

BEFORE THE DEMOCRATIC EXECUTIVE COMMITTEE
OF LEFLORE COUNTY, MISSISSIPPI

IN RE: AUGUST 8, 2023, DEMOCRATIC PRIMARY ELECTION FOR CHANCERY
CLERK OF LEFLORE COUNTY, MISSISSIPPI

DEBRA TATE HIBBLER

PETITIONER

VS.

JOHNNY LEE GARY, JR.

RESPONDENT

**PETITION TO CONTEST THE ELECTION OF JOHNNY LEE GARY, JR.
AS THE DEMOCRATIC NOMINEE FOR CHANCERY CLERK OF
LEFLORE COUNTY, MISSISSIPPI**

COMES NOW, Petitioner Debra Hibbler, by and through counsel, and pursuant to Miss.
Code § 23-15-921, files this Petition to Contest the Election of Johnny Lee Gary, Jr. as the
Democratic Nominee for Chancery Clerk of Leflore County, Mississippi, stating as follows:

1. Petitioner Debra Tate Hibbler is an adult resident citizen of Leflore County, Mississippi, who, on August 8, 2023, participated in the Democratic Primary Election as a duly qualified candidate for the Democratic nomination for Chancery Clerk of Leflore County, Mississippi.
2. Respondent Johnny Lee Gary, Jr. is an adult resident citizen of Leflore County, Mississippi, who, on August 17, 2023, was certified as the winner of the Democratic Primary Election for Chancery Clerk of Leflore County, Mississippi.
3. The Official Recapitulation by the Democratic Election Commission (attached as Exhibit A) reflects that Johnny Lee Gary, Jr. became the Democratic Nominee for Chancery Clerk with 2,239 votes as compared to 2,224 votes for Debra Tate Hibbler, a margin of only 15 votes.

4. Pursuant to Miss. Code § 23-15-921, and for the reasons set forth herein, Debra Tate Hibbler contests the results of the Democratic Primary Election, and petitions the Leflore County Democratic Executive Committee to assemble, investigate the grounds upon which the election is contested, and declare the true results of such primary.
5. The grounds upon which the primary election is contested are as follows.

ABSENTEE BALLOTS

Rejected by the Resolution Board on August 8, 2023

6. Petitioner has reviewed the ballot box containing absentee ballots “rejected” by the Resolution Board on August 8, 2023. Twelve sets of rejected Democratic Primary absentee ballots were found in the box.
7. In the North Greenwood Precinct (Precinct Code 36) the absentee ballot of Stella Williams was rejected. The application and envelope were completed July 24, 2023, as she was “appearing before the Circuit Clerk.” This ballot should have been accepted. The application and envelope are properly signed, dated, and notarized by the voter and the Circuit Clerk. The signatures and seals on the envelope are across the flap. *See, e.g., Boyd v. Tishomingo Cnty. Democratic Exec. Comm.*, 912 So.2d 124, 132 (Miss. 2005).
8. In the North Greenwood Precinct (Precinct Code 36) the absentee ballot of Thomas Roy Gregory, Jr. was rejected. The application and envelope were completed August 4, 2023, as he was “appearing before the Circuit Clerk.” This ballot should have been accepted. The application and envelope are properly signed, dated, and notarized by the voter and a Deputy Clerk. The signatures and seals on the envelope are across the flap.

9. In the South Itta Bena Precinct (Precinct Code 46) the absentee ballot of Jerry Cross was rejected. The application and envelope were received by the Circuit Clerk on August 8, 2023. This ballot should have been accepted. The application states the voter will be unable to vote in person due to “permanent or temporary disability.” Such applications may be “witnessed” only. The application and envelope are properly signed and dated by the voter and by witness Sharron Cross. The signatures on the envelope are across the flap. *See* Miss. Code § 23-15-631.
10. In the South Itta Bena Precinct (Precinct Code 46) the absentee ballot of Sharron Cross was rejected. The application and envelope were received by the Circuit Clerk on July 18, 2023. This ballot should have been accepted. The application states the voter will be unable to vote in person due to “permanent or temporary disability.” Such applications may be “witnessed” only. The application and envelope are properly signed and dated by the voter and by witness Jerry Cross. The signatures on the envelope are across the flap.
11. In the Rising Sun Precinct (Precinct Code 47) the absentee ballot of Vivian Stringer Perkins was rejected. The application and envelope were received by the Circuit Clerk on August 4, 2023. This ballot should have been accepted. The application states the voter will be unable to vote in person due to her being “out of the county” on Election Day. The application and envelope are properly signed, dated, and notarized by a notary public. The signatures and seals on the envelope are across the flap.
12. In the Morgan City Precinct (Precinct Code 49) the absentee ballot of Rosie Addison was rejected. The application and envelope were received by the Circuit Clerk on July 20, 2023. This ballot should have been accepted. The application states the voter will be

unable to vote in person due to “a permanent or temporary disability.” Such applications may be “witnessed” only. The application and envelope are properly signed and dated by the voter and by witness Leslie Addison. The signatures on the envelope are across the flap.

13. In the Southeast Greenwood Precinct (Precinct Code 52) the absentee ballot of Denise Williams was rejected. The application and envelope were received by the Circuit Clerk on August 5, 2023. This ballot should have been accepted. The application states the voter will be unable to vote in person due to her being “out of the county” on Election Day. The application and envelope are properly signed, dated, and notarized by a notary public. The signatures and seals on the envelope are across the flap.

Accepted by the Resolution Board on August 8, 2023

14. Petitioner has conducted a review of the ballot box containing absentee ballots “accepted” by the Resolution Board on August 8, 2023. The box contains an inexplicably large number of applications and envelopes witnessed by the same few persons, including Dorothy Nichols,¹ Bobbe Peoples, Terry Ramsay, and Yolanda Williams. When considered alongside other irregularities, a single person repeatedly serving as a witness can undermine confidence in the integrity of all absentee ballots. *Campbell v. Whittington*, 733 So.2d 820 (Miss. 1999).

¹ The degree of involvement by Dorothy Glenn Nichols (also known as Dorothy Ann Glenn) is especially concerning since a Special Election Tribunal convened in a prior election dispute found on June 28, 2013, that “Glenn has no credibility as a witness” and that “her testimony and the evidence received proves that Ms. Glenn has a propensity to use false addresses to attempt to meet the requirement for candidacy for public office.” *Glenn v. Powell*, 149 So.3d 480, 482 (Miss. 2014).

15. Mississippi law permits only two forms of absentee voting. The voter can personally appear and cast their ballot in the registrar's office, or the voter must "place the necessary postage on the envelope and deposit it in the post office or some government receptacle provided for deposit of mail so that the absent elector's ballot will be postmarked on or before the date of the election and received by the registrar no more than five (5) business days after the election." Miss. Code § 23-15-631. A postmark is part of "the substantive law pertaining to the handling of absentee ballots by the elector and registrar." *Id.*
16. Witnesses report the scanning of accepted absentee ballots on the night of the election occurred behind a closed door in the interior of the Circuit Clerk's office. It has been reported that the Circuit Clerk insisted on keeping the door closed even after one or more persons in his office noted the process should occur in the open, in full view of the public.
17. In the West Greenwood Precinct (Precinct Code 41) the applications and envelopes of Stella Terry and Gladys Mae Terry were witnessed by Yolanda Williams on grounds that were unable to vote in person due to "permanent or temporary disability." These envelopes have "the necessary postage" but are not "postmarked" as required by law.
18. In the North Itta Bena Precinct (Precinct Code 45) the absentee ballot of Magdalene Moore should not have been accepted because the witness who signed the envelope failed to provide their address and the envelope bears no postmark. Additionally, the absentee ballot of Tyler Anderson should not have been accepted because the application was not properly witnessed or notarized, and the envelope bears no postmark.

19. In the South Greenwood Precinct (Precinct Code 51) Dorothy Nichols witnessed more than 12 applications and envelopes. The majority of these envelopes have “the necessary postage” but are not “postmarked” as required by law. Similarly, the application and envelope of Latasha Durham were witnessed by Yolanda Williams on grounds that she was unable to vote in person due to “permanent or temporary disability.” This envelope has “the necessary postage” but is not “postmarked” as required by law.
20. In the Southeast Greenwood Precinct (Precinct Code 52) Dorothy Nichols witnessed 5 or more applications and envelopes. The majority of these envelopes have “the necessary postage” but are not “postmarked” as required by law. Terry Ramsay witnessed many applications and envelopes in this precinct as well.
21. In the Northeast Greenwood Precinct (Precinct Code 59) Dorothy Nichols witnessed 30 or more applications for persons claiming to be unable to vote in person due to “permanent or temporary disability.” Nichols witnessed 20 or more of these envelopes, and Bobbe Peoples witnessed the remaining envelopes. The majority of these applications were pre-dated by Nichols on the voter signature line, the witness signature line, and the envelope. The majority of these applications have “the necessary postage” but are not “postmarked” as required by law. These and other deviations from statute should have resulted in the rejection of the absentee ballots cast by Annie Laura Pulley, Denise Williams, Lillie Bryant, Edna Lee Jones, Sarah Lee Christian, Terry Williams, Aldean Epps, Nemye Tabor, Geneva Prayer, Essie Austin, Robert Leflore, James Lemock, Matthew Lee Ellis, Jimola McCaskill, Mary Moore, Betty Lee Horne, Kimberly W. Ragland, Katie R. Thomas, Frances L. Terry, Tommy Lee Nixon, Oliver Nix, Barbara

Fay Hilms, Katrina Denise Bullock, Alexia L. Spells, Jacob Burch, Ruby Barr, Willie James Barr, Ruth Townsend Jones, Willie Smith, Rosemary Williams, and Samuel Flemings.

22. Similar irregularities in the Northeast Greenwood Precinct (Precinct Code 59), such as pre-dating the voter and witness signature lines on the application and/or the certifying witness signature line on the envelope, omitting the ballot type, failing to date the witness certification on the envelope, and failing to have the envelope postmarked should have resulted in the rejection of the absentee ballots cast by Daisy M. Dixon, Marilyn Brooks, Patricia Ann Stansberry, Larry Coleman, Gloria J. McClung, and Martha J. Golden. Each of these voters claimed to be unable to vote in person due to “permanent or temporary disability.” At least one of their applications and envelopes was witnessed by Terry Ramsay.
23. In the East Greenwood Precinct (Precinct Code 68) Dorothy Nichols witnessed 25 or more applications for persons claiming to be unable to vote in person due to “permanent or temporary disability.” Nichols witnessed the majority of these envelopes, and Bobbe Peoples witnessed the remaining envelopes. The majority of these applications were pre-dated by Nichols on the voter signature line, the witness signature line, and the envelope. Three or more of these applications and envelopes were pre-dated by Nichols but witnessed by Shindreala S. Glenn. The majority of these applications have “the necessary postage” but are not “postmarked” as required by law. These and other deviations from statute should have resulted in the rejection of the absentee ballots cast by Stanley Lott, Lorraine Harris, Bernice S. Killpacher, Yvonne Lucas, Schneakia N. Moore, Patricia A.

McCline, Ineze Brown, Velma B. Givens, Glenn Dixon, Ned Delaney, Carlo Lavar Crosby, Archie L. Jones, Oryalo K. Jackson, Annie P. Johnson, George Prayer, Annie M. Randle, Linda L. McClary, Jeffery Miller, Clifton Lavell White, Ricky McCoy Westbrook, Tracy L. White, Anthony T. Wilson, Maud Esther Vance, and Carldearl Taylor.

24. Similar irregularities in the East Greenwood Precinct (Precinct Code 68), such as pre-dating the voter and witness signature lines on the application and/or the certifying witness signature line on the envelope, omitting the ballot type, failing to date the witness certification on the envelope, and failing to have the envelope postmarked should have resulted in the rejection of the absentee ballots cast by Zenarius Anthony Armstrong, Cliff Dorsey, Calvin Grayer, Reshell Grayer, Kelvin Grayer, Yolanda Nazzell Jackson, Patricia Ann Frison, Antonio B. Hunt, Richard Edwards, Delores Johnson Banks, Liza Mae Duncan, Beatrice Morrow, Cody Lee Keys, Shirley Jyles, Doris Ann Greer, Johnny Reed, Robert Sanders, Jacquelyn Purnell, and Levion Peterson. Each of these voters claimed to be unable to vote in person due to "permanent or temporary disability." At least six of their applications and envelopes were witnessed by Yolanda Williams, and at least four were witnessed by Terry Ramsay.
25. In addition, the following persons were permitted to cast absentee ballots in the East Greenwood Precinct (Precinct Code 68) which should have been rejected. The applications of Louise Lott and John Jackson fail to include a reason for their absentee ballots, and their envelopes fail to include a postmark. The applications of Kendrick Dee Harris and Ledarius Moore identify a "work" obligation as the reason for their absentee

ballot, but their applications are not notarized, and their envelopes contain no postmark. The applications of Louise Friday Langdon, Dorothy J. Gilmore, Baines Sanders, Lillie Mae Russell, and Napoleon Price all identify age “65 or older” as the reason for their absentee ballots, yet none of their applications are notarized, and none of their envelopes contain a postmark.

Accepted by the Resolution Board on August 16, 2023

26. Petitioner has conducted a review of the ballot box containing absentee ballots “accepted” by the Resolution Board on August 16, 2023. Four loose ballots were found in the box; three were marked “Original 1,” “Original 2,” and “Original 3.” The comment on the fourth was illegible. Additionally, Petitioner found two accepted absentee ballot envelopes that still contained the ballots. These ballots belonged to voters Fredrick Tyron Davis and Seneca Carter.
27. No “rejected” applications or envelopes were found in the absentee ballot box; however, it did contain BP-001 Reports (also known as a “Democratic Absentee Ballot Received Reports”) indicating 53 absentee ballots were received and 34 accepted.
28. Witnesses report a box of absentee ballots were missing on Election Day and not discovered for many days. When the box was discovered, it was reportedly opened by someone who was not a member of the Resolution Board. Petitioner contends all absentee ballots received by the Circuit Clerk on or before August 8, 2023, but not counted on Election Day, should have been rejected because chain of custody was broken, and the integrity of the ballots cannot be confirmed. *See Waters v. Gnemi*, 907 So.2d 307, 329 (¶57) (Miss. 2005) (“Ballot box security is essential to producing an

election result in which not only the voters, but the candidates themselves, can be confident”). Additional grounds may exist for rejecting some of these ballots.

29. In the West Greenwood Precinct (Precinct Code 41) the absentee ballot of Annitonette Stewart should have been rejected because the voter’s mark on the application is undated. Additionally, the absentee ballot of Linda Mae Jones should have been rejected because the application does not identify the “type of ballot requested,” e.g., for the Democratic Primary at issue, and because the witness who signed the envelope failed to provide their address.
30. In the West Greenwood Precinct (Precinct Code 41) the absentee ballot of Kim E. Lucas was received on August 9, 2023, and accepted. This ballot should have been rejected because the application and envelope were signed by Yolanda Williams, and the envelope bears no postmark.
31. The following persons were permitted to cast absentee ballots in the North Itta Bena Precinct (Precinct Code 45) which should have been rejected. The applications of Christy King, William Dotson, Jr., Coutney Hart, and Kaiser Hart identify a “work” obligation as the reason for their absentee ballot, but their applications are not notarized. The applications of Jaiquell Sanders, Ron Anderson, Jakialin Weaters, and Derrell Totten claim they were scheduled to be “out of the county” on Election Day, but their applications are not notarized. Additionally, the envelope of Ron Anderson was postmarked August 11, 2023. The application of Pamela Coleman should have also been rejected as well. She identified “permanent or temporary disability” as the reason she

would be unable to vote in person, but no witness signed her application, and her envelope contains no postmark.

32. In the Southeast Greenwood Precinct (Precinct Code 51) the applications and envelopes of Christopher Cary and Pearl White should have been rejected. They were signed by Yolanda Williams, were received on August 9, 2023, and bear no postmark.
33. In the Northeast Greenwood Precinct (Precinct Code 59) the absentee ballot of Doris Steele should have been rejected because the application does not identify the “type of ballot requested,” e.g., for the Democratic Primary at issue, and because the witness certification on the envelope is undated and the envelope bears no postmark.
34. In the East Greenwood Precinct (Precinct Code 68) the applications and envelopes of Stanford Wheeler, Jr., Christy Lataya King, Gean McClary, and Rose Mary Gibson were received by the Circuit Clerk on August 9, 2023. None of their envelopes bear a postmark. These ballots should have been rejected. The application and envelope of Freddie Lee Darby was received by the Circuit Clerk on August 10, 2023. The envelope bears no postmark. This ballot should have been rejected. In addition, chain of custody was broken with regard to the absentee ballots of Water Mae Harris, Sandra M. Prince, Bettie J. Prayer, Harvey Ray Crosby, and Johnnie Mae Wilson. Each of their applications and envelopes was received by the Circuit Clerk on August 5, 2023, but not counted until August 16. None of their envelopes bear a postmark. These ballots should have been rejected.

SOUTHEAST GREENWOOD PRECINCT

35. According to the Official Recapitulation, Johnny Lee Gary, Jr. received 330 votes in the Southeast Greenwood Precinct as compared to 223 votes for Debra Tate Hibbler, a margin of 107 votes.
36. Petitioner has conducted a review of the Southeast Greenwood Precinct ballot box and found it to include, among other things, six books labeled "Voter Receipt Book." Of these six books, one was labeled "Curbside" and another was labeled "Affidavit."
37. The back outside cover of each Voter Receipt Book should reflect the "Poll Identification Information" provided by the Election Manager. It should also contain the executed "Oaths of Managers and Clerks of Election," which are to be signed by each precinct clerk and manager, then dated, "sworn and subscribed to," and signed again by the manager and one clerk.
38. The "Poll Identification Information" is incomplete on one or more of the Voter Receipt Books found in the Southeast Greenwood Precinct ballot box, and the "Oaths of Managers and Clerks of Election" are not fully and properly executed and/or not properly "sworn and subscribed to" as required by Miss. Code § 23-15-237.
39. The ballot box also contained 23 yellow envelopes labeled "Voter ID/Absentee Voter Affidavit Ballot." Yellow affidavit ballot envelopes should only be used when a voter claims they (a) are unable to present an acceptable form of photo ID, (b) have a religious objection to being photographed, or (c) have already cast an absentee ballot.
40. White affidavit ballot envelopes labeled "Affidavit Ballot" should be used when a voter claims they (a) were illegally denied registration, (b) recently moved to a new address, (c)

recently registered but are not in the poll book, or (d) do not otherwise qualify to cast a regular ballot. No white affidavit ballot envelopes were found during Petitioner's review.

41. The "Affidavit of Voter" section was not properly completed on any of the 23 yellow envelopes located in the ballot box. This is the section wherein the voter is required to state, "under penalty of perjury," the reason why they require an affidavit ballot. Likewise, the "Poll Manager" section was not properly completed on any of the 23 yellow envelopes. This is the section wherein the poll manager is to provide, *inter alia*, the "Reason for Affidavit Ballot."
42. Additionally, the "For Election Commission or Party Committee Use Only" section was not properly completed on any of the 23 yellow envelopes. This is the section where the Election Commission or Party Committee is to "mark all [grounds] that apply" for accepting or rejecting the affidavit ballot, note the "final action taken on affidavit ballot," and identify the "follow-up action taken" as a result.
43. Rather than properly completing the "Affidavit of Voter" and "Poll Manager" sections of these 23 envelopes, and properly identifying the "Reason for Affidavit Ballot" on each, the habit of the poll manager at the Southeast Greenwood Precinct was to include a notation in the space provided for "Comments." The standard notation was "name not in poll book" or the equivalent.
44. Voters whose names do not appear in a precinct poll book should be offered a white affidavit ballot envelope on which they can personally attest, "under penalty of perjury," that this is the reason why they require an affidavit ballot. This did not occur.

45. Seven of the 23 yellow envelopes were marked “accepted” and 16 were marked “rejected.” “NR” (presumably, “not registered”) was written on six of the rejected envelopes, “wrong precinct” was written on five, and “purged” was written on two. Nine of the voters who completed a rejected affidavit ballot envelope answered “yes” when asked whether they had recently registered, four answered “no,” and one failed to respond. Two of the rejected affidavit ballot envelopes were entirely blank, apart from the signature of the poll manager.
46. Witnesses have reported the wrong DS 200 scanner was located at the Southeast Greenwood Precinct when it opened at 7a.m. on the morning of August 8, 2023, and the correct scanner was not installed until approximately 8:30 a.m. It is alleged, during this one and a half hour period, voters were instructed to drop their ballots in an open, unsecured bin in violation of Miss. Code § 23-15-247. Upon information and belief, these ballots were not properly secured until the correct scanner was delivered to the polling precinct.
47. In addition, the “Zero Totals Report” that should have been generated by the DS 200 scanner when the polling place opened was not found in the ballot box for the Southeast Greenwood Precinct. Instead, the ballot box contained only a “Voting Results Report” for the Southeast Greenwood Precinct printed at 7:35 p.m. This report was signed by the election manager and three poll workers.
48. At the time of Petitioner’s examination, three cut sealing tags were found in the ballot box for the Southeast Greenwood Precinct. However, no red “Official Election Seals,” such as are typically used to prevent tampering with election equipment, were found. In

addition, neither a "Seal Log" nor a "Precinct Officers Canvas Envelope" was found.

Finally, there was no "Receiving and Returning Manager Receipt Form."

SOUTHWEST GREENWOOD PRECINCT

49. According to the Official Recapitulation, Johnny Lee Gary, Jr. received 88 votes in the Southwest Greenwood Precinct as compared to 69 votes for Debra Tate Hibbler, a margin of 19 votes.
50. Petitioner has conducted a review of the Southwest Greenwood Precinct ballot box and found it to include, among other things, five books labeled "Voter Receipt Book." Of these five books, two were empty, one was labeled "A-K," one was labeled "L-Z" and another was labeled "Affidavit."
51. The back outside cover of each Voter Receipt Book should reflect the "Poll Identification Information" provided by the Election Manager. It should also contain the executed "Oaths of Managers and Clerks of Election," which are to be signed by each precinct clerk and manager, then dated, "sworn and subscribed to," and signed again by the manager and one clerk.
52. The "Oaths of Managers and Clerks of Election" are not fully and properly executed and/or not properly "sworn and subscribed to" on one or more of the Voter Receipt Books as required by Miss. Code § 23-15-237.
53. The ballot box contained seven yellow envelopes labeled "Voter ID/Absentee Voter Affidavit Ballot." Yellow affidavit ballot envelopes should only be used when a voter claims they (a) are unable to present an acceptable form of photo ID, (b) have a religious objection to being photographed, or (c) have already cast an absentee ballot.

54. White affidavit ballot envelopes labeled "Affidavit Ballot" should be used when a voter claims they (a) were illegally denied registration, (b) recently moved to a new address, (c) recently registered but are not in the poll book, or (d) do not otherwise qualify to cast a regular ballot. No white affidavit ballot envelopes were found during Petitioner's review.
55. The "Poll Manager" section was not properly completed on any of the seven yellow envelopes. This is the section wherein the poll manager is to provide, *inter alia*, the "Reason for Affidavit Ballot."
56. Additionally, the "For Election Commission or Party Committee Use Only" section was not properly completed on any of the seven yellow envelopes. This is the section where the Election Commission or Party Committee is to "mark all [grounds] that apply" for accepting or rejecting the affidavit ballot, note the "final action taken on affidavit ballot," and identify the "follow-up action taken" as a result.
57. Rather than properly completing the "Affidavit of Voter" and "Poll Manager" sections of these five envelopes, and properly identifying the "Reason for Affidavit Ballot" on each, the habit of the poll manager at the Southwest Greenwood Precinct was to include a notation in the space provided for "Comments." The standard notation was "name not on poll book" or the equivalent.
58. Voters whose names do not appear in a precinct poll book should be offered a white affidavit ballot envelope on which they can personally attest, "under penalty of perjury," that this is the reason why they require an affidavit ballot. This did not occur.
59. Three of the seven yellow envelopes at issue were accepted, and four were rejected. Two were marked "NR." In addition, two of these envelopes were not signed by the poll

manager. Five of the yellow envelopes were marked "Name not on poll book," or an equivalent. Three of those were rejected, and two were accepted, without further explanation.

RISING SUN PRECINCT

60. According to the Official Recapitulation, Johnny Lee Gary, Jr. received 168 votes in the Rising Sun Precinct as compared to 60 votes for Debra Tate Hibbler, a margin of 108 votes.
61. Petitioner has conducted a review of the Rising Sun Precinct ballot box and found it to include, among other things, four books labeled "Voter Receipt Book." Of these four books, one was labeled "Curbside" and another was labeled "Affidavit."
62. The back outside cover of each Voter Receipt Book should reflect the "Poll Identification Information" provided by the Election Manager. It should also contain the executed "Oaths of Managers and Clerks of Election," which are to be signed by each precinct clerk and manager, then dated, "sworn and subscribed to," and signed again by the manager and one clerk.
63. The "Poll Identification Information" is incomplete on one or more of the Voter Receipt Books found in the Rising Sun Precinct ballot box, and the "Oaths of Managers and Clerks of Election" are not fully and properly executed and/or not properly "sworn and subscribed to" as required by Miss. Code § 23-15-237.
64. At the time of Petitioner's examination, the only "Zero Totals Report" found in the ballot box for the Rising Sun Precinct was the missing "Zero Totals Report" from the Southeast Greenwood Precinct. The report was signed by the election manager and one poll worker.

65. The ballot box did contain a "Voting Results Report" which was signed by the election manager and one poll worker. These are the same persons who, along with a bailiff, signed the empty "Precinct Officers Canvas Envelope" found in the ballot box. The following questions and answers were contained on this envelope: (a) Did any machine fail to operate? Yes; (b) Were any votes cast on the broken machine? No; and (c) Which machine failed? East Precinct Machine.
66. The ballot box contained five yellow envelopes labeled "Voter ID/Absentee Voter Affidavit Ballot." Yellow affidavit ballot envelopes should only be used when a voter claims they (a) are unable to present an acceptable form of photo ID, (b) have a religious objection to being photographed, or (c) have already cast an absentee ballot.
67. White affidavit ballot envelopes labeled "Affidavit Ballot" should be used when a voter claims they (a) were illegally denied registration, (b) recently moved to a new address, (c) recently registered but are not in the poll book, or (d) do not otherwise qualify to cast a regular ballot. No white affidavit ballot envelopes were found during Petitioner's review.
68. The "Affidavit of Voter" section was not properly completed on any of the five yellow envelopes located in the ballot box. This is the section wherein the voter is required to state, "under penalty of perjury," the reason why they require an affidavit ballot. Likewise, the "Poll Manager" section was not properly completed on any of the five yellow envelopes. This is the section wherein the poll manager is to provide, *inter alia*, the "Reason for Affidavit Ballot."
69. Additionally, the "For Election Commission or Party Committee Use Only" section was not properly completed on any of the five yellow envelopes. This is the section where the

Election Commission or Party Committee is to “mark all [grounds] that apply” for accepting or rejecting the affidavit ballot, note the “final action taken on affidavit ballot,” and identify the “follow-up action taken” as a result.

70. Rather than properly completing the “Affidavit of Voter” and “Poll Manager” sections of these five envelopes, and properly identifying the “Reason for Affidavit Ballot” on each, the habit of the poll manager at the Rising Sun Precinct was to include a notation in the space provided for “Comments.” The standard notation was “name not on book” or the equivalent.
71. Voters whose names do not appear in a precinct poll book should be offered a white affidavit ballot envelope on which they can personally attest, “under penalty of perjury,” that this is the reason why they require an affidavit ballot. This did not occur.
72. Two of the five yellow envelopes at issue were marked “OK,” and contained no ballots, presumably because they were accepted and scanned. However, the “Affidavit of Voter” was not completed on either envelope. In addition, one of these envelopes was not signed by the poll manager. Two of the remaining yellow envelopes were marked “NR” (presumably, “not registered”), and no reason for rejection was identified on the third. All three of these voters answered “yes” when asked whether they had recently registered.
73. As noted above, at the time of Petitioner’s examination, four Voter Receipt Books were found in the ballot box for the Rising Sun Precinct. However, the empty Precinct Officers Canvas Envelope states that it was supposed to contain three “voter registration books,” while the “Receiving and Returning Manager Receipt Form” found in the ballot box states that there should be two “poll books” and three “receipt books.”

NORTH ITTA BENA PRECINCT

74. According to the Official Recapitulation, Debra Tate Hibbler received 351 votes in the North Itta Bena Precinct as compared to 242 votes for Johnny Lee Gary, Jr., a margin of 109 votes.
75. Petitioner has conducted a review of the North Itta Bena Precinct ballot box and found it to include, among other things, four books labeled "Voter Receipt Book." Of these four books, one was unused.
76. The back outside cover of each Voter Receipt Book should reflect the "Poll Identification Information" provided by the Election Manager. It should also contain the executed "Oaths of Managers and Clerks of Election," which are to be signed by each precinct clerk and manager, then dated, "sworn and subscribed to," and signed again by the manager and one clerk.
77. The "Poll Identification Information" is incomplete on one or more of the Voter Receipt Books, and the "Oaths of Managers and Clerks of Election" are not fully and properly executed and/or not properly "sworn and subscribed to" as required by Miss. Code § 23-15-237.
78. The ballot box contained 10 yellow envelopes labeled "Voter ID/Absentee Voter Affidavit Ballot." Yellow affidavit ballot envelopes should only be used when a voter claims they (a) are unable to present an acceptable form of photo ID, (b) have a religious objection to being photographed, or (c) have already cast an absentee ballot.

79. Of the 10 yellow envelopes found in the North Itta Bena ballot box, eight were marked “rejected,” one was marked “accepted,” and one was not clearly marked as rejected or accepted but contains the following note: “Ballot went through machine in error even due to challenge vote action.” No reasons were given for the eight rejections, or for the one acceptance, and only three of the 10 envelopes were signed by the poll manager.
80. The ballot box also contained 30 white affidavit ballot envelopes labeled “Affidavit Ballot.” A white envelope should be used when a voter claims they (a) were illegally denied registration, (b) recently moved to a new address, (c) recently registered but are not in the poll book, or (d) do not otherwise qualify to cast a regular ballot.
81. The “For Election Commission or Party Committee Use Only” section was not properly completed on any of the 30 white envelopes. This is the section where the Election Commission or Party Committee is to “mark all [grounds] that apply” for accepting or rejecting the affidavit ballot, note the “final action taken on affidavit ballot,” and identify the “follow-up action taken” as a result. Nevertheless, 17 of the envelopes were marked “rejected” and 13 “accepted.”
82. A few of the white envelopes were marked “wrong precinct” or “purged,” but most were marked “NR” (presumably, “not registered”) and “AB” (presumably, “absentee ballot”). A white envelope should never be marked “AB” since this is one of the two grounds for use of a yellow envelope, “I have already cast an absentee ballot” is not one of the choices available to a voter on a white envelope, and “Absentee Voter” is not one of the choices available to the poll manager on a white envelope. Likewise, the “For Election

Commission or Party Committee Use Only” section does not contain any options that apply to absentee ballots.

83. At the time of Petitioner’s examination, two cut sealing tags were found in the ballot box for the North Itta Bena Precinct. However, the box contained no information whatsoever regarding the DS 200 scanners or their serial numbers. The box contained no red “Official Election Seals,” such as are typically used to prevent tampering with election equipment, were found. In addition, neither a “Seal Log” nor a “Precinct Officers Canvas Envelope” was found. Finally, there was no “Receiving and Returning Manager Receipt Form.”

SOUTH ITTA BENA PRECINCT

84. According to the Official Recapitulation, Debra Tate Hibbler received 106 votes in the South Itta Bena Precinct as compared to 58 votes for Johnny Lee Gary, Jr., a margin of 48 votes.
85. Petitioner has conducted a review of the South Itta Bena Precinct ballot box and found it to include, among other things, three books labeled “Voter Receipt Book.” Of these three books, one was unused, one was labeled “Democratic,” and another was labeled “Affidavit.”
86. The back outside cover of each Voter Receipt Book should reflect the “Poll Identification Information” provided by the Election Manager. It should also contain the executed “Oaths of Managers and Clerks of Election,” which are to be signed by each precinct clerk and manager, then dated, “sworn and subscribed to,” and signed again by the manager and one clerk.

87. The "Poll Identification Information" is incomplete on one or more of the Voter Receipt Books found in the South Itta Bena Precinct ballot box as required by Miss. Code § 23-15-237.
88. The ballot box also contained 12 yellow envelopes labeled "Voter ID/Absentee Voter Affidavit Ballot." Yellow affidavit ballot envelopes should only be used when a voter claims they (a) are unable to present an acceptable form of photo ID, (b) have a religious objection to being photographed, or (c) have already cast an absentee ballot.
89. White affidavit ballot envelopes labeled "Affidavit Ballot" should be used when a voter claims they (a) were illegally denied registration, (b) recently moved to a new address, (c) recently registered but are not in the poll book, or (d) do not otherwise qualify to cast a regular ballot. No white affidavit ballot envelopes were found during Petitioner's review.
90. The "Affidavit of Voter" section was not properly completed on 10 of the 12 yellow envelopes located in the ballot box. This is the section wherein the voter is required to state, "under penalty of perjury," the reason why they require an affidavit ballot.
91. Rather than properly completing the "Affidavit of Voter" and "Poll Manager" sections of these 12 envelopes, and properly identifying the "Reason for Affidavit Ballot" on each, the habit of the poll manager at the South Itta Bena Precinct was to include a notation in the space provided for "Comments." The standard notation was "name not on book" or the equivalent.
92. Voters whose names do not appear in a precinct poll book should be offered a white affidavit ballot envelope on which they can personally attest, "under penalty of perjury," that this is the reason why they require an affidavit ballot. This did not occur.

93. Five of the 12 yellow envelopes were marked "accepted" and 7 were marked "rejected." "NR" (presumably, "not registered") was written on one of the rejected envelopes, "wrong precinct" was written on five, and "not on book" or its equivalent was written on the remainder.
94. At the time of Petitioner's examination, one cut sealing tag was also found in the ballot box for the South Itta Bena Precinct.

SIDON PRECINCT

95. According to the Official Recapitulation, Debra Tate Hibbler received 43 votes in the Sidon Precinct as compared to 34 votes for Johnny Lee Gary, Jr., a margin of 9 votes.
96. Petitioner has conducted a review of the Sidon Precinct ballot box and found it to include, among other things, two "Configuration Reports." The first was printed at 6:50 a.m. and reflects that the battery for the DS 200 scanner was 100% charged. The second was printed at 6:49 p.m.
97. Witnesses report the power went out at the Sidon Precinct shortly after the polling place opened and remained out for the majority of the day. It has been reported that power was not restored until sometime after 6:30 p.m.
98. A "Precinct Officers Canvas Envelope" was found within the ballot box. The following questions and answers were contained on this envelope: (a) Did any machine fail to operate? Yes (handwritten "Power Outage"); (b) Were any votes cast on the broken machine? (Left blank); and (c) Which machine failed? Machine Number "05."

99. It is unclear why a DS 200 scanner with a fully charged battery would fail to operate in a power outage. Likewise, it is unclear whether any votes were cast on that machine at a time when the poll workers believed it was not operating properly.

CONCLUSION

100. There were widespread irregularities in Democratic Primary Election on August 8, 2023, and during the counting of absentee ballots thereafter. There was a failure to secure ballots at least one precinct and a power outage that may have compromised a voting machine at another. The Zero Totals Reports were not properly maintained, the Oaths of the clerks and managers of the polling places were not properly taken, and the contents of the ballot boxes reveal that a general sense of confusion existed with respect to what was to be included within them. Affidavit ballots were not handled properly, with the wrong envelopes being used and the "Affidavit of Voter" portion of those envelopes being routinely ignored. These and other deviations from statutory law, as set forth herein, call the integrity and outcome of the election into question.
101. Moreover, it is beyond clear that absentee ballots which should have been accepted were rejected, and absentee ballots which should have been rejected were accepted. Taken alone, the number of improperly accepted absentee ballots is more than sufficient to change the outcome of the election. The Mississippi Supreme Court has held "[i]t is imperative that the appropriate elected officials strictly adhere to the statutes concerning absentee ballots." *Stringer v. Lucas*, 608 So.2d 1351 (Miss. 1992). Furthermore, "[t]he key in deciding whether an act not in strict compliance with the statutory election procedures renders that election void is whether the act is such a departure from the

fundamental provisions of the statute as to destroy the integrity of the election and make the will of the qualified electors impossible to ascertain.” *Id.*

102. Under the circumstances, Petitioner respectfully requests that the Leflore County Democratic Executive Committee assemble, investigate the grounds upon which the election is contested, and declare the true results of such primary.

Respectfully submitted,

DEBRA TATE HIBBLER



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CERTIFICATE OF SERVICE

I hereby certify that I have on this date caused a true and correct copy of the foregoing papers to be delivered hand delivery, to the following:

Johnny Lee Gary, Jr.
218 Rising Sun Circle
Greenwood, MS 38930

Robert Sims
Chairman, Democratic Executive Committee

THIS, the 20th day of August, 2023.



LAWRENCE J. TUCKER, JR.