

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

BONNIE HEATHER MILLER, and THE
LEAGUE OF WOMEN VOTERS OF
ARKANSAS

Plaintiffs,

v.

JOHN THURSTON, in his official capacity
as Secretary of State of Arkansas,

Defendant.

Case No. 5:20-cv-05163

Hon. Timothy L. Brooks

**BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY
INJUNCTION**

EXHIBIT B

Declaration of John M. Brooks, Jr., dated September 2, 2020

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DECLARATION OF JOHN M. BROOKS, JR.

I, John M. Brooks, Jr., am over the age of 18 and fully competent to make the following declaration. The facts in this declaration are based on my personal knowledge. If called upon as a witness, I would testify to these facts. Under penalty of perjury, I declare and state the following:

1. My name is John M. Brooks, Jr. and I am 57 years old. I reside at 920 North Crest, Fayetteville, Arkansas 72701 and have lived in Arkansas for 57 years.
2. Currently, I am a Licensed Private Investigator and I own and operate an eponymous private investigation firm, John M. Brooks LLC. As a Private Investigator, I provide comprehensive investigation and consultation services to individuals and entities throughout the state of Arkansas. I work with various attorneys in Northwest Arkansas on civil cases, and criminal cases. I am a certified civil process server for Washington and

Benton County. I also perform background checks for employment and for real estate applicants.

3. Between 2001 and 2017, I was a Crime Scene Investigator for the Fayetteville Police Department in Arkansas. In that role, I investigated major case crimes including homicides, rapes/sexual assaults, aggravated assaults/battery, and burglaries both residential and commercial. I was the main death scene investigator for the Fayetteville Police Department.

4. In 2007, I began teaching a "Criminal Investigation" course at the University of Arkansas Fulbright College Department of Sociology & Criminal Justice now Sociology/Criminology. In 2011, I began teaching at the Criminal Justice Institute in the University of Arkansas System where I teach Forensic Sciences to law enforcement personnel across the state of Arkansas. Attached as **Exhibit 1** is a true and correct copy of my resume.

5. As a Private Investigator and retired Crime Scene Investigator, I have extensive professional experience conducting criminal background checks.

6. I understand the Arkansas State Police Criminal Background Check System to proceed as follows:

- a. The Arkansas State Police Criminal Background Check System retrieves a individual's criminal history, if any, from the Arkansas Crime Information Center ("ACIC") using fingerprints obtained through Arkansas' Automated Fingerprint Identification System ("AFIS"). If an individual is arrested for a criminal offense, that individual is fingerprinted, and their fingerprint card is transmitted to ACIC for inclusion in any criminal record search.

b. Offenses in which law enforcement officials do not obtain fingerprints, like civil traffic citations and violations of election laws, are excluded from the data sent to ACIC and Arkansas State Police Criminal Background Check System. Therefore, the state background check cannot identify whether an “individual pled guilty or nolo contendere to violations of election laws, fraud, forgery, or identification theft throughout the United States” as required by Ark. Code Ann. § 7-9-601(d)(3).

c. When a criminal record search through the Arkansas State Police is requested, they either receive a record of the individual’s Arkansas felony and misdemeanor convictions, pending Arkansas felony arrests within the preceding 3 years (where a person has been arrested and has not entered a plea or gone to trial), and the subject’s sex offender status or a disclaimer noting that “no criminal history [was] found for this subject.”

7. The Arkansas State Police Criminal Background Check System and ACIC do not assign a “passing” or “failing” grade. Therefore, an individual cannot “pass” or “fail” a background check obtained through the Arkansas State Police, as required by Ark. Code Ann. § 7-9-601(b)(3).

8. Arkansas State Police does conduct National/FBI fingerprint-based background checks for individuals granted explicit statutory authority under state or federal law and state law enforcement personnel.

9. However, the Arkansas State Police cannot provide federal background checks for sponsors of ballot initiatives as they are not explicitly authorized under Arkansas state or federal law. Therefore, no sponsor can comply with the statutory requirement that “a sponsor

shall obtain, at its cost, from the Department of Arkansas State Police, a current state and federal criminal record search on every paid canvasser [...].” Ark. Code Ann. § 7-9-601(b)(1).

I declare under penalty of perjury that the foregoing statements are true and correct. Executed on

September 2, 2020

[NAME]

A handwritten signature in black ink, appearing to read "John M. Butler", is written over a horizontal line. The signature is cursive and stylized.

JOHN M. BROOKS, LLC

Crime Scene Investigator | Fayetteville, Arkansas Police Department | 2001- 2017

- Complex crime scene investigations- including but not limited to homicides, armed robberies, bank robberies, sexual assaults, home invasions and property crimes such as burglaries
- Proficient court testimony and expert witness for the Washington County Court and any Court in Arkansas in the area of Crime Scene Investigation
- Prepared reports, documents and all items necessary for successful testimony in a court of law
- Evaluation of short and long-range strategic priorities to improve case outcomes
- Liaison for the Fayetteville Police Department and the Arkansas State Medical Examiner's Office, Arkansas State Crime Laboratory, and the Washington County Prosecuting Attorney's office for court preparation and prosecution of cases
- Worked in a collaborative relationship with all local, state and federal law enforcement to include FBI, DEA and ATF, state and federal prosecutors as needed for sharing of information and case resolution
- Completed on-going assessments within the Department to gauge trends, improvement and/or adjustments needed to meet benchmarks
- Provided training to new and veteran officers for professional development in the latest crime scene preservation and processing techniques
- Facilitated trainings to new Detectives assigned to the Criminal Investigation Division
- Supervised University of Arkansas, Criminal Justice student interns at the Fayetteville Police Department
- Acted on behalf of the Arkansas Crime Laboratory to present and train the public and law enforcement on new procedures, programs, directives and standards
- Maintained comprehensive knowledge of local and state issues and trends affecting law enforcement and legal statutes

Professor | University of Arkansas | Fulbright College, Department of Sociology & Criminal Justice | 2007- present

- Responsible for introducing students and/or other professionals seeking a career in law enforcement to fundamental principles and concepts of the criminal investigation process
- Teaches Criminal Investigations providing students theories, concepts, and legal procedures concerning the techniques used in the location, preservation and presentation of evidence
- Organizes and Coordinates 30 classes, during an academic semester, to include preparation of lesson plans and materials for approximately 30 students
- Provides evaluation of student performance, administers tests, papers (writing assignments) and all required documentation each academic semester



Instructor | Criminal Justice Institute (CJI), Division of the University of Arkansas System | 2011-present

- Facilitates trainings and presentations on Forensic Sciences to law enforcement personnel across the state of Arkansas
- Participated as a facilitator for the US Department of Justice and Office on Violence Against Women's Rural Law Enforcement Project to personnel representing agencies nationwide in Sheridan, Wyoming and Scappoose, Oregon
- Teaches Basic Crime Scene Processing, Crime Scene Digital Photography and Imaging, and Impression Evidence as part of the Crime Scene Technician Certificate Program; CJI's Distinguished Program
- Administers all exams for Certificates of Proficiency, Technical Certificates, and Associate of Applied Science (AAS) Degrees in fields of law enforcement professions, in compliance with the Criminal Justice Institute and higher education programs in Arkansas

Accreditations

- Certified Crime Scene Investigator | University of Arkansas, Criminal Justice Institute
- Certified Crime Scene Analyst | International Association for Identification
- Advanced Crime Scene Technician | University of Arkansas | Criminal Justice Institute

Education

- Bachelor of Arts Criminal Justice/Sociology | University of Arkansas | December 2000

Publications

- Identifying and Sharing Class Characteristics of Outsole Impressions | Journal Of Forensic Identification | Vol. 56(5) | 2006\733-September 2006
- Rapid characterization of edible oils by direct matrix-assisted laser desorption/ionization time-of-flight mass spectrometry analysis using triacylglycerols. J.O. Lay Jr., R Liyanage, B. Durham, J. Brooks Jr.

Certifications

- New Fire and Investigation | Public Agency Training Council
- Victim-centered Death Investigation Methodology | International Association for Identification
- Ethics in Law Enforcement Profession
- Crime Scene Reconstruction | Bevel Gardner & Associates
- Forensic Specialties in Death Investigation | New York City Office of the Chief Medical Examiner
- Shooting Incident Reconstruction | Bevel Gardner and Associates
- Bloodstain Pattern Analysis II | Northwestern University for Public Safety Evanston Illinois
- The Future of Forensic Investigations | University of Tennessee National Forensic Academy
- Regional Organized Crime Information Center (ROCIC) | Solving Cases Through Communication Conference
- Crime Scene Digital Photography and Imaging | University of Arkansas, Criminal Justice Institute
- Computer Crime | University of Arkansas, Criminal Justice Institute
- Outlaw Motorcycle Gang Identification | University of Arkansas, Criminal Justice Institute
- ERT Basic Crime Scene | US Department of Justice, Federal Bureau of Investigation
- Crime Scene Courtroom Testimony | University of Arkansas, Criminal Justice Institute

Affiliations

- International Association for Identification
- International Association of Crime Scene Investigators Association
- Chairman of the Board | International Association for Identification, Arkansas
- Executive Board of Directors | International Association for Identification, Arkansas
- International Association for Identification and Bloodstain Pattern Analysts

Teaching Experience

- Criminalistics-Introduction to Forensic Science | Northwest Arkansas Community College
- Crime Scene Investigation | Northwest Arkansas Community College
- Certified Law Enforcement Instructor | Arkansas Commission on Law Enforcement Standards and Training

Honors/Awards

- Unit Meritorious Performance Award | Fayetteville Police Department | 2015, 2012, 2011, and 2006
- Senate Leadership Award | City of Fayetteville
- Officer of the Year | Fayetteville Exchange Club
- Commendation | Performing Above and Beyond Assigned Duties | Fayetteville Police Department

Professional Service

- University of Arkansas, Criminal Justice Institute | Focus group participation and development of First Responder (Train the Trainer)
- University of Arkansas, Criminal Justice Institute | Focus group participation and development of curriculum on DNA evidence