself. It's a mixture of people voting at my polling place – [REDACTED] is a [REDACTED]. And the poll workers are racially mixed too, so it works out a lot better. It's usually a quick walk-

through for me. I always check on the County website to make sure everything's in order and then I go. I know it's not that easy for everybody.

7. In certain elections, like the first Obama election in 2008, there were long lines wrapped around the [REDACTED] at least two times. The 2020 Biden election was a little long, but not as bad. The line wrapped around one and half times when I was there, but it depends on what time you go. I went in the early morning, about seven or eight o'clock. I was glad to wait – I wanted to make sure I got my vote in. It took a good 45 minutes – it was moving, but it was a long one.
8. When I was in the service in Germany and Japan, I voted absentee. It was easy to register to vote from abroad. The Commander announces that it's time to vote, and then you go vote, and then they mail it in. I don't know if they received it, but we did do our part.
9. However, while voting for me has been easy, this was not the case when my son was in a major motorcycle accident in October of 2020. This was right before the Presidential election, so I tried to figure out the best way to get him an absentee ballot. He couldn't walk or get out of the hospital – he wasn't in any shape to set things up himself, so I had to help him.
10. There was no way to get an absentee ballot to him – he would have had to go in person to pick it up; it was too hard. That part, the system failed on. I

Googled around and called the number on the County website and they told me the same thing. I didn't have a power of attorney, but I don't know if that would have worked either, because the courthouse needed proof such as my son's driver's license, which was locked up in the hospital safe and couldn't be retrieved until a later date. That kind of hurt, that I couldn't get a ballot for him.

- 11.** It should have been easier to get him a ballot using a doctor's excuse or something, but there was nothing set up. I only found out later, after the election, that they required a letter from the physician stating his condition. I tried everything I could think of and eventually I said, "Man, I guess he won't be voting this year!" Before that, he'd voted in every election since he was 18-years-old. For the next election, he'll be ready.
- 12.** I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
- 13.** I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

14. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:


6/30/2021

Date

EXHIBIT 21

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Jamie [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Mobile County in Alabama.
3. As an Afro-American, or any American for that matter, I have the privilege and honor of the right to vote. Voting is a foundation of our democracy – the citizens of some countries don't have the opportunity to elect the leaders who represent them and their hopes, values and aspirations, but we do. We can't purport to be a democracy when there are so many roadblocks to voting.
4. My most horrific voting experience was the 2008 election, Obama's first. It was terrifying. I vote at [REDACTED] within walking distance of my home. When I arrived, there were lines around the block in 2 directions. A truck roared past us with confederate flags flying, and men in the back with guns screaming "N [REDACTED], you ain't gonna to vote today, N [REDACTED]!" It was terrifying, savage, and brutal, and hard to believe it was 2008 in America.
5. The men in line told the women (some with children) to run inside for their safety, but nobody moved or ran – we all stood our ground to stand up for our right to vote, and we did vote.

6. Even though we were able to vote, that experience underscored how scary it still is to be Black in America, the daily challenges we face, and how much work we still have to do to protect our democracy.
7. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
8. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
9. I declare under penalty of perjury that the foregoing is true and correct.



6/9/2021

Date

EXHIBIT 22

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Jenene [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Russell County in Alabama, and my residence is [REDACTED]
[REDACTED]
3. I am a registered voter in Alabama. My voting card (Exhibit A) states my full name as “Jenene [REDACTED]”. I have been a regular voter in state and national elections ever since I became eligible to vote at age 18.
4. Voting is so important to me. It has always been so important in my family that everybody vote so that elected officials will do what is best for us. My ancestors fought for the right to vote.
5. I have lived in four states - Mississippi, Louisiana, Georgia, and Alabama - and in every state where I have lived the first thing I do is make sure I am registered to vote.
6. I look forward to when my granddaughter becomes old enough to vote so I can go with her to the polling place to vote. My husband Albert and I always go together to vote in all the major elections
7. My polling place is at the [REDACTED]
[REDACTED] which is shown on my voting card (attached as

Exhibit A - Voter Registration Card – Jenene [REDACTED]) as “[REDACTED]
[REDACTED]

8. In the 2016 presidential election, I went to vote in person with my husband as usual. I presented my driver’s license as identification, and the poll worker told me that I was an “inactive” voter. I felt that if I just accepted what I was told, I would not be allowed to vote. I saw my name on the list on the poll worker’s table. There was no explanation given to me, and I was shocked. I did not hear the word “purge”, but I was told that I was not an active voter, and that I would not be allowed to vote. But I was determined to vote, so I told the poll worker that there must be a mistake, because I voted regularly since I was 18 years old, and that I wanted to vote this time too. Before this 2016 election, I had voted in 2014, and in 2012, and in earlier elections. The poll worker went to call someone on the phone. I could not hear her conversation. She then came back and told me that the problem had “been fixed”. I was not given any explanation for the problem. But I was then allowed to vote.
9. After returning home that day, I called the local registrar’s office to confirm my voting registration. I also confirmed my registration online. I was able to vote in 2020 by absentee ballot. I

- 10.** In 2016, I was finally able to vote, but I really believe I would have not been able to vote if I had not argued about being told that I was “inactive”.
- 11.** I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
- 12.** I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
- 13.** I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/8/2021

Date

EXHIBIT 23

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Jennifer [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Alabama.
3. In 2019 I received a postcard advising me that my polling place had changed. The polling place that I voted at for many years was at [REDACTED] within walking distance of my home but the new polling place required transportation due to the distance from my home. I am fortunate to have my own car and drove to the new polling place where I was advised that the information on the card was incorrect and that I needed to go to my old polling location to vote. I then drove to my former polling place and was able to vote.
4. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
5. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

6. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/15/2021

Date

EXHIBIT 24

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is John [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of [REDACTED], in Jefferson County, Alabama.
3. I have been voting in Alabama since I was 18 years old, and I am 59 now. My polling place has been [REDACTED] for the last 12 years. I live in an all-Black area.
4. My father instilled all his children with an understanding of the importance of voting. I vote in every election. I think it is my responsibility. But it is not always easy.
5. I am a general contractor. Since I am frequently out on the job and do not know how long my day will be or where I'll be, I go to vote first thing in the morning when the polls open up. I go then so I do not have to wait in a long line more than 30 minutes. Usually first thing it's about 15 minutes.
6. I have never voted by absentee ballot. I do not trust the absentee ballot system. I always vote in person.
7. I have never been told I was not eligible to vote, but in 2018, the poll worker said I was at the wrong polling place because they could not find my name in the voting rolls. Turned out it was someone new who was working at my

polling place; this happens all the time in recent years. It was not the usual people who would know me. I insisted that they check again, and after a bit of searching, they found my name and allowed me to vote.

8. One thing I do not like, it is the straight party voting. In the last 10 years, the ballots seem like they are made more confusing. They keep changing it, so it is easy to vote for the wrong candidate. It looks like you have to mark your party preference at the top, but if you do, then you can't choose a candidate in each race. You actually can mark a candidate for each race, but only if you do not indicate your party preference at the top. You have to read the ballot very carefully to figure this out, to avoid making a mistake. If you make a mistake, then your vote will not count. It takes extra time to do this, I know, but I want to be very deliberate in my choices for every race. If I am not extra careful, then my ballot could end up marked wrong. A copy of the Jefferson County sample ballot for the November 2020 election is attached as Exhibit A.

9. It is important to me to take my time and try to make the right choices, because I think that other folks, especially older voters, get mixed up and do end up voting for the wrong candidate.

10. Voting is important to me and I take this responsibility very seriously. I do not want to make a mistake, even if the system is set up so that it is hard to avoid doing so.
11. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
12. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
13. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:


6/19/2021

Date

Exhibit A

Jefferson County Sample Ballot November 2020

Sample Ballot

GENERAL AND CONSTITUTIONAL AMENDMENT ELECTION JEFFERSON COUNTY, ALABAMA NOVEMBER 3, 2020		
INSTRUCTIONS TO THE VOTER		
TO VOTE YOU MUST BLACKEN THE CIRCLE <input type="radio"/> COMPLETELY <input checked="" type="radio"/> IF YOU SPOIL YOUR BALLOT, DO NOT ERASE, BUT ASK FOR A NEW BALLOT.		
STRAIGHT PARTY VOTING	FOR COURT OF CIVIL APPEALS JUDGE, PLACE NO. 2 (Vote for One)	FOR TREASURER, JEFFERSON COUNTY (Vote for One)
<input type="radio"/> ALABAMA DEMOCRATIC PARTY	<input type="radio"/> MATT FRIEDY	<input type="radio"/> EYRIKA PARKER
<input type="radio"/> ALABAMA REPUBLICAN PARTY	<input type="radio"/> FOR COURT OF CRIMINAL APPEALS JUDGE, PLACE NO. 1 (Vote for One)	<input type="radio"/> FOR TAX ASSESSOR, JEFFERSON COUNTY (Vote for One)
<input type="radio"/> FOR PRESIDENT AND VICE-PRESIDENT OF THE UNITED STATES (Vote for One)	<input type="radio"/> MARY WINDOM	<input type="radio"/> GAVINELL HONDRIKIS
<input type="radio"/> JOSEPH R. BIDEN KAMALA D. HARRIS	<input type="radio"/> FOR COURT OF CRIMINAL APPEALS JUDGE, PLACE NO. 3 (Vote for One)	<input type="radio"/> JONATHAN O. BARBERE
<input type="radio"/> DONALD J. TRUMP MICHAEL R. PENCE	<input type="radio"/> BETH KELLUM	<input type="radio"/> FOR TAX COLLECTOR, JEFFERSON COUNTY (Vote for One)
<input type="radio"/> JO JORGENSEN JEREMY "SPRINK" COHEN	<input type="radio"/> FOR PUBLIC SERVICE COMMISSION, PRESIDENT (Vote for One)	<input type="radio"/> J. T. SMALLWOOD
<input type="radio"/> FOR UNITED STATES SENATOR (Vote for One)	<input type="radio"/> LAURA CASEY	<input type="radio"/> FOR MEMBER, JEFFERSON COUNTY BOARD OF EDUCATION, PLACE NO. 4 (Vote for One)
<input type="radio"/> DOUG JONES	<input type="radio"/> TWINKLE ANDRESS CAVANAUGH	<input type="radio"/> RONNE DIXON
<input type="radio"/> TOMMY TUBERVILLE	<input type="radio"/> FOR CIRCUIT COURT JUDGE, 10TH JUDICIAL CIRCUIT, PLACE NO. 2 (Vote for One)	<input type="radio"/> FOR CONSTABLE DISTRICT NO. 48 (Vote for One)
<input type="radio"/> FOR UNITED STATES REPRESENTATIVE, 6TH CONGRESSIONAL DISTRICT (Vote for One)	<input type="radio"/> SHANTA OWENS	<input type="radio"/> ANDREA R. CARTER
<input type="radio"/> GARY PALMER	<input type="radio"/> FOR CIRCUIT COURT JUDGE, 10TH JUDICIAL CIRCUIT, PLACE NO. 3 (Vote for One)	<input type="radio"/> TIM ANDERS
<input type="radio"/> KECHNA DAVIS	<input type="radio"/> KECHNA DAVIS	<input type="radio"/> "Shall the following Amendments to the Constitution of Alabama be adopted?"
<input type="radio"/> GREG SHAW	<input type="radio"/> FOR ASSOCIATE JUSTICE OF THE SUPREME COURT, PLACE NO. 1 (Vote for One)	<input type="radio"/> PROPOSED AMENDMENT NO. 1
<input type="radio"/> PATRICK JAMES BALLARD	<input type="radio"/> FOR DISTRICT COURT JUDGE, JEFFERSON COUNTY, PLACE NO. 1 (Vote for One)	<input type="radio"/> PROPOSED AMENDMENT NO. 2
<input type="radio"/> BRAD MENCHEM	<input type="radio"/> MARTHA R. COOK	<input type="radio"/> PROPOSED AMENDMENT NO. 3
<input type="radio"/> FOR COURT OF CIVIL APPEALS JUDGE, PLACE NO. 1 (Vote for One)	<input type="radio"/> FOR DISTRICT COURT JUDGE, JEFFERSON COUNTY, PLACE NO. 2 (Vote for One)	<input type="radio"/> PROPOSED AMENDMENT NO. 4
<input type="radio"/> WILLIAM C. "BILL" THOMPSON	<input type="radio"/> MARIA FORTUNE	<input type="radio"/> PROPOSED AMENDMENT NO. 5
<input type="radio"/> FOR DISTRICT COURT JUDGE, JEFFERSON COUNTY, PLACE NO. 7 (Vote for One)	<input type="radio"/> RUBY YVETTE DAVIS	<input type="radio"/> PROPOSED AMENDMENT NO. 6
<input type="radio"/> BENTLEY PATRICK	<input type="radio"/> BENTLEY PATRICK	<input type="radio"/> PROPOSED AMENDMENT NO. 7
CONTINUE VOTING ON BACK		

<p>PROPOSED STATEMENT AMENDMENT NUMBER TWO</p> <p>Proposing an amendment to the Constitution of Alabama of 1901, to increase the membership of the Judicial Nominating Commission and further provide for the appointment of the additional members; further, provide for the membership of the Court of the Judiciary and further provide for the appointment of the additional members; further, provide for the process of disqualifying an active judge; repeal provisions providing for the impeachment of Superior Court judges and appellate judges and the removal for cause of the judges of the district and circuit courts; judges of the probate courts and judges of certain other courts by the Supreme Court; delete the authority of the Chief Justice of the Supreme Court to appoint an Administrative Director of Courts; provide the Supreme Court of Alabama with authority to appoint an Administrative Director of Courts; require the Legislature to establish procedures for the appointment of the Administrative Director of Courts; delete the requirement that a district court hold court in each incorporated municipality with a population of 1,000 or more where there is no municipal court; provide that the procedure for the filing of vacancies in the office of a judge may be changed by local constitutional amendment; delete certain language relating to the position of constable holding more than one state office; delete a provision providing for the temporary maintenance of the prior judicial system; repeal the office of circuit auditor and make certain nonsubstantive stylistic changes. (Proposed by Act 2019-105)</p> <p><input type="radio"/> Yes <input type="radio"/> No</p>	<p>PROPOSED STATEMENT AMENDMENT NUMBER SIX</p> <p>Relating to Lauderdale County, proposing an amendment to the Constitution of Alabama of 1901, to provide that a person is not liable for using deadly physical force in self-defense or in the defense of another person on the premises of a church under certain conditions. (Proposed by Act 2019-195)</p> <p><input type="radio"/> Yes <input type="radio"/> No</p>	
<p>PROPOSED STATEMENT AMENDMENT NUMBER THREE</p> <p>Proposing an amendment to the Constitution of Alabama of 1901, to provide that a judge, other than a judge of probate, appointed to fill a vacancy shall serve an initial term until the first Monday after the second Tuesday in January following the next general election, after the judge has completed two years in office. (Proposed by Act 2019-346)</p> <p><input type="radio"/> Yes <input type="radio"/> No</p>		
<p>PROPOSED STATEMENT AMENDMENT NUMBER FOUR</p> <p>Proposing an amendment to the Constitution of Alabama of 1901, to authorize the Legislature to incorporate the Alabama Constitution and amend it during the 2022 Regular Session, and provide a process for its ratification by the voters of the state. (Proposed by Act 2019-377)</p> <p><input type="radio"/> Yes <input type="radio"/> No</p>		
<p>PROPOSED STATEMENT AMENDMENT NUMBER FIVE</p> <p>Relating to Franklin County, proposing an amendment to the Constitution of Alabama of 1901, to provide that a person is not liable for using deadly physical force in self-defense or in the defense of another person on the premises of a church under certain conditions. (Proposed by Act 2019-194)</p> <p><input type="radio"/> Yes <input type="radio"/> No</p>		
END OF BALLOT		

EXHIBIT 25

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is John [REDACTED] I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of [REDACTED] in Jefferson County, Alabama.
3. I have been voting in Alabama since I was 21 years old, and I am 78 now. I have lived in [REDACTED] the last 45 years. My polling place had been the same for years, but it has changed location a couple of times in the last 10 years.
4. Once, about 4 or 5 years ago, my polling place was changed without me knowing. I showed up to vote at the church where I thought it was, and the place was closed. There was nothing, no sign or anything, and no one there to tell us where to go. Another gentleman who had been waiting said he was giving up and going home. I kept on walking around the area, looking for information, and as I was heading back to my car, I saw a sign that directed me to another polling place; I just happened to see it, and I walked over to the new location, which was another church, across and down the street.
5. I was able to vote in that election because I persisted. Had I not kept looking, I would not have found it. I don't know how many people gave up and never got to vote because of that.

6. My family has a long tradition of voting for Democrats, going back to my father's generation. My father was born in 1922. I live in an area where there is strong support for Democrats. The Republican party was not supported very much in Alabama until the 1960's, and all my 5 brothers and sisters, and my 4 children still tell me they vote Democrat. I take my responsibility to vote very seriously and make it a priority every time.
7. A couple elections back, I remember because it was when Doug Jones' Senate seat was on the ballot (in the special election primary runoff in July 2020), my party registration was changed to Republican without my knowledge. I went to vote at my polling place for the special election, and when I showed up, they told me my registration was Republican so I could not vote in the Democratic primary. I told them I was most certainly not a Republican and had never been a Republican in my life. I had not changed my address or registration before this happened, and I really wanted to be able to vote. They made me fill out a Provisional ballot on paper and told me my ballot would not be counted with the rest, until we got it straightened out. The Alabama voter website shows that my Provisional ballot was rejected. [See Exhibit A dated 7/14/2020, showing a rejected provisional ballot]. The lady working the polls gave me some papers to fill out to get my party changed. The next day, I had to call the Probate Court (I think that

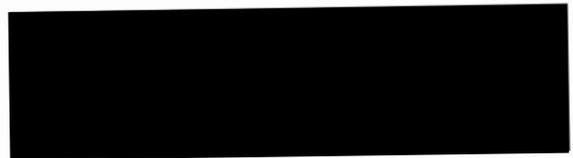
was the court I had to call), to request the change. I had to call back and talk to at least a couple of people until one of them finally told me she would check it out, that it would be a few days. I never received any word whether my registration was changed back to Democrat.

8. When I went to vote in November 2020 for the General Election, I was braced for my registration still to be wrong. Because of Covid, they allowed anyone to vote by absentee ballot, without having to have a reason. I decided not to vote by mail for a few reasons: (1) I heard in the news about the Postmaster General slowing down the mail, so I thought my ballot might not get in on time, (2) I read an article about absentee/mail-in ballots being rejected for mistakes [See Exhibit B dated 9/9/2020 about rejected absentee ballots], and (3) the State required that I show my ID when I turn in my absentee/mail-in ballot, so I had to appear in person anyway since I was not going to send my ID through the mail. I went down to the Courthouse to vote in person during early voting about 2 or 3 weeks before election day. I did not want to have to wait in a long line, which would be longer because we had to stand 6 feet apart, so I went early. This time I checked to confirm my registration and I was relieved to see I was listed as a Democrat with the Alabama Board of Registrars.

9. At the Courthouse, we were directed to a room with long tables, where we voted. The process was all on paper ballots and I voted with a pencil. We did not see any voting machines in the room where we were told to vote. After I filled out my ballot, I was told to wait while a poll worker checked my ballot (the poll worker left the room with my ballot, so I do not know what they did to check it). When the poll worker came back, she said my ballot was ok. I think she was checking for mistakes, because while I waited some other folks were told to go back and do it again. I expect the poll workers mailed or sent the ballots in, but I do not know exactly what was done. I was just required to leave my ballot there. It was not in a sealed envelope. I do not know for sure if my ballot was accepted. I did not get a receipt or any proof that my ballot was turned in or accepted.
10. I always go to vote in the morning after people have gone to work, and before lunch, so I won't have to wait in long lines. I have had to figure out how to maneuver in there when it's not crowded so that I do not have to wait in a long line. Generally, the wait is 30 minutes. A lot of people go early in the morning, and then the lines are longest. I try not to go then.
11. I have never been in line to vote and turned away, but a friend of mine told me there was a group of people in [REDACTED] the next town over, who were in line at 7 p.m. and were told by the election officials to go home

because they were closing the polls. I was told that people stayed there and would not leave, and after some time and a lot of insisting by the voters that they had a right to vote, and after making a few phone calls, those voters were finally allowed to vote.

12. Voting is important to me. Whether it is changing the polling location without any notice, or changing my party registration, or making me wait in a long line, I figure these are just ways that the people in charge of our elections have of tricking people, and of discouraging us from trying to vote.
13. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
14. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
15. I declare under penalty of perjury that the foregoing is true and correct.



7-13-21
Date

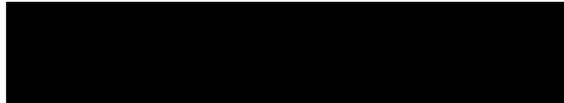
Exhibit A

[Voter Registration Record

<https://myinfo.alabamavotes.gov/voterview/registrant/searchresult/1b6148846358462fbaa5e057b0b4317c>]



[Back to Lookup](#) / [Registrant Detail](#)



Status
ACTIVE



Provisional Ballot



Ballot Status

REJECTED

Reason Your Ballot Was Not Accepted

VOTER NOT ELIGIBLE FOR PARTY BALLOT

Polling Location



ALABAMA STATE POLITICAL PARTY UNIFIED

Exhibit B

[News Article: <https://www.wbrc.com/2020/09/09/alabamas-absentee-voting-system-doesnt-allow-voters-fix-disqualified-ballots/> accessed 19 June, 2021]

6 News Live First Alert Weather Good Day Alabama Vaccine Alert Team The Good Stuff

Alabama voters can apply for absentee on the Alabama.gov website. (WAFF)

By Caroline Beck

Published: Sep. 9, 2020 at 4:53 PM PDT

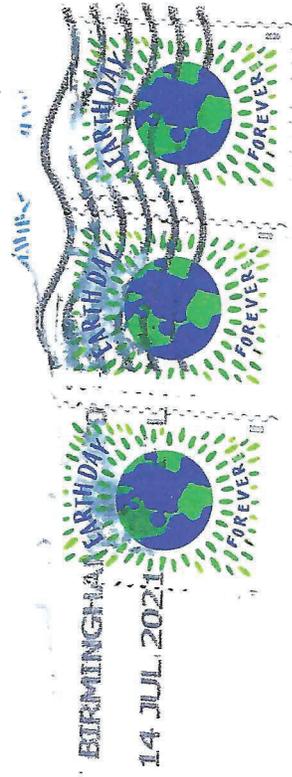


By CAROLINE BECK, Alabama Daily News

MONTGOMERY, Ala. - Alabama notifies voters if their absentee ballot applications are disqualified because of missteps in the process, allowing voters to attempt to fix the issues. However, the state does not provide the same opportunity on absentee ballots during the voting process.

Alabama Secretary of State John Merrill told Alabama Daily News the state does not track how many absentee ballots are ultimately disqualified because of mistakes made while returning them and it is impossible to know how many have been rejected in recent past elections.

"Absentee ballots are tracked at the local level and historically we have not asked counties to track that and to share it with us because we really haven't had a need for it," Merrill said.



BIRMINGHAM
14 JUL 2021

Fair Fight Action
Voter Protection - Declarations
1270 Caroline Street, NE
Suite D120-430
Atlanta, GA 30307

30307-255440

EXHIBIT 26

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Jordan [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Mobile County in Alabama.
3. In the 2018 General Election it took me more than three hours to successfully vote. I am a student at the University of South Alabama and registered to vote at that address. On November 6, I drove myself to the correct polling place to vote. Prior to leaving my home, I called the Secretary of State and confirmed (a) my registration was valid and (b) the address of my polling place.
4. When I got to the polling place at 8 am, there was no line. I checked in at the front desk. The poll workers found my name on the voter list but told me that my voter registration address (my campus address in Mobile) did not match the address on my state ID and that I was at the wrong polling place. They told me to travel across another zip code to vote, to a majority African American precinct.
5. I drove to that precinct, walked in, checked in – and the poll workers told me my name was not on their list of eligible voters. They told me I needed to go back to the original polling place. While I was waiting, I checked the

Alabama Secretary of State website and confirmed that I was registered to vote and the first polling location I went to was the correct location. I also called a voting rights group for help, and they confirmed that information.

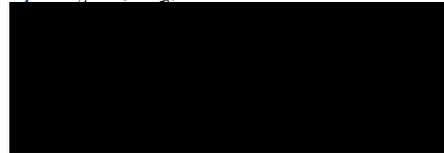
6. I traveled all the way back to the original polling place and the poll workers again told me I was not a resident and not eligible to vote. I waited while the poll workers called judges, lawyers and Secretary of State staff to verify my information. While this was going on, one of the poll workers said I could vote a provisional ballot. I said, “No. I will stay here all day to make sure my vote is counted.” The poll workers ultimately used my student ID to confirm my registration in [REDACTED]. I was able to successfully vote.
7. I was working at a law firm and was paid by the hour. I called my boss to explain what was happening. Luckily, she understood and told me to do what I had to do and come in when I could. But I had to make up those hours I missed.
8. The 2018 voting experience was traumatizing. This is something that needs to be fixed. I was discouraged that I was turned away. While I had to wait, others walked in, voted, and walked out. I lost a bit of trust in the government, especially the state government. They are making it hard for college students to vote. They are making it harder for everyone to vote. From my work with the University’s Student Government Association

(“SGA”), I know Alabama has restrictive voting laws and I know my rights. I’m not sure that other students do.

9. Voting is important to me. I believe that voting can change the world for the better. I got to meet Representative John Lewis and he spoke about voting as a non-violent tool to change the world. That has stayed with me. I have advocated for voting rights for college students. I have worked for Representative Terri Sewell (AL-7) and Tabitha Isner who ran for Congress (AL-2) in 2018. I try to be a voice for the voiceless.
10. While I was talking with poll workers, our university-chartered bus pulled up and some students were getting ready to vote. I saw a lot of them being turned away and heard poll workers say that they were at the wrong polling place. I tried to help since this was unfair and I was one of the student leaders on campus. We had organized a voter registration drive on campus, registered hundreds of students, and were careful to make sure all of the addresses were correct. Some students who had permanent addresses in Mobile were allowed to vote; many students did not get to vote.
11. When I was offered a provisional ballot, it was not explained to me. The SGA president (who had the same issue and was sitting next to me) explained provisional ballots, including the risk that these ballots can be rejected for small things like a signature issue.

12. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
13. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
14. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



7/17/2021

Date

EXHIBIT 27

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Joyce [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Madison County in Alabama.
3. I have been voting in Alabama since I was 18 years old. I have never missed a single election-local, state or federal. I am a registered Democrat and a member of the Alabama Democratic Conference, BPAC (the Black Progressive Action Coalition) and the New South Coalition.
4. Long lines at the polls is an ongoing problem in Alabama. For the Obama elections in 2008 and 2012 the lines were five hours long. For the November presidential election in 2020, the line was three hours long. The polling place was the [REDACTED] and the line wrapped around the building. The thing that bothered me the most was that there were no provisions for seniors or handicapped people. Most of the people in that long line were elderly, including people with walkers and people in wheelchairs. Thank God it wasn't raining. Luckily it was a beautiful day, but a bit chilly. See the attached photos and videos of the long line in Exhibits A through H.

5. I worked at the polls from 7am to 7pm. The police were called at one point because there was a confrontation between some MAGA people and the other side. There were MAGA people driving by in their trucks with Confederate flags yelling, "Make America great again!" I think they were trying to intimidate people.
6. Another thing that happened was that the Election Protection Organization, a nonpartisan group that patrols elections, made people who were wearing shirts with any kind of political image or message cover them up or turn them inside out. If you didn't have a coat to cover up, you had to go into the bathroom to turn your shirt around. That did not seem right to me. They usually just patrol to make sure people don't hand out political literature within 25-30 feet of the polling place.
7. The lines were really long for voting absentee early, too. There was a place set up at the courthouse where people could go in and vote early with an absentee ballot. The line wrapped around the building and there were again no provisions for handicapped people. There are many steps to get into the courthouse. There is a ramp on one side of the building, but there was no one directing elderly or handicapped people to the ramped entrance.

8. There were also problems at Alabama A&M University in November 2020. A lot of students were not allowed to vote. Students were asked to present another form of ID besides their student ID, in particular they were asked for their social security card. Most people don't carry their social security card. Students from out of state were told they should have voted by mail in their home state, even though they registered to vote in Alabama. I know about these problems because my organization, the New South Coalition, does a panel discussion after elections to see what happened and what we can do to make it better.
9. My family has always been political. My mother has been a poll watcher since they first let Black people do it. My cousin works in DC with Nancy Pelosi. My second cousin worked in the White House for 30 years. My parents and I all got to go to both of Obama's inaugurations. My father was involved in the Civil Rights Movement. He had his picture taken with Julian Bond and Ralph Abernathy.
10. When I was 18 I couldn't wait to vote. I remember going with my grandmother to vote in a segregated line in 1956 or 1957. I am glad to see more young Blacks involved in politics. I go and speak to the Young Democrats club at the university. Next election we need to

make sure there are accommodations for handicapped and elderly people.

11. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
12. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
13. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



7/9/2021

Date

Exhibit A

Photo of line at the [REDACTED] polling place on
November 3, 2020



Exhibit B

Photo of line at the [REDACTED] polling place on
November 3, 2020



Exhibit C

Photo of line at the [REDACTED] polling place on
November 3, 2020



Exhibit D

Photo of line at the [REDACTED] polling place on
November 3, 2020



Exhibit E

Photo of line at the [REDACTED] polling place on
November 3, 2020



Exhibit F

Photo of line at the [REDACTED] polling place on
November 3, 2020



Exhibit G

Video #1 of long line for November 3, 2020 General Election

<https://drive.google.com/file/d/1SkxgmC4Aqo3ZyyEHh0sIf2dB8D4scqj8/view?usp=sharing>

Exhibit H

Video #2 of long line for November 3, 2020 General Election

https://drive.google.com/file/d/1z01O-cjCbVAeN7g0WP_szwxnIryt-uxf/view?usp=sharing

EXHIBIT 28

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Joyce [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Perry County in Alabama.
3. My sister, [REDACTED] [REDACTED], is a paraplegic. She has an amputated leg. [REDACTED] lives in [REDACTED]
4. She has trouble getting into the polling place because it has no ramp. She also needs someone to give her a ride and sometimes there's no one to pick her up.
5. In 2020 she was able to vote by absentee ballot.
6. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
7. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
8. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:

[REDACTED]

6/25/2021

Date

EXHIBIT 29

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Karen [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Colbert County in Alabama, and my residence address is [REDACTED].
3. I am a registered voter in Alabama, and have been a regular voter in state and national elections ever since I became eligible to vote at age 18.
4. Voting is my voice, the only voice I have, and it is a civic duty to vote. My voice counts, and I will not be discouraged.
5. In [REDACTED], most of the people in the community live on the north side of US Highway [REDACTED], a busy median-divided multi-lane highway that runs between Memphis and Huntsville, with a fast 55mph speed limit. Very few residents live on the south side of this highway.
6. My polling place used to be at the old [REDACTED] building in downtown [REDACTED], near to my home, only about 6 blocks away, and on the populated part of town, north of US Highway [REDACTED].
7. By 2016, my nearby old polling place had been closed, and I was notified that my new polling place would be located across the highway at [REDACTED] [REDACTED], [REDACTED], on the south side of US

Highway [REDACTED]. This is further from my home, and most importantly this location is harder, less safe to reach.

8. I was born in 1953. I am getting older and can still drive, but I am not comfortable and do not feel safe trying to drive across that highway, but I have had to drive across it anyway in order to get to this new polling place.
9. Most of the residents here are older retired people who find it hard to cross that highway, and many cannot drive. The area around the new polling place is not pedestrian friendly, there are no crosswalks. There is no public transportation available.
10. City municipal elections are still held at community centers located conveniently nearby, but for me to vote in state and federal elections at this newer polling place, I must cross that big US Highway [REDACTED].
11. I never missed a state or national election since I was 18. I really hope that I will be able to continue to vote now that I am older, but it is uncomfortable to get across that fast highway.
12. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
13. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

14. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/18/2021

Date

EXHIBIT 30

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Kathleen [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Madison County in Alabama and my residence address is [REDACTED].
3. In June 2020, when I was preparing to vote in the Primary Election during the COVID-19 pandemic, I decided that the safest way to participate was to vote absentee. In order to vote absentee in Alabama, one must first apply on-line through the official state web site. A form needed to be printed off, and I was able to print my application after accessing it on-line.
4. Part of the absentee voting application process was needing to designate a reason why I wanted to vote by absentee ballot. On the news, the Alabama Secretary of State, John Merrill, suggested that voters who wanted to vote absentee due to the pandemic (to avoid illness), select the pre-designated reason, "I have a serious illness." The application had several pre-designated reasons including travel on Election Day. So, I needed to choose among the pre-designated reasons to apply to vote absentee, but I wondered why I had to choose that I had a serious illness, or even why selecting a

reason at all was necessary. Deadlines to apply for an absentee ballot received a lot of publicity on local news channels.

5. The printed mail-in application also required that I provide a photocopy of my state identification (for me, a driver's license). Fortunately, I have a printer/scanner, so I was able to copy my driver's license. There was no option to apply fully on-line including no way to upload a photograph of my state identification.
6. After submitting my printed application with ID photocopy by mail, a week or so later I received my ballot in the mail with instructions on how to properly vote and submit it. To vote, I was required either to (1) get two witnesses to sign the outer envelope of the ballot, then mail it back, or (2) get the ballot notarized and mail it back. Here I am, using an absentee ballot that should allow me to vote without encountering other people during the pandemic, and I had to find two people to either witness my vote or go out in public to get my ballot notarized. It just didn't make any sense to me. In the end, I asked two friends who were properly self-isolating during the pandemic and willing to act as witnesses.
7. I wanted to drop the ballot off in person at the courthouse to make sure my vote was received, but the line to drop off the ballot went all the way around the courthouse. Not only would that have meant a long wait (outdoors, in

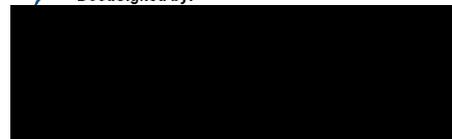
June), but given the pandemic, it didn't seem safe to be around all those people.

8. After considering my options, I mailed in my ballot via USPS. I assumed it was received and counted, but I have no way of knowing for sure. I wasn't given a tracking code that would have allowed me to see that the ballot was received and I voted successfully. In fact, there was no tracking mechanism as far as I know.
9. I wrote a letter to Alabama Senators Doug Jones and Richard Shelby about this ridiculous, unreasonable process and the need for improvement, but I did not hear back from either senator. I used their on-line communication portals to express my concerns, which does not allow the submitter to keep a copy or record of making contact.
10. I feel like something needs to be done. It needs to be easier to vote absentee, and there should be a consistent nation-wide policy that does not require selecting from pre-designated "reasons" for voting absentee, finding witnesses to verify my identity after I already mailed in my ID to apply, getting the ballot notarized, etc. I am disgusted that there is not a national policy for our fundamental right to vote.
11. My first experience with absentee voting was in the 2020 Primary Election. Prior to the pandemic I always voted in-person in all elections. The only

reason I had requested an absentee ballot was due to the COVID-19 pandemic. Unlike some other states, Alabama does not normally have early voting or routine mail-in voting for all residents.

12. I went to the polls in person for the November 2020 general election. There were many people in line at my polling location, and it was a situation where everyone was still wearing masks. This caused me considerable anxiety. I was uncomfortable voting in this way, but I went ahead and did it because of the difficulty I had with absentee voting in the primary. The wait was longer than usual due to the large turn-out. It took about an hour total. Normally, in-person voting takes about 15 minutes at my location.
13. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
14. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
15. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/30/2021

Date

EXHIBIT 31

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Kelvin [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Madison County in Alabama.
3. On the November 3, 2020 election day, I was not comfortable parking my truck and walking to the polling place because of the comments being made by people sitting on lounge chairs in front of where I had parked.
4. On that morning, I drove to my regular polling place [REDACTED]
[REDACTED]. I re-arranged my schedule to vote that morning rather than to be at the high school, where I mentor students on the basketball team. The parking lot is not large next to the [REDACTED]. There has never been a problem to park in the [REDACTED] lot in the past, but this time the lot did not have as many spaces because people had to keep 6 feet of distance in the line, and the line went into the parking lot. There were 2 police cars out in front of the [REDACTED] and the police were directing cars to park in the sub-division of homes near-by.
5. I have lived in [REDACTED] all my life and this neighborhood has people who are laid back, so I did not have a concern about where I was being directed

to go. I drove down a road about 100 yards and parked on the side of the road in the sub-division.

6. As I was getting out of my truck, there were white adults (who were around my age, about 50 years old) making comments loud enough for me to hear. I remember one said “There they go again” in a tone that did not make me feel comfortable as a black man. I think they were residents of the sub-division since they were standing next to lounge chairs. At times, they were also yelling their comments towards other people who were parking their cars on the side of the road. I did not say anything to them. I walked in the direction of the church to go vote, and there were other younger people, around the age of college students, also walking to church to go and vote.
7. After I walked about 25 yards, I turned around. I decided that because my truck was brand new and the people with the lounge chairs saw me get out of it, that I did not feel comfortable leaving the truck there while I went to vote. I did not want them to do something to the truck.
8. So, I got into the truck and drove back to the [REDACTED] parking lot. I circled the parking lot for about 15 minutes but could not find a parking spot. I left because I needed to get to the high school.

9. Later in the day, around 5pm, I drove back to the [REDACTED]. It was still congested, but I was able to park in the [REDACTED] parking lot. It took me about 40 minutes to wait in line at that time, but I was able to vote.
10. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
11. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
12. I declare under penalty of perjury that the foregoing is true and correct.

[REDACTED]

6/26/2021

Date

EXHIBIT 32

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Kerri [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Tuscaloosa County in Alabama.
3. I was born in Alabama and have lived here for all of my life of 41 years.
4. I registered to vote early at age 17 and was able to cast my vote once I reached age 18. I vote in every election including local, state and federal elections. I have also volunteered as a poll worker in my community. I vote because my parents taught me voting is an important right that people worked hard to earn for us. By voting, I can be part of the solution to problems in my community.
5. In 2017, I volunteered on a local initiative to get out the vote in my community. While working on this initiative, I met individuals who had been incarcerated for a felony conviction and had their voting rights revoked by the State of Alabama because of the conviction. These individuals had served their time and were interested in reinstating their voting rights but did not understand the process for applying for reinstatement. The State of Alabama does not automatically restore voting rights for individuals who have served their time nor do they inform these individuals that they may

apply for reinstatement of their voting rights once their sentence is served.

Individuals must, on their own initiative, apply for reinstatement once their time is served and their fees are paid.

6. I volunteered to help Mr. Cassius Marcellus Lanier reinstate his voting rights. This process began in August of 2016. I began by contacting Mr. Lanier's local parole office to determine the process for restoring his voting rights. The parole office was unhelpful. They treated me disrespectfully, as though I was a convicted criminal. I then researched the process using a Google search engine. Through the search, I learned that Mr. Lanier would need to complete a Certificate of Eligibility to Register to Vote (CERV) and submit it to the local State Probation and Parole office for review. I found the CERV form online and helped Mr. Lanier complete and submit it to reinstate his voter rights. The Alabama Board of Pardons and Paroles reviewed his request and approved his application. They had 45 days to review the application, render a decision, and inform Mr. Lanier. His application was quickly approved and he was informed by the office that he could register to vote. He registered in 2017 and he has been voting consistently ever since. He is currently running for a city council seat in Tuscaloosa, AL. None of this would be possible if we had not inquired about the restoration process and been determined to restore his voting rights. This

process has been far from easy, but we were dead set on seeing it through and using this experience to be able to assist other citizens with prior felony convictions through this process as well.

7. This experience taught me that citizens with prior felony convictions face several barriers to reinstating their voting rights in Alabama, most notably lack of notification by the state that reinstatement of voting rights is not automatic, and limited information about the reinstatement process steps. I would like to see the state eliminate these barriers and make reinstatement of voting rights easier for these citizens who have returned to civilian life and are eligible to register to vote. These barriers limit access of thousands of Alabama citizens to their voting rights. The Sentencing Project estimates approximately 286,000 ex-felons living in Alabama have completed their sentences but lack the ability to vote.
8. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
9. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

10. I declare under penalty of perjury that the foregoing is true and correct.

_____



6/22/2021

Date

EXHIBIT 33

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Krystal [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County in Alabama.
3. I have been a registered voter since age eighteen. I have had no issues when I needed to update my registration.
4. By choice I vote at my polling place on election day. As a voter, I am more confident casting my ballot on election day than I am with absentee voting.
5. For the 2016 Presidential election my polling place was changed. I did not receive any notice in the mail about the change. On election day in 2016, I was talking to my roommate as I was driving to my usual polling place. When I pulled into the parking area, I remarked to her that there were only a few cars there. She asked me where I was. I told her I was at the [REDACTED] where I normally vote. It was at that time that she informed me that the polling place had changed and provided me with the correct location.
6. For the 2016 Presidential election I stood in line for 8 ½ hours. Part of the wait was due to the check-in process. The check-in lines were arranged alphabetically, with some poll workers having short or no lines and other

poll workers having long lines. There were many voters in my part of the alphabet. I was able to vote successfully.

7. For the 2020 Presidential election, my wait was approximately three hours. I live in a highly populated area and when I arrived at 6:00 a.m. before the polls opened at 7:00 a.m., the line was already wrapped around the building. It appeared that there were the usual number of poll workers, but due to COVID restrictions and the small facility (approximately 12x24 for two voting machines and five poll workers), the process slowed down.
8. It was very cold on election day, 2020 and I observed some voters going back and forth to their cars to get warm. There was no other way to get out of the elements as we waited. I did not go back to my car because I was by myself. I observed couples rotating in and out of the line as one held their place in line and the other went back to their car. For some it was a long walk. Because of the large number of people, available parking close to the building was limited.
9. I had a previously scheduled afternoon appointment on November 3, 2020, so I took the entire day off. I did not want to come to work late after voting and then leave early for my appointment.
10. I have personal knowledge that my sister had an issue submitting her absentee ballot for the 2020 Presidential election. She stood in line for at

least an hour at the county courthouse to submit her absentee ballot, even though she was wearing a boot because she had a torn Achilles tendon. The people at the county courthouse closed their doors based on their regular hours, even though my sister and many others were still waiting to submit their ballots. When they closed the doors, my sister left. I have personal knowledge from a co-worker, that the employees at the county courthouse eventually allowed those who had been in line at closing time to submit their ballots, after some in the line protested by knocking on the door for thirty to forty minutes. My sister decided to vote in person on election day.

- 11.** I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
- 12.** I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
- 13.** I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/22/2021

Date

EXHIBIT 34

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Lashanda [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Madison County in Alabama.
3. For the presidential election, I waited in a line for about one and a half hours to submit my absentee ballot to a ballot box. I had to pick up my son, so waiting in line interfered with my getting him, I had to call his dad to get him. I did observe that people who had disabilities were allowed to go inside. They had a faster process for people who were 65 and older or had disabilities.
4. I had decided to vote absentee but I waited too late and was then worried that my ballot wouldn't be counted in time, and I wanted it to be counted so I went to turn it in at the ballot box. A lot of people didn't want to mail their ballots so we were all waiting in line to turn in our ballots at the ballot box. Just to turn in my ballot at the ballot box, I had to wait on line for an hour and a half.
5. This was my first time voting by absentee ballot. I have voted before but because of the pandemic, I wanted to be safe and vote by absentee. I wanted to vote when I got off from work at 5:30 but it's usually pushing it because

my polling place closes at 7PM. I prefer voting by absentee ballot because of the poll closing time.

6. I did track my ballot, and it was fairly easy. I logged in and saw that it was counted in the presidential election.
7. I have heard that they are trying to take away these dropoff locations, and I feel that some people won't vote because of all these changes. It will discourage them from trying to vote. Taking away stuff and closing stuff and adding all these rules, it will keep people from voting. I have always voted and plan to continue voting.
8. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
9. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
10. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:


6/22/2021

Date

EXHIBIT 35

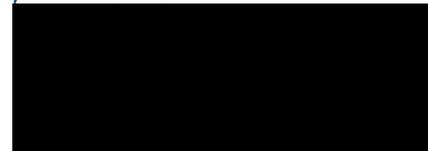
**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Latasha [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County in Alabama. My address is [REDACTED]
[REDACTED]
3. I am a High School Math Teacher and have been voting for years. I am African American and teach and live in a mostly white community.
4. I have been an active voter in the last several elections, including all of the recent presidential elections (2012 and 2016). I always vote at the same polling place, [REDACTED]. I last voted at this polling place in the U.S. Senate special election in December of 2017. I had no reason to believe that my polling place had changed or that I would be registered somewhere else since then.
5. During the 2020 presidential election I needed to vote early and was aware that I could vote with an absentee ballot in person before election day. I was allowed to leave early from work to vote a few days before election day during a designated voting time. I went to my regular polling place, because that is where I have been voting for years.

6. I drove from work, 35 minutes to [REDACTED] where I always vote. After waiting in line for 40 minutes among mostly White voters, I was told that I was not registered at that polling place. Despite my questioning, the poll worker told me that I was registered at a different polling location, and should go to the [REDACTED] if I wanted to cast my vote. I was not allowed to see the registration list to determine for myself if this was correct information.
7. I was determined to vote, so I drove another 25 minutes over to the stadium and proceeded to wait in line for 1 hour before being told once again that I was not registered at that location. I tried calling the DMV, but was not offered any helpful information. I was upset and confused as to why I wasn't able to vote at either location.
8. I did not want to give up, so the next day, I spent 2 hours online trying to figure out what was going on and how to cast my vote. After my long search, I was able to find the right information. This led me to drive to the [REDACTED] in downtown Birmingham to cast my absentee ballot. It was raining outside and the line was backed up for blocks. I waited in line that day for 4 hours, with all African American voters. I noticed that people who used wheel-chairs had to wait in the line as well.

- 9.** At the end of the day I was able to turn in my absentee ballot and I received a card so that I could track my vote. I later found out that my vote had in fact been counted.
- 10.** Even though my experience was such a struggle, I was determined to vote on that day because voting is important to me and I couldn't miss my chance. For the generations who had to live through the Jim Crow era before me, I needed to cast my vote. I want to be an agent of change for the future. I believe that voting gives you your voice and the ability to change laws to help generations down the line. Without your voice, you are silent.
- 11.** I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
- 12.** I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
- 13.** I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/22/2021

Date

EXHIBIT 36

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Lujan [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Madison County in Alabama.
3. I have learned through experience that when you vote in the South, you expect to wait in long lines, so you come prepared. When I voted in person during the 2020 national election, I made sure I had enough water and I brought some snacks to tide me over. It's just what you do here. I waited about three hours to cast my ballot in person on 11/3/20 here in Madison County. I know it seems crazy to outsiders to wait that long to vote.
4. I'm 42 and retired from the Army. I was stationed a lot of places when I was in the service. But I grew up in Georgia so I know how important the right to vote is, particularly to Black people. I vote because there is always hope for a better tomorrow, even when it seems hopeless.
5. I have three children ages 11, 15, and 17. I stood in line for about three hours to vote because I want a better future for them.
6. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

7. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
8. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/25/2021

Date

EXHIBIT 37

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Margaret [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Mobile County in Alabama.
3. I applied for an absentee ballot for the 2020 Presidential election about a month before the primary election. I received an application for an absentee ballot in the mail. I filled out the application and mailed it to the board of registrars. My absentee ballot never arrived, and I was not informed that my application had been denied.
4. I applied for an absentee ballot because I was temporarily staying with my daughter in Atlanta, Georgia. I help look after my granddaughter who has a disability. She cannot be left alone.
5. I was able to vote absentee a few years earlier when Doug Jones was elected to the Senate. I remember that the absentee ballot had to be notarized. I believe my application was denied this time because I did not send a copy of my ID with my application. I did not know that I needed to send a copy of my ID with my absentee ballot application.

6. I do not remember seeing anything on the absentee ballot application about a photo ID requirement. Once I learned about the new photo ID requirement, it was too late to get an absentee ballot.
7. In order to vote, I bought a Megabus ticket from Atlanta, GA to [REDACTED] AL for about \$46. The bus ride was not luxurious; it was over 300 miles and more than 5 hours long.
8. I was able to vote in person.
9. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
10. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
11. I declare under penalty of perjury that the foregoing is true and correct.

[REDACTED]

8/10/2021

Date

EXHIBIT 38

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Mary Frances [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.

2. I am a resident of Mobile County in Alabama.

3. I began voting in Mobile, Alabama, in 1961 when I was 21 years old. At that time you needed to be 21 to vote. We were required to pay a poll tax of \$3 each year. We had to pass a test on the Constitution and the Declaration of Independence in order to vote. We also had to bring another person to vouch for us. Mr. Clarence H. Montgomery, a barber in Mobile, helped many people vote. He gave us a study guide for the test, and took people to the polls in his car and vouched for them. He took me to the polls and vouched for me. I knew about him because he had a radio program called "Pass It On" that gave folks information about the elections and who was running. Eventually the poll tax was phased out. I earned the money to pay my poll tax by working as a domestic, cleaning people's houses.

4. Throughout my years of voting in Alabama, the polling places frequently changed. I used to be able to walk across the street to the Springhill Armory to vote, but then the polling location changed many times. I remember voting at [REDACTED].

[REDACTED], etc. Sometimes I would arrive at a polling place and the doors would be locked and there would be a sign on the door telling you to go to a different place. Once when I was in my late 40s, I had to go to two other places, and by that time the polls had closed and I did not get to vote. That was the only time I did not vote.

5. There have always been long lines to vote in Mobile. People always have to wait hours to vote, usually more than two hours. Sometimes people in line would leave and say they were going to come back, but I never knew if they really did.
6. The longest lines ever in Mobile were for this past presidential election in 2020. People waited all day. I got in line with my walking cane, as I have arthritis. They let seniors and disabled people get in their own line, so we didn't have to wait as long, but it still took at least an hour or an hour and a half.
7. Once during one of the Obama elections, the poll workers said they could not find my name in the registration list when I showed them my Alabama driver's license. They had the names of all my family members listed, but not me. I asked them to check again, and they found my name.

8. I vote because my grandmother taught me how important it was. She remembered slavery, and the soldiers coming to say slavery had ended when she was just a young girl. She was determined to make a difference for her family, and encouraged all of us to vote. You can't do a lot by yourself, but with a group, miracles can happen. I encourage my family and my grandchildren to vote. I don't consider you to be a first class citizen if you don't vote.
9. In 1964 or 1965 I was affiliated with the Southern Christian Leadership Conference. I was one of eight people who integrated Gulf Shores Beach. When we went in the water, all the white people ran out of the water like we were alligators. Also at that time, Summer Brothers Grocery hired the first Black cashier. The owner of Delchamps Grocery on Catherine Street adamantly stated that he would never hire a Black cashier, so we picketed for a couple of weeks, and the owner called to meet with us and a black Cashier was hired. We met every Monday night in a church that was surrounded by guards in case someone tried to bomb us. I didn't go to the march on the Edmond Pettus Bridge because I couldn't honestly sign an oath saying I wouldn't fight back. Even now, at age 81, if you hit me, I will hit you back.

10.I continue to be involved in politics, and want to do what I can to get a spark going with the Black folks in Mobile for our election coming up in August.

11. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

12. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

13. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/19/2021

Date

EXHIBIT 39

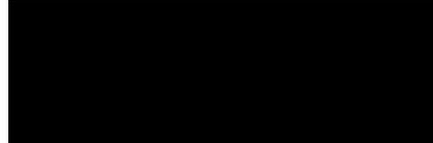
**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Melinda [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Tallapoosa County in Alabama.
3. Something that happened to my son two years ago transformed me and led me to help several hundred young Black men in my community to regain their voting rights.
4. These young men are now in their 30s and 40s, and they are felons because of crimes, mostly involving drugs, that they committed back when they were 17 or 18 years old. They didn't realize that the law in Alabama was changed in 2017, and that they were eligible to have their voting rights restored. The process can be confusing, but I personally was able to guide these young men, so they were able to vote in the November 2020 mayoral election in Dadeville, the town where they, and I, live.
5. My activism began after my son, who was a student at Auburn University, was pulled over by a cop just down the street from our home. He was on his way to school, and the cop pulled a weapon, held it to my son's head and asked him where he was going. Supposedly a call had been made to the police about some sort of incident on our street, but I don't know about that.

6. I was angry and hurt. What if my son had sneezed or moved? The officer could say he had to protect himself. I tried talking to local officials, but they all said it was okay what the officer did. Even the Mayor did not seem concerned.
7. My anger turned into political activism. Dadeville is a small town of only about two-thousand people, the kind of place where everybody knows everybody. It wasn't difficult for me to know which young men were still dealing with long-ago criminal convictions. I was shocked that nobody notified them about the change in the law that allows felons to vote. There appears to be no process for notification.
8. I offered to help them by walking them through the vote restoration process, helping them with photo ID requirements, and in some cases, I even went with them to the polls to make sure they were allowed to vote, because some of the poll workers did not know the rules.
9. In my small town of Dadeville, 300 votes made a big difference, helping to install a Mayor who hopefully will be more responsive than the previous one.
10. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

11. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
12. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/12/2021

Date

EXHIBIT 40

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Monica [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Madison in Madison County in Alabama.
3. I am employed at Alabama A&M University (AAMU), where I am the University Service and Learning Coordinator. I am also an Adjunct Professor of English and Freshman Orientation.
4. This declaration concerns student voters at AAMU who were disenfranchised during the 2018 statewide elections, and the difficulties students faced in registering to vote and voting in the 2020 presidential election. Along with other staff at Alabama A&M, I worked to help students register and try to vote during both election cycles.
5. AAMU is an historical black college and university (HBCU) founded by the formerly enslaved Dr. William Hooper Council, in 1875. The university functions as a teaching, research, and public service institution, including an extension division. There are currently approximately 6100 students enrolled at AAMU.
6. After a lawsuit filed by the NAACP to protect students' right to vote was dismissed, AAMU decided to act to try to eliminate the many roadblocks to

students being able to vote. (Exhibit A.) The University put together a civic team to help students avoid the roadblocks to voting. The team was led by the Vice President of Student Affairs.

7. In 2016, AAMU added civic engagement to the required freshman orientation curriculum. The institutional mandate for orientation classes on civic engagement required students to learn about the Civil Rights Movement, voter protection, and current voting issues. The students also take a service course, which includes a civic engagement component. AAMU's goal is to change the culture of voting by answering student's questions about voting and fill in any gaps in their knowledge. As part of the civic engagement curriculum, students are encouraged to register to vote, check their voting status, and question disparities in voting that they find in their communities. Along with local volunteers, AAMU helps a majority of freshmen to register to vote every year. (Exhibits B, C, D.)
8. In 2018, the students and AAMU faced challenges and obstacles in trying to register students to vote. For example, students who had registered to vote in 2018 were later told on election day that their registration information was not found in the registration system, and that they could not vote. In response, AAMU staff and I met with the Registrar/Chairman of the Board of Registrars on numerous occasions to find out why these students had not

been allowed to vote, and why the students had not been informed that their registrations had been rejected.

9. We were told that if a student made an error on the registration form, the Board of Registrars was not required to let students know that their applications were denied. The Board refused to inform students of these errors or to allow us to help these students correct their registration. We also learned that the forms deemed unacceptable had all been shredded, so there was no opportunity to learn what mistakes students had made or allow them to correct any errors.
10. In response, AAMU implemented a plan to review every student's voter registration form before it was submitted. At least two staffers reviewed every registration form. AAMU staff contacted students if they found any errors, and helped the students correct the errors.
11. Another problem arose during the lead up to the 2018 midterm election, concerning the return of students' voter registration cards. The Board of Registrars usually sends students the voter registration cards about two weeks after they register to vote. The Madison County Board of Registrars (Board of Registrars), however, used an old AAMU address to send voter registration cards to students' dorms. AAMU, however, was no longer delivering mail to students' dorms in 2018; students had to pick up their mail

at an on-campus student post office. So, these students did not know that the cards had been sent because they were mailed to the wrong dorm address.

The students were then marked as “inactive” when the cards were returned as undelivered.

- 12.** In addition, students often do not visit their campus mail boxes because most students receive communication by email or phone, and funds from their homes are electronically wired. Students were not in the habit of checking their campus post office boxes because they had no reason to do so; some never received any mail on campus and did not know where to retrieve mail sent to them. These students’ cards were also returned to the Board of Registrars, and the Board changed their voter status from “active” to “inactive.” In addition, cards sent to students over the summer were returned as undelivered, and those students’ status was also changed to “inactive.”
- 13.** AAMU staff and I met with the Board of Registrars to try to negotiate a solution to the problem of the Board incorrectly changing students who had registered from “active” to “inactive” on the voting rolls. The Board, however, refused to change the addresses where the registration cards were sent, from students’ dorm rooms to the AAMU campus post office site.

14. In the months before the 2018 midterm election, AAMU proposed and enacted a campaign to remind students to check their mail, along with a strong voter registration campaign on campus. We registered thousands of students to vote either on campus and in their home states. (Exhibit E.)
15. While the campaign made students aware of the problem with the voter registration cards, hundreds of cards were still returned to the Board of Registrars as undelivered, and these students were marked as “inactive” voters. Unfortunately, we did not know which cards had been returned.
16. AAMU then started another campaign to remind students to check their voting status. We created QR codes that students could scan to go to the Alabama Secretary of State’s website, where they could check their registration status and make any changes if needed. AAMU continued this effort, with the assistance of the President of the University, up until election day in November, 2018.
17. On election day in 2018, students faced long lines at the campus polling location. The campus polling location covers AAMU students as well as voters from the predominantly black surrounding community. Prior to the 2018 election, the average turnout on election day was usually fewer than 200 voters. On election day in 2018, however, over 800 AAMU students marched to the polls. (Exhibit F.) The Board of Registrars was not prepared

for the large number of newly registered students. There were only three voting booths, resulting in long lines.

- 18.** When students arrived at the desk to check in to vote, they presented their ID's. Many were told they were "inactive." These students had registered within the state deadline and had checked their status before election day. 175 students, however, were only allowed to cast provisional ballots. AAMU learned later that these students' ballots were not counted because their addresses had not been verified through the return postcards.
- 19.** Students who were put on the inactive list before the 2018 election, because their postcards were not picked up and returned, were allowed to re-register at the polling place to vote in future elections. But they were not allowed to vote on election day 2018 because Alabama law prohibits registration and voting on the same day. The students had to wait in a separate line to register again. It was raining on election day in 2018, and the line went outdoors for re-registration.
- 20.** After the 2018 election, AAMU formed an oversight committee on voter education and students' overall voting experience. The committee, the AAMU Civic Engagement Team, led by AAMU's Vice President of student affairs, included me, students, faculty, and staff. Our first charge was to evaluate the problems that arose in the 2018 election cycle and issue a plan

to correct the problems. The Team identified several problems that prevented students from exercising their right to vote, and proposed the following corrective actions:

- **Problem:** The Madison County Board of Registrars sends voter registration cards in order to verify addresses. Students do not check their mail. Students no longer have a reason to visit the P.O. boxes on campus because most students receive communications via email or phone, and any funds coming from home are electronically wired. Also, UPS and FedEx delivered to their door. They were not in the habit of checking their mail because they usually had no need to do so. Most do not receive any mail on campus and are not aware of where or how to retrieve it if they do.

Corrective Actions: President asked the AAMU attorney to look into the problem. In the meantime, we met with the UPS Store (to whom student mail was outsourced) and worked out a plan to inform students of their mailbox as incoming freshman. Also, when we register students to vote, we remind them to check their mail and send reminder emails and text messages to that effect.

- **Problem:** Under the Motor Voter law, any person can register a student on campus. This can cause problems, however, because of the issue with students' campus mailbox addresses. If a random organization came to campus, they would not know about the card delivery issue or the fact that AAMU has a unique address. Actually, students on AAMU's campus have 3 options in order to get mail. To determine the correct mailing address to use, one would need to ask the student, "Where do you live?" and "How do you get your mail?"

Corrective Actions: The Civic Engagement Team now trains everyone who wants to do voter registration drives on campus.

- **Problem:** Students often complained that they completed the appropriate voter registration forms but never received a registration card or notification. In this case, the student might have made an error in their forms, without being notified of any mistake or given a chance to correct their forms.
- **Corrective Actions:** All student voter registration forms are reviewed by two Civic Engagement Team members. Team members are responsible for contacting students with errors and hand-delivering completed forms to the Board of Registrars.

- **Problem:** Students felt uninformed and unprepared for the voting experience.

Corrective Actions: The Civic Engagement Team presents two Civic Engagement Weeks on campus each year, during which students attend workshops on issues including gerrymandering, the motor voter law, Election Day, and how to get involved. The Team also hosts speakers on voter suppression, college students' rights, voter access, and other topics, and sponsors debates, forums, field trips, and other activities related to voting rights.

- **Problem:** Voter registration should be year-round and a part of our university culture.

Corrective Action: Voter registration is happening in the residence halls, classrooms, and at most student activities functions.

21. In 2020, AAMU students again faced obstacles to voting. The COVID-19 pandemic meant that AAMU had to register students to vote virtually and in-person, not knowing day-to-day if the campus would have to shut down. AAMU and the Residence Life department trained Residence Assistants to register students to vote on their floors, in order to reduce lines and gatherings outside the residence halls. AAMU also organized safe voter registration drives outdoors in high student traffic areas. The Civic

Engagement Team, Resident Advisors, and community volunteers registered approximately 80% of the students who were on campus.

22. AAMU was concerned that if the campus was shut down and students sent home because of COVID-19, they would not be on campus on election day. We therefore encouraged newly registered students to vote early by in-person absentee ballots, the only option for early voting allowed in Alabama. The only location in Madison County to cast early in-person absentee ballots was the courthouse. The Circuit Clerk denied AAMU's request to allow us to host in-person absentee voting on campus, which is allowed under Alabama state law and encouraged by Alabama Secretary of State John Merrill.

23. AAMU then decided to transport students to the courthouse to vote. The university provided daily transportation to the courthouse. I obtained the necessary permission from the Circuit Judge and the Circuit Clerk in order to set up outside the courthouse to help the students. I made sure to comply with all the rules and regulations. We drove about 25 students a day to vote early.

24. After a few days of driving students in buses to vote, however, the Circuit Clerk told me that we could no longer bring our students in buses or provide support outside the courthouse. The Clerk told me that there were complaints made about the students and AAMU staff outside the courthouse. When I asked for

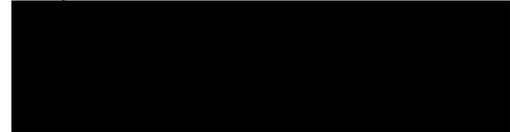
details about the complaints, she told me that we were “in the way,” and that students were allegedly cutting the line.

25. I know these complaints were inaccurate. First, we escorted all the students into the courthouse because they did not know what to do to vote early in-person. Second, we were not in anyone’s way because we were located outside the courthouse against a wall.
26. I informed our Vice President of Student Affairs about the Clerk’s announcement, and he instructed me to create a backup plan so our students could continue voting, while he organized a meeting with state officials and the Circuit Judge. I planned for students to be dropped off a block away from the courthouse and escorted from there inside to vote. The Vice President was able to have the meeting happen quickly; the Circuit Judge apologized and allowed us to resume our efforts bussing the students and setting up outside to help them. We were, however, moved to the side of the courthouse, where we were less visible and isolated.
27. We were able to transport students to vote early by absentee ballot in-person for several weeks. But the lines grew longer and longer closer to election day. AAMU provided food, drinks, and encouragement to the students, who many days had to wait 2 – 3 hours to vote.

- 28.** AAMU students also reported to us that they heard racist remarks and actions directed at them by onlookers criticizing their attempts to vote. I reported these incidents to the Circuit Judge, who told me that no security was available. The University offered to send campus police, but we decided that might seem to be a provocation, so we declined the suggestion. We just kept reminding the students waiting of those who came before them in the past fight for voting rights. Many students embraced their experiences and documented their personal stories to tell going forward.
- 29.** Before we began transporting students to vote, we checked to make sure they were registered to vote. If a student showed up where we were set up outside the courthouse and had any issues with their registration, for example errors in their cards, we would call the courthouse and verify that they were registered. We helped about ten students fix errors in their registration cards because the cards had been kept and not shredded, as they had been during the previous election in 2018. There were several students who were not registered; they could not vote but we were able to help them register so they could vote in the next election.
- 30.** Working at Alabama A&M has been both exhilarating and heart-wrenching at the same time. I believe this has been the hardest work I have ever done both physically and emotionally. I understand that if I don't do this work these young

people may not vote, they may not ever vote, and I have one shot to educate and motivate them to not just complete the application, but to show up no matter what, on every election day. It's not just my job, I truly believe voter education, voter protection, and voter turn-out is my personal and professional responsibility.

31. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
32. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
33. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:


7/19/2021

Date

Exhibit A

NAACP Legal Defense Fund Article on 2018 Lawsuit Filed on Behalf of AAMU Students Denied Voting Rights

11/09/18

NAACP Legal Defense Fund Files Complaint on Behalf of Alabama Students Denied Voting Rights in Tuesday's Election

- **NAACP Legal Defense Fund Files Complaint ...**

The NAACP Legal Defense and Educational Fund, Inc. (LDF) today filed [a complaint](#) in federal court on behalf of four Black college students who were unlawfully denied their right to vote in Tuesday's election in Alabama. The complaint is against Alabama Secretary of State John Merrill and election officials in Madison County, Alabama.

"Nothing is more fundamental than the right to vote, and these students, despite complying with all of Alabama's regulations, were denied that right," said LDF Senior Counsel Catherine Meza. "We are hopeful that the court will right this wrong and restore to our plaintiffs the voice to which they are entitled as American citizens."

The plaintiffs, who are students at Alabama A&M University, had all registered before the election. But upon arriving at the polls on Tuesday, they were informed that they were not registered and had to fill out provisional ballots. The students had received no notice of any problems with their registrations, and the day after the election, the Alabama Secretary of State's website listed the plaintiffs as registered to vote.

In a separate matter, [LDF sent a letter](#) to Secretary of State Merrill on Election Day asking him to address reports of confusion at Alabama polling sites over

how to process the votes of voters listed as “inactive.” Under Alabama law, such voters are entitled to cast a regular ballot as long as they fill out an updated registration form, but many voters were denied those forms and were made to fill out provisional ballots.

In response to our letter, Merrill tweeted, “No there’s no confusion except what your [sic] manufacturing.” In an e-mail to BuzzFeed, a spokesperson for the secretary characterized LDF’s letter as “an unfortunate attempt at political grandstanding.”

“Secretary Merrill’s indifference to his constituents’ ability to vote is unfortunate,” said LDF Assistant Counsel Daniel Garawa. “As the state’s chief election official, he has a responsibility to ensure that all Alabamians can exercise the right to vote. On Tuesday, he did not appear eager to fulfill that responsibility.”

www.naacpldf.org/press-release/naacp-legal-defense-fund-files-complaint-behalf-alabama-students-denied-voting-rights-tuesdays-election/

Exhibit B

Photo of AAMU Poster Encouraging Students to Register to Vote



Exhibit C

AAMU Civic Engagement Week Poster, Spring Semester 2021

★ ★ ★ ★ ★ ★ ★

CIVIC ENGAGEMENT WEEK

Alabama A&M University

MONDAY, FEBRUARY 22ND

12:00 PM Southern Poverty Law Center; Teaching Tolerance Movies
5:30 PM Civic Engagement Workshop: Knowing Your Government and Utilizing the Press, Amaya Rearden

TUESDAY, FEBRUARY 23RD

12:00 PM "Civic Engagement: How Your One Voice Matters" Angela Curry - director of United Women of Color, Huntsville, and Coalition for Criminal Justice Reform
Yalitza LaFontaine - Civil rights, Voting Rights Activist
5:30 PM Perrion Roberts, *American Gangster: Trap Queens Season 2*, Criminal Justice Advocate
6:15 PM Why Engagement Matters Panel: Social Activists Reemuhus Bowden and Trae Calvert

WEDNESDAY, FEBRUARY 24TH

12:30 PM Civic Engagement Workshop: Getting Involved in Your Community & Involving Others, Austin Smith & Amaya Rearden
2:00 PM Voter Registration & Check Your Status, *Outside of Knight Complex*

THURSDAY, FEBRUARY 25TH

12:30 PM Q&A w/ Anthony Ray Hinton - Inspiration for 2019 film *Just Mercy*

FRIDAY, FEBRUARY 26TH

12:00 PM Voter Registration & Check Your Status Drive, *Outside of Knight Complex*

FEBRUARY
22ND - 25TH
ZOOM MEETING ID:
979 7851 1125

Exhibit D

Photos of AAMU Students Joining Voter Registration Efforts



Exhibit E
Photo of Efforts to Help Students Check their Registration Status



Exhibit F

Photo of AAMU Students Marching to Vote on Campus in 2018



EXHIBIT 41

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Pamela [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Tuscaloosa County in Alabama. My residence address is [REDACTED].
3. I believe voting is important in order to get the full benefits of democracy. Every person and every vote must count for us to get true representation. I believe this is even more important today than in the past because the demographics in this country are changing and this means the balance of power may also shift.
4. I have had to wait in long lines to vote in Alabama. It was two hours in the 2008 Presidential election, over an hour in the 2012 Presidential election and about one hour in the 2016 Presidential election. I was waiting outside of the [REDACTED] which has steep steps, and the polling station is on the second floor. The elevator is around the back and is not clearly marked. The line went up the steps and outside of the building, so we were standing in the heat outside.
5. There had been a drop box for absentee ballots in the local election of March 2020, but then it was removed which made it harder to vote. I needed to vote

absentee in this election following surgery, and this made it difficult for me to return my ballot. It was a “big ordeal,” but I did vote.

6. I voted absentee in November 2020, but since I had to drop my ballot off in person, I had to come back several times during the week to do so because the lines were very long. They were long due to Covid, and I believe this was intentional since most people in line were people of color. I am 61 years old, and it is hard for me to stand in line for an hour.
7. In Alabama one needs to show a picture ID such as a driver's license in order to vote. I noticed that when I had to renew my license about six months ago, I had to show a lot more documentation and jump through more hoops to get it. I believe this is intentional -- to discourage people from having the ID needed to vote. The governor also closed a number of DMV offices in the “Black Belt” counties of Alabama prior to the Presidential election of 2020. I am African American and though these closures did not affect me personally, I believe this was done to suppress the African American vote in Alabama.
8. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

9. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness in this litigation.
10. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/17/2021

Date

EXHIBIT 42

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Rochelle [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County in Alabama.
3. I am sixty-two years old. I moved to Alabama in 1999 and have voted here regularly since then.
4. As a person who is both African American and Native American, voting is very important to me. My mama, my grandmama and my great-grandmama were denied voting. My people have been oppressed, disrespected, killed, not allowed to make a living, and treated as fourth-class citizens. I don't usually share things with people, but I feel I have to share my story because we all should have a voice, and I choose to believe that my vote counts.
5. In May 2014, I was released from prison, having served two years for felony possession. I was released to the [REDACTED] in Birmingham because my husband had died while I was in prison, and I had nowhere to live. After a few months, I was able to find permanent housing in Birmingham.
6. Because I had lived in Huntsville prior to being incarcerated, I needed to re-register to vote in Jefferson County, where Birmingham is located. Around

August of 2014, I went to the Board of Registrar's Office in Birmingham to register.

7. The person at the Registrar insisted that I had to have my record expunged in order to register to vote. This turned out to be incorrect, but it took me about five times visiting the Registrar over six months to a year to sort this out.
8. I also needed to get a new photo ID. The Registrar would not accept my release paper as a form of identification, although it had my name, photo, birthdate, and social security number on it. They said this was because I only had a copy, not an original, of the release paper.
9. In order to get a photo ID, I first had to obtain a new copy of my social security card, because I did not have the original one. I had to go to the doctor, who prepared a sealed medical record for me to take to the Social Security Office to prove who I was.
10. Once I had the Social Security Card, I was able to obtain a Non-Driver's Identification Card. I was finally able to register to vote in early 2015.
11. If I had not had help from the Dannon Project, I would not have been able to do all of this and would not have been able to register to vote.
12. Once I was registered again, I voted regularly in federal and local elections.
13. My voting place is the [REDACTED]. The lines are usually long, and I often have to wait at least an hour to vote. The poll workers only let a

few people in at a time, so we have to wait outside, no matter the weather.

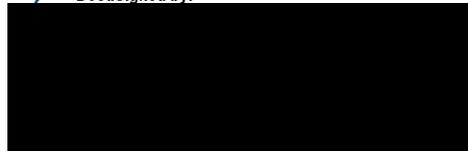
There are usually many older people in line who use canes and walkers but there is nowhere to sit, and they do not give us water. There is more room inside for us to wait so I don't know why they make us wait outside. There is also no parking lot, so people have to find parking on the street.

14. It takes a long time for me to read the ballot and figure out who is running for what. The print is also very small. I have noticed that other people take a long time with their ballots and the poll workers tell them to hurry up because so many people are waiting.
15. In 2020, I was worried about COVID, so I wanted to vote by absentee ballot. About two months before the November election, I went to the Registrar and filled out an absentee ballot request form. I was told to place it in a cardboard box, that was not secure, in the hallway. I never received my absentee ballot, so I decided to vote in person.
16. The line on Election Day was very long and I had to wait over an hour and a half. I first went to the polling place in the morning at 7:00 am when the polls opened. The line was around the block. I stayed 15 minutes in line and decided to come back later because the line wasn't moving. I checked several times during the day to see if the line was shorter, but it was not. I came back at 5:00 p.m. The line was still around the block, but I wanted to

vote, so I stayed. I saw people leaving the line. It was cold. I have chronic asthma and lower back pain, so it was painful to stand for such a long period of time. It was also very difficult to socially distance with that many people in line.

17. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
18. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
19. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



7/7/2021

Date

EXHIBIT 43

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Rosalind [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Butler County in Alabama.
3. In recent years, until they passed away, my elderly parents and I lived together here in Butler County. This declaration describes the difficulties they encountered in voting absentee in the 2016 presidential election. I personally observed these difficulties because I provided help they needed to deal with these difficulties so that they could vote.
4. First, in order to vote, they each needed a photo ID. Each of them had a driver's license that was expiring in 2016, and I took each of them to the Butler County Courthouse in Greenville to renew their driver's license. I can't recall if that was before or after the 2016 election, but even if it was after, we knew that they would need the renewed license for other elections later on.
5. By 2016, at age 91, my parents both had difficulty walking any distance so each of them used their wheelchair for the visit to the Courthouse (I took each of them there on a separate trip). In the Courthouse building, the office to renew a driver's license, or get a state ID, is located on the first floor.

There are steps up to the building entrance, which my parents could not use, and there is a ramp that is supposed to give handicapped access to the building. The ramp is very steep – a photo of the Courthouse building ramp is attached as Exhibit A. My parents were much heftier than me, and it was almost impossible for me to push each of my parents up the ramp alone - really you should have two people or a very strong person to get someone up that ramp. My parents could not get up that ramp without help. Then, when I got each of my parents into the building, it was very difficult to get each of them to the correct office using the wheelchair – I had to maneuver the wheelchair with each of my parents through a small door, and narrow pathways, and get them to a tight space in a corner of the office where the licenses are handled.

6. After I helped my parents get their updated IDs, I had to get my parents the application forms for their absentee ballots. I went to the Butler County Circuit Clerk's office to get the application forms. This office was also in the Butler County Courthouse building but I was going there at a different time from when I took my parents to get their licenses renewed, so it was just me going. There was no handicapped access to that office because it was on the second floor and you had to go up a very narrow staircase. There was no elevator, so my parents could not have gotten up to the office anyway. When

I got to the office, and asked for the absentee ballot application forms, they told me that I could not get the blank application forms unless I brought in my parents' driver's licenses. So, I went home. Then, someone I knew told me that I could print out the applications from a website, so I did that.

Fortunately, I had a printer at home but I know that a lot of people around here do not.

7. My parents each filled out their absentee ballot applications. They needed to include a photocopy of their IDs. Luckily, I had a copier at home to make the photocopies. Again, I know a lot of people who don't have a photocopier at home. If I had not had one, the nearest place I can think of where you could probably make a photocopy would be the library in Greenville, but Greenville is about 22 miles away from our home. My parents also needed to have a witness sign their applications, so I signed as their witness.
8. When my parents got their absentee ballots and filled them out, they needed two people to sign their ballot envelopes as witnesses. My brother lives about 15 miles away. He came over so that he and I could sign as the two witnesses.
9. Then, the ballots had to be mailed. Because of my parents' limited mobility, they needed my help, so I drove to the post office. The nearest post office is 9 miles away, and you have to go by car because there is no public transit

and the roads are two-lane roads with no sidewalks. I thought it was best to mail the ballots from the post office because that would be more secure than just leaving the envelopes at your home mailbox for the mailman to pick up. Also, in my experience, the postage for the ballots varies from election to election, and you can check the exact postage at the post office.

- 10.** The whole process was very difficult, and my parents could not have voted without this kind of help.
- 11.** Later on, after my parents had voted in the 2016 election, we received a call from the Butler County Circuit Clerk. I answered the phone and the Clerk identified herself and asked for my parents by name. I said “Can you tell me what this is concerning.” The Clerk said in a very harsh tone, “I need to talk to THEM” so I put my father on the phone. He said “hello” and then the conversation ended. He told me that when he said “hello” the Clerk just said something like “OK” and hung up. I found this very jarring, like she suspected that my parents or I had done something wrong. I did not know why she was calling us in particular, and I could not imagine that she had time to call every voter.
- 12.** For the 2020 election, my parents again voted absentee. They still had their IDs from before, but the rest of the steps they had to do were the same as in 2016.

- 13.** After the 2020 election, I heard about problems with people's absentee ballots not getting counted because the election officials didn't think the people's signatures matched their signatures on file. My father's signature deteriorated a lot in his later years—he was 95 by the 2020 election. I wondered if his signature would have passed the matching test and if his ballot would not get counted because of that.
- 14.** I personally did not end up voting in 2020 because, sadly, my mother passed away in the late morning on Election Day, so of course I was not going to head off to the polling place that day. I later found out that I would have had the option to vote early by absentee ballot in 2020, because of the COVID pandemic, but I did not know that at the time. Even if I had known I could vote absentee, I would not have done it that way because I do not trust that my ballot would have been counted.
- 15.** I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
- 16.** I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as

anything other than a witness.

17. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:


6/6/2021

Date

Exhibit A

Photo of Steep “Handicap Access” Ramp at Butler County Courthouse
Where Driver’s Licenses and State ID’s are Issued

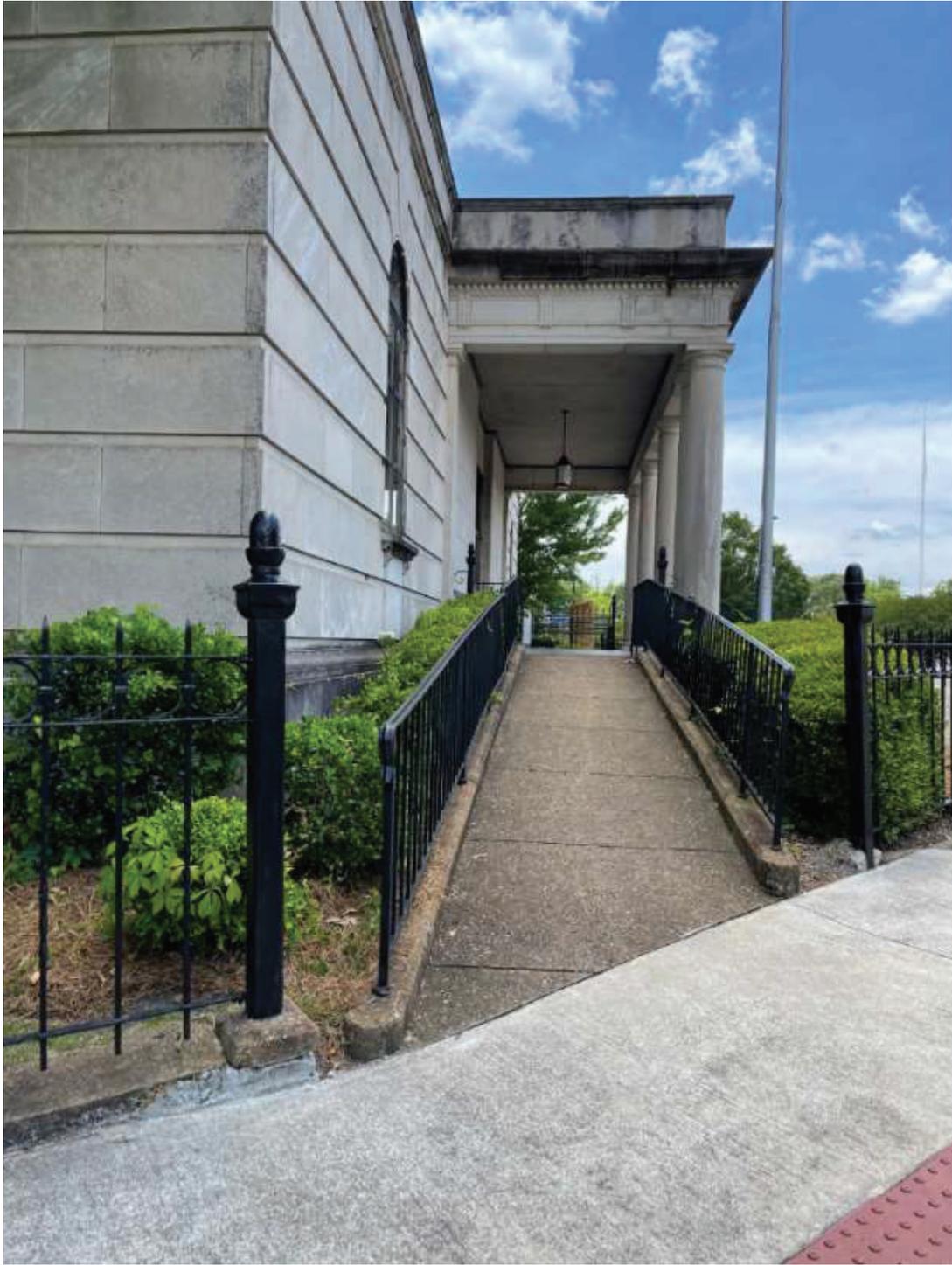


EXHIBIT 44

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Sandra [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Calhoun County in Alabama and my residence address is [REDACTED].
3. I have been a registered voter at my current address for 17 years. I have always been a very committed voter, and I always exercise my right to vote, because everyone should have a voice. We should all vote to choose who represents us.
4. My polling place used to be at the [REDACTED], only three minutes by car from my house. Once I had to stand in a long line for over 30 minutes, but then I figured out that the best strategy was to go to the polls early every time, before work, and the lines weren't so bad.
5. Then, six years ago, I was planning to go vote at the [REDACTED] as usual, and I heard from my neighbor that the polling place had moved. The new polling place, [REDACTED], was more than three times as far from my home, and I needed to plan my driving time to get there so that I wasn't late for work. My neighbor heard about this change from someone she knew who worked at the polls on Election Day. I received no notice in the mail--or any

other way--about this location change. I read the newspaper every day, and I never saw anything about a poll change. I was very annoyed that no one notified me of the change.

6. Then in November 2016, they changed the location farther away, again without notifying me. This time it was a 20-minute drive from my house, and I wouldn't have known a thing about it, except I heard it from my neighbor. I had to drive to downtown [REDACTED], and my neighbor had to explain and give me landmarks to tell me how to get there.
7. I had multiple myeloma cancer seven years ago. It was the only time I missed voting. I was in the [REDACTED] Hospital in Anniston from September 2014 through January 2015 for surgeries and chemotherapy. I definitely would have voted if I had known that I was eligible to request an absentee ballot. I didn't know anything about voting absentee and no one informed me. Voting is my right and I am sorry I didn't get to exercise it.
8. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
9. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

10. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



7/10/2021

Date

EXHIBIT 45

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Shannon [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Lee County in Alabama.
3. I am a disabled veteran who served 26 years in the U.S. Army.
4. Voting is very important to me. I'm African American and a member of the NAACP. I check my registration status before elections and I help my family and friends to do the same.
5. I registered to vote while I was in the U.S. Army. I regularly voted absentee from Florida while actively serving. The military made it a very smooth process.
6. I have been voting in-person in Alabama since 2008.
7. My Alabama polling place always has lines that are 1-4 hours long. I live in a nice neighborhood, but there are not enough polling places for the number of voters we have here. On November 2020 Election Day my daughter and I waited in line outside our polling place for three hours. It was very cold outside. Standing in line for many hours made it challenging to vote.

8. My polling place does not have disabled parking. There is no water or seating available. This makes it challenging for disabled and elderly voters to wait in line for such long hours.
9. My daughter had recently turned 18 and it was her first opportunity to vote. We both felt that the experience was harder than it should be.
10. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
11. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
12. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



7/13/2021

Date

EXHIBIT 46

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Sheena [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Lee County in Alabama.
3. I live in [REDACTED], a small town on the border of Alabama and Georgia. My family is a voting family. It always has been. I am so proud of that.
4. I have been voting here since 1994. I didn't have any problems until the 2008 General Election. My mom was having health issues, so I got a wheelchair for her to use at the polling station. Together, we had to wait three or four hours to vote. I remember that my mom was cold. No one offered us food or water. When we got to the front of the line, the poll worker checked through the book listing those registered to vote. My father, who had died recently, was listed. But my mother, who has voted here in every election since the 1980s, was not.
5. I had to get my mom back into the car and drive 15 or 20 minutes to Opelika, which is the county seat for Lee County. It was crowded with a lot of people who were in the same situation. The officials did give my mom a ballot to vote, but I think it was a provisional ballot. She was not going to be

deterred. But she was disheartened and said that she didn't think her vote counted. I don't know if it did.

6. I did not experience another voting problem until just before the 2020 General Election. Both my son and I had requested absentee ballots. There was COVID, and I also had a bad hip. My son was home from Arlington, VA. After waiting almost a month for the ballots, we drove to Opelika, which was allowing people to vote absentee early. We waited in line for about an hour. When I requested the absentee ballot, the official said that my ballot had been mailed. I explained that it had been a month or so and I had not yet received it. I asked to vote absentee in person like others were doing. I said I would discard the other ballot if it ever arrived. In a loud voice, the official said "No, because you could try to vote twice." I was surprised and noted that would be against the law but left. To be completely honest, I was ashamed when he said loudly enough for everyone to hear that I could not vote. White people seem to think that we Blacks are completely ignorant and illiterate. I have better sense than to vote twice. I hate being talked down to.
7. Ironically, when I got back home, the ballot arrived in the mail that day. I was able to send it back in time. But I am concerned about voting restrictions and that we will lose our rights. I am really, really worried about my country.

8. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
9. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
10. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/18/2021

DATE

EXHIBIT 47

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Sheila [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County in Alabama, and my residence address is [REDACTED].
3. I am active in protecting voter rights in my community. I am the convener of the Alabama Coalition on Black Civic Participation, a non-profit, non-partisan organization dedicated to increasing civic engagement and voter participation in Black and underserved communities. I volunteer with the Black Women's Roundtable, a leadership and empowerment program of the National Coalition on Black Civic Participation. I volunteer with the Alabama Election Protection Network, which provides voter information and assistance. I help neighbors in my community, including many senior citizens, obtain absentee ballots.
4. Prior to the presidential election on November 3, 2020, I worked with the Black Women's Roundtable to assist voters who participated in early voting by in-person absentee voting on two Saturdays before the presidential election.

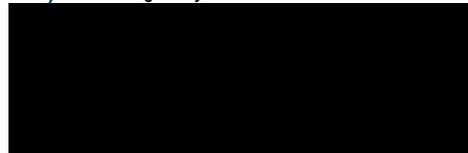
5. On the first Saturday, October 17, 2020, I worked at the Jefferson County Courthouse location, at 716 Richard Arrington Jr. Boulevard N., Birmingham, Alabama.
6. On the second Saturday, October 24, 2020, I worked at the Jefferson County Courthouse located at 716 Richard Arrington Jr. Boulevard N., Birmingham, Alabama.
7. On both Saturdays, I witnessed very long lines of voters, waiting multiple hours to vote. On both Saturdays, we provided water, food, and chairs to enable people to endure the long wait times.
8. For the presidential election on November 3, 2020, I worked as a poll watcher for the Alabama Election Protection Network, which throughout the day directed me to various polling places, wherever people were being prevented from voting due to a number of problems. For instance, they were confused about polling locations because several regular polling locations were closed because of the COVID-19 pandemic during the primary runoff elections on July 14, 2020. They were temporarily moved for the July 14, 2020 primary runoff and then moved back in most cases to the original location for the general election. I observed that there was much confusion among voters as to where they should vote. I worked from 7 AM to 7 PM. I drove to many different locations to assist voters that day.

9. One polling place I observed was at the Bell Wallace Building at 608 13th Street South in Birmingham, Alabama. I observed that the entryway to this location was on a main road, not visible to all the people arriving to vote from different directions. Many people believed the polling place was closed because they could not find the entrance, and would leave without voting. I tried to direct as many people as possible to the correct entrance, so that they would not leave without voting.
10. Another polling place where I observed an issue was at a Birmingham Public Library location on the western side of Birmingham. The usual polling place at the East Ensley Public Library at 900 14th Street, in Ensley, had been closed during the pandemic and this caused the precinct to be temporarily moved for the primary runoff election, and there was no easily visibly signage that directed voters to the new location at the Ensley Park Recreation Center located at 2800 Avenue K, in Ensley, approximately 1.1 miles away. This is a low-income neighborhood, where many people traveled by bus to vote.
11. For the General Election on November 3, 2020, the situation was reversed. Voters of Precinct 2290 East Ensley Library were showing up at the Ensley Park Recreation Center Precinct 2040, only to be turned away and sent back to their usual voting location at 900 14th Street, in Ensley. Those voters that

traveled to the Ensley Park Recreation Center by bus were disappointed to learn of the change. Some decided not to vote at all. Also, there was no sign at the Ensley Park Recreation Center to notify voters of the change in their polling location. With other poll watchers, I obtained materials to make a sign, which we posted at the Ensley Park Recreation Center, to direct voters to the new polling location at the East Ensley Library. We redirected many voters to the new location, but we can't be sure if they all voted. It was very disturbing to us that no effort had been made to properly notify people of the change of polling place.

12. Without our efforts as poll watchers, many people would not have voted.
13. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
14. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
15. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



7/19/2021

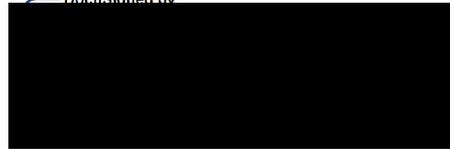
Date

EXHIBIT 48

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Sonya [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Clark County in Alabama. My residence address is [REDACTED]
[REDACTED]
3. I believe that it is very important to vote because it is my American right and it gives me some say in what goes on in our country. People have died so we can vote.
4. I live in a very rural area. I have to carefully plan when I am going to vote. I am lucky that I am self-employed, and I make sure in advance to not schedule any clients for a few hours early on voting day so I can get there and not have to wait. This is how I avoid having any issues about crowds. It is an inconvenience that I have assumed because voting is a priority for me.
5. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
6. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness in this litigation.

7. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:


6/20/2021

Date

EXHIBIT 49

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Tammy [REDACTED] I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County in Alabama .
3. I wanted to vote in the presidential election in 2020. Voting is important to me because it's my voice.
4. The last time I voted was before 2019, in an election for Commissioners.
5. I used to vote in person until a brain infection and a stroke in October 2019 left me unable to walk long distances or stand for a long time.
6. Due to my poor health and limited mobility, I now need to vote by absentee ballot.
7. I wanted to and was planning to vote in the 2020 Presidential Election. I went online to sign up for absentee ballot. When I did so, I saw that the deadline had passed about a week earlier.
8. I never received any notification or information about absentee voting and was unaware of the deadline. If I knew about the deadline, I would have been sure to get my application in on time.
9. After the deadline had passed, I was contacted by advocacy groups for different candidates, who were encouraging me to vote and campaigning for

their candidates, but I knew I could not vote because the deadline had passed.

10. Although I wanted to vote, I did not vote in the 2020 presidential election.
11. It is frustrating to have to go through hoops to try to qualify for absentee voting and there is no warning or information about the deadline.
12. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
13. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
14. I declare under penalty of perjury that the foregoing is true and correct.



06/25/2021

[Date]

EXHIBIT 50

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Thomas [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Montgomery County in Alabama.
3. I have voted in the last several elections at the local community center in Montgomery which serves as my polling place. When I arrived to vote in the 2020 election the line was 1-2 hours long, which is a long time to wait. Despite being disabled I stood there in that line because I wanted my voice to be heard.
4. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
5. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
6. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:

[REDACTED]

6/23/2021

Date

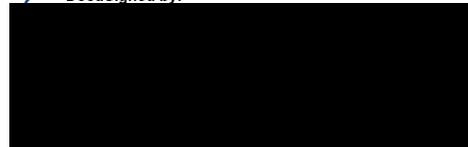
EXHIBIT 51

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Torrey [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Lee County in Alabama.
3. I registered to vote during the 2008 Presidential election. I was able to register at the Motor Vehicle Division. I had no difficulties registering to vote.
4. For the 2020 Presidential election, I voted in person on election day at the local public school, my regular polling place. This location is near my home. My polling place has not changed.
5. I prepared myself for a long wait at the polls on Election Day, 2020. I brought what I needed with me, including water.
6. It took approximately two hours for me to vote in the Presidential election in 2020. At the polling place, we were divided by alphabet into four posts. Some people were in the [REDACTED], and some were in the [REDACTED]. I don't think there were enough machines for the number of people at the polling place. I think this added to the wait time.
7. I did not experience any malfunction with the machines or any other issues. I was able to cast my vote successfully.

8. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
9. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
10. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/20/2021

Date

EXHIBIT 52

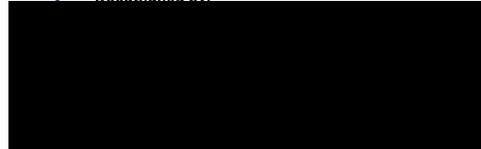
**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Walter [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Jefferson County in Alabama.
3. I have voted in every election since 1970. I am very well informed about voting issues and actively get my family to vote. I also drive people who do not have transportation to the polls.
4. I live in Jefferson County, Alabama. I used to walk to a polling place in a [REDACTED] that was three blocks from my house. This was very convenient for me. If my memory serves me I was reassigned (gerrymandered) prior to the 2008 election. My polling place was changed to the [REDACTED], which was much further from my home. I had to drive to the new polling place and when I arrived at the [REDACTED], there was only metered public parking available. So I had to pay for parking which I consider a poll tax. There was also a metal detection search before entering. Shortly after the 2016 election, I was reassigned back to my neighborhood recreation center.
5. I voted using an absentee ballot in the 2020 election.

6. My family had to wait in line for four hours before voting. During this time, we had to continue to feed the parking meter. Some other people in line, who forgot to feed the meter, received parking tickets. There was a way to get the cost of the tickets refunded or dismissed but you had to go to be processed at the Birmingham, Alabama City Hall, if you could prove you were in line to vote. However it was a time consuming process.
7. In addition, I heard other voters in line repeating some misinformation that the polls would close at 5PM. The truth was if someone was in line at 5PM they would be able to vote up to 7PM. I believe the purpose of this misinformation was to discourage working people who do not get off of work until 5PM from voting.
8. The voters all had to go through a metal detector before entering the court house. I felt that this might discourage some people from voting.
9. I believe that the change in polling place, costly parking, misinformation about when the polls closed, the four hours we had to wait in line, and the metal detector were all forms of voter suppression.
10. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

11. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
12. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:



6/22/2021

Date

EXHIBIT 53

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

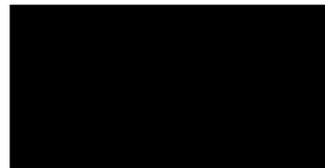
1. My name is Wilfred [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Lee County in Alabama. My address is [REDACTED]
[REDACTED].
3. In 1995 after retiring from the military I continued working full time for the U.S. Army Training and Doctrine Command (TRADOC.) In 2010 I was moved from Fort Knox, Kentucky to Fort Benning, Georgia and I have been working as a full-time government service employee since that time.
4. I registered to vote when I moved to Alabama and have voted every year.
My polling location is [REDACTED]
[REDACTED] which is about a 10-minute drive from my home. My place of work in Georgia is a 30-minute commute from my home in Alabama.
5. From my experiences in past elections in Alabama, I know that typically I wait in line for close to two hours. As a government service employee, I am entitled to 2 hours of paid leave to vote on election day but I always take a full day paid leave because 2 hours would not be enough time to drive to my polling station, wait in long lines and then commute to work.

6. I feel that Alabama tries to make it difficult to vote and I personally experienced a number of problems voting in the 2020 general election.
7. On election day I arrived at my polling location a few minutes after the polls opened at 8:00 a.m. and there were already many voters in line. I remember that it was a cold day and it was uncomfortable to be standing in line outside for almost two hours. I noticed elderly and disabled people in wheelchairs and walkers who had difficulty moving through the line and I did not see any poll workers or volunteers helping them.
8. I am black and the voters on line were predominantly white. While waiting in line, I felt intimidated by voters pulling up right in front of the polling location in their trucks waving confederate flags. One gentleman wearing a Trump shirt was walking up and down the line like a bully saying “Trump is the man.” and “Vote for Trump.”
9. I also saw a voter go inside to vote and when he came back outside, he went down the line looking for likely Trump voters and saying to them. “You’re going to vote for Trump, right”? There were police nearby but they did not discourage any of this activity.
10. Voting is important because it gives us the flexibility to choose a person that is suitable for the job. As Americans it is one of our rights and we should be able to exercise our right with comfort and without intimidation.

11. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

12. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

13. I declare under penalty of perjury that the foregoing is true and correct.

A solid black rectangular box redacting the signature of the declarant.

6/10/2021

Date

EXHIBIT 54

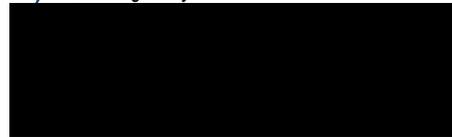
**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is William [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Morgan County in Alabama.
3. I have been a voting in Morgan County for many years. I normally vote and I don't miss voting in elections like those for President or Governor. For many years, my daughter and I would go and vote together.
4. In the recent election where Roy Moore was running against Doug Jones, there was a problem. On election days, I like to be the first or second in line to vote. On that day at 6am, I went to my regular polling place at the [REDACTED] [REDACTED] to vote. I waited my turn. When I showed my driver's license to the young lady at the desk, she informed me that I was purged from the system. I told her "We have a problem, and we need to get someone."
5. The reason I know this was a problem is that a few months earlier I went to the courthouse and got a paper copy of my voter registration (See Exhibit A). I brought this paper with me, though I did not present it to the young lady. I only showed her my Driver's License. When she said that I had been purged, I simply told her that she will have to call someone one. I was

prepared to cause a scene. As I was interacting with this young lady, I was boisterous. I wanted the other people working at this desk to hear what I had say as well. They also stopped what they were doing and looked up at me.

6. The young lady went to get her supervisor. After a few minutes, the supervisor (also a woman) walked up and asked me to go with her to the back.
7. When we were at the back, the supervisor told me “I’m going to make sure you have a chance to vote.” The supervisor gave me a ballot. I am not sure if it was provisional or not. I filled out the ballot and dropped it into the machine. It didn’t take more than 10 or 15 minutes for this to happen.
8. While I was at the polling place, I looked, and I saw that my son (who does not vote regularly) and my granddaughter were listed as active.
9. My situation makes me think about if this is how things are going when there are no black poll watchers in Alabama. If I had walked out of the [REDACTED] when I learned that I was purged, these ladies would not have stopped me. How are elderly black people who don’t show some emotions being treated? For me, being of a younger generation, I was not going to take no for an answer.
10. In November 2020, I went to the same [REDACTED] polling place on election day to vote I had no issues. I was able to vote.

11. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
12. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
13. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:


6/19/2021

Date

Exhibit A

Voter Registration Card

VOTE AT: [REDACTED]

CITY: [REDACTED]

[REDACTED]

SENATE 01 CITY 9900

STATE HOUSE 002

CONGRESSIONAL 05

STATE SCHOOL 08

RESIDUALITY [REDACTED]

[REDACTED]

AUTO

 **STATE OF ALABAMA**
VOTER INFORMATION CARD

THIS CARD IS FOR INFORMATIONAL PURPOSES ONLY.
THIS CARD IS NOT FOR USE AS VOTER IDENTIFICATION.
FOR INFORMATION ON VOTER IDENTIFICATION, PLEASE VISIT WWW.ALABAMAVOTERID.COM

 NVRA-7P
rev 2019-08-06

This card contains important information about your voter registration, including the location of your polling place and the political districts in which you live.

Please remember that where you vote and who represents you depends on where you live.

If you move within your county, please update your address with your county Board of Registrars.

If you move to a new county, please register to vote with the Board of Registrars in your new county of residence.

EXHIBIT 55

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Willie [REDACTED]. I am over eighteen years of age and competent to testify to the matters contained herein.
2. I am a resident of Baldwin County in Alabama.
3. I have been a registered voter since I turned eighteen in 1978. I registered to vote for the first time in Baldwin County, where my family has been living since my grandmother in 1899. My parents taught me that voting is the only way to change our government and our community – I still have my father’s poll tax certificate. Just this morning, my older cousin reminded me of how involved my whole family used to be. One of my great uncles used to host a fish fry so that people would have a chance to come and ask the candidate questions about how they plan to help the community. In addition to voting, I have worked on campaigns, advocated for voting access, encouraged voter turn-out in my community, and worked as a poll worker.
4. I have voted regularly since 1978, but the last time I voted in person was four years ago for the Midterm elections. Now I vote absentee – it’s a lot quicker than standing in line. It’s also a 35- or 45-minute drive to the nearest ballot box, so we send our ballots in by mail.

5. The process of applying for an absentee ballot changed about two years ago. Now, you have to send in an application with a copy of your I.D. and you need two witnesses or a notary. It used to be that you could just apply for your absentee ballot, but now you have to put in a copy of your driver's license in the envelope. This past presidential election, we applied early and it was a little slower but we still received them in time.
6. Four years ago, after I moved from [REDACTED] to [REDACTED] (both in Baldwin County), I went to vote in [REDACTED] and they questioned me because my polling place had changed and they wanted me to have a new driver's license that showed my new residency. I was ultimately able to vote, but it costs \$35 or something to get a new I.D.
7. As a regular poll worker and member of my community, I've also noticed that polling places have become less convenient. They've moved the polling place out of the Black neighborhood in Daphne and to the [REDACTED] multiple times since the 2000's. At the [REDACTED], there is always a line – some of my family members vote there and they call me to complain. In the 2018 midterms, the lines were so long there were articles in the national news.
8. In the city of Daphne, they used to have two polling locations in the minority neighborhood and they closed both of them: the [REDACTED] and

the [REDACTED]. The city said there was construction at the fire station, but there's always an excuse.

9. They did the same thing in the municipal election two years ago – moved the polling location from the [REDACTED] to the [REDACTED] and there was a huge line. Their reason for moving it was because it interfered with student activities during the day, but this was just in the minority community.
10. Voting used to take 5-10 minutes. Voting in Alabama has limited hours, like a business – open in the morning, closing in the afternoon. Now, you have to wait in long lines and can run out of time.
11. In December of 2020, there was a special election to determine zoning for the community, part of which was a minority community. We weren't notified. We found out that day. As a matter of fact, I was working that day and people would come up to me and say “do you know what's happening over at the [REDACTED]?” I called the [REDACTED] and found out they had informed him that it was some kind of election, but he didn't know it was the zoning election that the community opposed. So, he tried to call and rescind his permission, but they didn't pick up the phone.
12. They wouldn't have been able to do it if they hadn't removed the minority poll workers. I don't know why they did that. Poll workers get paid about

\$100 a day, so people would have done it. But the community wasn't informed.

13. When they set up for the zoning election, they put the voting machines in the [REDACTED], rather than in the [REDACTED]. You do not have election activity in the [REDACTED]. You do not have elections where you [REDACTED]. If they allow it, they have it in the [REDACTED]. People were very offended.
14. The lines to vote have been long ever since they've been moving these polling locations, but also since they've been purging voters from the voter rolls. I don't know why they do that. In the 2016 federal election, I was campaign security for the county Democratic Party so all the complaints were coming through me. I was going to various locations and voters would say to me that they vote in every election, but that their name was purged. I've heard people say "I vote. I don't know why my name is on the inactive list." They'd have to fill something out and send it in.
15. That same election in 2012, I had another couple who complained to me that every election they seemed to be targeted to not be on the polling list. I had to speak to the inspector and the county staff. They always tell these people to vote by provisional ballot.
16. A lot of people will also go to the wrong polling place. I saw someone who came to the [REDACTED] polling place in 2012. They came and they weren't on

the polling list. We had to call about the polling registration and determined that they had to go to another voting place, one with a long line. They had to go right away because it was going to close soon and they might run out of time.

17. About six years ago, I was working the polls and I spoke to a voter who had to go to three polling locations in one day. They went to the [REDACTED] and that wasn't their polling place. Then they came down to the [REDACTED] and that wasn't their polling place. Then we found out they had to go to the community center.

18. That's why I preach about how the polling location needs to be convenient. I don't understand why people are waiting in line. It's the hardest part of getting people to show up to vote. People get frustrated. When we had enough polling places you'd just go in and then you'd be done, but now it takes a great deal of time. I think this started to happen in the 90s, but it's accelerated lately. Voting should be convenient.

19. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

20. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.

21. I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:

[Redacted Signature]

[Redacted Signature]

6/8/2021

Date

EXHIBIT 56

**DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Willie [REDACTED] I am over eighteen years of age and competent to testify to the matters contained herein.

2. I am a resident of Crenshaw County in Alabama. My residence is [REDACTED]
[REDACTED] I moved to this address in 1992 and have lived here for 29 years.

3. I have voted in most elections in my county since I first registered to vote. I vote because I want to make a difference. I want to have a say in who represents me. It is seldom that I do not vote.

4. I had a bad voting experience in one election about two to three years ago. I cannot remember the month or year of the election but I think it was a local election, not the General Election. I drove to my polling place on Election Day to vote. My polling place is [REDACTED] in Luverne, Alabama. At that point, I had been voting at [REDACTED] [REDACTED] for 15 to 20 years. I showed the poll worker my identification but they could not find my name on the list at that location. They found my name on the list for a different polling location in Honoraville, Alabama. They gave me the address of the new location, which was about 15 miles away. My regular polling location is 5 miles from my home. I was able to drive myself

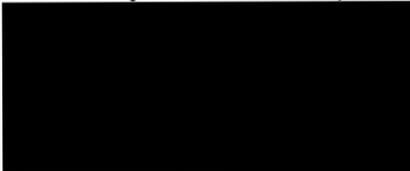
to the new location and cast my vote. I took the extra time to drive there because I wanted to make sure to cast my vote. It was fortunate that I had the time to make the extra trip. If I had not had the time, I would not have been able to vote in that election.

5. I did not receive written notification of the change in polling locations prior to the election. I only learned about it by showing up at my previous polling location to vote. Shortly after this experience, I received a letter from the County Board of Elections confirming the address of my polling location as the [REDACTED]. I have been able to vote at this location with no difficulty since that time.
6. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.
7. I understand that in giving this Declaration, I am not represented by a lawyer, and no lawyer asked me to be a client or to serve in any way as anything other than a witness.
8. I declare under penalty of perjury that the foregoing is true and correct.

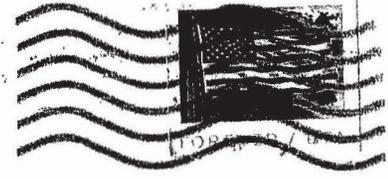
[REDACTED]

6-04-2021

Date



MONTGOMERY AL 360
5 JUN 2021 PM 2 L



Fair Fight Action
Voter Protection - Declarations
1270 Caroline Street, NE
Suite D120-430
Atlanta, GA 30307

30307-295440

