

KRIS KOBACH

Q. You've reviewed the substantive briefs and dispositive briefs in the case?

A. This -- the dispositive briefs on the merits, absolutely, I have reviewed.

Q. Okay. I'm going to hand you a document that's been marked as Kobach Exhibit 1.

This is a draft amendment to Section 5 of the National Voter Registration Act or NVRA that your office produced to the plaintiffs in this case; correct?

A. It is a -- it is a -- I would refer to it as a draft of a draft. It's not actually anywhere near ready to be proposed or shown to anyone.

Q. When was this "draft of a draft," as you put it, drafted?

A. It would have been prepared by me sometime in the late summer or early fall of 2016. It would have been before the 10th Circuit ruled, but after -- on the preliminary injunction, but after Judge Robinson ruled. Sometime in there.

Q. But just to clarify the record, Judge Robinson issued a preliminary injunction decision on May 17, 2016, and you're saying that this document, Exhibit 1, was drafted after that ruling; correct?

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A. Yes, there are.

Q. The last two are redacted; correct?

A. That is correct.

Q. Okay. The second item here reads "In 52 U.S.C. Section 204 [sic] -- "20504(c)(2)(B)," colon, "delete," quote, "May require only the minimum amount of information necessary to," end quote, "and replace with," quote, "may require any information that the State deems necessary to"; is that correct?

A. You have read it correctly, yes.

Q. The language in this item is word for word exactly the same as what the plaintiffs in this case argued previously would be precisely how the NVRA would have to be rewritten in order for states to have authority to require documentary proof of citizenship for motor voter applicants; is that correct?

A. I have no idea what you argued. The -- this is -- the -- the reason for this is a contingency if Plaintiffs win this lawsuit after final summary judgment or a final bench trial. This is a -- the reason it is a draft of a draft and it is not anywhere near final form is it would only be necessary to file this amendment or propose this amendment if the defendant loses this case and Plaintiffs succeed in

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A. Yes.

Q. And you said that you drafted it; correct?

A. Yes.

Q. You physically typed it out?

A. Yes. I physically typed it into my computer.

Q. When you say your computer, do you mean your personal computer or a Kansas Secretary of State office computer?

A. I can't recall for cer- -- for certain. I'm -- I'm not sure. If I were to speculate, I would say more likely my personal one, but I'm not certain.

Q. The language that you propose in this document, amendments to the National Voter Registration Act, you proposed three changes to the National Voter Registration Act; correct?

A. Well, the --

MS. BECKER: Objection. Mischaracterizes what it said about it being a draft of a draft. And there's no foundation too.

MR. HO: I'll re-ask the question.

Q. (By Mr. Ho) There are five items listed here in this document, Amendments to the National Voter Registration Act; correct?

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persuading federal judges to change the meaning of the NVRA.

Q. You're aware that the plaintiffs in this case previously argued, during preliminary injunction briefing, that in order for states to have the authority to require documentary proof of citizenship for motor voter applicants, then the NVRA would have to be rewritten; correct?

A. I do not recall you making that argument. No, I do not.

(Kobach Exhibit 2 was marked for identification.)

Q. (By Mr. Ho) Okay. I'm going to hand you what's marked as Plaintiffs -- sorry -- Kobach Exhibit 2. It's a brief that was filed in this case. This is Plaintiffs' reply brief on their motion for preliminary injunction dated April 21, 2016, Document 94.

Do you see that?

A. I see that, yes.

Q. Could you turn to page 17, please?

The third and fourth sentences in this brief on this page read, "In essence, Defendants' interpretation of the statute would require rewriting