

**IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR PUTNAM COUNTY, FLORIDA**

JONATHAN KINNEY, candidate for
Putnam County Sheriff,

Plaintiff,

v.

Case No: 54-2016-CA-425CAAXMX
Division: Circuit Civil

**PUTNAM COUNTY CANVASSING
BOARD**, by and through its members
Nancy Harris, Elizabeth Ann Morris, and
Charles L. Overturf, III; **and HOMER D.
DELOACH, III**, candidate for Putnam
County Sheriff,

Defendants.

JOINT PRE-TRIAL STIPULATION

Plaintiff and Defendants, by and through their respective undersigned counsel, and in accordance with this Court's Pre-Trial Order, respectfully file this Joint Pre-Trial Stipulation and State:

A. Concise Factual Statement of the Nature of the Action

This is an election contest under section 102.168 of the Florida Statutes. Plaintiff Jonathan Kinney filed this action to challenge the certification by Defendant Putnam County Canvassing Board that Defendant Homer D. "Gator" DeLoach, III, had been elected Putnam County Sheriff at the November 2016 General Election. Defendant Canvassing Board certified Defendant DeLoach's election as Putnam County Sheriff on November 18, 2016, by a total of 15,869 votes counted for Defendant DeLoach and 15,853 votes counted for Plaintiff Kinney. Plaintiff Kinney timely filed this election contest in accordance with section 102.168, Florida Statutes.

The grounds for Plaintiff's election contest under section 102.168(3)(c), Florida Statutes are the "receipt of a number of illegal votes . . . sufficient to change or place in doubt the result of the election." Plaintiff Kinney seeks a judgment declaring invalid the certification of election of Defendant DeLoach; declaring void the election of Defendant DeLoach; entering a judgment of ouster against Defendant DeLoach; declaring that Plaintiff Kinney has established his right to the office of Putnam County Sheriff; or, in the alternative, declaring a vacancy in office in the position of Putnam County Sheriff to be filled as provided by law. Defendants deny that Plaintiff is entitled to this relief.

1. Brief Statement of Plaintiff Jonathan Kinney's Position

The Putnam County Canvassing Board certified the election of Homer DeLoach as Putnam County Sheriff by a margin of 16 votes. Plaintiff Kinney will introduce evidence at trial demonstrating that the number of illegal vote-by-mail ballot votes received in the election exceeded the certified margin of victory by a substantial margin. These illegal votes fall into several categories, including: 1) 19 vote-by-mail ballots cast by convicted felons who have not had their civil rights restored (identified by Plaintiff); 2) 13 additional ballots cast by convicted felons who have not had their civil rights restored (identified by Florida Department of State, Division of Elections, and processed for removal by Defendant Overturf); 3) three vote-by-mail ballots cast in the name of deceased voters; 4) two vote-by-mail ballots counted despite having been received by the Supervisor of Elections after the statutory deadline; 5) three vote-by-mail ballots cast by individuals who were not residents of Putnam County; 6) one vote-by-mail ballot cast by an individual who cast a ballot in both Putnam County and also in the State of New Jersey in the November 2016 General Election; and 7) one ballot cast by an individual adjudicated mentally incompetent with respect to voting and who has not had the right to vote

restored pursuant to law (identified by Florida Department of State, Division of Elections, and processed for removal by Defendant Overturf).

Under section 102.168(3)(c), Florida Statutes, the “receipt of a number of illegal votes . . . sufficient to change or place in doubt the result of the election” constitutes grounds for contesting an election. The evidence of illegal votes received in the November 2016 General Election far exceeds the certified margin of victory and is therefore “sufficient to change or place in doubt” the result of the November 2016 election for Putnam County Sheriff. Plaintiff Jonathan Kinney is entitled to a judgment of ouster against Defendant DeLoach and other relief requested in his Election Contest Complaint.

2. Brief Statement of Defendant Canvassing Board’s Position

This case was initiated on November 28, 2016, by the filing of an Election Contest Complaint by Plaintiff Kinney. The Election Contest Complaint identified six separate grounds for contesting the 2016 general election for the Sheriff of Putnam County (the “Sheriff’s Race”) that alleged misconduct by the Canvassing Board or its members and a seventh ground for contesting the Sheriff’s Race that alleged the receipt of illegal votes sufficient to change or place in doubt the results of the Sheriff’s Race. Thereafter, the parties conducted extensive discovery, including exchanging thousands of pages of documents and other potential evidence, and deposing over twenty potential witnesses. Upon completion of discovery, Plaintiff Kinney has determined not to pursue any of the grounds for contesting the Sheriff’s Race raised in the Election Contest Complaint that allege misconduct by the Canvassing Board or the Canvassing Board’s members. Instead, the sole ground for contesting the Sheriff’s Race now at issue in this case is whether there were a sufficient number of illegal votes received to change or place in doubt the result of the Sheriff’s Race.

Potentially Illegal Votes

As a threshold issue, the Canvassing Board notes that neither the Florida Division of Elections nor any other party identified any potentially illegal votes or voters prior to the Sheriff's Race on November 8, 2016. Accordingly, all of the potentially illegal votes identified by Plaintiff Kinney were cast by electors who were registered voters, on the voting rolls on November 8, 2016.

With regard to the vote-by-mail ballots cast by deceased voters, the Canvassing Board notes that each of the envelopes for the three votes at issue indicate that each of the three voters signed their ballots before they died and that the voter's signatures matched the signatures on record with the Canvassing Board. Moreover, no party identified the three voters as potential illegal votes or challenged the votes prior to the ballots being canvassed by the Canvassing Board.

With regard to the vote-by-mail ballots cast by voters allegedly guilty of felonies without restoration of their rights, the Canvassing Board notes that the process the Supervisor of Elections Office ("SOE's Office") employs to identify and remove a hypothetical felon ("John Doe") is as follows:

- 1) If the SOE's Office receives credible and reliable information that John Doe is a potential felon, the SOE's Office forwards that information to the Florida Department of State, Division of Elections (the "FDOE") for an initial determination as to whether the information is credible and reliable, pursuant to Section 98.075, Florida Statutes. Alternatively, if the SOE's Office has received no credible or reliable information concerning John Doe's status, it takes no action until receiving such information from the FDOE.

- 2) If the FDOE determines that credible and reliable information exists that John Doe is a felon whose rights have not been restored, the FDOE would notify the SOE's Office

pursuant to Section 98.075, Florida Statutes, and would provide a copy of the supporting information.

3) Upon notification by the FDOE of John Doe's status, the SOE's Office would follow the procedures outlined in Section 98.075(7), Florida Statutes, for removal of John Doe from the Florida statewide vote-registration system. Section 98.075(7), Florida Statutes, includes requirements that John Doe be provided with notice of his potential ineligibility and to the right to a hearing before the SOE to determine eligibility; and Section 98.0755, Florida Statutes, provides for the right to appeal an adverse determination to the Circuit Court.

With regard to the vote-by-mail ballots allegedly received after 7:00 p.m. on November 8, 2016, the Canvassing Board notes that the two vote-by-mail ballots identified by Plaintiff Kinney were provided to voters at the Supervisor of Elections Office prior to 7:00 p.m. on November 8, 2016. The voters completed the vote-by-mail ballots in the lobby of the SOE's Office and submitted them to SOE staff. The Canvassing Board further notes that the times stamped on the ballots do not necessarily indicate the time they were received by the SOE's Office. Moreover, no party challenged the validity of the two vote-by-mail ballots prior to when the Canvassing Board canvassed them.

With regard to the voter who potentially cast a vote-by-mail ballot in both Florida and New Jersey, the SOE's Office is in the process of contacting the voter and determining the voter's status in the state of Florida. If the voter is determined to have voted both in Florida and New Jersey, the SOE's Office will contact appropriate authorities.

3. Brief Statement of Defendant Homer D. DeLoach III's Position

This Court should affirm the Putnam County Canvassing Board and hold that Defendant DeLoach is the certified winner of the race for Putnam County Sheriff. Plaintiff Kinney will not

meet his burden of proving that a number of illegal votes was sufficient to change or place in doubt the result of the election. The Canvassing Board and Supervisor of Election's office substantially complied with statutory requirements and the certified winner reflects the full and free expression of the will of the public. Alternatively, if this Court determines that a number of illegal votes or rejection of a number of legal votes is sufficient to change or place in doubt the result of the election, the appropriate remedy is a special election pursuant to Section 100.101, *Florida Statutes*. The remedy of ouster is not a legally permissible remedy because Plaintiff has not met his burden of proving that he is entitled to the office by receiving the highest number of votes cast pursuant to Section 100.181, *Florida Statutes*.

B. Concise Statement of Facts that are Admitted and Require no Proof at Trial

The following facts are stipulated and admitted by the parties and will require no proof at trial:

The Parties

1. Plaintiff Jonathan Kinney properly qualified as a candidate for Putnam County Sheriff in the 2016 general election.
2. Defendant Homer D. DeLoach, III, also properly qualified as a candidate for Putnam County Sheriff in the 2016 general election.
3. Defendant Putnam County Canvassing Board, by and through its members: Commissioner Nancy Harris, Judge Elizabeth A. Morris, and Supervisor of Elections Charles L. Overturf, III, is the board responsible for canvassing the election for Putnam County Sheriff in the 2016 general election (the "Sheriff's Race").

Canvassing Board Meetings and Reporting of Results

4. The Canvassing Board held noticed meetings to canvass the votes cast in the 2016 general election on October 18, 2016; October 24, 2016; October 28, 2016; November 1, 2016; November 7, 2016; November 8, 2016; November 9, 2016 (recount); November 10, 2016 (recount); November 10, 2016 (provisionals); November 11, 2016 (recount); and November 18, 2016. A court reporter attended the Canvassing Board meetings and transcribed the minutes of the meetings. (Joint Exhibits 1 through 11)

5. At the October 18, 2016 meeting, the Canvassing Board conducted “logic and accuracy” testing of the tabulating equipment to be used in canvassing the 2016 general election pursuant to the requirements of Section 101.5612, Florida Statutes. (Joint Exhibit 2)

6. On election night, November 8, 2016, the Canvassing Board believed it had processed and uploaded to the server all ballots and completed its initial public canvass of the votes in the Sheriff’s Race. At the conclusion of the canvass, the preliminary returns reflected that Plaintiff Kinney was leading in the Sheriff’s Race over Defendant DeLoach by a margin of 18 votes, 15,658 to 15,640. (Joint Exhibit 7, 14)

7. On November 9, 2016, the Canvassing Board held a meeting to inform the public that, because Plaintiff Kinney’s 18 vote margin of victory over Defendant DeLoach was less than one half of a percent of the votes cast in the Sheriff’s Race, section 102.141(7), Florida Statutes, required the Canvassing Board to conduct a recount. The Canvassing Board announced that the recount would commence at 9:00 a.m. on November 10, 2016.

8. On November 10, 2016, before commencing the recount, the Canvassing Board conducted “logic and accuracy” testing of the tabulating equipment to be used in the recount pursuant to Rule 1S-2.031(2)(d), Florida Administrative Code, and section 101.5612, Florida Statutes.

9. On November 10, 2016, before commencing the recount, the Canvassing Board announced that an “audit” conducted by Putnam County Supervisor of Elections Charles L. Overturf, III (“Supervisor Overturf”) using the Clear Ballot Audit system had found a discrepancy in the total number of vote-by-mail ballots tabulated. (Joint Exhibit 9)

10. The Clear Ballot Audit system is an automated independent voting system approved by the Florida Department of State, Division of Elections (the “Florida Division of Elections”). Use of the Clear Ballot Audit system is not an audit mandated by the Florida Election Code. Rather, Supervisor Overturf utilizes the Clear Ballot Audit system as a mechanism to reconcile the tabulation of election results.

11. On November 10, 2016, the Canvassing Board announced that an additional 428 vote-by-mail ballots (the “428 Ballots”) had not been included in the preliminary election night returns. The 428 Ballots had been tabulated prior to 7:00 P.M., on November 8, 2016, by Canvassing Board member Judge Elizabeth A. Morris on a Dominion Voting Systems Image Cast Central high-speed scanner (the “ICC Scanner”). Also on November 8, 2016, prior to 7:00 P.M., the tabulated results of the 428 Ballots were transferred from the ICC Scanner to a USB “thumb drive.” However, the tabulated results on the thumb drive were not properly uploaded to the election server until after the preliminary election night results were released on November 8, 2016. (Joint Exhibit 7, 8)

12. Pursuant to sections 102.141(3) and (5), Florida Statutes, the Canvassing Board reported the first set of unofficial returns for the Sheriff’s Race. (Joint Exhibit 15) The first set of unofficial returns included the 428 Ballots. The first set of unofficial returns for the Sheriff’s Race reported Defendant DeLoach with 15,866 votes and Plaintiff Kinney with 15,852 votes.

13. After completing the recount, the Canvassing Board reported a second set of unofficial returns, pursuant to Section 102.141(7)(c), Florida Statutes, reflecting the following vote count in the Sheriff's Race: 15,864 for Defendant DeLoach and 15,852 for Plaintiff Kinney. (Joint Exhibit 16)

14. Because the second set of unofficial returns indicated that Plaintiff Kinney had been defeated by less than one quarter of a percent of the votes cast in the Sheriff's Race, the Canvassing Board ordered a manual recount of the overvotes and undervotes cast in the Sheriff's Race, pursuant to Section 102.166, Florida Statutes.

15. Upon completion of the manual recount, the Canvassing Board announced a vote count in the Sheriff's Race of 15,870 for Defendant DeLoach and 15,857 for Plaintiff Kinney.

16. The Canvassing Board met on November 18, 2016, to canvass vote-by-mail ballots received from overseas voters pursuant to the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"). There were four UOCAVA ballots that were counted in the Sheriff's Race. Following the canvass of overseas ballots, the Canvassing Board included the 4 UOCAVA votes and announced a vote count total in the Sheriff's contest of 15,869 for Defendant DeLoach and 15,853 for Plaintiff Kinney.

17. The Canvassing Board certified Defendant DeLoach's election as Putnam County Sheriff on November 18, 2016, by a total of 15,869 votes counted for Defendant DeLoach and 15,853 votes counted for Plaintiff Kinney. (Joint Exhibit 17)

Stipulations Regarding Votes Received in November 2016 General Election

18. During the course of this litigation and through discovery, Plaintiff Kinney has identified individuals who cast ballots in the November 2016 General Election and who he asserts were legally ineligible to vote or to have their ballots counted under the law.

19. Based on the State of Florida's Official Voter Registration and Voter History Records (Joint Exhibits 11, 12), the following 42 individuals: 1) were registered voters in Putnam County and the State of Florida on November 8, 2016; and 2) either cast ballots or had ballots cast in their name in the November 2016 General Election:

1. Charles E. Ball, DOB 02/09/1952, VR # 116567908
2. Mattie H. Brinson, DOB 1/18/1969, VR # 117968781
3. Tyrone Davis, DOB 1/22/1978, VR # 123641670
4. Gregory Allan Futch, DOB 2/26/1963, VR # 120143697
5. Jimmie Lee Gilmore, DOB 5/30/1937, VR # 107478289
6. Tommie Lee Johnson, DOB 01/14/1942, VR # 107492067
7. James Jordan, DOB 10/15/1958, VR # 120113431
8. Ruben James Josey, DOB 7/22/1964, VR # 107489783
9. Cleophus Tyrone Matthews, DOB 10/19/1978, VR # 124106596
10. Clinton Donovan Mims, DOB 5/25/1971, VR # 107492948
11. Melvin Oxendine, DOB 5/5/1959, VR # 107482338
12. Bryan W. Padgett, Sr., DOB 10/19/1976, VR # 123462519
13. Deloris Pearce, DOB 7/7/1962, VR # 116979016
14. Daniel James Pierce, DOB 5/1/1975, VR # 124275218
15. Michelle Angelina (Moreau) Scotland, DOB 7/6/1985, VR # 121805348
16. William Fernon St. Sauveur, DOB 6/27/1955, VR # 107451804
17. Harold F. Sylvan, DOB 11/9/1948, VR # 103296813
18. James P. Williams, a/k/a Clinton B. Williams, DOB 03/28/1939, VR # 107459476
19. Clark J. Wood, DOB 2/28/1963, VR # 107492041
20. Carolann C. Deal, DOB 5/10/1943, VR # 107469082
21. Edward L. Wallace, DOB 2/18/1926, VR # 123331150
22. Violet L. Crews, DOB 7/14/1933, VR # 107455858
23. Barbara A. Jaramillo, DOB 9/01/1990, VR # 116973031
24. Chantell E. Pelham, DOB 9/26/1970, VR # 117074967
25. William Ivey, DOB 7/04/1946, VR # 107494310
26. Susan Ivey, DOB 9/08/1946, VR # 107494311
27. Christopher A. Faunce, DOB 10/23/1969, VR # 100488795
28. Sandra Lee Novak, DOB 12/31/1959, VR # 111974637
29. Steven J Miller, DOB 12/02/1957, VR # 124286765
30. Natividad Aguayo III, DOB 3/01/1977, VR # 123123689
31. Anthony Pride, DOB 2/26/1971, VR # 124286872
32. Davis L Allen, DOB 3/21/1967, VR # 124277041
33. Ronnie L Barber, DOB 3/05/1945, VR # 124225400
34. Calvin A Bonfour II, DOB 9/22/1961, VR # 124224629
35. Charles H Burkley, DOB 1/14/1954, VR # 123415658
36. Joe C Cancel Jr, DOB 10/02/1959, VR # 124207878
37. James K Harris, DOB 12/27/1962, VR # 123679359
38. Holland Miller Jr, DOB 7/01/1976, VR # 124080900

- 39. Lloyd L Wiggins, DOB 5/21/1959, VR # 107470140
- 40. Alechia B Williams, DOB 7/05/1971, VR # 123981018
- 41. Yvonne M Zuzich, DOB 3/05/1966, VR # 116411403
- 42. Jimmie D Nicholson, DOB 3/08/1935, VR # 107493902

Vote-By-Mail Ballots Cast on Behalf of Deceased Voters

20. The Certificate of Death for Carolann C. Deal (Plaintiff's Exhibit 25) identifies Ms. Deal's date of death as October 15, 2016. The vote-by-mail ballot envelope for Carolann C. Deal (Plaintiff's Exhibit 24) bears a postmark of October 22, 2016, and was received by the Supervisor of Elections on October 24, 2016.

21. The Certificate of Death for Edward L. Wallace (Plaintiff's Exhibit 27) identifies Mr. Wallace's date of death as October 24, 2016. The vote-by-mail ballot envelope for Edward L. Wallace (Plaintiff's Exhibit 26) bears a postmark of October 26, 2016, and was received by the Supervisor of Elections on October 28, 2016.

22. The Certificate of Death for Violet L. Crews (Plaintiff's Exhibit 29) identifies Ms. Crews's date of death as October 16, 2016. The vote-by-mail ballot envelope for Ms. Crews (Plaintiff's Exhibit 28) contains no stamp or postmark and was received by the Supervisor of Elections on October 19, 2016.

23. The vote-by-mail ballots for Ms. Deal and Mr. Wallace were postmarked and received by the Supervisor of Elections after their deaths. The vote-by-mail ballot for Ms. Crews was not postmarked and was received by the Supervisor of Elections after her death.

**Ballots Cast By Voters Adjudicated Guilty of Felonies
without Restoration of Civil Rights**

24. Based on certified court documents (Plaintiff's Composite Exhibits 1 through 19), Plaintiff Kinney asserts that the following individuals have been adjudicated guilty of the felony offenses indicated below:

1. Charles E. Ball, DOB 02/09/1952
 - Entered a plea of nolo contendere in Case Number 94-CF-3319 (Seminole County) to the offense of sale of a substance in lieu of a controlled substance, a Third Degree Felony. Adjudicated guilty on 01/24/1995.
2. Mattie H. Brinson, DOB 1/18/1969
 - Entered a plea of nolo contendere in Case Number 89-1566CF (Putnam County) to the offense of uttering a false or forged instrument, a Third Degree Felony. Adjudicated guilty on 4/23/1996.
3. Tyrone Davis, DOB 1/22/1978
 - Entered a plea of nolo contendere in Case Number 96-1628CF (Clay County) to the offense of aggravated assault, a Second Degree Felony. Adjudicated guilty on 10/14/1999.
4. Gregory Allan Futch, DOB 2/26/1963
 - Entered a plea of guilty in Case Number 82-339-CF (Putnam County) to the offense of unlawful sale or delivery of a controlled substance, a Third Degree Felony. Adjudicated guilty on 10/18/1984.
5. Jimmie Lee Gilmore, DOB 5/30/1937
 - Entered a plea of guilty in Case Number 2011-CF-000174 (Clay County) to the offense of knowingly violating a stop work order, a Third Degree Felony. Adjudicated guilty on 05/05/2011.
6. Tommie Lee Johnson, DOB 01/14/1942
 - Entered a plea of guilty in Case Number 80-005553-CF-10A (Broward County) to the offense of resisting/obstructing an officer with violence, a Third Degree Felony. Adjudicated guilty on 12/14/1981.
7. James Jordan, DOB 10/15/1958
 - Entered a plea of guilty in Case Number 48-05-CF-7616-O/A (Orange County) to the offense of possession of cocaine, a Third Degree Felony. Adjudication of guilt withheld on 12/09/2005, later adjudicated guilty on 4/4/2006 following violation of probation.
8. Ruben James Josey, DOB 7/22/1964
 - Found guilty by jury verdict in Case Number 13-0192-CF-52 (Putnam County) of grand theft, a Third Degree Felony. Adjudicated guilty on 3/20/2015.
9. Cleophus Tyrone Matthews, DOB 10/19/1978
 - Entered a plea of nolo contendere in Case Number 13-001427CF (Putnam County) to the offense of possession of cocaine, a Third Degree Felony. Adjudicated guilty on 12/5/2013.
10. Clinton Donovan Mims, DOB 5/25/1971
 - Entered a plea of guilty in Case Number 42-2014-CF-001411 (Marion County) to the offense of DUI 3rd Offense Within 10 Years, a Third Degree Felony. Adjudicated guilty on 12/08/2014.
11. Melvin Oxendine, DOB 5/5/1959
 - Entered a plea of guilty in Case Number 98-0633CF (Putnam County) to the offense of felony driving while license suspended, revoked, or canceled, a Third Degree Felony. Adjudicated guilty on 10/27/1998.
12. Bryan W. Padgett, Sr., DOB 10/19/1976

- Entered a plea of nolo contendere in Case Number 99-0670-CF (Putnam County) to the offense of dealing in stolen property, a Second Degree Felony. Adjudicated guilty on 01/31/2000.
13. Deloris Pearce, DOB 7/7/1962
- Entered a plea of nolo contendere in Case Number 92-369-CF (Putnam County) to the offense of attempted possession of a controlled substance, a Second Degree Felony, and was adjudicated guilty on 6/25/1992; entered a plea of nolo contendere in Case Number 95-819-CF (Putnam County) to the offense of felony retail theft, a Third Degree Felony, and was adjudicated guilty on 8/22/1995; and entered a plea of nolo contendere in Case Number 96-62CF (Putnam County) to the offense of robbery with weapon (not a firearm), a Second Degree Felony, and was adjudicated guilty on 6/13/1996.
14. Daniel James Pierce, DOB 5/1/1975
- Entered a plea of nolo contendere in Case Number 06-2414-CF-52 (Putnam County) to the offense of Grand Theft, a Third Degree Felony. Adjudicated guilty on 3/14/2007.
15. Michelle Angelina (Moreau) Scotland, DOB 7/6/1985
- Entered a plea of guilty in Case Number 08-CF-005180 (Palm Beach County) to the offense of possession of heroin, a Third Degree Felony. Adjudicated guilty on 1/9/2009 as Michelle Angelina Moreau, married James Stuart Scotland on 5/19/2014 in Palatka.
16. William Fernon St. Sauveur, DOB 6/27/1955
- Adjudicated guilty in Case Number 92-1368-CF (Putnam County) of attempted lewd and lascivious activity with a child, a Second Degree Felony. Adjudicated guilty on 3/18/1993.
17. Harold F. Sylvan, DOB 11/9/1948
- Entered a plea of nolo contendere in Case Number 08-2589-CF (Putnam County) to the offense of shooting into occupied vehicle, a Second Degree Felony. Adjudicated guilty on 11/30/2011.
18. James P. Williams, a/k/a Clinton B. Williams, DOB 03/28/1939
- Entered a plea of nolo contendere in Case Number 2004-CF-7859 (Sarasota County) to the offense of purchase of controlled substance (cocaine), a Second Degree Felony.
19. Clark J. Wood, DOB 2/28/1963
- Entered a plea of nolo contendere in Case Number 95-487-CF-52 (Putnam County) to the offense of attempted kidnapping, a Second Degree Felony. Adjudicated guilty on 8/27/1996.

25. Based upon information deemed “credible and reliable” under section 98.075(5),

Florida Statutes, the following 14 voters on the list of potential felons in paragraph 24 of this Stipulation have been identified by the Florida Department of State, Division of Elections, as potential ineligible felons:

1. Mattie H. Brinson
2. Tyrone Davis
3. Jimmie Lee Gilmore
4. Tommie Lee Johnson
5. Ruben James Josey
6. Cleophus Tyrone Matthews
7. Clinton Donovan Mims
8. Melvin Oxendine
9. Bryan W. Padgett, Sr.
10. Deloris Pearce
11. David James Pierce
12. Michelle Angelina (Moreau) Scotland
13. William Fernon St. Sauveur
14. Harold F. Sylvan

The SOE's Office is processing these individuals pursuant to Section 98.075(7), Florida Statutes.

26. The Florida Commission on Offender Review has certified that it has conducted a thorough search of its records to determine whether the individuals listed in paragraph 24 of this Stipulation have been granted a restoration of civil rights, including the right to vote in the State of Florida. (Plaintiff's Exhibit 20). Except as referenced below, the Commission has certified that it has no record of restoration of rights for the 19 individuals listed in paragraph 24 of this Stipulation as having been adjudicated guilty of felony offenses.

27. As to Jimmie Lee Gilmore, the Florida Commission on Offender review indicates that civil rights were previously restored under the name "Jim Gilmore" on February 26, 1987. This restoration date precedes the May 2011 felony adjudication on which Plaintiff Kinney relies in this action. (Plaintiff's Exhibit 20)

28. As to James P. Williams a/k/a Clinton B. Williams, the Florida Commission on Offender review indicates that civil rights were previously restored under the name "James Percy Williams" on December 18, 1980. This restoration date precedes the 2004 felony adjudication on which Plaintiff Kinney relies in this action. (Plaintiff's Exhibit 20)

29. In addition to the 19 individuals listed in paragraph 24 of this Stipulation, the Florida Department of State, Division of Elections, following the November 2016 General Election, has separately identified the following 13 additional individuals as potentially ineligible felons based upon information deemed “credible and reliable” under section 98.075(5), Florida Statutes:

1. Steven J Miller, DOB 12/02/1957, VR # 124286765
2. Natividad Aguayo III, DOB 3/01/1977, VR # 123123689
3. Anthony Pride, DOB 2/26/1971, VR # 124286872
4. Davis L Allen, DOB 3/21/1967, VR # 124277041
5. Ronnie L Barber, DOB 3/05/1945, VR # 124225400
6. Calvin A Bonfour II, DOB 9/22/1961, VR # 124224629
7. Charles H Burkley, DOB 1/14/1954, VR # 123415658
8. Joe C Cancel Jr, DOB 10/02/1959, VR # 124207878
9. James K Harris, DOB 12/27/1962, VR # 123679359
10. Holland Miller Jr, DOB 7/01/1976, VR # 124080900
11. Lloyd L Wiggins, DOB 5/21/1959, VR # 107470140
12. Alechia B Williams, DOB 7/05/1971, VR # 123981018
13. Yvonne M Zuzich, DOB 3/05/1966, VR # 116411403

The SOE’s Office is processing these individuals pursuant to Section 98.075(7), Florida Statutes, and has already removed 10 of the 13 (the final 10 individuals on the list above) based upon his “final determination that the voter is ineligible to vote.” § 98.075(7)(b)4., Fla. Stat.

Vote-By-Mail Ballots Allegedly Received After Deadline

30. The vote-by-mail ballot for Barbara A. Jaramillo, VR # 116973031, (Plaintiff’s Exhibit 22) bears a time-stamp stating: “Received – Putnam County Supervisor of Elections” on November 8, 2016, at 7:02 p.m. (Plaintiff’s Exhibit 22)

31. The vote-by-mail ballot for Chantell E. Pelham, VR # 117074967, (Plaintiff’s Exhibit 23) bears a time-stamp stating “Received – Putnam County Supervisor of Elections” on November 8, 2016, at 7:06 p.m. (Plaintiff’s Exhibit 23)

Vote-By-Mail Ballots Received from Alleged Non-Residents of Putnam County

32. Vote-by-mail ballots were cast by the following individuals who Plaintiff Kinney asserts were not legal residents of Putnam County and were therefore ineligible to vote.

33. William Ivey, DOB 7/04/1946, VR # 107494310, cast a vote-by-mail ballot in the November 2016 General Election.

34. Susan Ivey, DOB 9/08/1946, VR # 107494311, cast a vote-by-mail ballot in the November 2016 General Election.

35. Christopher A. Faunce, DOB 10/23/1969, VR # 100488795, cast a vote-by-mail ballot in the November 2016 General Election.

Vote-By-Mail Ballot Cast in More Than One State

36. Sandra Lee Novak, DOB 12/31/1959, VR # 111974637, cast a vote-by-mail ballot in Putnam County in the November 2016 General Election. The vote-by-mail ballot was delivered to and voted from 40 Schalick Drive, Elmer, New Jersey, 08318.

Vote-By-Mail Ballots Accepted from Voter Allegedly Adjudicated Mentally Incapacitated

37. Based upon information deemed “credible and reliable” under section 98.075(4), Florida Statutes, the following voter has been identified by the Florida Department of State, Division of Elections, as potentially ineligible on the basis that he has been adjudicated mentally incapacitated with respect to voting and who has not had his voting rights restored:

1. Jimmie D Nicholson, DOB 3/08/1935, VR # 107493902

The SOE’s Office is processing this individual pursuant to Section 98.075(7), Florida Statutes.

C. Concise Statement of Facts that Remain to Be Litigated

1. As a matter of ultimate fact, whether a number of illegal votes were accepted sufficient to change or place in doubt the result of the November 2016 election of Defendant DeLoach as Putnam County Sheriff.

D. Proposed Amendments to Pleadings

None.

E. Complete List of Witnesses

Plaintiff's Witnesses:

Supervisor of Elections Charles Overturf, III.

Carolyn Faunce

William Ivey (via deposition transcript)

Susan Ivey (via deposition transcript)

Christopher Faunce (via deposition transcript)

Daniel Pierce (via deposition transcript)

Melvin Oxendine (via deposition transcript)

Any witness listed by another party

Defendant DeLoach's Witnesses:

All witnesses listed by Plaintiff Kinney and Defendant Canvassing Board

Defendant Canvassing Board's Witnesses:

Supervisor of Elections Charles Overturf, III.

Carolyn Faunce

Christina Prout

Jennifer Adkisson

Maria Matthews

William Ivey (via deposition transcript)

Susan Ivey (via deposition transcript)

Christopher Faunce (via deposition transcript)

Any witness listed by another party

F. Statement Reflecting Objections to Video Depositions or Video Exhibits

None.

G. Undisposed Matters

None

H. Statement of Agreed Issues of Law

Jurisdiction and Governing Standards

1. This Court has jurisdiction under section 102.168(1), Florida Statutes, which provides that the certification of election of any person to office may be contested in the circuit court by any unsuccessful candidate.

2. This Court also has jurisdiction under section 86.011, Florida Statutes, to issue the declaratory relief sought in this action.

3. This election contest is timely under section 102.168(2), Florida Statutes.

4. This election contest is governed by the Florida Election Code, Chapter 97-106, Florida Statutes. Specifically, under section 102.168(3)(c), Florida Statutes, the grounds for contesting an election include “[r]eceipt of a number of illegal votes or rejection of a number of legal votes sufficient to change or place in doubt the result of the election.”

I. Complete List of Exhibits

Joint Exhibits:

1. Composite Exhibit consisting of all Public Notices and Newspaper advertisements of Putnam County Canvassing Board Meetings for 2016 General Election
2. Putnam County Canvassing Board Meeting Transcript - October 18, 2016
3. Putnam County Canvassing Board Meeting Transcript - October 24, 2016

4. Putnam County Canvassing Board Meeting Transcript - October 28, 2016
5. Putnam County Canvassing Board Meeting Transcript - November 1, 2016
6. Putnam County Canvassing Board Meeting Transcript - November 7, 2016
7. Putnam County Canvassing Board Meeting Transcript - November 8, 2016
8. Putnam County Canvassing Board Meeting Transcript - November 9, 2016
9. Putnam County Canvassing Board Meeting Transcript - November 10, 2016
10. Putnam County Canvassing Board Meeting Transcript - November 11, 2016
11. Putnam County Canvassing Board Meeting Transcript - November 18, 2016.
12. Certified copy of Putnam County voter registration extract produced by Florida
Department of State, Division of Elections
13. Certified copy of Putnam County voter history extract produced by Florida Department
of State, Division of Elections
14. Preliminary returns for 2016 General Election for Putnam County Sheriff Contest
15. First Set of Unofficial Returns for 2016 General Election for Putnam County Sheriff
Contest
16. Second Set of Unofficial Returns for 2016 General Election for Putnam County Sheriff
Contest
17. Certification of Election for 2016 General Election for Putnam County Sheriff Contest

Plaintiff's Exhibits:

Exhibits Related to Convicted Felons

1. Composite Exhibit for Charles E. Ball, DOB 02/09/1952, consisting of certified court documents from Case Number 94-CF-3319 from Seminole County reflecting a felony conviction.

2. Composite Exhibit for Mattie H. Brinson, DOB 01/18/1969, consisting of certified court documents from Case Number 89-1566CF from Putnam County reflecting a felony conviction.
3. Composite Exhibit for Tyrone Davis, DOB 01/22/1978, consisting of certified court documents from Case Number 96-1628CF from Clay County reflecting a felony conviction.
4. Composite Exhibit for Gregory Allen Futch, DOB 02/26/1963, consisting of certified court documents from Case Number 82-339CF from Putnam County reflecting a felony conviction.
5. Composite Exhibit for Jimmie Lee Gilmore, DOB 05/30/1937, consisting of certified court documents from Case Number 2011-CF-000174 from Clay County reflecting a felony conviction.
6. Composite Exhibit for Tommie Lee Johnson, DOB 01/14/1942, consisting of certified court documents from Case Number 80-005553-CF from Broward County reflecting a felony conviction.
7. Composite Exhibit for James Jordan, DOB 10/15/1958, consisting of certified court documents from Case Number 48-05-CF-7616-O/A from Orange County reflecting a felony conviction.
8. Composite Exhibit for Ruben James Josey, DOB 07/22/1964, consisting of certified court documents from Case Number 13-0192-CF-52 from Putnam County reflecting a felony conviction.

9. Composite Exhibit for Cleophus Tyrone Matthews, DOB 10/19/1978, consisting of certified court documents from Case Number 13-001427CF from Putnam County reflecting a felony conviction.
10. Composite Exhibit for Clinton Donovan Mims, DOB 05/25/1971, consisting of certified court documents from Case Number 42-2014-CF-001411 from Marion County reflecting a felony conviction.
11. Composite Exhibit for Melvin Oxendine, DOB 05/05/1959, consisting of certified court documents from Case Number 98-0633CF from Putnam County reflecting a felony conviction.
- 11A. Deposition Transcript of Melvin Oxendine, Sr., taken January 18, 2017
12. Composite Exhibit for Bryan W. Padgett, Sr., DOB 10/19/1976, consisting of certified court documents from Case Number 99-0670-CF from Putnam County reflecting a felony conviction.
13. Composite Exhibit for Deloris Pearce, DOB 07/07/1962, consisting of certified court documents from Case Number 92-369-CF from Putnam County reflecting a felony conviction, certified court documents from Case Number 95-819-CF from Putnam County reflecting a felony conviction, and certified court documents from Case Number 96-62CF from Putnam County reflecting a felony conviction.
14. Composite Exhibit for Daniel J. Pierce, DOB 05/01/1975, consisting of certified court documents from Case Number 06-2414-CF-52 from Putnam County reflecting a felony conviction.
- 14A. Deposition Transcript of Daniel J. Pierce, taken January 18, 2017.

15. Composite Exhibit for Michelle Angelina (Moreau) Scotland, DOB 07/06/1985, consisting of certified court documents from Case Number 08-CF-005180 from Palm Beach County reflecting a felony conviction, certified court documents from Case Number 05-12224CFAOV from Palm Beach County reflecting a felony conviction, certified court documents from Case Number 05-12773CFAOV from Palm Beach County reflecting a felony conviction, and a marriage certificate from Putnam County, Florida from 05/19/2014 showing a groom's name of James Stuart Scotland and a wife's name of Michelle Angelina Moreau, DOB 07/06/1985.
16. Composite Exhibit for William F. St. Sauveur, DOB 06/27/1955, consisting of certified court documents from Case Number 92-1368-CF from Putnam County reflecting a felony conviction and a copy of the sexual offender registry entry for William F. St. Sauveur.
17. Composite Exhibit for Harold F. Sylvan, DOB 11/9/1948, consisting of certified court documents from Case Number 08-2589-CF from Putnam County reflecting a felony conviction.
18. Composite Exhibit for James P. Williams a/k/a Clinton B. Williams, DOB 03/28/1939, consisting of certified court documents from Case Number 2004-CF-7859 from Sarasota County reflecting a felony conviction and a Sarasota County Sheriff's Office Memorandum concerning the fingerprint analysis linking the alias name.
19. Composite Exhibit for Clark J. Wood, DOB 02/28/1963, consisting of certified court documents from Case Number 95-487-CF-52 from Putnam County reflecting a felony conviction.
20. Composite Exhibit from the Florida Office of Executive Clemency consisting of two certified records concerning any restoration of civil rights for the following individuals:1)

Mattie H. Brinson, 2) Tyrone Davis, 3) Gregory Allan Futch, 4) James Jordan, 5) Ruben James Josey, 6) Cleophus Tyrone Matthews, 7) Clinton Donovan Mims, 8) Melvin Oxendine, 9) Deloris Pearce a/k/a Delores Pearce, 10) Daniel James Pierce, 11) Michelle Angelina Moreau a/k/a Michelle Angelina Scotland, 12) William Fernon St. Sauveur, 13) Harold F. Sylvan, 14) Clark J. Wood, 15) Jimmie Lee Gilmore, 16) Tommie Lee Johnson, 17) Charles E. Ball, 18) James P. Williams a/k/a Clinton B. Williams, and 19) Bryan W. Padgett, Sr.

21. Composite Exhibit consisting of copies of vote-by-mail ballots cast by voters described in Exhibits 1-20.

Exhibits Related to Vote-By-Mail Ballots Received After Deadline

22. The vote-by-mail ballot envelope for Barbara A. Jaramillo, Voter Registration # 116973031, which bears a time-stamp stating that it was received by the Supervisor of Elections on November 8, 2016, at 7:02 p.m.
23. The vote-by-mail ballot envelope for Chantell E. Pelham, Voter Registration # 117074967, which bears a time-stamp stating that it was received by the Supervisor of Elections on November 8, 2016, at 7:06 p.m.

Exhibits Related to Deceased Voters

24. A copy of the vote-by-mail ballot envelope for Carolann C. Deal, Voter Registration # 107469082, showing a postmark date of October 22, 2016, and a receipt date of October 24, 2016 by the Putnam County Supervisor of Elections Office.
25. A copy of the death certificate of Carolann C. Deal showing a date of death of October 15, 2016.

26. A copy of the vote-by-mail ballot envelope for Edward L. Wallace, Voter Registration # 123331150, showing a postmark date of October 26, 2016 and a receipt date of October 28, 2016 by the Putnam County Supervisor of Elections Office.
27. A copy of the death certificate of Edward L. Wallace showing a date of death of October 24, 2016.
28. A copy of the vote-by-mail ballot envelope for Violet L. Crews, Voter Registration # 123331150, showing no postmark and a receipt date of October 19, 2016 by the Putnam County Supervisor of Elections Office.
29. A copy of the death certificate of Violet L. Crews showing a date of death of October 16, 2016.

Exhibits Related to Multi-State Voter

30. Composite exhibit for Sandra L. Novak, DOB 12/31/1959, Florida Voter Registration # 111974637, New Jersey Voter Registration # 521780853, a copy of a New Jersey Application for Vote by Mail Ballot, a New Jersey Voter Profile showing a counted and accepted ballot on 11/09/2016, a copy of the Putnam County vote by mail ballot envelope.

Exhibits Related to Non-Resident Voters

31. Deposition Transcript of William Ivey taken January 20, 2017
32. A copy of the vote-by-mail ballot envelope for William Ivey, Voter Registration # 107494310.
33. Deposition Transcript of Susan Ivey taken January 20, 2017
34. A copy of the vote-by-mail ballot envelope for Susan Ivey, Voter Registration # 107494311.

35. Deposition Transcript of Christopher Faunce
36. A copy of the vote-by-mail ballot envelope for Christopher Faunce, Voter Registration # 100488795.

Exhibits Related to Additional Ineligible Voters Identified by Division of Elections

37. Composite Exhibit for Steven J Miller, DOB 12/02/1957, VR # 124286765, consisting of court documents from Case Number 97-1442; 1938CF from Putnam County reflecting a felony conviction.
38. Composite Exhibit for Natividad Aguayo III, DOB 3/01/1977, VR # 123123689, consisting of court documents from Case Number 97-0838-CF from Putnam County reflecting a felony conviction.
39. Composite Exhibit for Anthony Pride, DOB 2/26/1971, VR # 124286872, consisting of court documents from Case Number 97-2263CF from Putnam County reflecting a felony conviction.
40. Composite Exhibit for Davis L Allen, DOB 3/21/1967, VR # 124277041, consisting of court documents from Case Number 2000-11569-CF from Duval County reflecting a felony conviction.
41. Composite Exhibit for Ronnie L Barber, DOB 3/05/1945, VR # 124225400, consisting of court documents from Case Number 10-1075-CF from Putnam County reflecting a felony conviction.
42. Composite Exhibit for Calvin A Bonfour II, DOB 9/22/1961, VR # 124224629, consisting of court documents from Case Number CF97-2138 from St. Johns County reflecting a felony conviction.

43. Composite Exhibit for Charles H Burkley, DOB 1/14/1954, VR # 123415658, consisting of court documents from Case Number 75-2172 from Dade County reflecting a felony conviction.
44. Composite Exhibit for Joe C. Cancel Jr, DOB 10/02/1959, VR # 124207878, consisting of court documents from Case Number 07-1327-CF from Putnam County reflecting a felony conviction.
45. Composite Exhibit for James K Harris, DOB 12/27/1962, VR # 123679359, consisting of court documents from Case Number CRC 02-09168CFANO-B from Pinellas County reflecting a felony conviction.
46. Composite Exhibit for Holland Miller Jr, DOB 7/01/1976, VR # 124080900, consisting of court documents from Case Number 04-2155-CF-53 from Putnam County reflecting a felony conviction.
47. Composite Exhibit for Lloyd L Wiggins, DOB 5/21/1959, VR # 107470140, consisting of court documents from Case Number 92-1209-CF-J from Putnam County reflecting a felony conviction.
48. Composite Exhibit for Alechia B Williams, DOB 7/05/1971, VR # 123981018, consisting of court documents from Case Number 01-2011-CF-000428-A from Alachua County reflecting a felony conviction.
49. Composite Exhibit for Yvonne M Zuzich, DOB 3/05/1966, VR # 116411403, consisting of court documents from Case Number 85-472-C from Volusia County reflecting a felony conviction.
50. Composite Exhibit for Jimmie D Nicholson, DOB 3/08/1935, VR # 107493902, consisting of court documents from the Putnam County Clerk of Court reflecting an

adjudication of mental incapacity with respect to voting in Case Number 2016-GA-281 & 2016-MH-282.

General Exhibits

51. The Supervisor of Elections Securities Procedures for Putnam County, Florida, for the 2016 General Election dated September 15, 2016 submitted to the Florida Division of Elections pursuant to Florida administrative rule 1S-2.015.

Defendant DeLoach's Exhibits:

1. A ballot from Batch EV1-13 reviewed by the canvassing board during the manual recount of the over/undervotes
(Plaintiff objects to this exhibit on the basis that it had not been disclosed until 4:11 p.m. on April 5, 2017; on the basis that a copy of the exhibit has not been provided for review by Plaintiff's counsel; on the basis of relevance; and on the basis of lack of foundation)
2. Rule 1S-2.027, Florida Administrative Code

Defendant Canvassing Board's Exhibits:

1. All Exhibits listed by other parties.
2. A composite exhibit consisting of an e-mail chain dated September 6, 2016, between Supervisor Overturf and Maria Mathews, Director of the Florida Division of Elections, labeled RE: Putnam County/Voter Fraud concerning voter residency issues.

Respectfully submitted,

Keller Legal

/s/ Zachery Lucas Keller
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Counsel for Defendant DeLoach

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this document was served by email on April 5, 2017, to:

<p>Ronald A. Labasky Brewton Plante, P.A. 225 South Adams Street, Suite 250 Tallahassee, Florida 32301 rlabasky@bplawfirm.net fsase@bplawfirm.net</p> <p>John T. LaVia, III 1300 Thomaswood Drive Tallahassee, Florida 32308 jlavia@gbwlegal.com Rhonda@gbwlegal.com <i>Counsel for Defendant Putnam County Canvassing Board</i></p>	<p>Charles T. Douglas, Jr. Douglas & Hedstrom, P.A. 601 Saint Johns Avenue Palatka, Florida 32177 charlie@dhclawyers.com Efiling@dhclawyers.com vikki@dhclawyers.com</p>
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