

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
STATE BOARD OF ELECTIONS

IN THE MATTER OF:)
CONSOLIDATED PROTESTS)
OF ELECTION IN THE)
CONTEST FOR SHERIFF OF)
COLUMBUS COUNTY)
BROUGHT BY NANCY HILL)
AND GLORIA SMITH)

ORDER

THIS MATTER CAME BEFORE THE STATE BOARD OF ELECTIONS ("State Board") during a hearing held May 6, 2019, upon the timely appeal of Nancy Hill and Gloria Smith (herein, collectively, "Appellants"), and upon the directive of the State Board in the manner prescribed by the Order Sustaining Objection, Granting Motion to Strike, and Granting Motion *In Limine* (March 20, 2019), and Remand (March 21, 2019) in this Matter.

At hearing, Appellants were represented by attorneys Irving Joyner, Ralph Frasier and Oscar Blanks. Candidate S. Jody Greene was presented by Boyd Worley and Philip Miller III. After hearing arguments and the reports of a State Board investigator and the Columbus County Director of Elections, and after reviewing written submissions, and the complete record in this Matter, the State Board finds, concludes and orders the following:

I. FINDINGS OF FACT

1. This Board adopts the Findings of the Columbus County Board of Elections (“County Board”) as to *In re Hill*, entered December 10, 2018.

2. This Board adopts the Findings of the County Board as to *In re Smith*, entered April 10, 2019, following remand.

3. The presentations of this Board’s chief investigator and the Columbus County Director of Elections establish that errors occurred in the administration of voting activity on Election Day in Columbus County during the 2018 General Election and that unlawful ballot collection occurred to a limited extent during the absentee voting period.

II. CONCLUSIONS OF LAW

A. Jurisdiction and Standard of Review

4. This matter is properly before the State Board pursuant to G.S. §§ 163-182.11 and 163-182.12. All parties received adequate notice of proceedings on this matter.

5. The findings of the County Board (Paragraphs 1 and 2, *supra*) were not reversible error, and any defect did not result in prejudice to any party.

6. This Board bases its appellate review on the whole record, in this matter, which exceeds 1,100 pages, and evidence presented during the Board's hearing. G.S. § 163-182.11(b)(3) ("In its consideration of an appeal . . . the State Board may. . . . [r]eceive additional evidence and then decide the appeal on the basis of the record and that additional evidence"). Parties received notice that new evidence may be considered, and each party was given sufficient opportunity to question witnesses and Board staff at the hearing. *See* Order Sustaining Objection, Granting Motion to Strike, and Granting Motion *In Limine* (March 20, 2019), and Remand (March 21, 2019) in this Matter.

7. State law empowers this Board with "general supervision" over the conduct of elections, and equips this Board with various tools necessary "to assure that an election is determined without taint of fraud or corruption and without irregularities that may have changed the result of an election." G.S. §§ 163-22(a) and 163-182.12.

8. Any procedural or other defect affecting this consolidated matter did not constitute prejudicial or legal error sufficient to divest this Board of jurisdiction to decide the Appeal. *See Ponder v. Joslin*, 262 N.C. 496, 500 (1964) ("Nor will the courts undertake to control the State Board in the exercise of its duty of general supervision so long as such supervision

conforms to the rudiments of fair play and the statutes on the subject") (internal quotations and citations omitted).

B. Irregularities or Misconduct

9. Appellants, who filed the protests, rightly bore the burden of proof, production, and persuasion during the initial protest proceedings before the County Board. *See generally* G.S. § 163-182.10(d)(2). Before this Board, Appellants are considered to bear the burden of persuasion based upon the record, though the Board may consider additional matters or new evidence on its own authority. *See* Paragraph 7, *supra*.

10. In the State Board's appellate review, "[e]very reasonable presumption will be indulged in favor of the validity of an election," and "an election will not be disturbed for irregularities where it is not shown such irregularities are sufficient to alter the result." *Gardner v. City of Reidsville*, 269 N.C. 581, 585 (1967) (internal citations omitted).

11. Even when administrative errors or misconduct did occur, "An election or referendum result will not be disturbed for irregularities absent a showing that the irregularities are sufficient to alter the result." *In re Appeal of Ramseur*, 120 N.C. App. 521, 525 (1995); *see e.g.*, Order on Contest for Judicial District 16B, Seat 2, *In re Investigation of Election Irregularities Affecting Counties within the 9th Congressional District*, S.B.E. (2019)

(“When substantial evidence confirms the occurrence of irregularities or improprieties, but it is not possible to quantify the precise number of affected votes, the State Board may proceed to determine whether the occurrence of such irregularities or improprieties was so extensive that they taint the results in that contest and cast doubt on its fairness.”).

12. State law provides elections administrators discretionary remedies less severe than a new election, including the extension of voting hours (G.S. § 163-166.01), initiation of non-mandatory recounts (G.S. § 163-182.7) and even the ability to provide re-balloting opportunities in narrow circumstances (G.S. § 163-182.12). These and other discretionary remedies promote public confidence and limit the effect of administrative errors or misconduct. *See e.g. In re Page, et al.*, S.B.E. (2016) (ordering “a re-voting opportunity by mail, limited to . . . provisional voters affected by known irregularities or misconduct,” but concluding “a new election is not appropriate when the effect of irregularities or misconduct is known and would not change the outcome of any contest”).

13. Criminal investigations often parallel audits and other inquiries conducted to verify the accuracy of election results. The presence of a criminal probe or finding of misconduct will not suffice as the basis for a new election, unless the offending conduct casts doubt on the outcome of one or

more contests. *See e.g., In re Jones*, S.B.E. (2014) (concluding “the existence of the criminal investigation alone . . . does not in itself taint or cast doubt upon the fairness of the election” and directing that “the results of the Scotland County Sheriff contest should be certified”); *see also In re Page, et al.*, S.B.E. (2016) (dismissing a protest because no outcome was affected, although the Board referred for prosecution an elections official who later pleaded guilty to altering counts).

14. The State Board’s examination of its chief investigator provided information tending to show that unlawful acts occurred, and the parties were provided the opportunity to question the chief investigator in the manner provided in the Order Granting Motion to Continue entered in this Matter. Information communicated by the chief investigator did not amount to substantial evidence—either in isolation or in combination with findings below—that irregularities or misconduct affected the outcome of any contest.

15. While substantial evidence does support Appellants’ claim that certain irregularities and perhaps even misconduct did occur in Columbus County, this Board does not conclude that such occurrences affected the outcome of any contest.

16. Consistent with the foregoing, we conclude that the Columbus County Board of Elections correctly dismissed the protests as to those matters.

17. We further conclude, as a matter of law, that information provided at the hearing before the State Board did not amount to substantial evidence that a violation of election law, irregularity, or other misconduct occurred sufficient to cast doubt on the outcome in any contest.

B. Qualification Based on Residency

Eligibility to elective office

18. North Carolina’s Constitution provides that “Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office,” N.C. CONST. art. VI, § 6, and imposes additional requirements for those seeking election to the office of sheriff. *See id.* art VII, § 2 (barring any “person previously convicted of a felony against this State,” but not imposing additional requirements).

19. Among other things, a citizen is a “qualified voter” if she or he “has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election” (*id.* at art. VI, §2), and if she or he has “legally registered” (*id.* at art. VI, § 3). *See*

also Andrews v. Cody, 327 F. Supp. 793, (M.D.N.C. 1971), affirmed 405 U.S. 1034 (holding that the one-year residency requirement under the State Constitution and accompanying statutes were incompatible with the Fourteenth Amendment of the United States Constitution).

20. Notwithstanding the above, our General Assembly has established that “[n]o person shall be eligible for the office of sheriff who . . . has not resided in the county in which he is chosen for one year immediately preceding his election.” G.S. § 162-2.

21. In the absence of alternative directives from the courts, this Board has adhered to an advisory opinion rendered by the State Attorney General pursuant to G.S. § 114-2(5), concluding that “a candidate for sheriff must be a resident of the county in which he seeks office for at least one year before the general election.” Advisory Opinion re. Residency Requirements for Sheriff, OFFICE OF THE ATTORNEY GENERAL (April 28, 1998).

22. Candidate Greene, through counsel, raised certain constitutional objections to the statutory residency requirements imposed in addition to the constitutional qualifications identified, *supra*. Because our Board holds that the Columbus County Board of Elections erred in its determination that Greene was not a resident, we do not reach the constitutional issues previously raised.

23. Caselaw in our State has established that “residence” and “domicile” are synonymous when applied to the elections context. *Hall v. Wake Cnty. Bd. Of Elections*, 280 N.C. 600, 605 (1972); *see also Owens v. Chaplin*, 228 N.C. 705, 708 (1948).

24. Statute establishes administrative processes by which a voter may challenge the eligibility of a candidate. *See generally* G.S. § 163-127.1 *et seq.* Such a challenge must be made by verified affidavit “no later than 10 business days after the close of the filing period for notice of candidacy or petition.” G.S. § 163-127.2(a). If timely made, a series of compressed deadlines ensure expedited consideration, expedited entry of an order, and expedited review on appeal before the State Board and immediate bypass to the Court of Appeals. *See* G.S. §§ 163-127.4 and 163-127.6. To further reduce the time generally necessary to compile evidence from which residency may be determined, “the burden of proof shall be upon the candidate, who must show by a preponderance of the evidence . . . that he or she is qualified.” G.S. § 163-127.5. These and other statutory departures from ordinary order no doubt proceed from a desire to avoid placing an ineligible candidate before the voters in a fast-approaching election.

25. In the limited case in which a would-be challenger “discovers one or more grounds for challenging a candidate after the deadline . . . the

grounds may be the basis for a protest under G.S. 163-182.9.” G.S. § 163-127.2(c). In such a protest considered *after* an election has been held, the policy considerations underpinning the unique and expedited consideration of timely candidate challenges cannot be said to apply in the same manner. Distinct from stringent review deadlines and altered burden and appeal frameworks, election protests rest on an alternative filing deadline (G.S. § 163-182.9(b)), separate preliminary consideration requirements (G.S. § 163-182.10(a)), unique merits hearing arrangements (G.S. § 163-182.10(c)), and wholly different appeal avenues, first to the State Board then to the Superior Court and beyond (G.S. §§ 163-182.11 through 163-182.14). So too, the burden-shifting framework governing review of a timely candidate challenge gives way to the requirement that a protestor prove his or her case by substantial evidence. *See* G.S. § 163-182.10(d)(2).

26. The general rule regarding residency remains that “the burden of proof rests upon the person who alleges a change,” *Hall* at 608, and this ordinary alignment comports with the orientation of election protest proceedings. We conclude that Appellant Smith properly bore the burden of proof, production, and persuasion before the Columbus County Board of Elections on remand from this Board for factual determinations regarding residency below.

27. The Columbus County Board of Elections placed undue weight on the appropriateness of a recreational vehicle as a viable residence under the constitutional and statutory framework in North Carolina.

28. Our courts have established that “residence” and “domicile” are synonymous when applied to the elections context. *Farnsworth v. Jones*, 114 N.C. App. 182, 186 (“The term ‘residence,’ as used in our State’s election laws, is synonymous with legal domicile”); *see also Hall v. Wake Cnty. Bd. Of Elections*, 280 N.C. 600, 605 (1972) and *Owens v. Chaplin*, 228 N.C. 705, 708 (1948). Accordingly, the residency standards generally applicable to voters are coextensive with those necessarily applied to candidates.

29. In determining where an individual resides, our State has considered that “the meaning of the term ‘residence’ for voting purposes . . . is a judicial question” derived from constitutional standards rather than statute. *Owens v. Chaplin*, 228 N.C. 705, 710 (1948). Certain caselaw regarding residency has been codified. *See* G.S. § 163-57, entitled “Residence defined for registration and voting.”

30. Among the varied provisions of G.S. § 163-57, it is clear that “[i]n the event that a person’s residence is not a traditional residence associated with real property, then the location of the usual sleeping area for that person shall be controlling;” that residence “shall be broadly

construed”; that “a spouse shall be eligible to establish a separate domicile; and that in all cases, a residence is that habitation “to which, whenever that person is absent, that person has the intention of returning.” *Id.*

31. In the context of a candidate’s residency, it is necessary to establish “(1) An actual abandonment of the first domicile, coupled with an intent not to return to the first domicile. (2) The acquisition of a new domicile by actual residence at another place. [and] (3) The intent of making the newer domicile a permanent domicile.” G.S. § 163-127.5.

32. Residency may, therefore, be established without a showing of any legal claim or title to a habitation, and an individual may establish a residence for voting purposes notwithstanding clear restrictions prohibiting their use of a premises as a residence. *See In re Wilkins*, S.B.E. (2015) (affirming that a candidate had successfully established his residence in quarters situated above a car wash in “violation . . . of a city zoning rule,”) Transcript at p. 14.

33. Many factors and discrete factual findings may outweigh the evidentiary value of a candidate’s testimony regarding her or his intent. *Hall* at 609 (holding that such testimony “is competent evidence, but it is not conclusive on the question”).

34. While the Columbus County Board of Elections appropriately considered competent evidence introduced during a lengthy hearing, the County Board did not appropriately weigh the evidence. The majority below appeared to encounter difficulty in their efforts to consider that a candidate, determined to seek public office, may forego comforts and amenities otherwise available in order to establish timely residency within the district. A prospective candidate may choose to live uncomfortably, even when that person has ready access or even legal title to other properties. The evidence in this case did not demonstrate that Greene failed to abandon his prior residence in Robeson County and in South Carolina. Rather than seek to establish the same, the majority below gave undue weight to the mobile features of a recreational vehicle, and the abstract improbability that an individual would choose a recreational vehicle over other housing to which he the candidate had ready access. A candidate need not choose a residence with characteristics preferred by the majority; the majority must determine which residence the candidate in fact chose.

35. The County Board's decision further departed from our law in its weighing of local restrictions and ordinances, registration requirements and taxes, as having dispositive bearing on the question of residency. When a habitation is discouraged or even prohibited by a separate body of law, that

fact is probative only for its value in assessing the likelihood that the person in fact resides at the location. That an act is *prohibited* does not establish whether the act has *occurred*. Though may be unlawful for person to spend most nights on a park bench, State law would make that bench—and nowhere else—the voter’s residence for voting purposes:

In the event that a person's residence is not a traditional residence associated with real property, then the location of the usual sleeping area for that person shall be controlling as to the residency of that person. Residence shall be broadly construed to provide all persons with the opportunity to register and to vote, including stating a mailing address different from residence address.

G.S. § 163-57(1)(c).

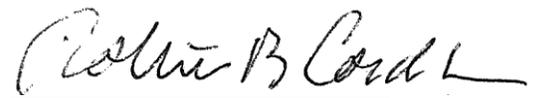
36. Application of the County Board’s evaluation of residency invites sweeping and unsupported conclusions that one could not, as a legal matter, reside in a recreational vehicle when one has title or access to a more comfortable habitation, or to claim residency for voting purposes at a location or in a manner disallowed by local restrictions. The law of domicile does not support these conclusions.

37. The whole record in this matter contains substantial evidence that Greene established residency within Columbus County more than one year before, and on, Election Day 2018, and he was, therefore, eligible to run for Sheriff of Columbus County.

The decision of the Columbus County Board of Elections is AFFIRMED in part and REVERSED in part, and it is, therefore, ORDERED:

The results for the 2018 election for Sheriff of Columbus County and referendum election for the Town of Tabor City Mixed Beverage, having been canvassed with S. Jody Greene having prevailed as Sheriff-elect and the referendum item having secured a majority in favor, the Columbus County Board of Elections shall issue Greene a certificate of election and issue a certificate to the Town of Tabor City on the tenth day after service of this Order, consistent with G.S. § 163A-1184(b)(1), unless otherwise ordered by a court of competent jurisdiction.

This the 29th day of May, 2019.



Robert B. Cordle
Robert B. Cordle
Chair

CERTIFICATE

I, Josh Lawson, general counsel to the North Carolina State Board of Elections, do hereby certify I have this day served the foregoing materials on the below parties by depositing the same into the care and custody of Federal Express Delivery Service:

Gloria Hill and Nancy Smith

Appellants

c/o Ralph Frasier
Oscar Blanks
Irving Joyner
The Chancellor Bldg.
100 E. Parrish St., Ste. 350
Durham, NC 27701
ijoyner@ncu.edu
ralphfrasier@frasierandgriffin.com
oscar@omblankslaw.com

Jody Greene

Candidate

c/o Philip Isley
Boyd Worley
1117 Hillsborough Street
Raleigh, NC 27603
pisley@bmlilaw.com
boydworley@wwpemplaw.com

This the 29th day of May, 2019.



Josh Lawson,
General Counsel
N.C. State Board of Elections

1 NORTH CAROLINA
2 COUNTY OF WAKE

BEFORE THE
STATE BOARD OF ELECTIONS
& ETHICS ENFORCEMENT

3
4 IN RE: CONSOLIDATED PROTESTS |
5 OF ELECTION IN THE CONTEST FOR |
6 SHERIFF OF COLUMBUS COUNTY |
7 BROUGHT BY NANCY HILL AND |
8 GLORIA SMITH |
9 G.S. 163A-1179(b) (1) and 163A-1180 |
10 _____ |

11 PROTEST APPEAL HEARING

12 Location: North Carolina State Bar
13 217 East Edenton Street
14 Raleigh, North Carolina

15 MONDAY, MAY 6, 2019
16 1:00 p.m.

17 VOLUME I OF I
18 (Pages 1 through 101)

19 Board members in attendance:
20 Mr. Robert B. Cordle, Chairman
21 Mr. T. Jeff Carmon, III
22 Mr. Ken Raymond
23 Dr. Stella E. Anderson
24 Mr. David C. Black

25 Board's staff present:
Ms. Kim Westbrook Strach, Executive Director
Mr. Joshua Lawson, General Counsel
Ms. Katelyn Love, Deputy General Counsel
Ms. Joan Fleming, Chief Investigator
Ms. Lindsey Wakely, Associate General Counsel

Also present:
Mr. Ralph Frasier
Mr. Irving Joyner
Mr. Oscar M. Blanks, III
Mr. Boyd Worley
Mr. Philip Miller

| | T A B L E O F C O N T E N T S | |
|----|---|-----|
| 1 | | |
| 2 | Call to Order by Chairman Cordle | 4 |
| 3 | In re: Consolidation Protests of Election | |
| 4 | in the Contest for Sheriff of Columbus County | |
| 5 | brought by Nancy Hill and Gloria Smith | |
| 6 | G.S. 163A-1179(b) (1) and 163A-1180 | |
| 7 | Motion that the State Board find | 42 |
| 8 | that Jody Greene was a resident in | |
| 9 | in Columbus County on election day 2018 | |
| 10 | and one year before | |
| 11 | Vote | 48 |
| 12 | Motion to reverse the county board's | 93 |
| 13 | ruling | |
| 14 | Vote | 99 |
| 15 | Motion that both protest petitions | 99 |
| 16 | be dismissed | |
| 17 | Vote | 99 |
| 18 | Motion and vote to adjourn | 100 |
| 19 | Certificate | 101 |
| 20 | | |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |
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P R O C E E D I N G S

1:30 p.m.

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CHAIRMAN CORDLE: I'm going to call the State Board of Elections meeting back to order and announce that no action was taken in the closed session on which the Board communicated with counsel under Section A3 and heard investigative information under Section A7 which allows us to go into private confidential session.

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As I've said before we started, or went out for our private session, we appreciate your being here today. We have open meetings to the public. And here we're over the telephone as well for people to hear us. But it's a serious matter for that we're undertaking today.

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We will ask to hear from the parties throughout this proceeding and may have questions for them. Aside from those asked to speak, we expect that the audience will remain quiet at all times, and we would also ask you to silence your cell phones.

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Please refrain from any sudden outbursts, clapping, or any similar disruptions or you will be required to leave the facility. We thank you in advance for your behavior and we thank you for being here today.

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We will start the Columbus County sheriff's hearing today, and I would like the lawyers that are present here for the parties to please announce their appearances,

1 and we'll start with the attorney for the protesters.

2 MR. JOYNER: I'm Irving Joyner, for Nancy
3 Hill and Gloria Smith.

4 CHAIRMAN CORDLE: Thank you, Mr. Joyner.

5 MR. FRASIER: I'm Ralph Frasier, for Nancy
6 Hill and Gloria Smith.

7 CHAIRMAN CORDLE: Thank you, Mr. Frasier.

8 MR. BLANKS: Attorney Oscar M. Blanks, III,
9 representing Sheriff Lewis Hatcher.

10 CHAIRMAN CORDLE: Thank you, Mr. Blanks. Now
11 we'll go to the --

12 MR. WORLEY: Good afternoon. I'm Boyd
13 Worley. I represent Sheriff Greene. My co-counsel with me
14 today is Philip Miller who's standing in for Philip Isley.

15 CHAIRMAN CORDLE: Mr. Isley's not here today
16 then.

17 MR. MILLER: He is not. He's under the
18 weather.

19 CHAIRMAN CORDLE: I noticed, with all due
20 respect, that your head is more like mine than like Mr.
21 Isley's, as I recall.

22 MR. MILLER: I take a lot less time than
23 him to get ready in the morning.

24 CHAIRMAN CORDLE: Thank you. And I see that
25 counsel for the Board, County Board, Columbus County's here.

1 MR. CROWELL: Yes. I'm Michael Crowell
2 here. Available to answer questions which I hope you won't
3 have.

4 CHAIRMAN CORDLE: And do you have the county
5 director here?

6 MR. CROWELL: Yes. Carla Strickland is
7 here.

8 CHAIRMAN CORDLE: Glad to see you. Thank you.
9 We'll start with Mr. Greene on residency.

10 MR. WORLEY: May it please the Board.

11 CHAIRMAN CORDLE: Yes, sir. And, Mr. Worley,
12 I'll tell you, we're a little informal than a court hearing.

13 MR. WORLEY: Yes, sir.

14 CHAIRMAN CORDLE: And do not pretend to be
15 honorable, in the honors sense.

16 MR. WORLEY: Thank you very much, Mr.
17 Cordle.

18 Good afternoon, Board. Like we have previously
19 indicated, I am Boyd Worley. I'm assisted today by Philip
20 Miller. I want to start by thanking the Board for their
21 attention, for their willingness to expedite this process
22 that has been a very strenuous one for the citizens and
23 residents of Columbus County and also for the parties that
24 are involved.

25 I want to thank you for that on behalf of my

1 client as well. I want to offer the regrets of Philip Isley
2 who was unable to come today. I assure you but for the
3 illness that he has -- and I do not want to go into detail
4 -- he would most certainly want to be here today.

5 What I'm going to start with, what I wanted to
6 start with, at the end of the day what we want or what we're
7 asking for and what I think the law would require is that
8 the local board decision should be reversed by this Board.

9 The local board's decision was not founded in the
10 law, was not founded on the facts, and they made
11 inappropriate conclusions as a result.

12 When you're looking at a decision here at this
13 appellate level in a reviewing fashion, we've got to look
14 at what the standard of review is. And we have the briefs.
15 I'm certain that you've read them, so I'm going to spend a
16 brief amount of time on it, but a standard of review is that
17 we are going to be doing the whole record review.

18 That whole record review isn't just what evidence
19 goes to support the conclusions of the local board, but
20 instead you've got to look at that entire record and review
21 what contradictory evidence or information that might tend
22 to show a contrary result.

23 You're also going to look at the burden of proof.
24 Who has the burden of proof in this particular hearing? Who
25 had it at the lower board? Who has it in front of you

1 today? And that burden of proof has always been and will
2 always be resting with the protestor, in this case Ms.
3 Smith.

4 She has the burden of proof to be able to show by
5 substantial evidence that Sheriff Greene was not domiciled,
6 did not reside at 1049 Page Mill Road, Cerro Gordo, North
7 Carolina, by November 6 of 2017. And the protestors have
8 failed to do that.

9 I understand that there is an order that indicates
10 otherwise, but the facts and the law demonstrate
11 unequivocally that Sheriff Greene is a resident of Columbus
12 County, North Carolina.

13 When you're doing the whole record test and you
14 apply that burden of proof, what is the law as it relates
15 to looking at this evidence? The law -- as you've seen in
16 your briefs, one of the seminal cases that you have is Hall
17 versus Wake County Board of Elections, and one of the often
18 quoted terms in there is that domicile is a highly personal
19 matter, which means it's going to be subjective to the
20 individual aspects of any particular case.

21 That doesn't necessarily help you a whole lot
22 other than it's personal, but there are certain cases that
23 give road maps. One of those cases that give road maps is
24 Fowler versus North Carolina Department of Revenue. In
25 Fowler they elicit or put 16 data points or 16 factors for

1 one to consider or review as to what makes someone's
2 domicile -- place of birth, permanent residence, the
3 taxpayer's parents, family connections, address used for
4 federal taxes, driver's license, vehicle registrations,
5 insurance policies, credit cards, utilities, bank accounts,
6 loans, all items that require a response, all the way down
7 to location of money spent.

8 That's a road map. And the road map points
9 towards Sheriff Greene being a resident of Columbus County,
10 North Carolina, because he was well before the November 6,
11 2017, required date.

12 You're also going to look at the law of Hannon v.
13 Grizzard because oftentimes we see factors that -- or
14 oftentimes I would assume you see cases as it applies to
15 residency or individuals that come in as sojourners, or
16 individuals that come in at the last moment to be able to
17 file for an office and file for a seat.

18 That's not the subject here. Effectively the
19 subject here is what is the nature of someone's residence?
20 Not whether he resided, but whether his residence is
21 sufficient, the structure, what he is tethered to.

22 And one of the cases is Hannon v. Grizzard. It's
23 89 NC 115. It's a 1883 case, so what I'm telling you is
24 this precedent has been set a long time. It's continued
25 forward. In Hannon v. Grizzard there was a local register

1 of deeds who ran for office, was elected to that office, but
2 at the time that he was running for that office, he was
3 residing in Washington, D.C. He had an intent to return
4 home to the locality in which he was elected.

5 However, at the time he had no residence because
6 the only residence that he had was rented out to his
7 stepmother. He owned the property. He availed himself in
8 every manner and respect that you could in 1883 as far as
9 paying appropriate taxes and so forth, but he had no
10 structure that he had to come home to. And he was found to
11 be a resident.

12 That case is cited throughout multiple other cases
13 that you see heard and argued before you. So these are the
14 factors that you're looking at here, and what I want to tell
15 you, it is not what you are tethered to. It is to where you
16 are tethered; where do you intend to be tethered.

17 That is the case law. That is the seminal
18 argument that you have, and that is why it's required that
19 Jody Greene, Sheriff Greene -- that's why he is a resident
20 of Columbus County, North Carolina.

21 The local board misapplied the law. They had all
22 the facts that show residency but they misapplied the law.
23 And with those facts, going back to that road map that I had
24 indicated the you before, on Fowler versus North Carolina
25 Department of Revenue, you look back and the first factor

1 they looked at is where is the place of birth for a
2 particular candidate.

3 In this case Sheriff Greene resided -- or was born
4 in Lumberton, North Carolina. He was born in Lumberton,
5 North Carolina, because that was the closest hospital at the
6 time in 1968 because Whiteville did not have a hospital.

7 Where was the permanent residence of his parents?
8 His mother, the one that raised him, grew up a mile away
9 from 1049 Page Mill Road in Cerro Gordo, North Carolina.
10 She's a resident of Cerro Gordo.

11 Family connections and close friends, you've seen
12 in the record, history replete of his neighbors, of his
13 friends, of his connections to Columbus County, North
14 Carolina, his third factor.

15 The other side who has the burden has not shown
16 any one of those items. Address used for federal tax
17 returns -- you're seeing for 2017, what you have in the
18 record is that Jody Greene filed his state and federal taxes
19 at 1049 Page Mill Road. His W-2s that are appended to that,
20 1049 Page Mill Road.

21 You also see 2016 tax returns in the record that
22 show a federal tax return at a Lumberton address, but his
23 W-2s because he filed jointly with his wife who has
24 maintained a separate domicile, has maintained a separate
25 residence, but Jody Greene, his W-2s, 1049 Page Mill Road.

1 His driver's license -- another factor, his
2 driver's license was 1049 Page Mill Road in Cerro Gordo,
3 North Carolina, from 2014 forward. Renewing it in 2016.
4 Vehicle registrations -- Sheriff Greene has five vehicles
5 all registered to 1049 Page Mill Road for years prior to the
6 November 6, 2017, time in which he was required to be a
7 resident.

8 Insurance policies, health insurance, et cetera,
9 all 1049 Page Mill Road for years prior to the November 6,
10 2017, start date. His credit cards, his utilities, his bank
11 accounts, his loans, mortgage for the property that he
12 purchased in 2011, 1049 Page Mill Road, all point back to
13 1049 Page Mill Road.

14 All items that require a response -- that's one
15 of the general factors. I read that as where do you get
16 served lawsuits and where do you get served with jury
17 summons in order to comply with your civic responsibilities.

18 Well, there was a lawsuit that was a companion
19 matter to this, and where was he served? 1049 Page Mill
20 Road, Cerro Gordo, North Carolina, not in Lumberton, not in
21 South Carolina. He was served at 1049 Page Mill Road. The
22 protest was served. The people aligned with the protest
23 were served. So all these factors again point towards 1049
24 Page Mill Road.

25 His civic ties, Cerro Gordo, North Carolina. His

1 professional ties -- he was a state trooper all his life.
2 He was a local police officer for a time, but he was also
3 a state trooper that took him various places throughout the
4 state, but primarily he was in Robeson County, North
5 Carolina, and then from 2010 forward, 2010 to 2016, he was
6 at Columbus County, North Carolina. Was in Columbus County,
7 North Carolina, when he filed for the office of Sheriff
8 which I think is very important, and he requested a transfer
9 to Robeson County so as not to violate any election. I
10 think that's critically important.

11 Everything is pointing towards 1049 Page Mill
12 Road. Payment of state income taxes, Cerro Gordo, 1049 Page
13 Mill Road. His place of employment we've addressed. His
14 health care provider, that's a critical point and critical
15 fact. Since at least 2015 Sheriff Greene's health care
16 provider was in Cerro Gordo, North Carolina, Columbus
17 County, North Carolina.

18 His voter registration, Cerro Gordo, North
19 Carolina. And also on that health care provider, since 2015
20 forward it was G&G Health Care in Cerro Gordo, North
21 Carolina.

22 Voter registration -- since 2012, Sheriff Greene
23 voted in Columbus County at 1049 Page Mill Road because he
24 availed himself of that jurisdiction. So that is seven
25 elections because he did not live in a municipality which

1 required some sort of special election. So in every primary
2 and general election from September 2012 forward, he voted,
3 availed himself at 1049 Page Mill Road.

4 The location of this pets -- in the record there
5 was some interesting diatribes there, but the location of
6 his pets -- and he has three or four dogs. Well, he had
7 four dogs at one time; now he only has three -- all reside
8 at 1049 Page Mill Road.

9 These are all the critical important factors of
10 where someone resides, and every single one of them point
11 towards 1049 Page Mill Road of Cerro Gordo, North Carolina.

12 The location of money spent -- majority of his
13 transactions, when you look back at the record, were at 1049
14 Page Mill Road. The record that you see in front of you
15 -- and that's one of the facts that I contend are not
16 accurate -- would indicate that he spent an equal amount of
17 money in Lumberton and in Cerro Gordo, North Carolina.

18 So I went back and I did the math on this thing.
19 When you look at your record and the evidence submitted
20 towards you, 60 percent of his transactions were spent in
21 Columbus, County North Carolina. Nineteen percent of his
22 transactions were spent in Robeson County, North Carolina,
23 and then 18 to 19 percent were spent in South Carolina.

24 A resounding majority of his transactions were in
25 Columbus County, not in Robeson County or South Carolina,

1 because the burden being upon the protestor would have to
2 show that he had, one, abandoned his domicile, 1049 Page
3 Mill Road, because with them having the burden, the
4 presumption is, is he is a resident of 1049 Page Mill Road
5 because he was, and that he abandoned that residence and
6 acquired a new domicile with the intent to indefinitely
7 remain. That's the standard.

8 Every factor for this road map that I've shown you
9 is showing that he has availed himself, he has acquired that
10 domicile, he's maintained that domicile, and has certainly
11 never abandoned it. The other side's not shown any one of
12 those things.

13 What you're seeing instead is that the allegations
14 are because Mr. Greene, Sheriff Greene lives in a camper.
15 Set up a camper and an RV; that that is an insufficient
16 basis for domicile.

17 Case law doesn't support it. Case law has no
18 bearing on what the sufficiency of a domicile is, what the
19 sufficiency of a dwelling is. The sufficiency of a domicile
20 is where do you intend -- how much and how have you availed
21 yourself of that particular domicile?

22 Nothing was shown by the protesters at that local
23 hearing to suggest otherwise, certainly not to suggest based
24 on their burden that he did not reside at 1049 Page Mill
25 Road.

1 CHAIRMAN CORDLE: Mr. Worley.

2 MR. WORLEY: Yes, sir.

3 CHAIRMAN CORDLE: I've just got a question, and
4 that has to do with the recreational vehicle, or motor home
5 is what I think most of us would call it. It's registered
6 in South Carolina.

7 MR. WORLEY: Correct.

8 CHAIRMAN CORDLE: Can you tell me why?

9 MR. WORLEY: It's licensed in South
10 Carolina. That RV is owned by both Sheriff Greene and his
11 wife. She has maintained a dual residency, and when she
12 purchased it because it's both purchased (sic) in their
13 name, it was registered in her name. It was registered in
14 both of their names, but they maintained or she had
15 maintained her South Carolina address.

16 When you look at the buyer's order for that RV,
17 what they actually -- the prompt that Sheriff Greene
18 actually puts in, he puts 1049 Page Mill Road as his
19 address.

20 When you go to the application, he puts 1049 Page
21 Mill Road as his address. The South Carolina registration
22 is by virtue of his wife effectively keeping that.

23 CHAIRMAN CORDLE: Actually that's a beach
24 residence. Is that her --

25 MR. WORLEY: Yes. Yes, sir.

1 CHAIRMAN CORDLE: And does she claim a residency
2 in South Carolina now?

3 MR. WORLEY: I believe she has. She
4 maintains that dual residency.

5 CHAIRMAN CORDLE: Thank you.

6 MR. WORLEY: And I believe the case law is
7 clear that spouses can maintain separate domiciles.

8 CHAIRMAN CORDLE: I don't have a question about
9 that. Thank you.

10 MR. WORLEY: Okay. Yes. Going back to
11 domicile, domicile is the critical word; it's the critical
12 element. It's what needs to be defined of who is
13 effectively an eligible voter. Are you an eligible voter
14 for a particular race, and if you're an eligible voter, then
15 you're an eligible candidate in that race.

16 Domicile, I believe, confused the majority panel
17 at the local board. They make a statement in the record at
18 4:65 -- and when I say "the record," the transcript of that
19 record -- where they state, "The domicile, as I saw it, was
20 not mentioned in the qualifications for sheriff."

21 Well, domicile is what makes you qualified for
22 sheriff. Domicile confused them. Domicile without question
23 Sheriff Greene's provided. He's resided there. He's
24 established that domicile.

25 Effectively based their subjective opinion on the

1 fact that they didn't -- they can't understand why someone
2 would choose to reside in a motor home, in an RV when they
3 have a beach house because Jody Greene doesn't own any other
4 property anywhere else other than Cerro Gordo, North
5 Carolina. He purchased tracts in 2011, purchased tracts in
6 2012 and 2013, all contiguous, all near where he grew up.

7 CHAIRMAN CORDLE: You have five minutes.

8 MR. WORLEY: I have five minutes? I would
9 like to reserve five minutes.

10 CHAIRMAN CORDLE: All right. Fine. Thank you,
11 sir. Yes, sir.

12 MR. BLANKS: Good afternoon, Board. As I
13 stated a little bit earlier, I'm Attorney Oscar M. Blanks,
14 III, attorney for Lewis Hatcher, Sheriff Lewis Hatcher. And
15 I'd like to thank you for having this hearing and hearing
16 this matter on what's going on in Columbus County. And we
17 would like to ask you to affirm the decision of the Columbus
18 County Board of Elections.

19 I don't want to carry you back through all the
20 statement of facts because you've had a briefing. I don't
21 know if you had a chance to read it, but to tell you a
22 little bit how we got here, Protestor Ms. Gloria Smith
23 stated that she learned of issues with Mr. Greene's
24 residency on November 28th and started this whole process
25 that brings us here today.

1 That's the short version of it. She went through
2 the initial hearing down there when it was denied, and then
3 it came up here and was sent back. You've had a chance to
4 follow on those facts, so I won't take us back through it.

5 But the main reason for our argument is domicile,
6 and to prove domicile or establish domicile you must find
7 a actual abandonment of the first domicile coupled with the
8 intent not to return to the first domicile; the acquisition
9 of a new domicile by actual residence at another place and
10 the intent of making the newer domicile a permanent
11 domicile.

12 Pursuant to North Carolina law -- and this was
13 handed out to the Columbus County Board of Elections before
14 we had our hearing -- residency means where someone is
15 living at the moment.

16 Domicile represents a permanent, established home.
17 It is the place in which the person considers home to which
18 they plan to return when they are away. A person can have
19 more than one residence, but only one domicile.

20 The board was instructed that Mr. Greene's
21 domicile is largely a question of his intent, what he
22 intends to be his home, but you will also have to look at
23 whether his actions that he has taken are consistent with
24 what he expresses as his intent.

25 Domicile does not have to be a house but must be

1 a home. You heard counsel for Mr. Greene state that Hall
2 versus Wake was a seminal case in cases dealing with
3 domicile. I agree that Hall versus Wake is an important
4 case because in that case it states that all residency cases
5 are fact intensive, and the facts are always unique.

6 Domicile is a highly personal matter. In
7 Farnsworth v. Jones, they go on to state that domicile
8 denotes one's permanent established home as distinguished
9 from a temporary though actual place of residence.

10 When absent therefrom, it is the place to which
11 he intends to return. It is the place where he intends to
12 remain permanently or for an indefinite length of time or
13 until some unexpected event shall occur to induce him to
14 leave.

15 Some factors that were presented to the board
16 members to consider the existence of domicile were where the
17 person stays at night, the address of the person's driver's
18 license, the address used for vehicle registration, the
19 address used for bank accounts, credit cards, the address
20 used on tax returns, where the property tax, if any, is paid
21 whether it be real or personal, whether utility bills are
22 consistent with someone living at that location, and where
23 family photographs and similar sentimental possessions are
24 kept.

25 In making this determination it is the weight of

1 the total evidence which controls the determination rather
2 than any one factor out of the group that we mentioned.

3 MR. RAYMOND: Mr. Blanks.

4 MR. BLANKS: Yes, sir.

5 MR. RAYMOND: I have a question.

6 MR. BLANKS: Yes.

7 MR. RAYMOND: I'm reading from the
8 transcript. I want to read from the transcript from the
9 hearings during the section in which the local board was
10 deliberating. And I'd like your thoughts on this.

11 In the transcript I'm reading statements made by
12 the Chair. "I find it difficult to believe if you have a
13 house -- sturdy house anywhere, that you would live in a
14 camper. And though I can't foresee somebody saying, 'Oh,
15 tonight I want to lay my head on a cot, bed,' or whatever
16 it is in a camper when you have a nice house, whether we're
17 talking about a beach house or the Robeson County house.
18 This county does not recognize a camper or an RV."

19 Now, in this statement made by the Chair, which
20 helped form her -- helped form this decision, is she not
21 substituting her personal preference and county ordinance
22 for the residency standard?

23 MR. BLANKS: I would answer no because the
24 North Carolina General Statutes hold that RV is a temporary
25 structure -- I mean is a temporary dwelling. I would say

1 no based on the Columbus County Code of Ordinances, which
2 although it does address RVs in a mobile home -- in a
3 trailer park or RV park, it states that a RV is a temporary
4 abode and can never be --

5 MR. RAYMOND: Okay, let me read this part
6 of the residency standard. "Residency defined for
7 registration and voting. All election officials are
8 determining the residency of the person offering to register
9 to vote shall be governed by the following rules so far as
10 they may apply." Then I'm moving down to Section C.

11 "In the event that that person's residence is not
12 a traditional residence associated with real property, then
13 the location of the usual sleeping area for that person
14 shall be controlling as the residency of that person.

15 "A residence shall be broadly construed to provide
16 all persons with the opportunity to register and vote
17 including stated mailing address different from a
18 residence."

19 This is the standard. This is the standard
20 applied to all counties, and it looks to me, just from
21 reading the transcript, that she's applying a standard of
22 Columbus County -- that Columbus County has for residence.

23 We cannot have all 100 counties applying 100
24 different standards. This is the standard that applies.

25 MR. BLANKS: Well, I would tend to

1 disagree, but I would agree with you in part. This is the
2 standard that applies across the state. However, that would
3 tend to imply when there's no other choice, there's no other
4 structure, there's no other place for you to reside, and
5 then that takes into account if you're residing in the
6 county in your only structure; you have no permanent
7 structure anywhere else, and then it's denoting whether you
8 have a bed in that structure, where it's located, because
9 in Columbus County you have some rather different
10 situations. You have people that live on the county line.
11 You have places in Columbus County that are for address
12 purposes that are served out of another county, maybe Bladen
13 County. The farmers in the community has for a long time
14 had Clarkton addresses; however, Clarkton is in Bladen
15 County, and we are in Columbus County where we reside.

16 And so that statute would have been put into place
17 for, one, where there's no other chosen or no other
18 structures available to that person, and then you would
19 evaluate that particular structure.

20 In this case there are at least two other
21 structures, nicer than this RV, one in Robeson County; you
22 have one down in Horry County, South Carolina, that you
23 heard on the record that he paid \$175,000 for with his wife,
24 and that that property has appreciated to double that value.
25 Seems like some of that money could have been spent back in

1 Columbus County to establish what he has called where he
2 wants to have his residence and domicile.

3 And so we would tender to the Board that that goes
4 to situations where there are only one -- you only have that
5 one choice, not other places where you can reside, other
6 places where it's found that you (unintelligible).

7 MR. RAYMOND: You can continue. I have
8 other questions, but go ahead.

9 MR. BLANKS: All right, so referring to the
10 three prongs defining domicile, the first was an actual
11 abandonment of the first domicile coupled with the intent
12 not to return to the first domicile.

13 A temporary change in living arrangement does not
14 change the person's domicile. Mr. Greene's affidavit stated
15 he stayed in Cerro Gordo for work for the North Carolina
16 Highway Patrol and returned to the beach cottage on the
17 weekends.

18 It was not until late November 2017, according to
19 his sworn testimony, when he moved the recently purchased
20 RV onto the 1049 Page Mill Road, that he had declared this
21 to be his primary residence to be used as a dwelling for
22 purposes of the residency and domicile.

23 You heard counsel for Greene state or point out
24 to the Board that Hannon versus Grizzard was a good case
25 for describing the situation of working in one location and

1 residing in another. Well, in that Hannon versus Grizzard
2 case -- and not to go all the way back through it, but at
3 stake in that election was the office of Register of Deeds.

4 That case goes on to define "domicile" as a legal
5 word and differs in one respect, and perhaps in others, in
6 that it is never lost until a new one is acquired, while a
7 person may cease to reside in one place and have no fixed
8 habitation elsewhere.

9 Justice Gannon in that case explained by
10 "residency in the county," the constitution intends that
11 domicile in that county: This requisition is not satisfied
12 by a visit to the county, whether for a longer or shorter
13 time, if to stay there be for a temporary purpose and with
14 the design of leaving the county when that purpose is
15 accomplished.

16 "Domicile" was also defined by Justice Storey,
17 another judge in the case, as the place where a person lives
18 or has his home; that is, as he adds, where one has his
19 true, fixed, permanent home and principle establishment and
20 to which whenever he is absent, he has the intention of
21 returning.

22 The incident case is similar, or this case we're
23 here for today, is similar to the Hannon case in that
24 Defendant Mr. Greene and the realtor [sic] in the Hannon
25 case both stayed in temporary locations for work purposes.

1 Hannon is similar to this case in that the realtor
2 and Mr. Greene owned property in the state and in the county
3 that was in question. However, this case differs from the
4 Hannon case and is distinguished in that Hannon had a house,
5 a fixed permanent structure that he owned in the land that
6 was in question, and on that land -- he paid taxes on his
7 home and of course on his land.

8 In our matter there is not a house nor other
9 taxable structures found on this property. In the Hannon
10 case, Hannon had no access to any other properties; which
11 in this case there's at least found on the record property
12 located in Robeson County or in Horry County, South
13 Carolina.

14 MR. RAYMOND: Okay, Mr. Blanks.

15 MR. BLANKS: Yes.

16 MR. RAYMOND: I'm going to step in again.

17 MR. BLANKS: Sure.

18 MR. RAYMOND: According to your findings
19 throughout this entire matter, where would you say that Mr.
20 Greene is domiciled?

21 MR. BLANKS: Either Lumberton, North
22 Carolina, or in Robeson -- excuse me. Lumberton, North
23 Carolina, or in Horry County, South Carolina. The RV is
24 registered to South Carolina. He's used the Lumberton
25 address several times after stating that 1049 was his

1 address --

2 MR. RAYMOND: Even though --

3 MR. BLANKS: -- his domicile.

4 MR. RAYMOND: Even though he met the
5 requirements in case law, characterized as a road map by Mr.
6 Worley, in a number of items like federal taxes or address
7 listed on his federal tax forms, driver's license, and so
8 forth?

9 MR. BLANKS: Well, if you look closely at
10 this 2016 taxes which were -- would have had to have been
11 filed in 2017, however the date was redacted so we couldn't
12 find -- we did not determine the exact date that it was
13 filed -- he used the Lumberton address on this 2016 taxes.

14 And so earlier than that, he was using -- his
15 driver's license stated this 1049 Page Mill Road, and so it
16 would seem to be used -- the address depended on what the
17 situation is and to use -- I guess to derive the benefit
18 without having the burden.

19 Whenever it seems a good time to use 1049, that's
20 the address that he used. In South Carolina, maybe for tax
21 purposes, it seems like a good address to use for that RV
22 was the Myrtle Beach address.

23 MR. RAYMOND: But he was also registered to
24 vote in Columbus County since 2012.

25 MR. BLANKS: Well, registering to vote is

1 something that --

2 MR. RAYMOND: That's one of the items listed
3 in the I'll use the term "road map."

4 MR. BLANKS: Correct. That is one of the
5 terms, but also it's listed, as we turn a page back, is 17
6 items listed in the factors that were presented to the Board
7 members, One of them becomes the address used for vehicle
8 registration. How can someone claim a domicile in North
9 Carolina if the vehicle that they're claiming residence in
10 or domiciled in is registered in South Carolina?

11 MR. RAYMOND: And I'll refer to the law, the
12 residency standard.

13 MR. BLANKS: And that would be?

14 MR. RAYMOND: Where it says, "The location
15 is the usual sleeping area for that person shall be
16 controlling."

17 MR. BLANKS: That is all but one [sic] of
18 the factors. In making this determination you're to use all
19 of the factors, total -- totality of the circumstances in
20 making this decision. One factor is not controlling.
21 You're to look at the whole situation presented and to go
22 from there.

23 So to take you back where I was, since no actual
24 abandonment of the first domicile was demonstrated coupled
25 with no intent to return to the first domicile was

1 demonstrated, we've established that the first prong of
2 domicile has now been established.

3 Now, moving on to the second -- second element or
4 second prong of domicile, the acquisition of a new domicile
5 by actual residence at another place. Mr. Norton, Calvin
6 Norton has a federal lawsuit pending in this matter in which
7 several subpoenas have been issued. He's obtained numerous
8 documents that bear on the residency of Mr. Greene.

9 Mr. Norton presented a memorandum from the
10 County's manager Mike Stephens pursuant to a public records
11 request that stated that they were unable to find any
12 permits issued by the Columbus County Building Inspections
13 Department or the Columbus County Health Department for Mr.
14 Greene. With no permits, no electrical bills, no plumbing,
15 no drainage, and no sewers, evidence to support domicile is
16 not present.

17 Pursuant also to a federal court order, South
18 Carolina DMV was ordered to produce evidence or records
19 pertaining to Jody Greene's RV. The title history
20 associated with the RV indicated that it was registered in
21 South Carolina. There was a chance for Mr. Greene, if it
22 was an error as stated at the earlier hearing, to change his
23 address, but the RV was re-registered under South Carolina.

24 And as we went on our excursion out to see this
25 RV during that hearing, the South Carolina license plates

1 was on the back.

2 This authenticated title history showed both
3 Angela Rouse and Jody Greene as the owners of the RV, and
4 it's registered to the North Myrtle Beach address. The
5 title application shows the date of purchase as November
6 30th. In the transcript it shows November 3rd, but if you
7 look on the actual documents, it's November 30th.

8 And the actual title was issued December 3rd --
9 December 20th. Sorry. In these documents both Mr. Greene
10 and his wife used a North Carolina Myrtle Beach, South
11 Carolina, address.

12 The part that's most important to this is there
13 was an affidavit and notification of sale of motor vehicle
14 signed and sworn to by both Mr. Greene and his wife and
15 providing that a North Myrtle Beach address and stated, "The
16 failure to complete or providing a false statement may
17 result in fines or imprisonment."

18 The 1049 Page Mill Road, Cerro Gordo, North
19 Carolina, does not appear in any of the subpoenaed documents
20 from South Carolina DMV.

21 Further, Mr. Greene worked for the State Highway
22 Patrol -- North Carolina State Highway Patrol. They have
23 a computer assisted dispatch system which keeps their
24 address in that system.

25 The CAD records reflect that where personnel tells

1 their supervisors their physical address. The CAD report
2 reflects that Mr. Greene's address was 3715 Kale Drive,
3 Lumberton, North Carolina, through April 2017, long after
4 he had listed 1049 Page Mill Road as his supposed address
5 back in 2012, I imagine, with the driver's license that
6 you're referring to.

7 Additionally Mr. Greene's 2016 taxes used that
8 Lumberton address. The warranty deed for 1049 Page Mill
9 Road indicated no dwelling was on that property, and both
10 parties owned a home in North Myrtle Beach. Accordingly,
11 the acquisition of a new domicile by actual residence at
12 another place has not been established.

13 The last prong of establishing domicile is the
14 intent of making a newer domicile a permanent domicile.
15 Application for land use for a present use value for taxable
16 value or purposes of either agriculture, forestry,
17 horticulture that reflect approximately 40 acres of farmland
18 was signed by Mr. Greene.

19 Question 5 of that application stated, "If the
20 applicant, individual, or partnership, does the individual
21 or one of the partners reside on the tract?" That question
22 was checked no.

23 The affidavit reads that "I have purchased this
24 land for the purposes of and with intent to use this land
25 for the purposes under which it is classified for the use

1 assessment."

2 It further reads that "I understand that if the
3 use of this land changes in any way, I must inform the
4 county assessor's office immediately of such changes."

5 The importance of informing the county office is
6 that the state applies lower rates than our market value
7 rates when it comes to -- for the county to establish how
8 they tax when it was time for re-evaluation of the land in
9 the county.

10 If a person resides on that land which is a part
11 of the Land Use Program with a taxable structure, that
12 portion of the land is excluded as a separate building site,
13 and the county tax office taxes one acre as residential at
14 the market value, and the rest of the farmland is taxed at
15 the reduced land rate.

16 If one resides in a RV on the same one acre, the
17 county tax office cannot tax that RV, as it is personal
18 property, and they can't tax it as a permanent structure.
19 Therefore, they're losing benefits to the tax base.

20 If no building permit is pulled or changes in land
21 use are not discovered, then the landowner is not taxed
22 properly at the residential rate.

23 CHAIRMAN CORDLE: Your time is up. Do you need
24 to finish a sentence, Mr. Blanks?

25 MR. BLANKS: Oh. How many minutes do I

1 have left?

2 MR. LAWSON: Thirty seconds.

3 CHAIRMAN CORDLE: About 30 seconds.

4 MR. BLANKS: I will defer the rest of my
5 time to Mr. Frasier.

6 CHAIRMAN CORDLE: Now, Mr. Frasier, do you have
7 30 seconds?

8 MR. FRASIER: I have 30 whole seconds. So
9 in the end we would ask that you uphold the decision made
10 by the Columbus County Board. It was pretty clear at the
11 Columbus County Board that they had the opportunity to both
12 [sic] review those.

13 What they found most important were the power
14 bills which would indicate that there couldn't have been
15 anybody living there based upon those particular bills.

16 In addition those power bills we now know were
17 fraudulently submitted to this board and submitted as part
18 of this action because they were indicated as residential
19 bills, and we now know that there's no residential service
20 at that particular location, only commercial service.

21 So I would ask that you uphold the decision of the
22 Columbus County Board. They had all the facts at hand.
23 They evaluated all that information properly, and they made
24 the proper decision which was that Jody Greene is not a
25 resident of Columbus County. Thank you.

1 CHAIRMAN CORDLE: Thank you, Mr. Frasier.

2 Mr. Worley, do you want to say anything further,
3 or do you want us to move ahead and proceed to vote on this
4 issue now?

5 DR. ANDERSON: He reserved --

6 MR. RAYMOND: Didn't you reserve five
7 minutes?

8 MR. WORLEY: I reserved --

9 CHAIRMAN CORDLE: Oh, I understand you did. I
10 said did you want to go ahead and --

11 MR. WORLEY: I would if I may, Mr. Cordle.

12 CHAIRMAN CORDLE: Yes, sir.

13 MR. WORLEY: And may it please the Board
14 again. I want to first address any accusations about
15 fraudulently submitting anything. I take great offense to
16 that, don't like that term being used, and I certainly don't
17 like that accusation towards my client.

18 As far as my rebuttal, what I want to get at here
19 is the burden. Who has the burden? The protestor has the
20 burden, and when you were asking directly, "Well, what
21 domicile are you claiming that he has?"

22 Now, we've been consistent and clear about 1049
23 Page Mill Road. They can't tell you today what domicile
24 they are stating that he resides at. They have the burden
25 to show because the presumption now is that Jody Greene

1 resided at 1049 Page Mill Road and acquired that domicile.

2 MR. CARMON: Mr. Worley, I didn't -- I let
3 you go the first time. I wanted you to go through. I have
4 a few questions that may help me here.

5 MR. WORLEY: Oh, certainly.

6 MR. CARMON: And it goes directly to
7 intent. I read your brief, and you said that he abandoned
8 his previous residence in 2010.

9 MR. WORLEY: No. The change of address in
10 2012, I believe it was June 24, 2012, would be the indicator
11 of him abandoning the Fairmont address. That was the last
12 address he had before acquiring the new domicile in Columbus
13 County.

14 MR CARMON: When I go through your
15 statement of facts, that I had initially -- well, okay, it
16 was 2010 to 2016 that had abandoned previous residence. In
17 2011 you had him purchase this property at 1049.

18 MR. WORLEY: Yes, sir.

19 MR. CARMON: In 2012 he changed his address
20 --

21 MR. WORLEY: Correct.

22 MR. CARMON: -- to this. In September he
23 changed his voter registration.

24 MR. WORLEY: Correct.

25 MR. CARMON: When did he transfer his

1 vehicle registration? I didn't see that. I saw it has been
2 transferred, but I didn't see a date by that.

3 MR. WORLEY: What you have in the record,
4 I believe you have vehicle registrations at least as far
5 back as 2016. What was not submitted -- I can comment. I
6 believe the last date as far as any vehicle registrations
7 in Robeson County was in 2013.

8 And so effectively 2014 forward is when everything
9 was registered in Columbus County, North Carolina,
10 specifically to 1049 Page Mill Road address.

11 MR. CARMON: Okay. So where did he reside
12 prior to 2013?

13 MR. WORLEY: Where did he reside prior to
14 2013?

15 MR. CARMON: Yes.

16 MR. WORLEY: Well, I mean there are several
17 structures on that property. He was asserting his domicile
18 as to that property.

19 MR. CARMON: Okay.

20 MR. WORLEY: His mother resided a quarter
21 mile away, and he was also using the barn structures
22 periodically.

23 MR. CARMON: So he was living in a barn in
24 2013?

25 MR. WORLEY: I'm not saying that. There

1 were other structures you could reside in.

2 MR. CARMON: What structure was he living
3 in prior to his marriage in 2013?

4 MR. WORLEY: I maintain that at least
5 February 2015 forward he had living quarters he resided in
6 the primarily. Prior to that, he was asserting his domicile
7 as to that point. Does that answer your question, Mr.
8 Carmon?

9 MR. CARMON: So, sure, but he was asserting
10 his domicile where in 2013?

11 MR. WORLEY: He was asserting his domicile
12 at 1049 Page Mill Road.

13 MR. CARMON: But he wasn't residing there.

14 MR. WORLEY: Again, he brought his camper
15 on it in February '15.

16 MR. CARMON: 2015 he brought his camper on
17 it.

18 MR. WORLEY: Correct.

19 MR. CARMON: Okay. So he and his wife
20 moved to that camper in 2015?

21 MR. WORLEY: I believe when you look at the
22 transcript, it's pretty clear; he would stay at that camper
23 during the workweek, and then they were working on the beach
24 house on the weekends, and so he would stay at that camper.

25 MR. CARMON: Okay, because I want to get

1 to that intent thing. In 2015 he and his wife didn't reside
2 in the camper.

3 MR. WORLEY: He resided at the camper.

4 MR. CARMON: But his wife didn't.

5 MR. WORLEY: His wife didn't.

6 MR. CARMON: So in 2017 he purchased the
7 RV, so at that point in time he and his wife moved in?

8 MR. WORLEY: This is what you're looking
9 at at this point, yes.

10 MR. CARMON: Okay.

11 MR. WORLEY: You have wife coming in to
12 reside with him at 1049 Page Mill Road. I believe because
13 of the cramped quarters of the camper which is fine for
14 Sheriff Greene, you bring in three dogs, you bring in Ms.
15 Greene --

16 MR. CARMON: I totally understand. I read
17 the brief. I was trying to picture how that could be
18 comfortable. So now I -- through your brief you said that
19 they had some issues to come up why they didn't build the
20 home.

21 MR. WORLEY: The intervening factors.

22 MR. CARMON: The intervening factors.
23 Okay. Had they had a custom home builder picked out? I
24 didn't see that in there, any evidence that they had picked
25 out a custom home builder.

1 MR. WORLEY: I mean they're identifying the
2 custom home builder. They're building a pad. I don't
3 believe there was any evidence submitted to the Board as far
4 as identifying the building.

5 MR. CARMON: Okay. Was there any evidence
6 supplied of the type home they wanted to build?

7 MR. WORLEY: There was not.

8 MR. CARMON: Okay. Was there any evidence
9 that it was perked -- that they land had been perked for a
10 particular type home, structure?

11 MR. WORLEY: There was well established
12 evidence that there's been a well there for over 20 years.

13 MR. CARMON: Okay, but --

14 MR. WORLEY: So that goes to perking, I
15 guess, would answer your question, Mr. Carmon.

16 MR. CARMON: But was it going to be on city
17 sewer or was there going to be a septic tank?

18 MR. WORLEY: It was going to be on well
19 water.

20 MR. CARMON: Okay, but for the sewer, was
21 there going to be a septic tank? Because a property has to
22 be perked for the septic tank. Had it been perked?

23 MR. WORLEY: It had not been parked.

24 MR. CARMON: Okay. So if that's the place
25 you intend to reside permanently and you're going to build

1 a custom home, I need some help understanding why the answer
2 to those things aren't clear for me.

3 MR. WORLEY: They're not clear for you
4 because effectively you do have these intervening causes
5 that I mentioned before, some acts of God, some financial,
6 and then some personal, for the family relation ongoing.

7 I would actually posit to you that because this
8 is where he wants to reside for the remainder of his law
9 enforcement career and for his retirement career, he wants
10 to be very particular about it.

11 MR. CARMON: Absolutely. And I agree, and
12 for someone of that caliber, what I would expect to show
13 the intent of being there permanently, some type of home to
14 have been picked out prior to these intervening factors.
15 For me I would expect some type of survey of the property
16 for where the home was going to be prior to these
17 intervening factors.

18 MR. WORLEY: You have that, Mr. Carmon.
19 He had built a pad. He had actually had the pad staked out.
20 That was there. It was built out there. So I mean he's
21 effectively build that.

22 MR. CARMON: So he built a pad. So then
23 what type home was he going to put on that pad? Was it
24 going to be a traditional, a modern, a classical?

25 MR. WORLEY: I mean I'm not going to --

1 MR. CARMON: I understand. I don't want
2 to use up all your minutes. Thank you for your answers.

3 MR. WORLEY: Thank you very much, Mr.
4 Carmon. But going back to that line "already was submitted"
5 was due to the fact because they are particular. Going to
6 some of Mr. Carmon's questions is they didn't want to put
7 something on that property they would have to remove and
8 become more of a hindrance or a burden.

9 That was one of the reasons why they had a camper
10 and a RV out there, until they were able to get established
11 what they particularly wanted.

12 CHAIRMAN CORDLE: Your time is up, sir.

13 MR. WORLEY: Thank you very much.

14 CHAIRMAN CORDLE: Thank you. I think we will
15 now proceed on the issue of the residency. The Board, Mr.
16 Raymond, does anybody have a motion on the issue of the
17 residency of Mr. Greene?

18 MR. RAYMOND: I'll start deliberations. I
19 do not believe that the challenger met their burden.

20 CHAIRMAN CORDLE: Would you like to make that
21 in the form of a motion, Mr. Raymond?

22 MR. RAYMOND: Okay. I will make that in the
23 form of a motion. I move that the State Board of Elections
24 finds that the decision of the county board is not supported
25 by substantial evidence in the whole record. Accordingly,

1 the county board is ordered to issue certification of
2 election in the manner prescribed by law.

3 MR. CHAIRMAN: Well, I believe that goes a
4 little further than we should go here. We're only deciding
5 the residency question now. We still have the issues of the
6 other petitions.

7 MR. RAYMOND: Okay. I'm sorry about that.

8 CHAIRMAN CORDLE: So I take it what you're --

9 MR. RAYMOND: Jumped the gun.

10 CHAIRMAN CORDLE: That's all right. What you're
11 actually proposing is that the Board rule that the residency
12 issue was not supported by substantial evidence in the
13 record.

14 MR. RAYMOND: Yes, yes. I find that here.

15 CHAIRMAN CORDLE: And that Mr. Greene was
16 qualified as a candidate by virtue of being a resident of
17 the county on election day 2018. Is that substantially
18 correct, my motion -- my rephrasing your motion?

19 MR. CARMON: Is this for discussion or are
20 we going to --

21 CHAIRMAN CORDLE: We've got a motion on the
22 floor and I would look -- if that's substantially correct.

23 MR. RAYMOND: All right. I move that the
24 State Board find that substantial evidence of the whole
25 record establishes that Greene was a resident in Columbus

1 County on election day 2018.

2 CHAIRMAN CORDLE: Is there a second to that
3 motion?

4 MR. BLACK: Second.

5 DR. ANDERSON: I think we need a point of
6 clarification. What you just stated was that he was a
7 resident on election day, but there's a question about
8 whether or not he met the one year residency requirement.
9 So --

10 MR. RAYMOND: Allow me to rephrase that.

11 DR. ANDERSON: Okay.

12 CHAIRMAN CORDLE: You would rephrase your motion
13 to say he was a resident of Columbus County on election day
14 2018 and one year before --

15 MR. RAYMOND: Yes, yes.

16 CHAIRMAN CORDLE: -- election day 2018.

17 MR. RAYMOND: Yes.

18 CHAIRMAN CORDLE: And your second?

19 MR. BLACK: Second.

20 MR. RAYMOND: And now we have discussion.

21 CHAIRMAN CORDLE: Yes.

22 MR. RAYMOND: Okay.

23 MR. CARMON: I think we have to go back
24 and, as you said, look at the total record. I hear you
25 saying "the burden of proof," but I think also with the

1 burden of proof there's certain things that are clear, from
2 my perspective.

3 The beach home -- there was a lot of attention put
4 to what they were going to do with the beach home; yet the
5 place that he had planned to return and live permanently.
6 That type of attention was not given.

7 I find it hard to believe that someone of this
8 caliber would spend as much time at the beach renovating
9 that home prior to taking the appropriate steps to build the
10 home that he wanted to live in.

11 MR. RAYMOND: According to the information
12 before us, I believe it was only weekends.

13 MR. CARMON: According to the information
14 you have, yes.

15 MR. RAYMOND: It was weekends, so that --

16 MR. CARMON: On the weekends he returned
17 -- excuse me.

18 MR. RAYMOND: Go ahead.

19 MR. CARMON: On the weekends he returned
20 home. He worked during the week in the county where the
21 camper was, and he returned home on the weekend. That's
22 what I understood.

23 MR. RAYMOND: And I'm saying -- I understand
24 that, and I'm saying the burden in this matter is on the
25 challenger, and they did not meet their burden when I asked

1 them the question --

2 MR. CARMON: What --

3 MR. RAYMOND: -- which was where does Mr.
4 Greene reside? He said -- I believe he listed two or three
5 different places.

6 MR. CARMON: Okay. I'm sorry, that -- the
7 evidence that they put on --

8 MR. RAYMOND: And also additionally --

9 MR. CARMON: -- is not what he states.
10 It's the evidence we have to look at, and the evidence in
11 the entire record states that on the weekend he went to the
12 beach to work on a home, and that's where he resided on the
13 weekends. It also states during the week he worked in the
14 county where he's -- where his camper was.

15 MR. RAYMOND: So he spent more time in
16 Columbus County.

17 MR. CARMON: It doesn't matter where he
18 spent more time. It was classified as he was there for
19 work. That's where his uniform was, but when he went home,
20 what we consider a home, it was to the beach which is where
21 his wife was.

22 MR. RAYMOND: No. I'm sorry.

23 MR. CARMON: Okay. Well, you can -- we can
24 agree to disagree, but the record clearly states that.

25 MR. RAYMOND: I cannot agree with that with

1 what we have in front of us, and also it's clear
2 additionally that the members of the Columbus County Board
3 of Elections substituted their own personal preferences and
4 opinions for state law, the only other question I asked,
5 and we cannot have that.

6 MR. CARMON: That's a separate matter that
7 we would have to address with the board. I'm talking about
8 the evidence.

9 MR. RAYMOND: So we cannot support their
10 finding. If we're going to acknowledge that they
11 substituted -- that the Chair substituted their personal
12 preference, their personal opinion for state law which
13 applies to all 100 counties, we cannot support that
14 decision.

15 MR. CARMON: I don't think we, as a board,
16 said that that's what they did.

17 MR. RAYMOND: It's clearly what they did.
18 It's clearly what they did. I just read the transcript.
19 I read the transcript where she said that she personally
20 would not live in a RV, and that the county, Columbus
21 County, does not recognize that location as a residence or
22 a domicile.

23 So she applied county ordinance to this matter
24 rather than state law. We can't support that decision. If
25 we support a decision like that, when we'll have other

1 counties doing things their own way, and after what we just
2 went through with Bladen County --

3 MR. CARMON: Okay.

4 MR. RAYMOND: -- we're just sending a very
5 bad message to the other counties saying, "You can" -- "when
6 it comes to residence, you can do things your own way." We
7 have one standard that applies to all counties, and this is
8 the standard.

9 MR. CARMON: And I'm sorry. I do
10 understand what you're saying. My response is the standard
11 I'm using is the law. I'm not using what the local board
12 said. I'm using the law.

13 MR. RAYMOND: I don't see how that would
14 -- using the law would support that decision though.

15 MR. CARMON: I'm saying based off of the
16 intent of Mr. Greene I don't see where Columbus County was
17 his place where he claims --

18 MR. RAYMOND: Well, the burden isn't on Mr.
19 Greene.

20 CHAIRMAN CORDLE: Let's slow down just a second.
21 Mr. Carmon, the way I read the record there, it doesn't say
22 that Mr. Greene went to Myrtle Beach on the weekends to
23 repair his home. It says, "to repair his beach house."

24 MR. CARMON: Exactly, exactly.

25 CHAIRMAN CORDLE: He can have a beach house -

1 obviously we all know he can have a beach house as well as
2 another residence, and so much of it goes to his intent to
3 what the domicile is.

4 I think this issue raises questions. I think it
5 was on the petitioner, under our readings, to show by the
6 evidence -- they had the burden of proof, the petitioner.
7 I think with all of the facts that are shown and the
8 findings also as presented by the brief, it seems to me that
9 Mr. Greene's domicile for purposes of elections is on 1049
10 Page Mill Road. So I would support the motion made by Mr.
11 Raymond.

12 DR. ANDERSON: I support the motion as well
13 because I believe that when you look at the whole record,
14 contrary to the majority view by the county board members,
15 I think the substantial evidence actually weighs in favor
16 of him being domiciled in Cerro Gordo well before the -- any
17 residency requirement, the one year, for being elected and
18 being able to serve as sheriff.

19 I think we would have to ignore way too much
20 evidence of behaviors and choices that establish intent
21 through actions, and if we were to think that he just put
22 a camper or an RV there just to qualify to run for sheriff,
23 because the record seems to indicate that he lived there
24 well before the requirement.

25 The county board seemed to put great weight,

1 inordinate amount of weight, it seems to me, on two factors.
2 The suitability of an RV as a home from their viewpoint --
3 that's not appropriate.

4 They seemed to latch onto and place great
5 importance on the comparable monthly electric bills across
6 the year that would indicate or not that there was, you
7 know, full time residence there as opposed to it just being
8 used for, you know, to support farm work or such at a
9 nonresidential structure.

10 Mr. Greene seemed to have a reasonable explanation
11 for the differential electric bills across the comparable
12 months, November of 2017, November of 2018, in that, as I
13 read the record, he switched from using liquid propane for
14 heating to electric for heating. I know for a fact it will
15 drive up the electric bill in a significant way.

16 So I felt like he adequately explained that issue,
17 and it's not valid to substitute our own judgment about the
18 suitability of an RV or camper or a tent or a car or
19 sleeping under the tree, so.

20 CHAIRMAN CORDLE: Any further discussion?

21 (No response)

22 CHAIRMAN CORDLE: Call for the vote. All those
23 in favor of Mr. Raymond's motion as previously stated and
24 restated say aye.

25 (Four votes in favor.)

1 CHAIRMAN CORDLE: All those opposed?

2 (One vote opposed.)

3 CHAIRMAN CORDLE: The motion is carried four to
4 one. We will now proceed to move on to the other portions
5 of this hearing having to do with all the nonresidency
6 issues. And I believe we start with the Smith - Hill
7 lawyers and the joint protest.

8 Mr. Joyner, you will have this argument. I
9 believe you've got 15 minutes.

10 MR. JOYNER: Yes. Thank you, Mr. Chair and
11 members of the Board. I'm going to talk about the
12 nonresidency issues as presented here in evidence, and we're
13 asking in this instance for this Board to overrule the
14 decision of the county board in this regard.

15 Let me -- I guess I'll start by saying that most
16 important right that a person has is the right to vote, not
17 only to cast a vote but also to ensure that that vote is
18 counted. Those are two separate things, which certainly
19 argues that the mere provision of an opportunity to vote a
20 provisional ballot does not satisfy that constitutional
21 right of the voter.

22 And with respect to the duties and
23 responsibilities of the Board of Elections, among the other
24 things that it does, is to guarantee to every citizen that,
25 one, that the right to vote will be respected and protected,

1 and that when voting, that that vote will count.

2 And looking at the activities that occurred in
3 Columbus County around the November 2018 vote, there were
4 committed significant irregularities, misconduct, and
5 violations of the law which would render the voting process
6 null and void, one that would discount the faith in
7 integrity of the process that was in place at that time.

8 And I want to just kind of talk about what is best
9 described as structural errors, structural errors, errors
10 that go to the very functioning of the board and the ability
11 of the board to carry out its duties and processes, and
12 indeed to protect the right of those people to vote and that
13 their votes counted.

14 And one of the ways that you look at the
15 structural errors is to determine if there have been
16 violations of statutes. Other way is there have been
17 violations of protocol, the procedures, processes that are
18 in place that goes much further than just the individual
19 right that the person has -- is guaranteed in this process.

20 That's kind of working through it. If -- kind of
21 like showing up for a basketball game and nobody brings the
22 basketballs, or showing up for a ice skating contest and
23 nobody has provided the ice. That's a structural error.
24 It goes to the very integrity and the ability of the process
25 to work.

1 And such was the situation in Tabor City where
2 when people came to vote, the fundamental component of the
3 voting process was to have ballots available for people to
4 vote, and this board of elections could not guarantee and
5 did not provide ballots at 6:30 in the morning for people
6 to vote.

7 And in fact, that ability to vote at Tabor City
8 stayed down, was inoperative until at least two hours later,
9 two hours for them to get ballots in for people to vote.
10 And the evidence in the record shows that according to one
11 of the staff workers there at the time, that the poll was
12 open at 6:30 in the morning. There was 25 to 50 people who
13 were there to vote, could not vote, and left.

14 There were, according to another witness that
15 presented testimony who was at the polling site from 6:30
16 in the morning until 9:30 that night, another 25 or so
17 people who came to vote and they could not vote during that
18 time. Fundamental issues. Fundamental issues.

19 And that issue or those deficiencies are not cured
20 by the fact that they extended time at the end of the day
21 for people to come back to vote because there was evidence
22 that any number of people testified that when they came at
23 6:30 in the morning to vote, they had to leave and go to
24 work. Some worked in South Carolina and could not return
25 later in the day, did not know that the time had been

1 extended for them to be able to vote, so we lost those
2 votes.

3 How many we don't know, but what we do know is
4 that for a two hour period roughly, for a two hour period,
5 this board did not have ballots, simple ballots that you're
6 going to bring to the polling site in order for people to
7 vote. That's a structural error. That goes to the very
8 integrity of the voting process and the voting system, and
9 on that count this Board miserably failed.

10 MR. BLACK: I'm sorry to interrupt. Mr.
11 Chairman, is it proper at this time to -- I think we have
12 the director of the board here. Is she here in the
13 audience?

14 MS. STRICKLAND: Yes, sir.

15 MR. BLACK: Is it proper to ask her a
16 question as to why ballots weren't there or should this be
17 handled later?

18 CHAIRMAN CORDLE: I think you can ask her now,
19 and we will hold the time for this speaker.

20 MR. BLACK: Okay. Thank you. If the
21 director could give us an explanation as to why the ballots
22 weren't available for two hours.

23 CHAIRMAN CORDLE: And there doesn't seem to be
24 any question but that that happened.

25 MS. STRICKLAND: It was an hour and ten

1 minutes, sir.

2 CHAIRMAN CORDLE: I beg your pardon?

3 MS. STRICKLAND: An hour and ten minutes. 7:40
4 a.m.

5 MR. BLACK: Okay, so how were they an hour
6 and ten minutes --

7 MS. STRICKLAND: Okay. Let me explain. Okay.
8 We have a process in place as far as the supply list. It's
9 a check-in and check-out list. That both the chief judge
10 and one of our full time employees was scheduled to go ahead
11 and sign out these ballots.

12 There was supposed to have been a total of 2,552
13 ballots issued. Problem was that only one box of those
14 ballots was issued out. Yes, there were 25 voters that did
15 show up on election morning. However, only 12 of those
16 voters left. Out of those 12, there were only two that
17 didn't return, and I believe it was a mother and daughter
18 that did not return, and it was only two people that worked
19 down at the beach.

20 As far as it goes, we had three ballot styles that
21 were being issued out to South Williams precinct. It was
22 a G069, a G070, and a G071. It was the G071s that were not
23 there. From what I'm understanding -- I was told at a later
24 date, after this hearing or what have you, there were a few
25 G071s out there, but not the total number. There should

1 have been 1,600 of those G071s.

2 Basically when I found out -- the chief judge had
3 contacted our office twice prior to my finding out that they
4 had not received the ballots. Okay? Two employees informed
5 her to look again. Two separate employees told her to look
6 again. I would think that our chief had the good sense to
7 look the first time.

8 When I was finally apprised of the fact, I asked
9 everyone, I said, "Has anybody checked that ballot room?"
10 Within two minutes I found those ballots. Within one minute
11 those ballots were out the door.

12 I asked for the chief -- the rover that brought
13 the ballots out to have the chief judge to contact me
14 immediately upon arrival of those ballots. That was at 7:40
15 a.m. As far as it's concerned, I immediately contacted my
16 board members, apprised them of the situation, and basically
17 requested that a resolution be made up to be sent up here
18 to the State Board extending our hours to afford those
19 individuals that did have to go to work to be able to come
20 back and vote.

21 We not only took that measure, but we also reached
22 out to the media which we've got media personnel -- local
23 medial personnel who can verify it that are here today,
24 where we went on a strong measure of having them get the
25 word out that those hours were being extended.

1 There is such a thing as human error, not
2 structural error. So that point I do have to argue. There
3 are things that do happen that are beyond the control of our
4 board members that are even sometimes beyond my control.

5 Mistakes had happened. I'll be the first one to
6 tell you, yes, that did happen. However, every measure was
7 taken to ensure that all those voters were able to return.

8 And by the way, the chief judge did instruct me
9 that night that all that she saw that were turned away, 12
10 voters versus 25 to 50. That's an exaggeration. As far as
11 it goes, that I would have to argue with anybody present at
12 this point in time.

13 DR. ANDERSON: What steps did you take to
14 instruct the chief judge to start immediately accounting for
15 the voters who had shown up and were not able to vote and
16 thus had to leave so that we could account for the ones that
17 actually presented during the hour and 40 minutes and did
18 or did not return?

19 MS. STRICKLAND: Yes, ma'am. At that time I
20 did not instruct the voters to take -- the chief judge to
21 take down the names. That is something that will be
22 corrected in future elections. That I can guarantee you.

23 DR. ANDERSON: So where does the number of
24 25 and 12 come from?

25 MS. STRICKLAND: It came from the chief judge

1 and those that were processing the voters.

2 DR. ANDERSON: Based on what though?

3 CHAIRMAN CORDLE: That's not your personal
4 knowledge then.

5 MS. STRICKLAND: No. This is what I was
6 informed from the precinct level, that there were 25 voters
7 that showed up between the hours of 6:30 in the morning and
8 7:40 in the morning.

9 Out of that 25, the others were able to vote the
10 G069 and the G070s. The only ones that were not able to
11 vote that morning were the ones that were needing the G071.
12 This is what I'm informed of.

13 MR. BLACK: So those voters who were
14 eligible to vote a 071 ballot had already been processed in
15 and then it was discovered, "Hey, we don't have any 071
16 ballots"?

17 MS. STRICKLAND: Well, no, basically the chief
18 judge had contacted our office, contacted two employees in
19 our office prior to the polls opening, two of them.

20 CHAIRMAN CORDLE: I think what he's -- what Mr.
21 Black is asking you, what was happening at the polling
22 place. Were the voters processed in? Was a record kept of
23 the voters who did not vote?

24 MS. STRICKLAND: As far as it goes, no. At
25 that point in time, no, because I was not informed of the

1 situation until 10 after 7:00 that morning.

2 MR. BLACK: So in essence what you're
3 saying is that the chief judge told you that there were only
4 12 voters --

5 MS. STRICKLAND: That's right.

6 MR BLACK: -- that were unable to vote.
7 That was just the chief judge's opinion, doing the math,
8 what she broke down, or what she observed, all of the above?

9 MS. STRICKLAND: I don't know for -- I don't
10 know if she actually documented it. I don't know. I was
11 not there. That would come from the chief judge.

12 DR. ANDERSON: What instruction -- so someone
13 else from the county board office must have instructed the
14 chief judge at the time that -- after two calls and her
15 looking and finding none and their calling back -- you just
16 said that you didn't learn of it until 7:10.

17 MS. STRICKLAND: That's right.

18 DR. ANDERSON: So the polls were open for 40
19 minutes --

20 MS. STRICKLAND: It was 7:05 to be exact.

21 DR. ANDERSON: Seven what?

22 MS. STRICKLAND: 7:05. It took about 20
23 minutes, between 20 and 25 minutes to get those ballots out
24 there.

25 DR. ANDERSON: So what staff member knew that

1 there weren't ballots there and that we were going to have
2 to get them there?

3 MS. STRICKLAND: I had our -- the first person
4 that the chief judge informed me that she had spoken to Ms.
5 Jackie Bozeman. The second individual that she had spoken
6 to was Ms. Bowen. The third individual on the third call
7 that she had actually spoken to was Ms. Kathy Enzor, who
8 immediately brought it to my attention at that time, and
9 that was at 7:05 a.m.

10 I went into -- I asked if anybody had checked in
11 the ballot room. No. I walked in the ballot room. They're
12 sitting right there. We have a ballot room where we lock
13 up voted ballots and unvoted ballots. There is a secure
14 process in which you enter into that room.

15 DR. ANDERSON: At what time did you notify
16 that State Board that there was this issue that ballots were
17 not available from the opening of the polls?

18 MS. STRICKLAND: It was probably about 20
19 minutes after that, simply because I was trying to reach
20 -- I was trying to reach my board to let them know of the
21 situation.

22 DR. ANDERSON: My recollection is we were
23 asked to approve a two-hour extension, or was it an hour and
24 40 minutes?

25 MR. LAWSON: Recollection, an hour and 15

1 minutes.

2 DR. ANDERSON: An hour and 15?

3 MR. LAWSON: It has to match.

4 DR. ANDERSON: Right.

5 MR. LAWSON: It's 50. I'm sorry. One hour
6 and five-zero.

7 MS. STRICKLAND: I thought it was very close
8 to two hours. So that was our best guesstimate of the time
9 out of commission?

10 MR. LAWSON: That was based on the
11 information that we had because the statute only lets us
12 meet whatever the delay was.

13 DR. ANDERSON: Do you have incident reports
14 that document these things?

15 DIRECTOR STRACH: I was just checking on that.
16 I'll go find out.

17 DR. ANDERSON: I do have other questions for
18 Ms. Strickland, but they're not related to this, so maybe
19 Mr. Joyner would like to continue, and then we can -- I
20 don't know.

21 CHAIRMAN CORDLE: Thank you, Mr. Black. Mr.
22 Joyner, we'll let you get back to your argument.

23 DR. ANDERSON: He only used five minutes.
24 I was looking.

25 CHAIRMAN CORDLE: I understand. We'll give you

1 an extra minute because of the disruption.

2 MR. JOYNER: Well, I would like to be able
3 to respond again after this new evidence is presented here.
4 If you look at the record, none of this was present in the
5 record. We had a hearing in Columbus County, and none of
6 this testimony --

7 CHAIRMAN CORDLE: This is why we ask the
8 executive director usually to come to hearings like this,
9 because often their testimony may not come in, but they have
10 a lot of knowledge or at least access to a lot of knowledge.

11 MR. JOYNER: Well, this director did
12 testify at the hearing and was questioned about this very
13 issue, and this particular or these particular speculations
14 were not presented at that time when there were present in
15 that hearing people who were at the Tabor City poll.

16 So I would like to respond to whatever, the
17 additional information is. The structural error. The
18 structural error. Training for whomever is directing that
19 particular polling site would have said that the first thing
20 that you carry to the poll is the ballots if you can go, and
21 you should ensure that the ballots are there in order for
22 people to vote. And so --

23 MR. LAWSON: He was checking your mike.

24 MR. JOYNER: Oh, all right. Do I get
25 another minute for that?

1 (Laughter)

2 MR. JOYNER: So it's a fundamental error.
3 Fundamental error. Now, these weren't the only problems
4 that you had with the vote in Columbus County. There were
5 in addition -- and it was Tabor City and some of the other
6 polling sites -- complaints from people who had been long
7 time voters who came in to talk about when they went to
8 vote, that their names were not on the rolls.

9 These weren't new ballot -- these weren't new
10 voters. These weren't people who had signed up through DMV
11 or anything like that but people who had voted for years.
12 Mayor Hill being one of them who were told that "Your name
13 isn't on the roll, and therefore, you have to vote a
14 provisional ballot."

15 Some other people were told that there were no
16 provisional ballots available even though we know that there
17 is no such thing as a provisional ballot. There's just a
18 plain ballot. And they were either left or sent away, or
19 others had to go down to the Board of Elections to establish
20 that they were indeed registered to vote.

21 Mayor Hill and others had them to go back, and the
22 record is clear on those people who then went back to the
23 polling site at a later point, and some did vote; others did
24 not vote.

25 But I'm not really focusing on the vote as much

1 as I am focusing on the structural problems that exist, that
2 where people have been registered to vote for years and have
3 voted at a particular precinct for years and then they go
4 to that precinct and they're told that their name isn't on
5 the roll, that that's a structural problem, especially when
6 they can then go to the Board and find out, "Well, you are
7 registered to vote." Someone is either misreading the voter
8 registration or they are incapable of being able to
9 determine whether the person is registered to vote.

10 There's also an issue of nine votes from the
11 Liberty -- Liberty Hill Nursing Home. These were
12 individuals who were in the nursing home who made a request
13 for ballots and then the ballots were sent to them, but it
14 was, as the evidence or the record will state, a day late.
15 They were not supposed to sent them out.

16 The voter -- the ballots were sent out. The
17 voters at the nursing home voted, and there is no evidence
18 that they did not vote properly. Those votes or envelopes,
19 from what we understand now, were returned to one of the
20 polling sites. No one knows when or how, but at the end of
21 the day the precinct chair presented those to the county
22 board, and the county board decided not to count those
23 ballots.

24 So these are nine people how were dispossessed
25 now, not because of anything that they did but something

1 that somebody else did. Nobody knows when the ballots were
2 returned to the precinct voting site.

3 Director Strickland indicates that in her
4 testimony that sometime after five o'clock, she was made
5 aware that these ballots were in the hands of the precinct
6 chair, and because they were delivered after five o'clock
7 on election day, the county board decided that they could
8 not count those ballots.

9 There is no investigation, no record of what
10 happened or how it happened, but these nine people were not
11 able to vote. That's a structural error. That's a
12 structural error where people are not following through on
13 the roles and responsibilities that they have to ensure that
14 the people who vote, that they are proper -- those votes are
15 properly received, protected, and then put in a position so
16 that they are voted, particularly people who are most
17 vulnerable and cannot go out and fend for themselves.

18 So we have these nine people now who could not
19 and did not vote because the county board decided that
20 something somebody did, not attributed to any other voter,
21 was improper. That's a structural error. That's a
22 structural error that we're dealing with.

23 There were several people -- and I state this in
24 my brief, and I don't want to go through each and every one
25 of them except to say that these were significant structural

1 errors that I presented in my brief, and collectively or
2 cumulatively they cast doubt on the integrity of the process
3 that was engaged in in Columbus County.

4 And the statute clearly provides a situation where
5 this board can order a new election where there is a lack
6 of confidence in the integrity of the process, where the
7 cumulative nature of these irregularities and these
8 violations of statute are such that it undermines the very
9 legitimacy of the election.

10 And we are calling upon this board to correct that
11 problem, and the only way that that can be cured is by
12 ordering a new election in that district. For other, I'm
13 going to rely upon my brief and then want to respond as a
14 part of the rebuttal.

15 CHAIRMAN CORDLE: You'll have two to three --
16 two and a half minutes to respond.

17 MR. JOYNER: Thank you.

18 CHAIRMAN CORDLE: Thank you, Mr. Joyner.

19 MR. WORLEY: If I may, Mr. Cordle.

20 CHAIRMAN CORDLE: Yes, sir.

21 MR. WORLEY: I'm going to begin this brief
22 or this part of the argument the same way I began the other
23 one. As to this issue, I'm asking that this Board affirm
24 the lower decision's board [sic]; that it was supported by
25 the evidence, it was supported by the law, and they made

1 the appropriate determination that there was no
2 irregularity, misconduct, or other act that calls into
3 question the outcome of this election.

4 What we have here -- that would apply to both the
5 April 3rd and 4th hearing, the record we have, and also the
6 November 30th hearings -- or hearing that addressed various
7 aspects, some overlap, but on the whole what you find are
8 the two most important issues or at least the two issues
9 that really kind of have meat on the bone which would be the
10 Tabor City precinct, South Williams precinct number 26; that
11 is where the ballot styles for a particular initiative were
12 not available in Tabor City, and then also the nursing home
13 ballots. Those were kind of the two overlapping issues that
14 you can see.

15 Regardless of whatever the issue is, and there
16 are some lower level items that are addressed, all equally
17 important, because we're going to the integrity of the
18 election of what -- of making sure every vote's counted and
19 to ensure whether somebody wins by one vote or wins by 37
20 votes, we ensure that the will of the majority is carried
21 out.

22 And the protestors have the burden of proof again
23 just like they did in the prior issue that we were
24 addressing. They have the burden of proof again to show by
25 substantial evidence that not only did an irregularity occur

1 but more importantly or also equally important is that it
2 changes the outcome of the election.

3 It's not sufficient to state that an irregularity
4 occurred, be it structural, personal, or what have you.
5 What's important is does it call into question the outcome
6 of the election. And to that answer the local board said
7 no, and to that answer you should also say no. And you do
8 the same standard of review that we did before. It's going
9 to be the whole record test.

10 And so going towards that Tabor City issue
11 specifically the South Williams precinct, we did not have
12 the opportunity or aid during the November 30th hearings to
13 have Director Carla Strickland present herself due to the
14 fact that she had a medical issue. So it was great to hear
15 that information.

16 And what you have at that Tabor City precinct in
17 South Williams township is that there were three ballot
18 styles available. One of those ballot styles were not --
19 or three ballot styles were at that precinct. One was not
20 available for a certain period of time, specifically an hour
21 and 50 minutes.

22 And during that hour and 50 minute period of time
23 we heard all manner of the low end being 21 persons had
24 appeared to 30 persons having appeared. During that period
25 of time they weren't able to cast the ballot for that

1 particular mission.

2 I was please to hear Ms. Strickland state that
3 effectively only 12 individuals for that particular ballot
4 style initiative because that -- I guess what the board
5 needs to understand is Tabor City or South Williams precinct
6 covers a rural area and also a municipality.

7 That municipality being Tabor City had an ABC
8 referendum. That ABC referendum was only local to residents
9 of Tabor City. Now we're hearing that only 12 individuals
10 were delayed in having to vote, and ultimately only two
11 individuals were unable to vote.

12 That event occurred, that the ballot styles were
13 not available. The more important question is does it
14 change the outcome of the election. And when you actually
15 look at the facts, when you look at the record, it's a
16 resounding no.

17 You have two individuals, based on what Ms.
18 Strickland says, that weren't able to vote, and those were
19 the two individuals that tried to vote that morning and
20 returned -- or went to Myrtle Beach and weren't able to
21 vote, weren't able to come back.

22 So those were the two individuals that you have.
23 But also when you look at the remainder of the evidence,
24 there is no other individual that says that, yes, I was
25 delayed; they did not have the ballot style available, but

1 I was able to return back to vote.

2 There was only two individuals that say they
3 weren't able to return back to vote. That's critically
4 important because when you're winning the -- when an
5 election is decided by 37 votes, that doesn't call into
6 question the outcome of the election, and that's what we
7 have here.

8 Effectively the ballot styles not being available
9 are repaired or that irregularity, if you want to accept
10 that irregularity occurred, was off-ended or was set aside
11 by extending the polls for the exact same amount of time.

12 And then you had at least 31 individuals vote, and
13 how do we know that? It's because at 7:30 when the polls
14 shut down, everybody had to vote absentee ballot, and when
15 everybody voted -- or, excuse me, not absentee --
16 provisional ballot.

17 If you look at that particular precinct, you have
18 50 total provisional ballots being cast. You go back and
19 look; there were 19 provisional ballots offered for other
20 reasons other than voting after hours, which leaves you with
21 31 ballots.

22 Now we hear that only two individuals were unable
23 to come back to vote or weren't able to come back to vote.
24 What we have is a voter inflation; that we get more
25 individuals able to vote. Effectively one spectrum being

1 29 to a lower spectrum of, if you actually view it up to 30,
2 being one individual was -- I guess there were more
3 individuals that voted -- unable to vote. So it doesn't
4 change the outcome of the election as to that Tabor City
5 precinct.

6 Going on to the nursing home ballots which is
7 these nine ballots that were addressed in the Hill hearings
8 and that were addressed in the Gloria Smith hearings, there
9 are a litany of issues, if you want to present it, or
10 occurrence of events; one, the ballots being requested late,
11 the ballots being given out even though they were requested
12 late.

13 The more important question is, is who handled
14 those ballots. We have Director Carla Strickland stating
15 that nursing home individuals handled those ballots.
16 Nursing home individuals handled those ballots as far as
17 giving them out to the nine personnel members, they
18 delivered them to a polling place, and they delivered them
19 after hours.

20 Five minutes? I'll reserve the remainder of my
21 time if I'm able to do that, or I can keep going.

22 CHAIRMAN CORDLE: I think you need to keep
23 going.

24 MR. WORLEY: I will keep going. So
25 effectively -- and Professor Joyner brings up an excellent

1 point is --

2 CHAIRMAN CORDLE: Well, I take that back. If
3 you want to stop now, we've got some other testimony that
4 may be offered here and if you all will -- well, we'll give
5 you some time to -- if that is offered, we'll give you some
6 time to ask those questions.

7 MR. WORLEY: Okay. I'll keep rolling
8 through if there's additional -- okay. Be perfect.

9 The nursing home ballots were handled in all
10 manner of ways that were inappropriate, and because
11 individuals are in their tender years at that point, that's
12 the reason why there are statutes prohibiting them handling
13 them.

14 Professor Joyner and the other side addresses,
15 well, it's speculation on how they were handled. You have
16 the burden; meaning, the protestor has the burden to be able
17 to show that they were handled in a manner that wasn't
18 inappropriate. Otherwise, we cannot count those ballots.
19 And they were appropriately not counted.

20 Every other item that is listed in these
21 allegations are in the -- what would amount to what they
22 allege are irregularities or misconduct or otherwise. Time
23 and time you begin to see that an issue was supposedly
24 presented, but it in no way, shape, or capacity affected the
25 outcome of that particular person's vote, and therefore did

1 not affect the outcome of this election.

2 That's what the critical aspect and element is.
3 When you go to the Tabor City precinct, because I wasn't
4 able to put in the record specific page numbers, in the
5 record of 33, the high side was 25 to 30 individuals were
6 unable to vote, and we had at least 31 individuals that did
7 vote after hours. So again, offsetting, doesn't change the
8 outcome of the election.

9 We have Ms. Strickland saying here that only two
10 and actually only 12 were actually specifically affected.

11 There are issues about voting -- the machines
12 being jammed at that Tabor City precinct. I think that's
13 just kind of in the fog of war. The machine shut down at
14 7:30, and when the machine shut down at 7:30, they take it
15 as a jam, but in actuality the machines just don't work
16 after 7:30 because that's when the polls close, and that's
17 when everybody voted.

18 There is nothing in the brief of Mr. Joyner.
19 There is nothing in the record of the transcript of either
20 the November 30th hearing or the April 3rd and 4th hearings
21 that would call into question the outcome of the election,
22 and I would ask that you appropriately find the lower board
23 decision and affirm it. Thank you.

24 CHAIRMAN CORDLE: Thank you, sir. Mr. Joyner,
25 you may -- or do you want to give 30 seconds to Mr. Frasier?

1 MR. JOYNER: I'm going to keep my time.

2 CHAIRMAN CORDLE: All right.

3 MR. JOYNER: You know, in this great battle
4 of words, speculation never equates with facts. There are
5 some things that we know. Nine people from the nursing home
6 did not have their ballots counted because of missteps by
7 this Board. I don't have to go any further than that. That
8 proves and establishes that point.

9 That at 6:30 there were 25 to 30 -- 50 people
10 outside of the Tabor City polling place. That during that
11 period of time that the poll was closed, that another 25 or
12 so people came up and could not vote.

13 They did not keep a record of those people who
14 showed up to vote. Yet they are going to give you exact
15 numbers on how many people showed up at 7:30 and after to
16 vote? That's speculation or it's voodoo facts, made up
17 facts, facts that aren't supported by the record at this
18 hearing that was held in this case. So what we have is a
19 bunch of speculation.

20 Nursing home people handled the ballots. There
21 is no evidence other than Ms. Strickland's speculation on
22 what she heard or what she thought that that is in reality
23 what happened.

24 CHAIRMAN CORDLE: Mr. Joyner, didn't some of the
25 nursing home employees witness these ballots, sign --

1 MR. JOYNER: I've not seen that evidence,
2 nor is that evidence in the record that we have. What we
3 do have is that there was a request from the state board
4 that the county board recognize and count those ballots, and
5 the county board refused to do that.

6 Now, that is in the record, but whether -- there
7 is nothing in the record that talks about whether people
8 from the nursing home did anything with those nine ballots.

9 Now, so whose responsibility is it to keep those
10 records? The county board. That is their responsibility
11 to make sure that those people who voted, that their votes
12 are cast and that those votes are counted, and when through
13 that negligence, through that negligence, the voters are not
14 able to satisfy their constitutional right, that the cure
15 is a new election because these people have been
16 dispossessed by not anything that they did, but by something
17 that happened elsewhere.

18 There is no evidence as to what time those ballots
19 came in to the local polling site. That is impossible for
20 anyone to accept except that those ballots did show up, and
21 they showed up in the hands of the precinct chair, and on
22 that point the county board has the responsibility and bears
23 the burden of establishing what went wrong. They haven't
24 even conducted an investigation.

25 CHAIRMAN CORDLE: Thank you, sir.

1 MR. LAWSON: Mr. Chairman, I have Mr. Boyd
2 having one more minute. He didn't say reserved it though,
3 but I did have one more minute.

4 DR. ANDERSON: Who?

5 MR. LAWSON: Mr. Boyd had one minute left.
6 I wasn't sure if it was his intent to reserve that or not.

7 CHAIRMAN CORDLE: Are you talking about Mr.
8 Worley?

9 MR. LAWSON: Yes. Boyd Worley. Sorry.
10 First name.

11 CHAIRMAN CORDLE: I think he can hold onto that.
12 You may have it. Speak if you like.

13 MR. JOYNER: I didn't think procedure
14 allowed that.

15 MR. WORLEY: If the event calls for it, I
16 don't need to be heard much more.

17 CHAIRMAN CORDLE: Yeah, I think you're right,
18 Mr. Joyner. We have committed to the parties in this matter
19 when we returned the case to Columbus County that we would
20 have available our investigators who have done a criminal
21 and another investigation concerning absentee ballots in
22 Columbus County as well as people that were in charge of our
23 investigation earlier in Bladen and Robeson and other
24 counties up that way. She is here and present and can
25 testify if you all would like her to testify. The board has

1 a general idea of what she would say, but it's up to you all
2 if you want to hear her.

3 MR. JOYNER: Yes, we would like to hear
4 her.

5 CHAIRMAN CORDLE: All right. Joan, I think this
6 is -- if maybe you would -- would you state your name,
7 please, ma'am?

8 MS. FLEMING: Yes, sir. Joan Fleming.

9 CHAIRMAN CORDLE: Should we swear her?

10 MR. LAWSON: It's not customary for -- but
11 you can if you would like.

12 CHAIRMAN CORDLE: I didn't think the board
13 members would have to be sworn. Do you all want to question
14 her? Let's start, Joan, what did you do in Columbus County
15 after the election as part of your investigation? You can
16 give us just a general outline.

17 By the way, some of this -- some of her testimony
18 may be subject to some confidentiality because of ongoing
19 investigations and we would not want her to testify as to
20 those matters.

21 MS. FLEMING: All right, in Columbus County
22 the Investigation Section looked into activities potentially
23 of McCrae Dowless operating in Columbus County based on
24 information that we obtained.

25 We basically had three sources of information.

1 One came from a witness, Lisa Britt, who testified at the
2 evidentiary hearing that we had. One source of information
3 was the Columbus County Board of Elections itself, and
4 another source was information that came from Jody Greene
5 and Angie Greene. And all of this has to do with McCrae
6 Dowless's activities, again, in Columbus County.

7 So starting with Lisa Britt, Lisa Britt told us
8 that she had been asked by Mr. Dowless to bring -- to
9 solicit absentee request forms in Columbus County, which she
10 did, and she was asked to return those to the Columbus
11 County Board of Elections by Mr. Dowless.

12 Mr. Dowless -- through information that I got from
13 Columbus County Board of Elections and also Lisa Britt, Mr.
14 Dowless had appeared at the Columbus County Board of
15 Elections and met with the basically second election
16 official in charge, who was Jackie Bozeman. He did not meet
17 with Ms. Strickland.

18 And he told Ms. Bozeman that he intended to have
19 one of his workers drop off absentee request forms at the
20 office, and he also requested that he be given information
21 which is publicly available information concerning the
22 absentee ballot request forms and just the absentee returns
23 in general in Columbus County. And he did ask for that
24 information on a almost daily basis.

25 So anyway his worker, Lisa Britt, did show up at

1 the office. She went to see Ms. Bozeman as well, as she was
2 instructed to do. She brought with her 150 absentee request
3 forms which she dropped off. She did not sign the log which
4 the Columbus County Board was supposed to maintain. She was
5 not asked to sign that log. She returned again and dropped
6 off another smaller quantify of forms at a later date and
7 once again was not asked to sign the log.

8 So we consider the fact that the absentee ballot
9 request log was used in an inconsistent manner -- and there
10 were some other side issues with that as well which I won't
11 go into right now, but the fact that she didn't sign in on
12 the log is certainly a performance problem for us as far as
13 how the board acted.

14 Those forms were processed. Absentee ballots were
15 sent out, but we have no evidence that Lisa Britt ever went
16 back and did any collections activity. That's what she told
17 us. In our own examination, we have thoroughly gone through
18 all those absentee ballot request forms -- well, both the
19 request forms and we've also looked at the absentee ballot
20 container envelopes that were returned, and we didn't find
21 any organized, any of these signed markers of fraud, if you
22 will, that we've seen in previous -- in the previous Bladen
23 election and in other instances of absentee ballot fraud or
24 absentee ballot harvesting. We didn't see any of those
25 markers.

1 Ms. Britt also informed us of two other
2 individuals who may have been involved on McCrae Dowless's
3 behalf in collecting -- soliciting absentee ballot request
4 forms and collecting them, and likewise we did not see any
5 evidence of ballot collection.

6 What we did see and what we did discover from
7 talking to Angie Greene and Jody Greene is that similarly
8 to what he did in Bladen County, McCrae Dowless did engage
9 with the Jody Greene campaign in agreeing -- well, let me
10 back that up. Andy Yates, doing business as Red Dome, who
11 was associated with McCrae Dowless in the Bladen matter
12 engaged in a contract with the Jody Greene campaign on the
13 promise that he would provide them with positive absentee
14 ballot results which they had not been able to get to that
15 point in their campaign. No mention of ballot collection
16 was ever made to the Greens, according to what they have
17 said.

18 They were -- similar to Bladen County, there was
19 going to be a amount of money paid for workers to go out and
20 collect absentee request forms, and then another amount of
21 money to ensure the ballots were turned in, and again, no
22 outright admission that ballots were going to be collected
23 was ever made.

24 The Greens were introduced to Andy Yates of Red
25 Dome by another candidate who also engaged, we believe, with

1 Red Dome, and the Greenes told me that an up-front amount
2 of money that they had to pay in order to engage in the
3 contract. Unlike with Mark Harris, there was an actual
4 written contract between the Jody Greene campaign and Red
5 Dome.

6 No mention was made to the Greenes of McCrae
7 Dowless's name, but Andy Yates did describe that he had a
8 person who would be his -- who was the person who ran this
9 absentee ballot program, and that they would have the
10 workers go out and perform the duties that were promised.

11 The Greene campaign was subsequently billed in an
12 invoice in October of 2018. Accompanying that invoice was
13 an e-mail in which a claim that 310 absentee ballot requests
14 had been collected by Red Dome and ostensibly Mr. Dowless.
15 And the Greenes conducted some analysis of that claim, that
16 310 absentee requests have been collected, and found that
17 it was not believable to them.

18 And in the end their position, I believe, is that
19 Andy Yates and McCrae Dowless may have defrauded their
20 campaign of approximately \$4,000 in monies that were paid
21 for work that they do not believe that was done, and they
22 are grateful that they do not believe any ballot collection
23 was done.

24 So we are continuing to look into the monies that
25 went to Red Dome and investigate basically the promises that

1 were made through any contracts that are relevant to this
2 investigation, and that's where we are right now.

3 CHAIRMAN CORDLE: All right. Now, you were
4 talking about Mr. Greene's campaign. Did you find any
5 evidence of Democratic ballot collection in Columbus County?

6 MS. FLEMING: Okay. Yes, sir. In analyzing
7 the absentee ballot request form returns and ballot returns,
8 Angie Greene did a detailed analysis and noticed that there
9 was a marker. And if you watched the evidentiary hearing,
10 you know that John Harris talked about this.

11 There was a batching of forms on a particular date
12 and batching of ballots rather; in other words, a large
13 group of ballots was received at the Columbus County Board
14 of Elections on October 15th. That drew suspicion, and her
15 analysis showed -- directed her toward a particular name.

16 I conducted the investigation of that particular
17 person, and my team and I went out and did extensive
18 interviews, and we have confirmed there was ballot
19 collection by this person, but we do not see it connected
20 to any particular campaign or for any -- or for any
21 particular pay from any source.

22 Appears to be a person who thought that they were
23 helping voters -- at least that is their position -- and did
24 not realize that they could not collect the ballots of these
25 voters. The person was providing postage and basically

1 collecting the ballots and mailing them in. We don't have
2 any reason to believe they didn't get mailed into the
3 Columbus County Board of Elections.

4 CHAIRMAN CORDLE: And you found no connection
5 to a particular campaign?

6 MS. FLEMING: No, sir.

7 CHAIRMAN CORDLE: Do members of the Board have
8 questions?

9 (No response from the Board.)

10 CHAIRMAN CORDLE: Mr. Joyner?

11 MR. WORLEY: No, Your Honor. Excuse me.
12 No, Mr. Cordle.

13 MR. JOYNER: I don't have any other
14 questions.

15 DR. ANDERSON: I have a question for Ms.
16 Strickland.

17 CHAIRMAN CORDLE: Thank you, Mr. Joyner. Ms.
18 Strickland, could you step back up, please.

19 MS. STRICKLAND: Yes, sir.

20 CHAIRMAN CORDLE: Thank you. Dr. Anderson has
21 some questions.

22 DR. ANDERSON: I'm concerned about human
23 error, mistakes that are made out of the Board of Elections
24 office on whoever's part. That I'm concerned about the
25 responses of individuals to known problems, the Tabor City

1 correct ballot style being one.

2 I do not understand how the nine voters from the
3 nursing home -- I don't understand how that all went. I
4 presume -- I can only presume that they got -- the staff
5 that inquired about getting absentee ballots or the ability
6 for some of the residents to vote by absentee ballot must
7 have been instructed by the county board in some way.

8 So I don't know if you have direct knowledge of
9 what transpired in terms of the way that they were
10 instructed as to what to do, what their options were at that
11 late date, whether or not a team would go out, whether or
12 not they made clear to nursing home staff that they were not
13 to assist in any way, and thus they might have needed an
14 assistance team, a bipartisan assistance team. What went
15 on?

16 And then I would like to also ask you about what
17 your first-hand knowledge is, if any, about why we seem to
18 have so many voters who reported that they were told at the
19 poll that they didn't have, quote, provisional ballots.

20 I've looked at the transcript from the November
21 30th hearing. I only see -- and correct me if I'm wrong
22 -- testimony given by Portia Bowen and Jackie Bozeman at
23 that hearing. Is that all --

24 MS. STRICKLAND: The initial -- there were two
25 separate hearings.

1 DR. ANDERSON: Right. I'm talking about the
2 November one.

3 MS. STRICKLAND: The very first hearing I was
4 not available for. On November -- on canvass day, I
5 suffered a stroke and seizure. I have been out of the
6 office up until February 28th. I returned when the second
7 hearing was being set up.

8 What transpired, what was attested to and what
9 have you, I can tell you what took place, when it took place
10 during the time that I was there. As far as the nursing
11 home ballots, I agree with you. I have great concerns of
12 what has taken place at our office, but again, I have to
13 reiterate there were some issues that were out of our
14 control.

15 First thing is, is that those absentee request
16 forms that you are alluding to that went to the nine ballots
17 that ended up being brought in on election night shouldn't
18 have been mailed out, and I am fully aware of that because
19 there were two sets of absentee requests that were faxed to
20 our office. The first set were dated for November 1st. The
21 second set were dated for November 2nd.

22 DR. ANDERSON: And received on those days?

23 MS. STRICKLAND: Received on those two days via
24 fax. Situation is this: With that being said, I knew that
25 those were after the deadline because the deadline was

1 October the 30th, 5:00 p.m.

2 As far as it goes, what I noted in the SEEM
3 (phonetic spelling) system really caused me a great amount
4 of concern. I have red flags that go off in my head too.
5 I've been doing this for 15 years. And that is that, first
6 off, I was not -- and I think the testimony in the record
7 needs to be corrected -- informed about those absentee
8 ballots until almost a week after the election, almost a
9 week.

10 The individuals involved as far as receiving those
11 absentee ballots, who received them in the office, who was
12 notified -- it was just by happenstance that I was informed
13 that these ballots were returned to our office on election
14 night.

15 The woman who witnessed it is sitting right here.
16 As far as it goes, she was sitting in my office with another
17 board member and it was brought up, and it was like, "What
18 are you talking about?"

19 The staff members involved did not inform me that
20 this had taken place. It was disconcerting to say the
21 least. I brought that staff member in and asked directly
22 why was I not informed. I was told an out and out lie.
23 And I'm making this a matter of record.

24 There have been a lot of things that have taken
25 place in our office, a lot of people that were meeting

1 behind closed doors with certain staff members throughout,
2 prior to the election, throughout the election cycle, and
3 they are here today fully aware of who they are.

4 As far as it's concerned, there has been an effort
5 in my office to unseat me directly from my position. When
6 those absentee -- when I heard that employee lie to both of
7 my board members right there in front of me, I knew what was
8 going on.

9 As far as it goes, no one gave anybody permission
10 to mail out absentee ballots to nursing homes, to the
11 nursing homes, that were received after the deadline. No
12 one. That is a matter of record.

13 Anybody that knows me, they know that I am
14 truthful and that I am honest to the best of my ability and
15 what I can remember. Those absentee ballots were brought
16 in through the back door on election night, the back door,
17 not the front door.

18 DR. ANDERSON: But they were first delivered
19 to a precinct, polling place; is that correct?

20 MS. STRICKLAND: That's right. They were
21 delivered to --

22 DR. ANDERSON: And how did the nursing home
23 staff with these nine ballots get to a precinct polling
24 place?

25 MS. STRICKLAND: The nursing home employee

1 delivered them. I -- immediately upon finding out about
2 this situation, I contacted the state board. I requested
3 for a state board investigator to come down to our office
4 and investigate the situation, which is normally what I do
5 when I have red flags that go up in my head.

6 When I see issues that aren't right, that aren't
7 being done properly or correctly, I will automatically
8 inform State Board of Elections staff. I will put a call
9 in and say, "Hey, I'm seeing this, but this doesn't look
10 right to me. Is this right or is this wrong?" Okay? I
11 don't turn around and push the record down.

12 If I'm at fault for anything, I'm going to own it,
13 and I agree with you, ma'am; Ms. Anderson, Dr. Anderson, I
14 agree with you as far as keeping notation of those voters
15 that should have shown -- that should have -- that came out
16 on election morning. Yes, that should have been done. I
17 will own that. I will absolutely own that.

18 DR. ANDERSON: Do you have any idea of what
19 the situation is as to why multiple voters reported -- and
20 I'll take them at their word -- that they were told at the
21 polling -- a polling place or maybe a couple of different
22 ones that they weren't able to vote because they didn't
23 have, quote, provisional ballots.

24 We all know that there's no such thing as a
25 provisional ballot. There is a required provisional

1 envelope --

2 MS. STRICKLAND: Envelope. Envelope.

3 DR. ANDERSON: -- to make it happen.

4 MS. STRICKLAND: Yes, ma'am.

5 DR. ANDERSON: And there is testimony in the
6 November 30th hearing, the county board hearing, the first
7 one that heard Nancy Hill's protest about the issue of
8 needing to deliver provisional envelopes to the polling
9 place.

10 MS. STRICKLAND: Yes, there was only one
11 polling place that evening that we sent out provisional
12 ballot envelopes. Because we knew that the extension of
13 hours would have to be done provisionally, we sent out more
14 provisional ballot envelopes. They had run low, but they
15 had not complete --

16 DR. ANDERSON: Are you satisfied that you've
17 gotten the truth from the chief judge, the poll workers,
18 whoever it is, that they were not out of ballots before they
19 reported it to you such that people -- that was not stopping
20 people from being able to vote provisionally if they needed
21 to?

22 MS. STRICKLAND: Yes, ma'am, I am satisfied,
23 because many of the points that she brought out, what I read
24 in the transcript, were exactly what took place out there,
25 that I could take the satisfaction of knowing that these

1 provisional ballots were actually voted.

2 As far as who was turned away, that was an issue
3 that Marlando Pridgen brought up during the hearing. I read
4 the testimony, and basically I have to --

5 DR. ANDERSON: And this is on the issue
6 of --

7 MS. STRICKLAND: The ballots, the provisional
8 ballot envelopes or what have you.

9 DR. ANDERSON: Provisional ballots or
10 envelopes.

11 MS. STRICKLAND: As far as no provisional
12 ballot envelopes being out there throughout election day,
13 no. We always start -- we have file boxes separated by work
14 station for every precinct, and in the help station file
15 box, we supply numerous -- a number of the provisional
16 envelopes.

17 As far as running out, I'm not aware of anybody
18 running out. I was aware that they were running low, and
19 we needed to make sure that they were able to get through
20 the extended hours.

21 DR. ANDERSON: So we don't have an
22 explanation for why multiple voters said that there were no,
23 quote, provisional ballots when --

24 MS. STRICKLAND: There's no such thing as a
25 provisional ballot.

1 DR. ANDERSON: We know that. The voters
2 don't always use the right terminology.

3 MS. STRICKLAND: Yes, ma'am.

4 DR. ANDERSON: They're not familiar with the
5 terminology that we're familiar with, or to that extent, so
6 it's difficult to tell what went on. I believe you when you
7 say that you are concerned. Here's the issue: When
8 multiple mistakes are made, voters get disenfranchised.

9 MS. STRICKLAND: I agree 100 percent. I agree
10 100 percent.

11 DR. ANDERSON: If it's one thing and it's
12 something that's well documented or responded to in an
13 appropriate way on the part of either the chief judge or
14 poll workers or Board of Elections staff, we mitigate the
15 damage to the voter.

16 When multiple things go wrong for whatever reason,
17 and the board's staff or the poll workers response is not
18 appropriate and not helpful, we can't mitigate the damage.
19 We extend the polling place hours at the one Tabor City in
20 the hope that no voters were disenfranchised. It's not a
21 perfect remedy. We needed a better way to mitigate the
22 potential damage to voters.

23 MS. STRICKLAND: Yes, ma'am. I do agree.

24 MR. CARMON: If I may.

25 CHAIRMAN CORDLE: Yes, sir.

1 MR. CARMON: I'm sorry for all you're
2 dealing with, and I'm glad to see you're recovering well
3 from your illness. Do you -- if I've heard you correctly,
4 the things you said here go directly to there being a
5 structural issue with your office.

6 Someone -- I don't think it's a mistake that they
7 couldn't find the ballots because you walked in and found
8 them. I don't think it's a mistake that they brought the
9 ballots in the back door. I think all of those things go
10 to there's a serious issue with your office.

11 And to hear you say that people are trying to
12 unseat you, that brings great damage to the reputation of
13 your office. Would you agree to that?

14 MS. STRICKLAND: Yes, sir. Absolutely, sir.
15 May I continue?

16 MR. CARMON: Yes. Sure.

17 MS. STRICKLAND: The one thing that I have
18 worked for and my former boards have worked for is for the
19 transparency and the fairness of all elections, and when you
20 have behaviors that are undermining; you have behaviors that
21 are actually going against to the point that it undermines
22 an election and it undermines my board, that's where I go
23 on the record and say, "No. That does not happen. We are
24 not going to allow that to continue."

25 MR. CARMON: Thank you.

1 MR. JOYNER: Mr. Chairman.

2 CHAIRMAN CORDLE: Yes.

3 MR. JOYNER: May I ask if there is a report
4 from the state board of this investigation of the nine
5 ballots from the nursing home? As I understand or the
6 record shows that there was a request that those votes be
7 counted, and a report on that has not been provided or
8 testified to.

9 CHAIRMAN CORDLE: I'm not familiar with any such
10 report, but I will check with the staff.

11 MS. FLEMING: Mr. Chairman, we have an open
12 investigation on the nursing home absentee nine ballots
13 matter. That is one of several investigations that were
14 temporarily interrupted by the Bladen County investigation,
15 but we did get far along in that investigation.

16 That I can tell you with certainty that there were
17 mistakes made at the nursing home level, and there were
18 mistakes made at the Columbus County Board of Elections
19 level. Director Bozeman or -- I'm sorry -- Director
20 Strickland is correct that the absentee ballots apparently
21 were sent out based on a request that had come in late, so
22 they went out anyway.

23 When they arrived at the nursing home, there was
24 nursing home staff who did not realize that they could not
25 participate in witnessing those ballots, so they did witness

1 them. One of the employees called in to find out where they
2 could deliver them to because they were trying to get them
3 in on time. There wasn't enough time to mail them back.
4 So she was told to go to the Columbus County Board of
5 Elections.

6 So she went to where the thought the Columbus
7 County Board of Elections was, and it was actually their old
8 location which is now a precinct, and that's why they were
9 delivered at the precinct. And then from there, the ballots
10 were brought over to the Columbus County Board of Elections
11 by a precinct worker and turned in.

12 So we have not completed all of that investigation
13 yet. At the time we were down in Columbus County conducting
14 interviews, Ms. Bozeman was not available to be interviewed
15 about her part in that, and so we have a little bit of work
16 to finish up before we can issue a report.

17 CHAIRMAN CORDLE: All right. Thank you. That
18 satisfy you, Mr. Joyner?

19 MR. JOYNER: Well, that's a report that we
20 did not have before and just reinforces the point that we
21 made previously.

22 CHAIRMAN CORDLE: I think we ought to take a
23 break for, say, ten minutes and come back. We'll come back
24 at ten minutes till 4:00.

25 (Whereupon, a brief recess was taken

1 from 3:40 p.m. to 3:57 p.m.)

2 CHAIRMAN CORDLE: I'd like to call the meeting
3 of the State Board of Elections back to order please. I'm
4 wondering at this time if any member of the state board has
5 a motion to make, testimony and argument having ended.

6 MR. CARMON: Mr. Chair.

7 CHAIRMAN CORDLE: Yes, sir.

8 MR. CARMON: Based off of the testimony of
9 the Columbus County executive director, I'm unable to make
10 a motion to -- I'm unable to make a motion to confirm what
11 the lower board said.

12 My stance on that is because to no fault of her
13 own, she stated that she has a office staff that appears to
14 be going rogue and doing things the way they want to do it,
15 and to quote my friend down at the other end, we can't have
16 individual boards, individual board staff doing what they
17 want to. We have to have it across all 100.

18 And it's sad; it's tragic. It was painful to hear
19 her to go through all that she's experiencing, but for those
20 reasons, I can't support the lower board's ruling.

21 MR. RAYMOND: If I may.

22 CHAIRMAN CORDLE: Yes, sir.

23 MR. RAYMOND: Dr. Anderson and David and I,
24 we've worked on lower boards of elections, local county
25 boards of elections, and I'm sure they would agree that we

1 do our best to execute perfect, seamless elections every
2 time. We do our best, but when you're dealing with some of
3 the volunteers, it's impossible; it's nearly impossible.
4 It sounds like that's -- more than that happened here, but
5 it's impossible to do.

6 And when an error or problem occurs, we do our
7 best to correct it and address it and move on. And as I
8 said before, certainly it sounds like there was a little bit
9 more here. However, even considering that, we have to
10 answer the question, were the problems and irregularities
11 that occurred sufficient enough to change the outcome?

12 We have to answer that question. And I do not see
13 how the problems that occurred -- the problems as pointed
14 out by Mr. Joyner and others were sufficient enough to
15 change the outcome of the election. So for that reason, I
16 have -- I support affirming the lower board's decision
17 regarding this matter.

18 MR. CARMON: I would counter, if I may,
19 based off of the testimony, we don't know how many votes
20 were actually impacted. Based on her testimony, we don't
21 know what actually went on down there.

22 She did the best she could to tell us what she
23 knew, but if she has a rogue group of people working for
24 her, it seems to me that there may be a ton of things that
25 we don't know or that she doesn't know. Because of that

1 uncertainty, I think it brings taint on the election.

2 DR. ANDERSON: I'd like to comment about the
3 fact that we actually had two lower board rulings; one from
4 November 30th that was the resolution of the petition of
5 Nancy Hill, and then only recently, with a somewhat
6 different constituted board, do we have a resolution or a
7 board finding that addresses Gloria Smith. Do I have the
8 name correct?

9 MS. STRICKLAND: Yes, ma'am.

10 DR. ANDERSON: I found that with regard to
11 the protest petition of Nancy Hill, we've got verified,
12 undisputable irregularities, mistakes, and the information
13 that I've heard today tells me there was not an adequate
14 response such that voters are impacted.

15 And I agree with Jeff; we cannot determine with
16 certainty and number, but we've got doubt on the validity
17 of the results because of the close nature of the election,
18 doubt on the results because of these irregularities, things
19 that if they happen, there has to be an adequate, proper
20 response on the part of -- primarily the responsibility
21 relies on the county board's staff to respond appropriately
22 so the voters are not disenfranchised.

23 MR. BLACK: Mr. Chairman.

24 CHAIRMAN CORDLE: Yes, sir.

25 MR. BLACK: To speak to the Tabor City

1 situation, we understand that the polls didn't open up in
2 a timely manner. However, it appeared to me from listening
3 to the director, that they did everything they could to
4 rectify the situation or to remedy the situation as soon as
5 they could. And short of having a time machine to turn back
6 time, I don't think they could've done anything differently.

7 As Ken mentioned, with any election there's a --
8 because we have humans that are running the election
9 process, there can always be mistakes made. The thing that
10 you hope that you can do is to mitigate those. And it's to
11 my satisfaction that the director did everything she could
12 to mitigate the time lost.

13 And as it turns out, she says that she's
14 relatively sure -- and I'll paraphrase her at that -- saying
15 that only two people actually didn't come back to vote in
16 that precinct.

17 It's unfortunate that that happened, but those
18 things do happen, and I don't know that we'll ever find a
19 perfect election as long as we have human beings involved
20 in the process. So I don't think that we should hold the
21 county at fault for what happened in one precinct.

22 Regarding the Liberty nursing home situation,
23 that's still under investigation.

24 MS. FLEMING: Yes, sir.

25 MR. BLACK: And so I'm not sure -- I mean

1 just from a procedural standpoint, the absentee ballots were
2 sent out late. They were filled out by those voters, but
3 then the -- those ballots were then handled by someone who
4 worked at the nursing home and delivered them to a precinct
5 and not to the Board of Elections.

6 And for what it seems to me, there was just a
7 calamity of errors in that entire transaction. But even
8 that scene, if you look at the whole of it, there was
9 nothing else -- evidence presented to me to make me think
10 that it changed the outcome of this election.

11 And so from that standpoint, I'm not sure which
12 motion -- which lower county ruling we're voting on. If we
13 could get some clarification on that, I would -- I'd be
14 inclined to support the county ruling that -- in favor to
15 the sheriff elected.

16 CHAIRMAN CORDLE: Your motion then, I believe,
17 ought to be that the state board dismiss the protest.

18 MR. BLACK: Do we not have a motion on the
19 floor?

20 CHAIRMAN CORDLE: No.

21 MR. CARMON: I did. My motion was to not
22 affirm the ruling of the county board.

23 MR. BLACK: But we didn't have a second.

24 MR. CARMON: No, we did not have a second
25 to not affirm. I don't agree with their ruling.

1 CHAIRMAN CORDLE: All right. Is there a second
2 to that motion? I think that was the first motion on the
3 floor.

4 MR. LAWSON: Mr. Chair, could I just
5 clarify just so we have it correct. So, the motion is to
6 reverse both Smith and Hill below, and is there any other
7 piece of that because Dr. Anderson seemed to be raising new
8 election pieces, or are we first trying to vote on reversing
9 the lower decision?

10 MR. CARMON: That was my approach.

11 MR. LAWSON: Okay. So --

12 CHAIRMAN CORDLE: We've already voted on the
13 residency issue.

14 MR. LAWSON: Correct.

15 CHAIRMAN CORDLE: So that's no longer --

16 MR. LAWSON: So to reverse the lower board
17 on both Nancy Hill's and Ms. Smith's protests on
18 nonresidency irregularities.

19 CHAIRMAN CORDLE: Correct. And there's a
20 second?

21 DR. ANDERSON: I'll second that.

22 CHAIRMAN CORDLE: Any further discussion at this
23 time?

24 (No response from the Board.)

25 CHAIRMAN CORDLE: All those in favor say aye.

1 (Two votes in favor.)

2 CHAIRMAN CORDLE: All those opposed?

3 (Three no votes.)

4 CHAIRMAN CORDLE: The no's have it three to two.

5 I believe your motion Mr. Black is that the state board
6 dismiss the petition?

7 MR. BLACK: It is, sir.

8 CHAIRMAN CORDLE: Because it's not substantial
9 evidence that an irregularity, misconduct, or violation of
10 law occurred and was sufficient to cast doubt on the
11 election?

12 MR. BLACK: That's correct.

13 DR. ANDERSON: Would that include both
14 petitions?

15 CHAIRMAN CORDLE: Yes.

16 MR. BLACK: Yes.

17 CHAIRMAN CORDLE: And you seconded it.

18 MR. RAYMOND: I'll second.

19 CHAIRMAN CORDLE: Further discussion?

20 (No response from the Board.)

21 CHAIRMAN CORDLE: All those in favor say aye.

22 (Three votes in favor)

23 CHAIRMAN CORDLE: Opposed?

24 (Two no votes)

25 CHAIRMAN CORDLE: It's a three-two vote on that.

1 Is there any further --

2 MR. LAWSON: No business, sir.

3 CHAIRMAN CORDLE: -- business?

4 DR. ANDERSON: Just to clarify, this mean
5 that the county board -- Columbus County board staff will
6 be instructed to certify this election?

7 MR. LAWSON: A written order will follow
8 today's decision, and then there's a statutory period of
9 about ten days after that order is served, after which, yes,
10 the county board, unless it's appealed, will have to enter
11 their certification of election.

12 MR. BLACK: I move we adjourn.

13 MR. CARMON: Second.

14 CHAIRMAN CORDLE: All those in favor?

15 (Unanimous vote in favor.)

16 CHAIRMAN CORDLE: The meeting's adjourned.

17

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20 (Whereupon, the proceedings

21 concluded at 4:10 p.m.)

22

23

24

25

1 STATE OF NORTH CAROLINA

2 COUNTY OF ALAMANCE

3

4

C E R T I F I C A T E

5

6

I, G. Lynn Bodenheimer, Certified Verbatim
Reporter and Notary Public, do hereby certify that I was
present and served as court reporter for the foregoing
proceeding held at the North Carolina State Board of
Elections & Ethics Enforcement in Raleigh, North Carolina,
on May 6, 2019; that said proceeding was reported by me and
transcribed by me personally; and that the foregoing one
hundred pages constitute a true and accurate transcription
of the proceeding.

15

16

17

I do further certify that I am not of counsel for
or in the employment of either of the parties to this
action, nor am I interested in the results of this action.

18

19

20

21

G. Lynn Bodenheimer

22

23

G. LYNN BODENHEIMER
Certified Verbatim Reporter/
Notary Public No. 19942140002

24

My Commission Expires:

25

August 3, 2019