

1 MR. WYDE: No.

2 THE COURT: And your husband's finally  
3 excused, too. Thank you very much.

4 THE WITNESS: He's excused? All right.  
5 Thank you.

6 MR. RICH: Have a nice evening.

7 MS. SEPULVEDA: The last one, Rosie Wyatt,  
8 page 12, number 29.

9 THE BAILIFF: Rosie went to the restroom.  
10 She'll be out in just a moment.

11 THE COURT: We're going to wait on her.

12 MR. WYDE: In the meantime, Judge, may I  
13 approach the court reporter?

14 THE COURT: I don't know if you want that.  
15 (Contestant's Exhibit No. 130 marked.)

16 MR. WYDE: Judge, in anticipation of the  
17 in-court demonstration that we hope to offer on  
18 Thursday, I wanted to mark another one of these ballots.  
19 It's marked Contestant's 130, it's stamped void on the  
20 back, and it's a carrier envelope. And I'll just tell  
21 the Court the purpose of offering them on a couple of  
22 different days and times is to determine whether or not  
23 if any of these envelopes have been sealed for a couple  
24 of days or just one day or what have you, whether or not  
25 they can still be opened.

1 THE COURT: Any objections to the offer of  
2 this envelope and --

3 MR. RICH: Not for what it is, sir.

4 THE COURT: That'll be -- what number is  
5 that?

6 MR. WYDE: 130.

7 THE COURT: 130 is admitted. And let the  
8 record reflect that it was licked and closed by counsel  
9 at this time.

10 THE BAILIFF: There's a brown chair on --  
11 have a seat in that brown chair.

12 THE WITNESS: Okay.

13 MR. WYDE: Would you write on there today's  
14 date or would you write on that sticker today's date?

15 THE COURT: Were you sworn in before,  
16 ma'am?

17 THE WITNESS: Yes.

18 THE COURT: Thank you.

19 ROSIE WYATT,  
20 having been first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. WYDE:

23 Q. Ms. Wyatt --

24 A. Yes.

25 Q. -- I understand that you had a mild stroke last

1 year, maybe?

2 A. Yes, sir.

3 Q. Okay. If I ask a question and it's not  
4 understandable, will you tell me, I don't understand?

5 A. Yes, sir.

6 Q. Okay. Earlier this year, Ms. Wyatt, do you  
7 remember getting a green envelope in the mail?

8 A. Yes, sir.

9 Q. The one like --

10 A. Similar to this one.

11 Q. Yes, the one on the chair in front of you?

12 A. Yes, sir.

13 Q. And I'm sure you recognize that as the envelope  
14 that election papers come in?

15 A. Uh-huh, yes, sir.

16 Q. Ms. Wyatt, may I ask you if this is your  
17 signature?

18 A. Yes, sir.

19 Q. And is that your signature?

20 A. Yes, sir.

21 Q. Do you know what I mean by signature as opposed  
22 to your name?

23 A. Yes, sir.

24 Q. Because the date of this signature is roughly  
25 February 2nd -- excuse me, February 2nd, 2010, okay?

1 That's --

2 A. This one looks different. The dots on top, I  
3 never do that. With the W-Y-A-T-T, that's -- I don't  
4 ever recall doing that in my signature.

5 THE COURT: Which one are you talking  
6 about, the top one?

7 THE WITNESS: The one on top with the two  
8 big dots on top of the Ts.

9 THE COURT: Oh. You're talking about the  
10 top signature?

11 THE WITNESS: Yes, the Y -- the two big  
12 dots on top of the Ts, double Ts.

13 MR. WYDE: May I approach the witness?

14 THE COURT: You may.

15 Q. (BY MR. WYDE) May I trouble you to write your  
16 signature today?

17 A. Thank you. (Signing)

18 Q. The only question I have, Ms. Wyatt, is to me,  
19 it didn't look like the way you signed Rosie and  
20 Gonzalez were similar to the top two, and this is -- the  
21 bottom one is the one that is on the envelope that  
22 included your papers, this envelope. Is it possible  
23 that anybody signed your name for you?

24 A. No, not when I signed this envelope.

25 Q. Okay. Now, in signing, if you will, did anyone

1 offer or contact you -- did they offer to help you in  
2 filling out your papers, somebody by the name of Jackie?

3 A. Yes, Jackie usually comes over and says, when  
4 you need help or something, he'll carry to the mailbox,  
5 he takes the papers.

6 Q. What is Jackie's last name?

7 A. To tell you the truth, I really don't know.

8 Q. Is it Estrada?

9 A. I really don't know.

10 Q. Okay. But a Jackie came by or offered to come  
11 over and take it to the mailbox?

12 A. Well, he usually comes over and -- when we get  
13 our papers.

14 Q. And does he offer to discuss or go over any of  
15 the different people running for the different  
16 positions?

17 A. No. He just wants to know if we need help in  
18 deciding who to vote for.

19 THE COURT: I'm sorry, would you repeat  
20 that again, that -- just wants to know if you need help  
21 what?

22 THE WITNESS: In deciding who to vote for.

23 THE COURT: In deciding who to vote for?

24 Q. (BY MR. WYDE) I'm sorry, could you repeat  
25 that?

1 THE COURT: Why don't you have it read  
2 back.

3 A. In deciding who to vote for.

4 Q. (BY MR. WYDE) He helps you in deciding who to  
5 vote for?

6 A. Yes, he -- if we need help or some information  
7 or something, he offers to help, if we need to.

8 Q. Yes.

9 A. Uh-huh.

10 Q. Is it possible or do you remember whether or  
11 not he asked you to sign the envelope and then you give  
12 him the rest of the papers?

13 A. No, we put everything in the envelope and then  
14 he tapes it down and then I sign the envelope.

15 Q. And is he there when you make your choices?

16 A. Yes.

17 Q. Okay. Do you make him wait outside on the  
18 porch or --

19 A. Sometimes. Sometimes I have a table on the  
20 front porch and we sit on it.

21 Q. And when you sit down -- you know, there's  
22 dozens and dozens of these elections or choices.

23 A. Yes.

24 Q. Especially in big cities like Dallas. I take  
25 it you're familiar with all of the people running?

1           A. Well, I try to know everybody so that I know  
2 who to sign for -- who to vote for.

3           Q. Do you ever ask him questions?

4           A. Well, I guess, yes, like who do you think would  
5 be the best choice. You know, he works with -- what's  
6 his name -- somebody that lives in the area. I can't  
7 think of his name right now. Jerry.

8           Q. A Jerry?

9           A. Jerry. I don't know his last name either.

10          Q. Hernandez?

11          A. No, he's Anglo.

12          Q. Oh, okay.

13          A. He's been there a long -- many years.

14          Q. Is he some kind of a precinct person, or do you  
15 ever see this person if you went and voted in, you know,  
16 at the school or the church?

17          A. He helps, yeah. He works around the areas. He  
18 works around them areas.

19          Q. Around --

20          A. This area where they voted.

21          Q. Those areas?

22          A. Uh-huh.

23          Q. Okay. So Jackie calls you shortly after you  
24 receive the materials in the mail?

25          A. Yes, for us to find out if I got the materials,

1 uh-huh.

2 Q. And then if you have, he offers to come by  
3 and --

4 A. And help, yes.

5 Q. And does he show up?

6 A. Yes.

7 Q. Within a day or so?

8 A. Yes.

9 Q. And then when he does show up, you and him sit  
10 down on the front porch sometimes and --

11 A. Yes. My husband is there, too.

12 Q. Okay. And what are some of the things that you  
13 ask him?

14 A. Well, I ask him who does he think is the best  
15 choice, you know.

16 Q. Yes, ma'am. And then what are some of the  
17 things he says to you?

18 A. Well, he says like maybe, you know, to vote for  
19 things that we could use, you know, in that area.

20 Q. Do you remember there was an election this past  
21 time way down at the end of the ballot, a Luis Sepulveda  
22 and a Carlos Medrano? Did you talk about that race?

23 A. No. I really don't remember. See, when I had  
24 the stroke, it took part of my memory also, so I really  
25 don't remember that.

1 Q. Well, the stroke was last year, right?

2 A. Yes.

3 Q. But -- and I understand it could affect your  
4 memory anytime. But I was only suggesting -- talking  
5 about --

6 (Witness' cell phone ringing)

7 A. Turn it off?

8 THE COURT: If you don't mind, yes.

9 THE WITNESS: Excuse me.

10 A. My husband is wondering when I'm going to come  
11 home. Thank you.

12 Q. (BY MR. WYDE) Well, the question was about  
13 Jackie and you talking or your husband and Jackie  
14 talking. Was that at the time you're actually making  
15 your choices?

16 A. Yes.

17 Q. Okay. Is Jerry's last name Eckels?

18 A. I really don't know.

19 Q. Yes, ma'am. Yes, ma'am.

20 MR. WYDE: Could we have just a moment --

21 THE COURT: You may.

22 MR. WYDE: -- to see if we can locate  
23 Mr. Wyatt's?

24 MS. SEPULVEDA: What's his first name?

25 THE WITNESS: Lee.

1 MS. SEPULVEDA: L-E-E?

2 THE WITNESS: Uh-huh. His name is Lee  
3 Edward.

4 MR. WYDE: Judge, let the record reflect I  
5 opened the box 4438.

6 MS. WOERTENDYKE: His name is Lee Edward.

7 Q. (BY MR. WYDE) Do you remember your husband  
8 getting a ballot this past March when you did yours,  
9 Ms. Wyatt?

10 A. Yes, he did.

11 Q. Would he have gone and voted in person?

12 A. No.

13 MR. WYDE: Judge, let the record reflect  
14 that I opened up Contestant's Exhibit 13, sealed  
15 envelope. We'd ask the Court to take a moment to review  
16 Contestant's 13 which is already admitted. I'd suggest  
17 it's seven legal sheets of paper indicating a  
18 combination form, poll list signing, signature roster,  
19 affidavits for election day. I'd also ask the Court to  
20 note that the authority conducting the election is a  
21 Jerry N.

22 Okay. Judge, apparently, also for the  
23 record, Mr. Wyatt's ballot, mail-in ballot, is not  
24 present in at least box 4438 which I think denotes the  
25 precinct.

1 (Contestant's Exhibit No. 131 marked.)

2 Q. Ms. --

3 MR. WYDE: May I continue?

4 THE COURT: You may.

5 Q. (BY MR. WYDE) Ms. Wyatt, are you absolutely  
6 sure that the envelope, especially your husband's  
7 election envelope, are you absolutely sure it was  
8 sealed?

9 A. Well, it's -- like I said, he sealed it right  
10 there in front of us. We signed it.

11 MR. WYDE: We'll offer Contestant's 131.

12 MR. RICH: No objection, Your Honor.

13 THE COURT: Admitted.

14 MR. WYDE: No further questions of  
15 Ms. Wyatt.

16 MR. RICH: May I approach, Your Honor?

17 THE COURT: You may.

18 CROSS-EXAMINATION

19 BY MR. RICH:

20 Q. Ms. Wyatt, I mean, you correct me if I'm wrong,  
21 but I'm looking at -- this has been marked as a piece of  
22 evidence, okay, so that's why the number's on here. But  
23 I'm looking at the bottom here, and I do not see dots.  
24 I just see -- if you look at it, I see extensions of the  
25 T above the cross. Do you see that?

1 A. Yes.

2 Q. I want to make sure that you -- I don't want to  
3 suggest anything, but there are no dots.

4 A. Well, it looks like they're dots to me.

5 Q. Okay. It looks like dots, and the Court can  
6 look at it. But you believe that all of these are your  
7 signatures?

8 A. Well, like I said, I don't believe that that's  
9 my signature at the top of the Ts.

10 Q. All right.

11 A. (Inaudible)

12 THE REPORTER: I'm sorry, I didn't hear her  
13 answer.

14 MR. RICH: She said she just did this one  
15 here, and Ms. Wyatt sees dots, although I didn't see the  
16 connection of the letter. And that's on 131. We can  
17 surely pull the original so the Court can take a look at  
18 that.

19 Q. (BY MR. RICH) Ms. Wyatt, is this your  
20 signature as well?

21 A. Which one are you talking about?

22 Q. This one here, ma'am (pointing).

23 A. Okay.

24 Q. Is that your signature?

25 A. Yes.

1 Q. Do you remember signing this piece of paper?

2 A. No, sir, I don't.

3 Q. Okay. This being your signature, okay, but you  
4 do not remember this piece?

5 A. No.

6 Q. You recognize that as your signature, but you  
7 do not remember --

8 A. This piece of paper.

9 Q. -- this paper, correct?

10 A. Right.

11 Q. All right. I'm going to suggest to you that  
12 when you signed this paper, if you had signed it and if  
13 you had read it, you were telling the person you signed  
14 it for that you had requested an absentee ballot. Do  
15 you remember that?

16 A. (Moving head side to side)

17 Q. You don't remember that?

18 A. No, sir.

19 Q. Okay. You have said that this person,  
20 Jackie -- is this a male or a female?

21 A. Male.

22 Q. Okay.

23 A. I think it was a male.

24 Q. And this person has been around during election  
25 time for the last -- how many years?

1           A. Okay. Well, I would say at least three or  
2 four.

3           Q. All right. What I want to do is I just want to  
4 try to limit your attention, if I can, with all due  
5 respect, to you. If you don't remember, it's okay to  
6 say I don't remember. I want to take you back to  
7 February of this year, not any other year, not any other  
8 election, but February of this year. Do you  
9 specifically remember this person, Jackie, coming to  
10 your home in February of this year?

11          A. Okay. Well, I remember him coming to my house,  
12 but I don't remember if it was in February or not.

13          Q. Okay. Do you know definitely that it was this  
14 year, or was it possibly last year?

15          A. To tell you the truth, I don't remember.

16          Q. That's fine. That's fine. Whenever this  
17 person, Jackie, came to your home, whether or not it was  
18 this year or last year or the year before, did you  
19 always mark your own ballot?

20          A. Yes.

21          Q. And when you marked your ballot, were you  
22 marking your wishes, your decisions?

23          A. Yes, sir.

24          Q. And whether or not it was this year or last  
25 year or the year before, whenever Jackie came to lend

1 assistance, did he close the envelope in front of you?

2 A. Yes, sir.

3 Q. So can you assure this honorable Court that  
4 after you marked your own ballot, you felt confident  
5 that your envelope, your ballot --

6 (Witness' cell phone ringing)

7 A. I'm sorry, but I forgot how to close this  
8 telephone.

9 Q. Okay.

10 A. Okay. I don't want to turn it off.

11 Q. Okay. Well, we're almost finished. We're  
12 almost finished.

13 Okay. Did you feel confident that your  
14 ballot was secured when the envelope was closed?

15 A. Yes.

16 Q. Okay. I have no further questions. Thank you  
17 for coming down. I hope you start feeling better.

18 A. I trust Jackie. I've known him for some time,  
19 and he's always been real honest.

20 Q. Okay. All right. Thank you very much.

21 THE COURT: Thank you. You're finally  
22 excused, Ms. Wyatt.

23 THE WITNESS: Thank you.

24 THE COURT: Thank you very much.

25 THE WITNESS: Thank you, sir.

1 MR. RICH: Good night, ma'am.

2 THE WITNESS: Good night.

3 MR. RICH: Be safe.

4 THE WITNESS: Thank you.

5 THE COURT: Is that your last witness?

6 MS. SEPULVEDA: Yes.

7 THE COURT: We will resume Thursday morning  
8 at 9:00 o'clock. I don't know if -- do y'all have any  
9 idea how many witnesses that you anticipate?

10 MR. WYDE: If I could have a second.

11 MR. RICH: Your Honor, the Court might be  
12 inquired of recanting my being present on Thursday and  
13 Friday.

14 THE COURT: Okay.

15 MR. RICH: Thank you, sir.

16 THE COURT: Did you give them my cell  
17 number?

18 MR. RICH: I didn't want to do that.  
19 They'll go through the coordinator. You have enough on  
20 your plate as well.

21 THE COURT: We've been so busy this week, I  
22 haven't even made it down to say hello to the  
23 coordinator.

24 MR. RICH: Your Honor, based upon the  
25 representations of counsel, that will give us an

1 opportunity to know when we'll have our witnesses  
2 present.

3 MR. WYDE: Mr. Woertendyke, who's been  
4 helping me with that area, is writing down the ones that  
5 he anticipates that --

6 THE COURT: Okay.

7 MR. WYDE: -- could be -- could show up.

8 THE COURT: Another question that I had --  
9 off the record.

10 (Proceedings recessed at 5:46 p.m.)  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER'S CERTIFICATE

THE STATE OF TEXAS )  
COUNTY OF DALLAS )

I, Larissa L. McPhearson, Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in this volume of the Reporter's Record in the above-styled and -numbered cause, all of which occurred in open court or in chambers and were reported by me.

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 1st day of September, 2010.

*Larissa L. McPhearson*

Larissa L. McPhearson, Texas CSR 8371  
Expiration Date: 12/31/10  
Collins Realtime Reporting, CRF 59  
c/o Court Reporters Consolidated, CRF 308  
1308 Grinnel Drive  
Mesquite, Texas 75150  
(972) 270-4711