

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

LEAGUE OF WOMEN VOTERS OF THE  
UNITED STATES, et al.,

*Plaintiffs,*

v.

BRIAN D. NEWBY

and

UNITED STATES ELECTION  
ASSISTANCE COMMISSION,

*Defendants,*

and

KRIS W. KOBACH, in his official capacity as  
the Kansas Secretary of State

*Intervenor Defendant.*

NO. 16-cv-236 (RJL)

**AFFIDAVIT OF BRYAN CASKEY**

I, BRYAN CASKEY, am competent to testify to the matters stated herein, and having been duly sworn, do hereby declare, to the best of my knowledge and belief:

1. I am a U.S. citizen, a Kansas resident, and an eligible voter.
2. My title is Assistant Secretary of State, Elections and Legislative Matters for the State of Kansas. As such, I am the Elections Director for the State of Kansas. I have had that position since February 2015. I have worked in the Kansas elections office since March 1998.

3. My responsibility is to oversee the administration of elections in Kansas. Among my numerous duties in this regard is the fact that I administer the State's Election Voter Information System ("ELVIS") database and work directly with the counties in managing the registration of voters in the State of Kansas. As part of my responsibilities, I issue instructions to county election officers and county clerks on how elections should be conducted.
4. The Kansas Republican and Democratic presidential caucuses are private events conducted entirely by the Republican and Democratic Parties. The State of Kansas has no role in these private proceedings.
5. Neither Party's caucus is legally constrained by the State's voter rolls or the Kansas-specific instructions of the Federal Form. The Republican and Democratic Parties are free to allow or prevent participation by anyone they choose, without regard to whether such participants are qualified to vote under Kansas law.
6. The Kansas Republican Party required participants in its March 5, 2016, caucus to be registered by February 4, 2016, 29 days before the caucus, even though Kansas law allows residents to register as late as 21 days before a Kansas election.
7. The Kansas Democratic Party allows same-day registration of participants in its caucus, without contemporaneous proof of citizenship, even though same-day registration is not allowed under Kansas law for voting in Kansas elections and proof of citizenship is required before an individual's registration on the State's voter rolls is can be completed.
8. The next statewide election to which the Kansas voter registration system will apply is the primary election of August 2, 2016. The ballot in that election will contain the names of candidates for federal, state, county, township and precinct offices.

9. During the 2014 election cycle, voters who had registered with a the National Mail Voter Registration Form (“Federal Form”) on or after January 1, 2013, (the effective date of the State of Kansas’s proof-of-citizenship requirement) but did not provide proof of citizenship were permitted to vote in federal elections but not in state, county, or local elections.
10. I have general knowledge of the number of voters who registered with a Federal Form but did not provide proof of citizenship. It is my belief that in the November 4, 2014, general election there were approximately 383 such voters and only 3 actually cast a vote.
11. With the modification of the Kansas-specific instructions of the Federal Form that took effect on February 1, 2016, the requirements of the Federal Form now match the requirements of State voter registration forms. Both require proof of citizenship.
12. With respect to the individuals who registered with a Federal Form but did not provide proof of citizenship between January 1, 2013, and January 31, 2016, the State of Kansas treats those individuals as entitled to vote in federal elections but not in state, county, or local elections. However, Kansas law permits the State to obtain citizenship information on a voter’s behalf; and the State is taking special measures to ensure that the citizenship of all of the voters in that group is confirmed prior to the August 2, 2016, primary. Among those special measures are contacting other States to verify that a birth certificate exists confirming birth in the United States and contacting the voters themselves by telephone or in person.
13. More than 22,000 individuals submitted voter registration applications in the State of Kansas between February 1, 2016, and February 21, 2016, inclusive. A total of 7,444 individuals completed their voter registration applications (including providing proof of


citizenship) and were registered to vote in the State of Kansas between February 1, 2016, and February 21, 2016, inclusive.

14. If the State of Kansas were ordered by a court to retroactively treat the post-February 1, 2016, Kansas instructions of the Federal Form as if they did not require proof of citizenship, the Secretary of State's office would have to contact all 105 county clerks and election officers to identify Federal Form applicants in their respective counties. The Secretary of States' office would then instruct the counties to modify the records of such individuals to be treated the same as Federal Form applications received prior to February 1, 2016. The counties would then be instructed to contact each of the relevant applicants by mail to notify them of the change in their registration status. This process would be administratively burdensome and would involve hundreds of hours of work, collectively, by county and state officers. It would also involve substantial expense in the form of printing and mailing information the relevant applicants.
15. However, such a task could be accomplished at any time in the future if a court so ordered.
16. I have reviewed the registration records of Marvin Brown and Joann Brown, plaintiffs in the above-titled lawsuit.
17. Marvin Brown, date of birth November 4, 1925, submitted a Kansas voter registration application on May 20, 2015. Mr. Brown did not simultaneously submit the required proof of citizenship with his application therefore making his application incomplete. On November 16, 2015, the Johnson County Election Office canceled his voter registration application. The application was cancelled to comply with Kansas's requirement that an incomplete registration application must be completed within 90 days of submission of



the application. On January 28, 2016, Mr. Brown submitted a Federal Form voter registration application without sufficient proof of citizenship. Mr. Brown's voter registration application was designated as incomplete. However, Mr. Brown is eligible to vote for federal office since his Federal Form voter registration application was submitted prior to the approval of the Kansas-specific instructions regarding proof of citizenship on the Federal Form. Mr. Brown is not eligible to vote for state or local office until sufficient proof of citizenship is provided.

18. Joann Brown, date of birth May 28, 1929, submitted a Federal Form voter registration application without sufficient proof of citizenship on January 28, 2016. Ms. Brown's voter registration application was designated as incomplete. However, Ms. Brown is eligible to vote for federal office since her Federal Form voter registration application was submitted prior to the approval of the Kansas specific instructions regarding proof of citizenship on the Federal Form. Ms. Brown is not eligible to vote for state or local office until sufficient proof of citizenship is provided.

  
Bryan Caskey  
Assistant Secretary of State, Elections and Legislative  
Matters for the State of Kansas

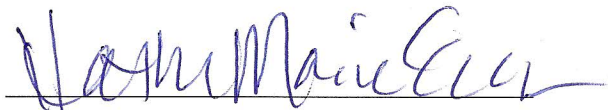
State of Kansas

ss:

County of Shawnee

Subscribed and sworn to before me, a Notary Public in and for the above county and state, this

21<sup>st</sup> day of February, 2016.



Notary Public

My commission expires 7/31/17

