

MS. LAGRUA: This involves a 2008 general runoff election. The complainant is Shirley Hines, Meriwether NAACP; Charlie Charlie Glanton, candidate for Meriwether County Commissioner. The respondents are Meriwether County Board of Elections; Steve Whitlock who is the sheriff. Larry Whitlock was a candidate for Meriwether County Commissioner running against Charlie Glanton. The allegations were that Steve Whitlock, the sheriff, intimidated voters at a public forum. The sheriff intimidated Michael Bussy by disparaging another candidate while in uniform. Steve Whitlock instructed the poll worker that the sign was not a violation of the law. Early voters were turned away because there were no ballots available; that absentee ballots were not timely sent; that Earl Ellis was improperly removed from the voter's list; that Jimmy Marshall was improperly denied the right to vote; that two people were not allowed to vote in the proper district; Larry Whitlock, the candidate, entered the Odessadale precinct improperly; that the board limited the number of absentee ballot applications provided to African American campaign workers; and that children were wearing campaign buttons inside the precinct. The first allegation involving the sheriff involved two separate situations. The first was a public forum where apparently the sheriff, in uniform and in his public vehicle, arrived with his brother who was a candidate running for commission office. During the forum, he made a comment to the folks at the forum that you should be careful who you associate with. The second allegation is the sheriff went to Mr. Bussy's home and Mr. Bussy was on the campaign committee for Mr. Glanton, the candidate running against the sheriff's brother. For 30 minutes, he tried to talk him out of voting for Mr. Glanton. The sheriff was in uniform. Mr. Bussy said he was somewhat intimidating. Regarding the sheriff, the sign at the location was properly outside the 150 foot mark. The poll worker moved it farther away than that after the sheriff told the poll worker that he had been told to move his sign at the previous election at the same location farther out. In terms of the ballots, they were received the second day of advanced voting. They were mailed on the day they were received. The ballot that was in question was, in fact, counted and given credit for voting. Mr. Ellis was erroneously deleted because another Ellis in another county was a convicted felon. That was sorted out. He was allowed to vote provisionally. Mr. Godfrey was removed from being a convicted felon but completed his sentence by the time the election came around and was given a provisional ballot. In terms of the precinct changes, there was a 911 change in address on the precinct slip changed. The provisional ballots were issued and the votes for the appropriate election were, in fact, counted. Larry Whitlock did enter a precinct where his name was on the ballot which was not his voting precinct. He was assisting an elderly voter. He was in violation technically there and there was no evidence that applications requested were not handled appropriately. In terms of the case involving Larry whit lock entering the precinct, it is our recommendation that he be given a letter of instruction surrounding that situation. In terms of the situation with the convicted felons and their additional removal from the list, it's recommended that Patty Threadgill be issued a letter of instruction regarding the timely removal of convicted felons from the voter's list. As to the sheriff, we are back in the area where, to some degree, it is the Board's, I think, interpretation of the law and where the line is. As it relates to the public forum where the sheriff said be careful who you vote

for, I don't think there is an intimidation. It's a public forum for any reference to any specific candidate. You can make a lot of jolts and assumptions, but I don't think there is specific evidence to prove intimidation. Going to Mr. Bussy's house, I think, is a much closer call on an intimidation. Acting sheriff, in uniform in the evening in his marked vehicle, he goes to an elector's home that supports the campaign committee for another -- for the candidate opposing his brother and spends a good bit of time trying to talk him out of voting for the person whose campaign committee he's on. We tried to follow-up with Mr. Bussy after the original conversation to find out if these conversations were sort of in the norm for him, had the sheriff been out to visit him in other elections, was this an isolated incident. I was unable to locate Mr. Bussy to follow up on that. After a number of attempts, I am open to any questions on this one.

CHAIRPERSON HANDEL: Let's hear from other folks. Are all of you here to speak on the case? Find out who is who so we can go.

MS. HINES: My name is Shirley Grier Hines. I live 9415 Forest Road. I am the President of Meriwether County NAACP. To the Honorable Karen Handel and the State Election Board, thank you for addressing our concerns regarding the allegation of the voting election's irregularity counting in Meriwether County during the county election in 2008. Due to the time constraint, I will not go over all the allegations that have just been stated. One of our main concerns is the voters intimidation and the allegations of removal of convicted felons from the roster. Regarding Mr. Bussy, I was able to contact Mr. Bussy a couple of days ago and I talked with him regarding this incident. He stated that someone had told him that the sheriff was interested in meeting him and wanted to talk to him. Apparently, the sheriff had talked to the mayor of the City of Greenville asking questions about Mr. Bussy. He then told him where Mr. Bussy lived. If he needed to talk him, it would be best if he talked to him directly. As stated, the sheriff did go to Mr. Bussy's home and expressed his concern regarding him being the campaign manager for Mr. Glanton and asked if he knew the history of Mr. Glanton several years back with the school board. He felt that that was inappropriate for the sheriff to share that information with him especially at a time when he came in his uniform during regular business hours for him to share that information. Right after that event, I think approximately -- I think he said two or three weeks later, Mr. Bussy got -- in fact, there was an outstanding warrant for him for allegedly taking some items from a grocery store, an event that supposedly happened in 2005. Because of this, he was brought to court regarding the incident. He felt like that was brought out because of the position he played as the campaign manager for Mr. Glanton. Regarding the going to the convicted felon, one thing I want to get more clarity on, Mr. Nelson Godfrey voted in July on the primary. No problem when he went to the poll to vote. But, when the runoff, he went to vote. he was told then that they could not cast a vote because he was a convicted felon, only less than three weeks apart. We are wanting to know when did that change -- where did they get the list to change the names of those that were convicted felons. Secondly, with Mr. Ellis, Mr. Ellis said that he was told that he was a convicted felon. He never had had a felony. He did a

provisional ballot but on the roster that I have, I don't show his name. So, if he did do a provisional ballot, I still don't show that he was counted.

As far as the candidate, Mr. Whitlock, going in and out of the poll, received several calls from citizens with their concern of what was the policy. We brought this out because citizens brought it to our attention. There were a lot of other citizens when shared different information with the NAACP. But, unfortunately, we weren't able to get a lot of them to put it in writing because they felt like, if they did that, they would be retaliated on. So a lot of people didn't come forward that may have wanted to come forward because they felt like, once something was put in writing and it was made admissible, they may have the issue that Mr. Bussy and Mr. Nelson had had. We feel that these are some serious charges and that Meriwether County NAACP ask the possible criminal violation be forwarded and sent to the attorney general's office. Thank you.

MR. HINES: Madam Chair and the Board, my name is Freddie Hines, District 1 Commissioner, the husband of Shirley Grier Hines. But this is two separate things as for as the commission. I would like to say that I'm not here to represent the entire commission but District 1 regarding this particular case. I am a retired state employee. I'm retired from the Department of Public Safety after 32 years. I moved back to my hometown Meriwether County. I ran for office in District 1 and won the election. I served as advice chair for the first year. During this particular time, going on three years, we received numerous complaints from citizens and voters about intimidation, and the right to vote. There's one reason I'm here, even though I'm listed as the respondent, I should be listed as someone filing a complaint. I wish the investigator had talked to me. I have issues I could share with them and some documentation in reference to this particular case. I was never interviewed by any of your investigators. I hope they will come back and interview me regarding this particular case. There are various issues in Meriwether County. I would like to address the last gentleman that was here. I attended that hearing in Greenville that was just held because I received complaints and there will be more complaints regarding that incident where people are being hounded and predominantly minorities subjected to people visiting their homes, going and asking did this particular person live there. If they say they don't know, they go back and contact the registrar's office and have them removed. Most of the people are the people that are related to a particular candidate. I know one particular person, which came into the voters -- the hearing on last week. He had to remove himself from dialysis. He had the bandages. He came in to prove he lives at this address; going to government homes which is predominantly minority and asking the manager is this particular person listed on the contract.

CHAIRPERSON HANDEL: You keep saying "they."

MR. HINES: Mr. Garrett is one of them and it was another lady that was with him. We are going to forward a complaint about that.

CHAIRPERSON HANDEL: If you could help us and concentrate on this one that is before us so we can kind of keep up with what is before us, that would be great.

MR. HINES: Regarding this particular case, I would like to address probably why they couldn't contact Mr. Bussy. Right after this incident happened -- and I have letters to prove that Mr. Bussy contacted me and said he was being harassed by the sheriff and were bringing charges against him and Mr. Bussy was put in jail. He was held in jail for a long period of time. That is probably why they couldn't contact him. And also, Mr. Roster Marble. I have letters from Mr. Marble where he was allegedly harassed by the sheriff, and he is now serving prison time. They arrested him and said he violated probation. They kept him in jail for a long period of time. That information is being compiled now and will be forwarded to the justice department, because we believe it's a civil rights violation. I attended the jail., was contacted by one particular person, asked to speak with Mr. Marble because they said they would not allow him to shave. He had ingrown hairs. I contacted the sheriff and asked if I could talk with Mr. Marble. I will have information about that I will share with the justice department concerning civil rights violations. These are some serious issues.

CHAIRPERSON HANDEL: You referenced some letters you received from Mr. Bussy. Did you submit those to the inspector general's office?

MR. HINES: They never contacted me.

CHAIRPERSON HANDEL: You had information you knew about the case. It would be incumbent on you to provide info as well. I'm sure the attorney general would be interested in receiving it. I suggest that you do that.

MR. HINES: Thank you.

MR. EVANS: Madam Chair, the Chair has made clear since she became Secretary of the State that, if anyone had information, don't wait on someone to call; not just you but anyone that have something that you think matters. I know I can speak for my colleague, Mr. Worley. We seem to get our fair share of material which we forward on right immediately. But, if you get material, always send it in. Don't wait on somebody to call you. We are interested in investigating anything we think that is a violation.

MR. HINES: I will wrap this up, finish this. All three violations are potential violations. The people he contacted, two have been put in prison and the third has an allegation brought by the sheriff about simple battery and other cases that's pending. But all the other people that filed complaints at the voting irregularities of being subjected to that, we think unnecessary scrutiny and one reason in Meriwether county and in the City of Greenville. These are some serious violations. We ask the Board not to dismiss this case and ask you to refer it to the attorney general's office because these are serious allegations and serious issues that need to be addressed

in this particular county. This has gone on for a long period of time. There is also, I think in this complaint by the President of the NAACP, possible criminal allegations where certain items were purchased. I won't go into that. I am hoping you will refer this to the attorney general's office for them to take a look at it. Any questions?

CHAIRPERSON HANDEL: Can we hear from the two of you now? Thank you.

MR. ELLIOTT: My name is Tyrone Elliott. I live at 688 Mountainridge, Manchester, Georgia. I'm the county attorney for Meriwether County on behalf of Sheriff Whitlock and Board of Election, Commissioner Larry Whitlock. I would briefly like to identify the three areas that Ms. LaGrua referred to in regards to her recommendations for the allegations made against Ms. Patty Threadgill about failing to remove electors. We concur with that inadvertent matter. She did receive a notice of convicted felons. It didn't get removed within the 60-day period of time. In fact, they were removed and what prompted these other issues and the fact that Mr. Godfrey pointed out, he had served his time and should be reinstated. His vote was counted as a provisional ballot, but it counted in the long run. He was not denied his right to vote. Mr. Ellis was a mistaken identity. He was allowed to vote. No harm done once you recovered this. I think it was an inadvertent matter failing to get this removed in the 60-day period of time; never done this before. We recommend a letter of instruction would be appropriate in this case. With regards to Larry Whitlock, he went to the Odessdale precinct to assist a disabled voter. When he got there, no one was there to help the voter get inside the building. He the take the voter into the building and let the voter vote and waited on him outside. That was a technical violation again and he certainly acknowledges that. I think a letter of instruction to him would be appropriate as well. We concur with those two matter. That's leaves really the allegation that's been talked about the most which has to do with intimidation by the sheriff. The charge was the intimidation towards Mr. Bussy. Mr. and Ms. Hines made allegations by other people to actually respond to all of those since most of those respectively had to do with matters that are not before this Board. It's really impossible for us to respond to speculative allegations about what we are going to take to the justice department. We have to deal with what actually happened here. I have Sheriff Whitlock with me. I think the best thing to do is let him give his testimony as to what happened in relation to Mr. Bussy himself. I would point out to you that the Code section intimidation of electors 21 2 567 refer to that. What Ms. LaGrua, I think, asked be looked into was what constituted intimidation, act of intimidation. I point out this, first of all, that this Code section itself refers to acts in any other manner to intimidate and goes on to define that. You have a definition as to what constitutes intimidation, subsection B, acts in any other manner to intimidate means to undertake or pursue knowing and willful course of conduct which causes emotional distress as by placing another person in reasonable fear of such person's safety or safety of another person which serves no legitimate purposes. So the test here is whether or not Sheriff Whitlock acted in any manner that would cause Mr. Bussy to be in stress for mere of his safety or safety of another person. I think, when you hear the actual facts from the sheriff about what the context was of how he came to have a conversation with Mr. Bussy, you will

understand there was no violation of this Code section. There was no intimidation, and that matter should be closed as well. As far as the other matters of intimidation, we don't have any fact that we can identify that we can respond to. There are facts we can respond to. This is the one fact we have that Sheriff Whitlock give the response he has about that set of facts.

SHERIFF WHITLOCK: Thank you and I appreciate you letting me speak. I am Sheriff Whitlock, Meriwether County, 833 Pinewood Road, Hoganville. It's a Hoganville address. My address is inside Meriwether County. The statement was just made -- I just didn't happen to be to at Mr. Bussy's house that day. We had a call to go to that residence that day. I have a cad sheet to show why we were sent to Mr. Bussy's residence.

CHAIRPERSON HANDEL: Let me stop you there. Is that a copy we can have?

SHERIFF WHITLOCK: Sure. I will give you a copy.

CHAIRPERSON HANDEL: All right. Can I get a Motion to accept?

MR. WORLEY: So move.

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Oh, you need that back?

SHERIFF WHITLOCK: No really. What happened was we had a call of a demented person causing a problem in front of Mr. Bussy's house. I was the one officer on duty. And the subject was there he was pitching a big fit. I got a call. I knew who the subject was. I went there. I didn't know Mr. Bussy was going to be there. It was no means for me to go there and speak to Mr. Bussy at all.

MR. MCIVER: When you say "subject," who was that?

SHERIFF WHITLOCK: Ronnie Varner. He has kind of a mental problem. We have to take him to Columbus very often on 1013 papers. That day he was in the street at an abandoned house across -- he as coming outside taking feces and throwing it at people. So we got a call. The Greenville PD and one of our deputies got there and got in an altercation with Mr. Varner. I worked with him 27 years. I have known him most of his life. I felt like I could talk Mr. Varner into getting in the car. He got really violent. We had to subdue him and kind of rough handle him just a little bit. So, when I pulled up, they had him in control. Putting him back -- at that time, they put him in this patrol car, the back of the patrol car. I looked around. There was a large group of people standing in Mr. Bussy's yard which was Mr. Bussy's grandmother's yard. I have known her years and years. I had many times talked with her. So what I did, like I usually to, I walked over to the crowd and explained what -- they were drinking beer on the front porch, having a good time. I was joking with them. At that time, I walked up and sat down talking. I

didn't know that Mr. Bussy stepped to the left. I seen his two cousins, so I started talking to them. So a few minutes later, Mr. Bussy said -- I looked over and recognized him. He asked me point blank, Why don't you like Charlie Glanton. I told him about the moral ethics that he did in the past. I didn't agree with. At no time did I ask him to change his mind or vote for anybody, threaten him, or intimidate him. We talked for about 35 to 45 minutes. I think, if I threatened him or intimidated him, he would have asked me to leave or, you know, done something. He kept sitting there drinking his beer. We sat there and talked. When it was all over, he left. I stood up walked off. That was it. The warrant they were talking about him going to jail, I think it was a shoplifting case. He was picked up afterwards. The case was a city case. It wasn't a county case. I will say several months later, we did happen to do a search warrant at that resident. He was arrested with drugs. Another person they talked about being intimidated was Mr. Marble. We arrested him February last year, him and his wife for trafficking cocaine. His wife went to prison. They gave him ten years probation. Six months later, we locked up Mr. Marble a second time for possession with intent. We went to the house. We made a search warrant. We found about 20 rocks of crack cocaine. I am not intimidating anybody. I am here doing my job. If they feel like I've intimidated them, I apologize to them. I have known most of these people all my life. I don't see anywhere where I have threatened or intimidated anybody. It's just like the campaign sign, I went -- I was up for the last race. The year before that, I put my sign right at the front. I had a man come tell me. You have to be 150 feet from the poll. I didn't know myself. The sign was right at the road, the same as other signs. I moved my sign. All I did was walked up to the -- I got in trouble. Four years ago, they told me I needed to move my sign. You can leave it here. There is no problem. She said, No. I will move it down 50 more feet. I said, Ma'am, that is up to you. I am telling you what they told me four years ago. My sign had to be 150 feet. You know what assumption mean; 150 feet from the driveway. I moved my sign 150 feet down. I never ordered anybody to do anything. Like I said, I'm just doing my job. If that was intimidation, voicing your opinion, I'm sorry. And I don't think -- like I said, I didn't ask him to do anything. I didn't threaten him in no way. I was having a conversation.

CHAIRPERSON HANDEL: Questions or comments?

MR. MCIVER: I have one. What county is this?

SHERIFF WHITLOCK: Greenville, Georgia, sir.

MR. MCIVER: Greenville.

CHAIRPERSON HANDEL: Do we have a Motion?

MR. EVANS: Madam Chair, so on the removal of felon names from the ballot, I think everybody can get a good sense of why it is we are so vigilant on that. I if there is delay thing like this happens no activities get called into question as to why wasn't it done. It may be mere oversight, and so in this regard, I think that a letter of instruction on that point is appropriate. I

can't remember her name, the first person that spoke. Madam Chair, I asked what is the time been ongoing on it? I refer you to 21 2 231 which emphasize the 10th of every month it goes to the second of state price. The list goes up to the individual county to remove the name. Apparently, that didn't get done in time before you voted; but, apparently, in time for the second vote. Specified 21 2 231 (a) which is the clerk of the superior court of each county shall before the 10th day of each transmit to the second of state in a format described by the Secretary of State, a committee list of all persons including addresses, ages, and other identifications as prescribed by the Secretary of State convicted of a felony involving moral turpitude during the preceding calendar months in that county. So with your compliance I move for a letter of instruction.

CHAIRPERSON HANDEL: Would you also accept a public reprimand keep up with how we have done in the past?

MR. EVANS: I was torn on that because I didn't hear anything that would suggest a systemic issue, which is normally our threshold for that.

CHAIRPERSON HANDEL: I will second that position.

MR. WORLEY: Are we going to go over these one by one?

CHAIRPERSON HANDEL: Motion and second. Any questions or comments on that?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Larry Whitlock and then Sheriff Whitlock.

MR. EVANS: Larry Whitlock, this is a strict liability issue of physically entering a polling place as a person just -- everybody hear the way we treat that. It's like a traffic offense which is because we don't want to get into questioning anyone's motive about why they are there. The truth is, if you go threw a stop sign or traffic light that's red, that's it. You violated it. And we apply that so that people don't physically go into the polling places and campaign directly or indirectly. You have to be very careful in that regard. And so with that I would move for a letter of instruction as to Mr. Whitlock as well.

MR. WORLEY: I would second that.

CHAIRPERSON HANDEL: Motion and a second. Any other questions on this one?



(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

MR. EVANS: As to the sheriff, I will be candid with you. I don't hear it. However, under 40 2 USC 1983 there are remedies available to deal with -- lawful that means if a government official wearing their uniform, flashing their badge, using their office to intimidate a voter, the appropriate remedy is to register a complaint with the department of justice or U.S. attorney's office and they will then investigate to take a look at that. For our purposes, I think the measure is 21 2 567 and historically we applied that with a physical threat of force so that you are in eminent fear of your own personal safety and with that threshold which is different with the threshold of the justice department. I move to close the case because I don't hear evidence after hearing everyone for the threshold that we typically apply for the 21 2 567. I would make clear that we do not in any way preclude a filing under 42 U.S. C 93 if anyone believe that the use of the color of law which is the position or status. We don't take any position one way or the other on that; that would be for the justice department to address. That would be my Motion to close the case based on those comments.

MR. WORLEY: I second.

CHAIRPERSON HANDEL: Any other questions or comments? Mr. Worley?

MR. WORLEY: As far as the intimidation goes, Mr. Evans is correct about the standards that we have used in the past. And I want to make it clear that I'm not basing my decision on this motion today on anything other than this investigative report and the testimony that we have had from Sheriff Whitlock. To the extent that there are other complaints, charges, information, that Mr. Hines has that he would like to bring to the board, I urge him to do that. And we will look at those and investigate those. But I can't base a decision on this charge on that information yet because we really haven't gotten that information. I urge him to get that information and if it's there and bring it to our attention but as far as specific charge today the record before us Mr. Bussy reported he felt somewhat intimidated but he was not threatened by the sheriff in any manner. That is what we have from Mr. Bussy and we have from the sheriff his description of what occurred, which doesn't sound as if under the circumstances with other people being around that it meeting the standard of intimidation that we have. So I would have to vote in favor of Mr. Evans' Motion to close that charge but I am not ruling on any other charges that might be brought before this Board.

CHAIRPERSON HANDEL: Let me reiterate, any complaints that come into the inspector general's office from either side if there is anything additional provide that proactively to us. We have a Motion and second. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON: I thank you everyone. All right, the next case, 2008 Number 77, McDuffie County.

MR. HARVEY: Members of the Board, this election was – On September 16, 2008, David Gerlach, the complainant in this case, went to vote. When he arrived, he was told that someone else voted in his place on August 28. He said that he had not. I did some investigation and found out the signature on the voter application from August 28 voter registration, original voter registration, was not correct. They also saw that this name, David, was misspelled on the absentee ballot. The elections clerk, Ms. Hill, said that she investigated the information. She didn't specifically remember who it was but she said she marked it. She checked her driver's license. She always did that and alerted Mr. Gerlach. He notified the sheriff's department did an investigation and didn't find any other evidence of identity fraud. At this point Mr. Gerlach was not offered provisional ballot and did not vote. It appears somebody did vote in his place there is nothing to subject who that person is or how that happened there is the possibility based on the events that unless somebody had an always investigate and presented a driver's license this would have been caught. It is recommended that this case be essentially closed, unless new information were to come forward to allow us to identify a suspect. .

CHAIRPERSON HANDEL: Anyone else here to speak on this case?

MS. WHEELER: Yes. Phyllis Wheeler, Elections Director from McDuffie County. Ms. Hill, who is only working during early voting period is in the hospital with congestive heart failure. Otherwise, she would have been here. She wanted to be here. I just want to say that in my investigation, I still don't know how this happened. It has never happened before. Has not happened since. I did put into place what I think is an added measure. To make sure it does not happen again that is to require the voters to add their driver's license numbers to their applications when they come to do their early voting. I don't know of anything else that I can do or even if I can do that. If there are suggestions as to what I possibly can do to ensure that this does not happen, I would like to hear that.