

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

SC SAFE ELECTIONS and)
MICHAEL FUNDERBURK)

C.A. NO. 2022-CP- 4004438

Plaintiff,)

vs.)

THE BOARDS OF ELECTIONS FOR)
AIKEN COUNTY, BEAUFORT COUNTY,)
CHARLESTON COUNTY, DORCHESTER)
COUNTY, GREENVILLE COUNTY,)
LEXINGTON COUNTY, SPARTANBURG)
COUNTY, YORK COUNTY, and THE)
SOUTH CAROLINA STATE ELECTION)
COMMISSION, HOWARD KNAPP IN)
HIS OFFICIAL CAPACITY)

**AFFIDAVIT OF
LAURA SCHARR**

Defendant,)
_____)

NOW COMES Laura Scharr first duly sworn, who deposes and states as follows:

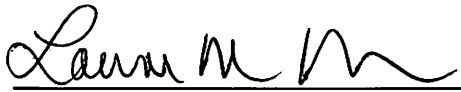
1. My name is Laura M Scharr and I am a citizen and resident of Lexington County, South Carolina.
2. I am the team leader of SC Safe Elections (SCSE) www.scsafeelections.org and have been exploring, documenting and investigating issues with respect to election integrity since January 2021. I collaborate with many other state grassroots groups on this topic and am considered a subject matter expert.
3. Our grassroots group (SCSE) began to request cast vote records CVRs in January of this year in preparation for analysis we wanted to conduct for our canvass reveal. Since then, we have requested CVRs for each county in SC and all requests were denied. We are not affiliated with any national group.
4. These requests were made under the SC FOIA statute and were denied based on an opinion by the Attorney General's office in September of 2020 in response to a letter written by the then Executive Director of the State Election Commission (SEC), Marci Andino. That opinion stated that the "scanned images of voted ballots and vote cast records are not made open to the public under the SC FOIA. It should be noted this

opinion assumes the facts presented in the request letter as this Office **does not have the authority of a court to find facts in an opinion.**”

5. The facts as provided to the AG’s office in the request letter are NOT accurate. Specifically, the request letter from Ms. Andino claims that CVRs could not be provided because there might be personally identifiable information contained on the ballots which would be a breach of a SC citizen’s right to cast a vote in private. To my knowledge as well as that of several data experts I am in contact with, there is no way to identify a voter from the subheadings or any other part of the CVR report nor from the ballot image itself.
6. Furthermore, the *Corn versus Blackwell* 191 S.C. 183,4 S.E.2d 254(1939), which referred to an election that was conducted in a way (numbered paper ballots that corresponded to voter rolls) is not used anymore anywhere in the US and does not reflect current best practices in our modern computerized election management systems.
7. These records are public and have traditionally been available to the public. In fact, 27 states and the District of Columbia in the USA have made their CVRs public and these reports were available prior to the 2020 AG opinion.
8. The South Carolina attorney general's opinion from September 28, 2020, declares that “ballot images and cast vote records are NOT a public record” in defiance of the South Carolina constitution. *“All elections by the people shall be by secret ballot, but the ballots shall not be counted in secret.” The right of suffrage, as regulated in this Constitution, shall be protected by laws regulating elections and prohibiting, under adequate penalties, all undue influence from power, bribery, tumult, or improper conduct. (1970 (56) 2691; 1971 (57) 319.) See the constitution of 1868, Article VIII, section I for the original provision carried forward in the constitution of 1895, Article II, section*
9. **Fact:** Voting is the process of casting a ballot. After voting the same ballot has been “voted.” **There is no secrecy in counting votes on ballots.** Ballots are anonymous and are deposited unsigned in boxes along with all other anonymous ballots. The process of casting versus counting a ballot is an important distinction that cannot be minimized or confused.
10. The terms “Cast Vote Record” and “personally identifiable information” are defined in the NIST National Institute of Standards and Technology manual. These common terms that are relevant to the audit process should be well known by anyone in a position of protecting privacy and auditing elections.
11. The CVRs are automatically captured when the ballots are scanned and the database reports can be generated in mere minutes and submitted in a cost effective way via a thumb drive. Small races (under 10 total votes) can be filtered out of the report to ensure

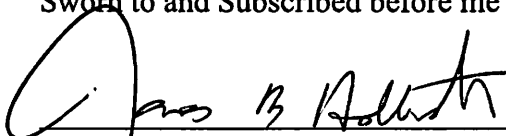
ultimate privacy. This is done in other states. The CVRs are also referenced in the ES&S/Electionware manuals as well as the EAC certificate for the Election Management System versions 6.0.2.0 and 6.1.1.0 that were used in the 2020 and 2022 elections.

12. There is precedent regarding recent court action allowing disclosure of CVRS as evidenced by Attorney General Ken Paxton's release, and most recently in Lycoming County in PA a court ruled that the Cast Vote Record is "not excepted from public access." Kenneth Bennett (former AZ Secretary of State) also provided a sworn affidavit in that case that states that CVRs should be public record. He states the CVR is "the only way to verify that the votes on particular ballots were correctly recorded and tabulated."




Laura Scharr

Sworn to and Subscribed before me this 16th day of January 2023.



Notary Public for the State of South Carolina

My commission expires: July 15 2030

 **James Hollister**
Notary Public for South Carolina
Commission Expires: 07/15/2030

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of my office, at the City of Raleigh, North Carolina, this _____ day of _____, 20__.

Notary Public for North Carolina
Commission Expires: _____

James Hollister
Notary Public for North Carolina
Commission Expires: 07/15/2030

