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LINDA A. KERNS (PA, NJ, LL.M. IN TAXATION)

**Written Testimony of Linda A. Kerns, Esquire on behalf of the American Civil Rights Union <[www.theacru.org](http://www.theacru.org)> before the Pennsylvania Senate State Government and Transportation Committees on the issues of Motor Voter, Unlawful Voting and Cyber Security in the Commonwealth of Pennsylvania.**

**December 12, 2017**

I present my testimony on behalf of the American Civil Rights Union (ACRU), a non-profit 501(c)(3) organization dedicated to advancing the rights of all Americans with a specific focus on enforcing clean voter registration rolls. Information regarding the ACRU can be found at <[www.theacru.org](http://www.theacru.org)>.

By way of background, I have a private practice in Philadelphia, Pennsylvania. Since 2002, I have been representing voters, candidates, political parties and other interested individuals and entities regarding election law and voter integrity issues. I have represented Republicans, Democrats, Green Party members and Independents in local, state and national elections. In Philadelphia's Election Court, in each primary and general election, I have appeared on behalf of the Republican City Committee and the Republican State Committee, as well as candidates and voters. As a fifteen (15) year veteran of that court, I have had a

front row seat to election integrity issues in Philadelphia. I have also been involved in litigation in the Pennsylvania State Courts and Federal Court, regarding election law matters.

I am one of the attorneys who represented the American Civil Rights Union in its action against the Philadelphia City Commissioners in the Eastern District of Pennsylvania (Docket 2:16-cv-01507) regarding violations of Section 8 of the National Voter Registration Act of 1993 (also known as “Motor Voter”). During the course of that litigation, we discovered that non-citizens have registered to vote and have voted in elections in Philadelphia County. **We also discovered that unless those non-citizens self-report that they are on the voter rolls and wish be removed, the Philadelphia City Commissioners do not have a separate mechanism to ferret out these non-citizens on the voter rolls and have them removed.**

The press reported on the problem of non-citizens on Pennsylvania’s voter rolls in September 2017.<sup>1</sup> Some of those non-citizens voted in elections. J. Christian Adams, Esquire testified before the Pennsylvania State House Government

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<sup>1</sup> The Philadelphia Inquirer; Glitch let ineligible immigrants vote in Philly elections, officials say (September 20, 2017), <http://www.philly.com/philly/news/politics/city/philly-voter-fraud-trump-immigrants-registration-commissioners-penndot-20170920.html>

Committee on October 4, 2016.<sup>2</sup> On October 25, 2017, after the abrupt registration of Pedro Cortez, Jonathan Marks, Commissioner, Pennsylvania Department of State Bureau of Commissions, Elections, and Legislation, testified before the Pennsylvania State House Government Committee. When Mr. Marks was asked a direct question as to whether the Pennsylvania Voter Records have been compared to the Pennsylvania voter registration records, he demurred, alternately stating, “.....we’re reviewing that right now with our legal counsel...” and “We are in the process of doing that right now.”<sup>3</sup>

**To this day, either the Commonwealth of Pennsylvania has not reviewed voter registration records to determine the number of non-citizen voters on the rolls, or, if the review has been completed, the data has not been released to the public.**

The first step should be to determine the extent of the problem, a step that the Commonwealth of Pennsylvania appears stubbornly unwilling to take. Election administrators must use reasonably available list maintenance tools to assure that voting rolls are accurate. Inflated, inaccurate voter rolls provide an opportunity for ineligible voters to vote in an election and also an opportunity for bad actors to

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<https://publicinterestlegal.org/files/October-2016-J-Christian-Adams-Testimony-to-the-PA-House-State-Government-Committee.pdf>

<sup>3</sup>[http://www.legis.state.pa.us/WU01/LI/TR/Transcripts/2017\\_0109T.pdf](http://www.legis.state.pa.us/WU01/LI/TR/Transcripts/2017_0109T.pdf)

commit fraud. We already know that non-citizens have voted in Pennsylvania elections, based on those that have self-reported. **How many non-citizens have voted who have not self-reported?**

As a veteran Pennsylvania election law attorney, I can say with absolute certainty that there is often a lack of oversight of polling places on Election Day in Philadelphia and improperly maintained voter rolls open the door for illegalities that affect the integrity of each and every election and therefore the rights of every citizen.

Section 8 of the National Voter Registration Act of 1993 (“NVRA”), also known as “Motor Voter” requires states to conduct reasonable list maintenance procedures. The stated purposes of the NVRA are (1) “to establish procedures that will increase the number of *eligible citizens* who register to vote,” (2) enhance[] the participate of *eligible citizens* as voters,” (3) “to protect the integrity of the electoral process,” and (4) “*to ensure that accurate and current voter registration rolls are maintained.*” 52 U.S.C. § 20501(b) (emphasis added).

This Commonwealth is failing at maintaining its voter rolls pursuant to the NVRA.

Every non-citizen vote dilutes the vote of an eligible voter. Non-citizens and any other ineligible voter should be removed from the voter rolls in the Commonwealth through reasonable list maintenance procedures. And that should be done proactively - we should not be waiting for self-reports. Eligible voters should be able to efficiently register but not at the expense of permitting bloated voter rolls full of ineligible voters. Once a vote is cast on a machine, there is no way to take that vote back. The underlying voter rolls must be maintained with integrity and the systems to assure that each vote is by an eligible voter and is not subject to coercion or fraud, must be followed to preserve the integrity of our elections.

Respectfully submitted,



Linda A. Kerns, Esquire

18. Final Judgement of Divorce file-stamped October 19, 2016 **TOGETHER** with executed Marital Property Settlement Agreement
19. {Judge-signed} Consent Order [Support] - ordered May 17, 2017
20. 12-22-2017 Notice for Scheduled Motion Hearing dated 11-20-17
21. 12-06-17 signed Plaintiff's Certification in Opposition to Defendant's Motion for Modification of Child Support with relevant exhibits