

BEFORE THE DEMOCRATIC EXECUTIVE COMMITTEE
OF LEFLORE COUNTY, MISSISSIPPI

IN RE: AUGUST 8, 2023, DEMOCRATIC PRIMARY ELECTION FOR
SUPERVISOR DISTRICT 4 OF LEFLORE COUNTY, MISSISSIPPI

WAYNE A. SELF

PETITIONER

VS.

ERIC MITCHELL

RESPONDENT

**PETITION TO CONTEST THE ELECTION OF ERIC MITCHELL
AS THE DEMOCRATIC NOMINEE FOR SUPERVISOR DISTRICT 4 OF
LEFLORE COUNTY, MISSISSIPPI**

COMES NOW, Petitioner Wayne A. Self, by and through counsel, and pursuant to Miss.
Code § 23-15-921, files this Petition to Contest the Election of Eric Mitchell as the Democratic
Nominee for Supervisor District 4 of Leflore County, Mississippi, stating as follows:

1. Petitioner Wayne A. Self 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 Supervisor District 4 of Leflore County,
Mississippi.
2. Respondent Eric Mitchell 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
Supervisor District 4 of Leflore County, Mississippi.
3. The Official Recapitulation by the Democratic Election Commission (attached as Exhibit
A) reflects that Eric Mitchell became the Democratic Nominee for Supervisor District 4
with 618 votes as compared to 554 votes for Wayne A. Self, a margin of 64 votes.

4. Pursuant to Miss. Code § 23-15-921, and for the reasons set forth herein, Wayne A. Self 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 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. The signatures on the envelope are across the flap. *See* Miss. Code § 23-15-631.
8. 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.

9. 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.

Accepted by the Resolution Board on August 8, 2023

10. 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).
11. 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

¹ The degree of involvement by Dorothy Nichols (also known as Dorothy Ann Glenn) is especially concerning since a Special Election Tribunal convened in a prior 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).

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.*

12. 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.
13. 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.

Accepted by the Resolution Board on August 16, 2023

14. 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.

15. 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.
16. 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.
17. 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.

RISING SUN PRECINCT

18. According to the Official Recapitulation, Eric Mitchell received 148 votes in the Rising Sun Precinct as compared to 80 votes for Wayne Self, a margin of 68 votes.
19. Petitioner conducted a review of the Rising Sun Precinct ballot box on August 25, 2023, 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."
20. 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.
21. 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.
22. 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.
23. 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.

24. 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.
25. 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.
26. 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."
27. 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.

28. 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.
29. 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.
30. 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.
31. 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

32. According to the Official Recapitulation, Eric Mitchell received 312 votes in the North Itta Bena Precinct as compared to 302 votes for Wayne Self, a margin of 10 votes.
33. Petitioner conducted a review of the North Itta Bena Precinct ballot box on August 25, 2023, and found it to include, among other things, four books labeled "Voter Receipt Book." Of these four books, one was unused.
34. 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.
35. 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.
36. 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.
37. 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.
38. 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.
39. 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.”
40. 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.
41. 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

42. According to the Official Recapitulation, Eric Mitchell received 75 votes in the South Itta Bena Precinct as compared to 97 votes for Wayne Self, a margin of 22 votes.
43. Petitioner conducted a review of the South Itta Bena Precinct ballot box on August 28, 2023, 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.”
44. 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.
45. 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.
46. 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.

47. 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.
48. 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.
49. 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.
50. 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.
51. 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.

52. At the time of Petitioner's examination, one cut sealing tag was also found in the ballot box for the South Itta Bena Precinct.

SOUTHWEST GREENWOOD PRECINCT

53. According to the Official Recapitulation, Eric Mitchell received 83 votes in the Southwest Greenwood Precinct as compared to 75 votes for Wayne Self, a margin of 8 votes.

54. Petitioner conducted a review of the Southwest Greenwood Precinct ballot box on August 28, 2023, 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."

55. 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.

56. 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.

57. 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.

58. 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.
59. 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."
60. 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.
61. 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.
62. 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.
63. 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.

CONCLUSION

64. There were widespread irregularities in Democratic Primary Election on August 8, 2023, and during the counting of absentee ballots thereafter. 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.
65. 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.*

66. 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,

WAYNE A. SELF



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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:

Mr. Eric Mitchell
5730 Highway 7
Itta Bena, MS 38941

Robert Sims
Chairman, Democratic Executive Committee

THIS, the 29th day of August, 2023.



LAWRENCE J. TUCKER, JR.