

1 for him to put in the envelope?
2 A. Yeah, we both was together and put them in the
3 envelope, and I sealed it, signed it, and then he took
4 it.
5 Q. Okay.
6 (Contestant's Exhibit No. 71 marked.)
7 Q. (BY MR. WYDE) And these are both your
8 signatures; is that correct?
9 A. Yes, sir. Yes, sir.
10 MR. WOOD: What are you taking them apart
11 for?
12 MR. WYDE: Well, I was going to put them up
13 on the screen.
14 MR. WOOD: Well, you can go ahead and do
15 what you want to.
16 MR. WYDE: Okay. I was going to offer both
17 of them and then separate it and then restaple them, but
18 I'll do it however you want to.
19 MR. WOOD: I don't want you to do anything.
20 I didn't ask you to do anything.
21 Q. (BY MR. WYDE) Ms. Ochoa, it looks similar,
22 like this L and this L. Is that --
23 MR. WOOD: Your Honor, I object. She has
24 stated that's her signature, and he has asked and it's
25 been answered, and now he's going to try to argue with

1 her. It's argumentative, she's already been asked and
2 answered this question, and they look very similar to
3 me.

4 THE COURT: Well, I'm not sure what the
5 question is yet, but --

6 MR. WYDE: Right. Yes, Your Honor.

7 It's -- I'm just trying to make a small point, okay --

8 THE COURT: (Moving head up and down)

9 MR. WYDE: -- in just a minute.

10 Q. (BY MR. WYDE) Ms. Ochoa --

11 A. Uh-huh.

12 Q. -- the -- do you see your L here and how it

13 flips up at the bottom; is that correct? Is that a --

14 that correct?

15 A. I think so. I'm not sure.

16 Q. Well, you see the part I'm pointing at?

17 A. Right. But I don't sign it like that.

18 Q. You don't?

19 A. Huh-uh. And the A is -- I mean, down instead

20 of up.

21 Q. Yes, ma'am. Now, could I ask you to hold this

22 just for me? Do you see these words up here, signature

23 of voter?

24 A. Signature of voter.

25 Q. This is the envelope, okay, signature, and this

1 is your application to get the envelope and election

2 materials. Do you understand that?

3 A. Yeah, I understand that.

4 Q. Okay. I was just going to ask you, you see how

5 the L on the envelope stops here, but the L goes up?

6 It's a small detail.

7 A. Uh-huh, yeah.

8 Q. Now, the Is, they look similar, don't they?

9 A. Uh-huh.

10 Q. Is that correct?

11 A. Correct.

12 Q. And the Y comes way down, but this Y does not,

13 does it?

14 A. That doesn't.

15 Q. Uh-huh. Do you see the O? You see how the O

16 comes inside, but down here, you come down and start the

17 O?

18 A. Uh-huh.

19 Q. Is that correct?

20 A. No.

21 Q. And this A, this O and this A, do they look the

22 same to you?

23 A. Huh-uh. No.

24 Q. Now, Ms. Ochoa, I'm not here to suggest which

25 one is your signature or if either is not your

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signature. I defer to you.

A. Yeah.

Q. But are -- do you think both of them are your

signatures and they could just be a little bit

different, or is it possible to you that one might not

be your signature?

A. It's possible that's my signature, but on the

I, the dash on the top, I don't do it like that.

Q. I'm sorry, you do or you don't?

A. I don't.

Q. You don't slide it down like that?

A. Huh-uh.

Q. When it's blown up, it makes it a little bit

easier to see some of the differences?

A. Uh-huh.

Q. Is that correct?

A. Yeah, that's correct.

Q. Are you -- have I -- you know, I'm not trying

to trick you, but have I caused you to question that?

A. Yeah.

Q. Now, does anybody know your signature better

than you?

A. My husband.

Q. Now, Ms. Ochoa --

A. My husband.

1 Q. -- time is running short for me in more ways

2 than one, and I know that you get to sign his signature,

3 but no husband gets to sign his wife's signature.

4 A. He doesn't get to sign my name, but he knows my

5 signature.

6 Q. But what do you think? I'm interested in your

7 opinion, not mine. What do you think?

8 A. I'm not sure. I know I -- if I do, I very

9 seldom do that mark on top of the I. I guess I never

10 do --

11 THE COURT: Ms. Ochoa, I guess the question

12 is, do you think the top signature is yours?

13 THE WITNESS: I think so. I'm not sure.

14 THE COURT: Is the bottom -- do you think

15 the bottom signature is yours?

16 THE WITNESS: Well, one thing I know about

17 it is that the thing on top of the I, on the I-I, the

18 dashes put on top of the I --

19 Q. (BY MR. WYDE) This marking here on the bottom?

20 A. Yes, that marking, uh-huh. That's the only

21 thing that --

22 Q. You're not comfortable with that?

23 A. Huh-uh.

24 Q. Can you answer the judge's question, though?

25 A. Sir?

Q. Do you think the bottom signature is yours, or

do you not?

A. I don't think so. I don't know.

MR. WYDE: May I move the documents?

THE COURT: You may.

Q. (BY MR. WYDE) Thank you, Ms. Ochoa. I very

much appreciate your time.

MR. WYDE: We'll offer Contestant's 71. No

further questions.

MR. WOOD: Before I agree to that, can I

examine the witness?

THE COURT: You may.

CROSS-EXAMINATION

BY MR. WOOD:

Q. Ms. Ochoa --

A. Yes, sir.

Q. -- I believe you testified that you signed an

application to get the ballot and that you got the

ballot, you voted it, and you signed the ballot?

A. The ballot, yes.

Q. Okay. And you then --

A. Well, excuse me, the only thing, I don't

remember getting the application. Maybe I did, I guess.

For sure, I don't remember.

Q. But you said you did sign the application?

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A. Uh-huh.

Q. And you got a ballot?

A. Uh-huh.

Q. You voted it, you sealed it, and you signed it?

A. Uh-huh.

Q. Okay. And --

MR. RICH: Get her to say yes.

Q. (BY MR. WOOD) Did you say yes?

A. Yes, sir.

Q. Okay. And you remember that distinctly, that

you signed an application, you got a ballot, voted the

ballot, put it in the envelope, sealed it, and signed

it?

A. Well, for the ballot, I know I did, but I'm not

sure what -- the other one, I can't remember, but the

ballot, I did.

MR. WOOD: I have no objections to 71, and

I have no further questions. Thank you.

THE COURT: 71 is admitted. Thank you,

Ms. Ochoa. You're free to go.

THE WITNESS: Thank you.

MR. RICH: Thank you, Ms. Ochoa. Have a

good day, ma'am.

MS. SEPULVEDA: 15, Ruperto Ochoa. Last

one, Your Honor.

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MS. WOERTENDYKE: And he's on page 11,

number 11, 11, 11.

THE WITNESS: Hello, Your Honor.

THE COURT: Good morning -- or afternoon.

RUPERTO OCHOA,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WYDE:

Q. Hello, Mr. Ochoa.

A. Hello, sir.

Q. Was that your daughter who just testified?

A. No. No.

Q. Oh. Lilly, is she related to you?

A. No.

Q. Oh, okay.

A. Ochoa, that's all.

Q. Okay. Well, that's a common name, to some

extent. So I thought she might be your wife or what

have you.

A. No.

Q. Okay.

A. My wife passed away.

Q. Well, I'm -- my condolences. I apologize.

Thank you for being here today. I'm the

one who sent the subpoena to you, Mr. Ochoa, and I

1 apologize for that.
2 A. Okay.
3 Q. Nobody's here to suggest you've done anything
4 wrong or improper, okay?
5 A. Yes.
6 Q. May I ask you, sir, if you recall voting this
7 past maybe February in the Democratic primary possibly
8 by mail-in or absentee ballot?
9 A. I don't know. I can't, you know, remember. I
10 get some -- like -- paper like this?
11 Q. Yes. The green one?
12 A. Yeah. Green one, yeah.
13 Q. Uh-huh. Do you recall getting one of these --
14 A. Yes, sir.
15 Q. -- in the spring?
16 A. Yes.
17 Q. Okay. Generally, had you ever gotten one
18 before?
19 A. No.
20 Q. Okay. Generally, in order to get one of those,
21 a voter is required to send in a form like this. Does
22 that appear to be your signature down --
23 A. Yes.
24 Q. -- there by your right --
25 A. No.

1 Q. No, no, your right thumb. Over here.
2 A. Oh, yeah.
3 Q. Yeah. Is that your signature?
4 A. Uh-huh.
5 Q. Okay. And in getting one of those, Mr. Ochoa,
6 did you actually -- do you remember somebody coming by
7 and asking for your signature, or did you maybe get that
8 form in the mail and then simply read it, sign it, and
9 mail it back?
10 A. Brought it to my house -- somebody brought it
11 to my house.
12 Q. Okay. And did you sign it in person in front
13 of them?
14 A. Yes.
15 Q. Okay. Now, I bet they took it and mailed it
16 for you, and a week or so later, one of these showed up?
17 A. Yes, uh-huh.
18 Q. Is that correct?
19 A. Yeah.
20 Q. I'm not trying to put any words in your mouth,
21 and I'm kind of going quick because the judge wants to
22 not have anybody held up in traffic.
23 A. Okay.
24 Q. Okay. So that being the case, when you got
25 your election materials, this green one, did anyone come

1 by and offer to visit with you about voting for
2 different, you know, people?

3 A. No.

4 Q. Nobody came by?

5 A. No, no.

6 Q. Okay. Did somebody come by and offer to pick
7 up that brown envelope?

8 A. I think so, yeah.

9 Q. Okay. Can you tell me a little bit about that?
10 A. Well, I -- they picked it up, but I don't --

11 you know, that's all I know. I don't remember.

12 Q. Okay. Had anybody ever offered to do that for
13 you in the past?

14 A. No.

15 Q. Have you lived at 3835 --

16 A. Mount Ranier.

17 Q. -- Mount Ranier --

18 A. Uh-huh.

19 Q. -- for a long time?

20 A. About 40-something years.

21 Q. Not that long. Just kidding you. Seriously,
22 you've been there that long?

23 A. Yes, sir, about 45 years.

24 Q. It's nice to be somewhere a long time.

25 A. Uh-huh.

1 Q. So this was the first time you voted by mail?

2 A. Twice. I think twice.

3 Q. You normally go to the school or a church

4 nearby?

5 A. Yeah.

6 Q. Okay. And when this person came by to pick up

7 the brown envelope, can you describe them? Was it a

8 male or female?

9 A. Male. It was a male.

10 Q. Older, younger?

11 A. About older -- old 40s.

12 Q. Uh-huh. Was he -- he have a hook on his left

13 hand and a patch over his right eye?

14 A. No.

15 Q. Okay. Had you ever seen or met the person

16 before?

17 A. Never.

18 Q. Okay. And did you give him the envelope?

19 A. I think so, yeah.

20 Q. Okay. May I ask what they said to you in order

21 for you to give them the envelope?

22 A. When he said, he -- he said he was going to put

23 it in the mail.

24 Q. Okay. And when you gave him the envelope, do

25 you recall if the flap was down or was the flap up?

1 A. I don't remember.

2 Q. Did he ask you to sign?

3 A. Yes, uh-huh. I signed.

4 Q. Okay. And when you signed and then you gave
5 him the envelope --

6 A. Yes.

7 Q. -- can you tell us beyond, you know, really --
8 well, with a whole bunch of certainty, can you tell us
9 if it was sealed, the envelope?

10 A. I can't remember.

11 Q. You know, you were handing over your vote.

12 A. Yes.

13 Q. May I ask why -- I mean, did you just think,
14 hey, this is just -- this guy is just here to pick it up
15 and drop it in the mail, and that's just kind of
16 convenient for me, and that's the end of it?

17 A. Yes. That's what I thought, yeah.

18 Q. Okay. Okay. Would you recognize the young man
19 maybe if I handed you some pictures?

20 A. I might. I don't know.

21 Q. Okay.

22 A. I'll try, you know.

23 Q. Uh-huh.

24 A. (Looking through photos) I'm not sure which
25 one he was. I can't tell which one. I'm sorry.

1 Q. No problem.

2 (Contestant's Exhibit No. 72 marked.)

3 A. No.

4 Q. No problem. Thank you for your time.

5 A. Uh-huh.

6 MR. WYDE: We'll offer 72, and I have no

7 further questions.

8 MR. WOOD: No objections, Your Honor, and I

9 have no questions.

10 THE COURT: Admitted. Thank you,

11 Mr. Ochoa. You're finally excused. Thank you, sir.

12 MR. WYDE: Judge, I had a couple of

13 housekeeping matters -- I apologize -- that I've been

14 meaning to bring up. Is this an acceptable time?

15 THE COURT: That's fine.

16 MR. WYDE: And I think we're out of

17 witnesses; is that correct?

18 MR. WOOD: Yes.

19 MS. SEPULVEDA: Yes.

20 MR. WYDE: Thank goodness. First off, I

21 believe these did not get included somehow, somehow, and

22 I want to say Exhibit 5A and 5B, when we first offered

23 those, this is Ms. Portugal, Rosa M. Portugal's

24 application for mail-in ballot and the copy of the CE

25 envelope, and if I can put my hands on a petition --

1 MS. WOERTENDYKE: I think it's 4.5 in the petition.
2
3 MR. WOOD: Here's the petition right here.
4 MR. WYDE: Thank you.
5 MR. WOERTENDYKE: 4.9, page 14.
6 MR. WYDE: Thank you. Fourth one down on
7 page 14, petition Section 4.9.
8 MR. WOOD: I don't show her as testifying.
9 MR. WYDE: Right. Excuse me. If you will,
10 this is --
11 MR. WOOD: I just don't show her as
12 testifying. Maybe she did, but I don't show her.
13 MS. WOERTENDYKE: No, she didn't. She
14 didn't testify.
15 MR. WYDE: I don't believe -- if you will,
16 excuse me just a moment, but I don't believe this is an
17 in-person unlawful vote. What we were -- would suggest
18 is this is one of the ones where it was signed before it
19 was sealed, an under the flap, and so I just don't think
20 it got included when we filed the petition, and I
21 apologize. At least that what I'm being told. So this
22 is one of those paper ballots that the Court's either
23 going to find it's statutorily acceptable or it's not,
24 but we wanted to include --
25 THE COURT: Any objection to -- what is it,

5 --

MS. WOERTENDYKE: It's 4.9.

MR. WYDE: No, it --

THE COURT: No, what exhibit number?

MR. WYDE: Yeah, under the flaps were --

MR. RICH: Mr. Wyde --

MR. WYDE: Yes, sir.

MR. RICH: -- tell me the name of the

person, please.

MR. WYDE: It's Portugal.

MR. RICH: Okay. What are we trying --

what are you trying to do?

MR. WYDE: I'm trying to offer her

application for mail-in ballot and the copy of the

common carrier envelope.

MR. RICH: Okay.

MR. WYDE: It's an under the flap --

MR. RICH: Okay. So what you're saying is,

just so -- I mean, I can --

MR. WYDE: -- allegation.

MR. RICH: Page 14 --

MR. WYDE: Yeah.

MR. RICH: -- you have listed her name --

MR. WYDE: Right.

MR. RICH: -- in your petition?

1 MR. WYDE: Yes.

2 MR. RICH: But it wasn't included in the

3 documentation --

4 MR. WYDE: That was --

5 MR. RICH: -- you offered at the front end?

6 MR. WYDE: That's correct, sir.

7 MR. RICH: So all you're merely asking is

8 to supplement?

9 MR. WYDE: That's correct, with regard to

10 that exhibit.

11 MR. RICH: That's fine.

12 MR. WYDE: And these were offered through

13 Bruce Sherbet.

14 THE COURT: I understand.

15 MR. WYDE: Yeah.

16 MR. WOOD: I have no objection.

17 THE COURT: And what's the exhibit number

18 now on that?

19 MR. WOOD: I don't know what the number is,

20 but I don't have an objection to it.

21 MR. WYDE: That's a good question. I'll

22 try and answer your question.

23 THE COURT: Why don't you just give it a

24 new number.

25 MR. WYDE: Well, I'm just going to try and

1 answer your question.

2 THE COURT: No, I mean, just give this --

3 MR. WYDE: It's Exhibit 3.

4 THE COURT: Okay. Supplement to Exhibit 3.

5 MR. WOOD: No objections, Your Honor.

6 MR. WYDE: It just goes in --

7 THE COURT: The request is granted.

8 MR. WYDE: Thank you.

9 THE COURT: It'll be admitted as a

10 supplement to Exhibit 3.

11 MR. RICH: Are we commencing at 9:00

12 tomorrow morning, sir?

13 THE COURT: How many witnesses you -- oh,

14 you would have no idea how many will be here?

15 MS. SEPULVEDA: No, but Your Honor, we

16 scheduled 20.

17 THE COURT: All right.

18 MS. WOERTENDYKE: I also contacted some by

19 phone and we got several that chose to come on Friday

20 instead of Wednesday. So we should have a number on top

21 of what we already -- because we're moving them from

22 12:00 --

23 THE COURT: Okay. We'll start at 9:00.

24 MR. RICH: 9:00? Fine, sir.

25 MR. WOOD: May we be excused, Your Honor?

MR. WYDE: I was trying to get to --

THE COURT: One more thing. I think he has

one --

MR. WOOD: If he'll just tell us what he's

trying to do, it'll help.

MR. WYDE: I was trying to provide copies

of the Texjur treatise for you.

MR. WOOD: If he wants us to file some for

a brief here, that's fine. I'd like to get to -- beat

the traffic. I don't want to argue that --

MR. WYDE: I'll copy it and get it in the

morning.

THE COURT: Okay.

MR. WYDE: It was just part of your request

before to provide sections that were being quoted.

THE COURT: Thank you. Anything further?

MR. WYDE: No, sir.

MR. WOOD: No.

THE COURT: All right. We'll see everybody

then in the morning.

(Proceedings recessed at 4:40 p.m.)

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REPORTER'S CERTIFICATE

THE STATE OF TEXAS)
COUNTY OF DALLAS)

I, Larissa L. McPhearson, Certified Shorthand

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the parties to be included in this volume of the

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I further certify that this Reporter's Record of

the proceedings truly and correctly reflects the

exhibits, if any, admitted by the respective parties.

I further certify that the total cost for the

preparation of this Reporter's Record is \$ _____ and

was paid by Mr. Dan L. Wyde.

WITNESS MY OFFICIAL HAND this the 20th day of

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(972)270-4711