

# Plaintiffs' Expert Dr. Lorraine Minnite



Plaintiffs' Expert  
Dr. Lorraine Minnite,  
Rutgers University

## Clerical Errors; DMV Mistakes; Applicant Confusion

10           A. My opinions from the research that I've done in  
11 this case and these reports is that the incidence of  
12 voter fraud nationally is rare and in Kansas a handful  
13 of non-citizens have gotten on the registration rolls  
14 over the last 20 years but there appear to be at least  
15 some of them can be explained by administrative error  
16 and voter confusion or applicant confusion.

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2  
3 BY MS  
4 Q. non-c  
5 regis  
6 opinio  
7 perfor  
8 level  
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10 A.  
11 this c  
12 voter  
13 of non  
14 over  
15 some of them can be explained by administrative error  
16 and voter confusion or applicant confusion.  
17 Q. Dr. Minnite, before we go in too much farther I  
18 would like to determine how you define the term voter  
19 fraud for the purposes of your research?  
20 A. So I want to remind you that when I -- what I  
21 said before about when I started the research and I  
22 began to look for the evidence, I first had to have a  
23 definition. And I looked for a definition of voter  
24 fraud in election law. I read all the state election  
25 crime codes if you will. I looked in federal law. I

# Plaintiffs' Expert Dr. Eitan Hersh



Plaintiffs' Expert  
Dr. Eitan Hersh,  
Tufts University

## Clerical Errors

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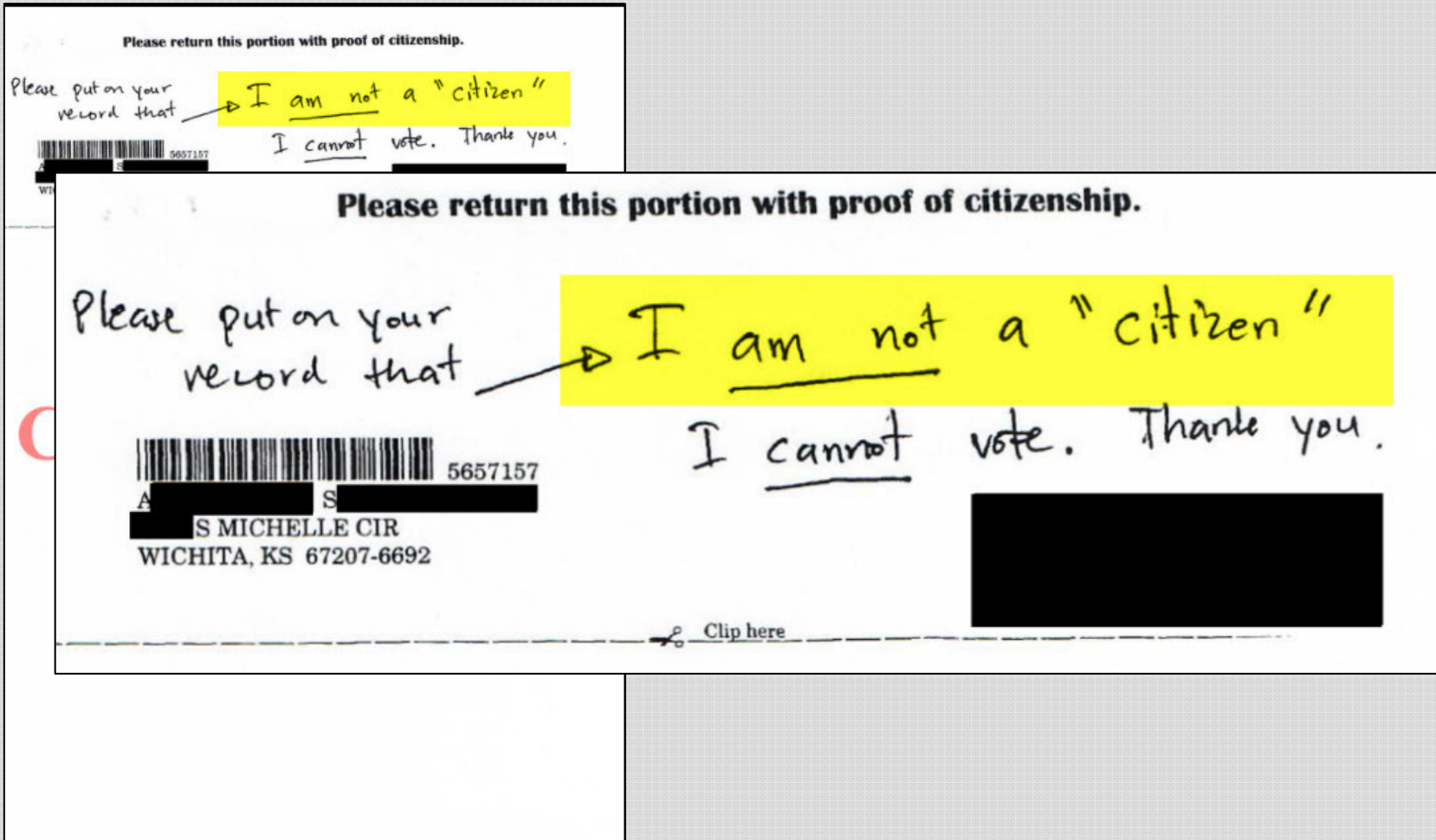
1 at the cases in which you've act  
2 individuals to the voter file, a  
3 frequency of non-citizen registr  
4 A. So there's two analyses.  
5 did in my reports that I think r  
6 The first is evidence of low inc  
7 the Kansas voter file, which are  
8 with low-instance idiosyncratic  
9 And I'll give you a coup  
10 describe in my report. In the s  
11 over 100 people with birth dates  
12 registered voters. In Kansas th  
13 whose-- who were born-- who have  
14 after they were registered voter  
15 And so in those situation  
16 story that there's something and  
17 parents pre-registering their un  
18 there 400 registrants who were r  
19 were born? You could concoct th  
20 concoct a story that there are a  
21 and these are just the ones that  
22 We don't concoct those st  
23 a lot of reasonable explanations  
24 that happens. People are hand-w  
25 foras, they're hand-keyed into a computer. And out of

Re: Stewart, CSR, NIN, CSR, NIN

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14

describe in my report. In the state of Kansas there are  
over 100 people with birth dates in the 1800s who are  
registered voters. In Kansas there are 400 individuals  
whose-- who were born-- who have birth dates that appear  
after they were registered voters.

# Clerical Errors



# Almost Never Voted

**5 Voted Prior to Naturalization, dating back to 2004**

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1 Q. And how many of the 38-- well, let me-- sorry.  
2 How many of the 18 who were successfully-- who  
3 successfully registered to vote it appears prior to the  
4 law, how many of those actually voted?

5 A. I

6 Q. Ar

7 A. Ye

8 them did

9 Q. I

10 Page 1.

11 times?

12 A. Th

13 Q. Th

14 A. Ye

15 Q. --

16 A. Ye

17 Q. And then the one immediately below that, the last

18 one I think we just discussed you said voted four times;

19 is that correct?

20 A. Correct.

21 Q. And then where is the-- I see one on the fourth

22 row of Page 2. How many times did that person vote?

23 A. One time.

24 Q. I also see a notation, did the person sign a

25 petition?

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25

Q. And how many of the 38-- well, let me-- sorry.  
How many of the 18 who were successfully-- who  
successfully registered to vote it appears prior to the  
law, how many of those actually voted?

A. I believe it's five.

**During same period, cumulative official turnout of more than 1.4 million in Sedgwick County**

Kelli Stewart, CSR, RPR, CRR, RMR



# Almost Never Voted

SEDGWICK COUNTY, KANSAS, ALIENS WHO REGISTERED PRIOR TO 1/1/2013 OR WERE SUCCESSFULLY PREVENTED FROM REGISTERING AFTER 1/1/2013 (Amended January 2018)

DEFENDANT  
KOBACH'S  
EXHIBIT 1133  
16-CV-2105

Date original registration application submitted	Reg ID	Source of Registration	ALY REGISTERED
6/16/1999	1373536	Paper	<b>No</b> Was registered for nearly <b>18 years</b> prior to being a citizen. Applicant was registered under a different first name. Sedgwick County Election Office called the applicant to confirm he was the same person. Applicant confirmed that he previously changed his name and also stated he tried to contact the Sedgwick County Election Office in the past that he needed to be removed from the registration list since he wasn't a citizen.
4/16/2003	4296515	DMV paper address change	<b>No</b> Was registered for nearly <b>12 years</b> prior to being a citizen. Was sent ballot for 4 elections but never voted. Sedgwick County Election Office discovered the fact that non-citizen had been registered when the individual re-applied at naturalization ceremony in Sedgwick County Kansas.
5/18/2004	1424962	Paper	
9/14/2004	1463509	Paper	<b>No</b> Was registered for over <b>12 years</b> prior to being a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at a naturalization ceremony. <small>friends told her she couldn't, she then stopped voting.</small>
10/12/2004	1447321	By Mail - Paper	

# Almost Never Voted

SEDGWICK COUNTY, KANSAS, ALIENS WHO REGISTERED PRIOR TO 1/1/2013 OR WERE SUCCESSFULLY PREVENTED FROM REGISTERING AFTER 1/1/2013 (Amended January 2018)

Registration Date	Registration Number	Registration Type	Citizen Status	Registration Date	Prevented	Notes
10/07/2006	5053234	Voter Registration Drive-Paper	Citizen	9/11/2015	No	Was registered for over 8 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
10/15/2006	5055911	Voter Registration Drive-Paper	Citizen	1/16/2015	No	Was registered for over 8 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
10/19/2006	5063593	Voter Registration Drive-Paper	Citizen		No	Was registered for over 8 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
10/2008	5231573	Voter Registration Drive-Paper	Citizen		No	Was registered for over 8 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
10/07/2008	5217728	Voter Registration Drive-Paper	Citizen		No	Was registered for over 8 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
12/22/2008	5291075	Voter Registration Drive-Paper	Citizen		No	Was registered for over 7 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
1/26/2009	5296846	Voter Registration Drive-Paper	Citizen		No	Was registered for over 7 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.

through SOS comparison of temporary driver's license list with voter rolls. The applicant was prosecuted and entered into a plea agreement with the DA. This history came to light when

# Specific Incidents of Possible Noncitizen Registration or Attempted Registration

## Evidence in Record

- **Sedgwick County Spreadsheet**  
(38 from Tabitha Lehman)
- **TDL Matches**  
(79 from Bryan Caskey)
- **Testimony of Hans von Spakovsky**

# TDL Matches



## No Evidence Currently Noncitizens

1 Q. ... if you want to provide me a calculator, I  
2 can't do the calculation.  
3 A. If I have you ...  
4 It would approximately right.  
5 -- It was ...  
6 Okay. Let's talk about the TD List. Now,  
7 that's a list of people in Kansas who have temporary  
8 visas and have obtained a temporary driver's license,  
9 right?  
10 A. Yes.  
11 And you don't believe though that everyone who is  
12 on the TD List is current currently a non-citizen, do  
13 you, Dr. Richman?  
14 A. As we discussed in the deposition, it is possible  
15 that some individuals on the TD List have subsequently  
16 naturalized through there's a very process as I think I  
17 talked about earlier. There's ... you have to first  
18 become a legal permanent resident and only then can you  
19 naturalize.  
20 Dr. Richman, could you turn to page 204 in your  
21 deposition, please. We'll bring that up on the screen.  
22 Specifically line 18. You can look at the screen if  
23 it's easier.  
24 A. Let me get the page.  
25 Let me know when you're ready. Question, and we

1 established earlier that you do not believe that  
2 everyone in the TD List was currently a non-citizen;  
3 correct?  
4 Answer, that's right.  
5 Was that the question posed to you and was  
6 that your answer?  
7 A. Yes.  
8 Okay. So that means that for anyone who's on a  
9 valid period first between the temporary TD List and TD List  
10 you don't know one way or the other whether that person  
11 at the time that they registered to vote was, in fact, a  
12 non-citizen, correct?  
13 A. That was why we ... I've looked at the Times of  
14 evidence to try to address that. The record we already  
15 talked about was the contact between the Secretary of  
16 State's office and DOJ.  
17 The other aspect.  
18 Q. That wasn't for the TD List, which I thought,  
19 Dr. Richman, was it?  
20 A. That's correct.  
21 Okay. So let's ...  
22 A. The other aspect.  
23 -- try to attack with the question that I'm asking  
24 rather than those things and if that is not correct, that  
25 can talk about that or redirect with your direct.

25	Q. Let me know when you're ready. Question, and we
1	established earlier that you do not believe that
2	everyone in the TD List was currently a non-citizen;
3	correct?
4	Answer, that's right.
5	Was that the question posed to you and was
6	that your answer?
7	A. Yes.



# DMV Errors



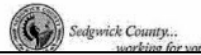
**Lehman, Tabitha M.**

**From:** Lehman, Tabitha M.  
**Sent:** Friday, March 28, 2014 10:34 AM  
**To:** 'Bryant, Brad [KSOS]'  
**Subject:** RE: Non-Citizen attempting to register

**CONFIDENTIAL**

I agree

Tabitha Lehman | Election Commissioner | Sedgwick County Election Office  
p: (316) 660-7100 | f: (316) 660-7125 | [tlehman@sedgwick.gov](mailto:tlehman@sedgwick.gov)  
510 N Main, Ste 101 | Wichita, KS 67203 | [www.sedgwickcounty.org](http://www.sedgwickcounty.org)



**From:** Bryant, Brad [KSOS] [<mailto:brad.bryant@sos.ks.gov>]  
**Sent:** Friday, March 28, 2014 10:31 AM  
**To:** Lehman, Tabitha M.  
**Subject:** RE: Non-Citizen attempting to register

I think you did the right thing cancelling the registration. I just wish DMV would not register people who they know to be noncitizens.

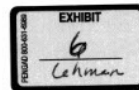
**Sent:** Friday, March 28, 2014 10:25 AM  
**To:** Bryant, Brad [KSOS]  
**Subject:** RE: Non-Citizen attempting to register

The source came through as Motor Vehicle Offices so my answer would be via a personal visit to the DMV.

Tabitha Lehman | Election Commissioner | Sedgwick County Election Office  
p: (316) 660-7100 | f: (316) 660-7125 | [tlehman@sedgwick.gov](mailto:tlehman@sedgwick.gov)  
510 N Main, Ste 101 | Wichita, KS 67203 | [www.sedgwickcounty.org](http://www.sedgwickcounty.org)



Got Photo ID?



Plaintiff Fish Exhibit 022 - 1 (16-cv-2105)



# DMV Errors

**SEDGWICK COUNTY, KANSAS, ALIENS WHO REGISTERED PRIOR TO 1/1/2013 OR WERE SUCCESSFULLY PREVENTED FROM REGISTERING AFTER 1/1/2013**  
(Amended January 2018)

10/22/2015	5767727	Motor Vehicle Office – In Person	Citizen	3/25/2016	No	Applicant attempted to register prior to becoming a citizen. Sedgwick County Election office discovered this when registering new citizens at naturalization ceremony.
1/20/2016	5772434	Motor Vehicle Office-In Person	Non-citizen	NA	No	Applicant non-citizen applied to register on 1/20/2016. Applicant subsequently went to Sedgwick County Election Office to report that she is not a citizen after receiving a second notice from Election Office requesting proof of citizenship. Applicant claimed that her voter registration application was a mistake on the part of the DMV. Applicant proceeded to fill out cancellation request form. Applicant's registration application
2/12/2016						Applicant non-citizen applied to register on 1/20/2016. Applicant subsequently went to Sedgwick County Election Office to report that she is not a citizen after receiving a second notice from Election Office requesting proof of citizenship.
11/8/2016						Applicant claimed that her voter registration application was a mistake on the part of the DMV. Applicant proceeded to fill out cancellation request form. Applicant's registration application has been cancelled, and notes have been left in file.
ALIENS						
8/20/2014						Applicant's registration completed pursuant to KSA 25-2309(r).

# Defendant's Expert: Hans von Spakovsky



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1 still asked	17	Q. Okay. Now, you would agree that there seems to
2 Correct?		
3 A. That		
4 Q. Okay		
5 Page 81 in	18	be a problem that occurs in a number of cases that a end
6 Line 22, ju		
7 A. I'm		
8 Q. 18 t		
9 A. Yes.	19	of worker despite not knowing-- excuse me, despite
10 Q. Ques		
11 license app		
12 still asked	20	knowing that a driver's license applicant is a
13 to vote. C		
14 question an		
15 A. It w		
16 Circuit opt	21	non-citizen still asks the applicant if she would like
17 Q. Okay		
18 be a proble		
19 of worker d	22	to register to vote. Correct?
20 knowing tha		
21 non-citizen		
22 to register		
23 A. Yes.	23	A. Yes.
24 Q. And		
25 non-citizen		

Kelli Stewart, CSR, RPR, CR, RNR

# TDL Matches – Almost Never Voted!

7. Below is a table summarizing the results of the TDL and Voter Registration List Match.

**Table 2 - Hersh TDL**

- Number of Matches Found
- Number with "A" (Active) Code
- Number with "I" (Inactive) Code
- Number with "S" (Suspense) Code
- Number with "R" (Canceled) Code
- Number with "CITZ" (Proof of Citizenship) Code
- Number who Voted**
- Number with "MV" (Motor Vehicle) Code
- Number with "MV" (Motor Vehicle) Code
- Number with "MV" (Motor Vehicle) Code
- Number with "MV" (Motor Vehicle) Code
- Number with "MV" (Motor Vehicle) Code
- Number with "MV" (Motor Vehicle) Code
- "CITZ" (Proof of Citizenship)
- Number with "MV" (Motor Vehicle) Code
- Number with "FO" (Federal Foreign) Code

**Table 2 - Hersh TDL / Voter Registration List Match: Summary of Findings**

Number of Matches Found	82
Number with "A" (Active) Code	14
Number with "I" (Inactive) Code	4
Number with "S" (Suspense) Code	17
Number with "R" (Canceled) Code	47
Number with "CITZ" (Proof of Citizenship) Code	16
<b>Number who Voted</b>	<b>3</b>

# Almost Never Voted



21 has to do with the voting. If you think someone is  
22 intentionally registering to infiltrate our election  
23 system, then you would think that they would actually  
24 vote. Otherwise, to register but not vote is like, you  
25 know, holding up a bank and not taking any money.

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1 millions of records or hundred thousands of records  
2 there are a few, in this case 400, who are accidentally  
3 keyed in with the wrong birth date and we don't make  
4 much of it.  
5 When you see evidence that maybe 100 people, 125  
6 people appear on both these records, it seems very  
7 consistent on just a volume level with these other forms  
8 of idiosyncracies that we don't make much of, and that  
9 leads me to believe they're likely administrative  
10 errors. So that's reason one.  
11 Q. Do you have a view on whether the instances of  
12 non-citizen registration that you've identified through  
13 your matches are accidental or intentional?  
14 A. Yes. So I think that this is a really  
15 interesting question of whether-- if you see someone  
16 who's a registered voter as a non-citizen, how do you  
17 know-- how can you evaluate this question of whether it  
18 was purposeful or as a result of an administrative error  
19 or their own mistake?  
20 And the evidence in my report that speaks to that  
21 has to do with the voting. If you think someone is  
22 intentionally registering to infiltrate our election  
23 system, then you would think that they would actually  
24 vote. Otherwise, to register but not vote is like, you  
25 know, holding up a bank and not taking any money.

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# Defendant's Expert: Hans von Spakovsky





# Defendant's Expert: Hans von Spakovsky



## Not an Objective Empirical Expert

- **No advanced degree in political science, public policy, or history**
- **No peer-reviewed publications**
- **No discernable methodology**

Source: Hans von Spakovsky, Mar. 9, 2018 PM Rough Draft Trial Tr. 52-54 (no advanced degrees); 55-56 (no peer-reviewed publications); 57 (Heritage); 93 (methodology)

# Defendant's Expert: Hans von Spakovsky



## Performed No Original Research on Kansas

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1 throughout the country.  
2 Q. And that knowledge of non-citizen registration  
3 and voting that yo  
4 throughout the cou  
5 in the state of Ka  
6 A. There is no  
7 prosecution in Kan  
8 Q. At the time  
9 report, the extent  
10 registration in Ka  
11 to you by your cli  
12 A. As I've ans  
13 Q. Now, we est  
14 your first time co  
15 Right?  
16 A. What do you  
17 Q. Well, you v  
18 commission on elec  
19 A. I was a con  
20 other individuals  
21 Q. And if we  
22 Secretary Kobach then supporting his first campaign for  
23 Secretary of State. Right?  
24 A. I did send him a contribution, yes.  
25 Q. And in addition to contributing to his campaign

Kelli Stewart, CSR, RPR, CRR, RMR

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Q. At the time that you offered your opinion in this report, the extent of your knowledge of non-citizen registration in Kansas was a single spreadsheet offered to you by your client, Secretary Kobach. Correct?

A. As I've answered repeatedly, yes.

Source: Hans von Spakovsky, Mar. 9, 2018 PM Rough Draft Trial Tr. 109:8-12; see also *id.* 108:11-17

# Defendant's Expert: Hans von Spakovsky



## Overstates or Exaggerates Evidence

already registered. By comparing the state's voter list to a DMV list of temporary driver's license holders in 2009 and 2010, the Office of the Kansas Secretary of State (KSOS) discovered another 19 aliens who had successfully registered in Sedgwick County. Some of these aliens had been registered for as long as six to 12 years prior to becoming U.S. citizens.<sup>4</sup>

This illustrates how difficult it is for election officials to detect illegal registration and voting by noncitizens. On the other hand, since the proof-of-citizenship requirement became effective, Sedgwick County has evidence of 14 aliens who attempted to register to vote who were prevented by the proof requirement. Notably, 11 of these 14 aliens attempted to register to vote in person at the DMV. Clearly, aliens who applied to register at the DMV were not dissuaded from falsely asserting U.S. citizenship by the oath requirement. Had documentary proof of citizenship not been required, they would have become registered.

The number of aliens who attempted to register to vote in person at the DMV was significantly higher than the number of aliens who attempted to register to vote by mail.

Other cases involving noncitizens who attempted to register to vote in person at the DMV have been reported. In one case, a woman who had been in the United States for many years and who had been naturalized as a citizen attempted to register to vote in person at the DMV. She was denied registration because she did not have the required proof of citizenship.

The fact that a noncitizen attempted to register to vote in person at the DMV does not mean that the noncitizen was not aware of the proof-of-citizenship requirement. This only came to light when Reyes applied for a change in her immigration status. During that process she initially lied to the Department of Homeland Security about registering and voting, but admitted it after "seeing evidence to the contrary" uncovered by DHS from a check of local voter registration records.

<sup>4</sup> This data comes from an April 2016 spreadsheet filed by the KSOS in this case and from declarations filed by the Office of the KSOS in the case of Kobach v. Election Assistance Commission, 6 F. Supp.3d 1252 (D.Kan. 2014).

<sup>5</sup> See Zeng and James-Balchova, "Frequently Requested Statistics on Immigrants and Immigration in the United States," Migration Policy Institute (April 14, 2016).

<sup>6</sup> *In the Matter of Anailin Reyes*, A 097-952-267, U.S. Dept. of Justice, Executive Office for Immigration Review, Immigration Court, Orlando, Florida.

# Defendant's Expert: Hans von Spakovsky



## Overstates or Exaggerates Evidence

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1 THE COURT: All right. Can you answer that  
2 question, that specific question.  
3 A. Well, I don't know it personally, I was relying  
4 on the evidence-- t  
5 were aliens at the  
6 form.  
7 Q. But you don'  
8 they were U.S. citi  
9 A. I did not pe  
10 form.  
11 Q. Now, when yo  
12 non-citizen registr  
13 Sedgwick County spr  
14 by your client, you  
15 that you independe  
16 non-citizen registr  
17 A. Correct.  
18 Q. And in your  
19 appropriate to arrive at an objective expert opinion  
20 about the extent of non-citizen registration in Kansas  
21 by relying exclusive on a spreadsheet given to you by  
22 your client, Secretary Kobach. Correct.  
23 A. I relied on the information I received from  
24 Secretary Kobach in Kansas and also my knowledge of  
25 non-citizen registration and voting in many other cases

Kelli Stewart, CSR, RPR, CRR, RHR

7

Q. But you don't know if they swore falsely that they were U.S. citizens, right, Mr. Von Spakovsky?

8

A. I did not personally examine each registration form.

9

10

Source: Hans von Spakovsky, Mar. 9, 2018 PM Rough Draft Trial Tr. 109:8-12; see also *id.* 108:11-17



# Defendant's Expert: Hans von Spakovsky



## Incomplete and Misleading Work: Florida

If she had not tried to change her immigration status, Reyes could have easily continued to vote illegally and without detection – as too many noncitizens (both legal and illegal) do in elections all over the country – because Florida has no proof-of-citizenship registration requirement. A more extreme example of this was reported in 2014 when 58-year-old Mario Hernandez, who was born in Cuba and fled to the U.S. in the early 1960s, finally became a U.S. citizen. Yet he had voted “in every major election since Jimmy Carter in 1976” despite not being a U.S. citizen.<sup>1</sup>

Another example, a Circuit Court of Appeals, who came to the U.S. in 2004 as a driver’s license in Illinois. Another alien who was a U.S. official in 2005 that she was registered to vote. She voted.

Another Seventh Circuit Court of Appeals, who entered the U.S. in 2004 as a driver’s license in Illinois. Another alien who was a U.S. official in 2005 that she was registered to vote. She voted.

In 2012, a local NBC station found at least 100 individuals in just one Florida county who had been excused from jury duty because they were not U.S. citizens but who were nevertheless registered to vote.<sup>11</sup> One Coral Gables resident, Hinako Dennett, who is not a citizen, told the NBC reporter that she votes “every year.” A Naples resident, Yvonne Wigglesworth, who is also not a citizen, claimed she did not know how she had been registered but records showed she had voted in six different elections over the past eleven years.

In just one three-year period, the Justice Department prosecuted a dozen all over Florida, including in Miami, Fort Lauderdale, and Broward counties.<sup>12</sup> The Justice Department only voted illegally, but also discovered accidentally – not

<sup>1</sup> Lizette Alvarez, “Man Who Thought He Was a Citizen Makes It Official,” *New York Times* (May 22, 2014).

<sup>2</sup> *Krauthy v. Holder*, No. 11-1594 (7<sup>th</sup> Cir. August 22, 2012).

<sup>3</sup> *Matter of Margarita Del Pilar Escobedo*, U.S. Dep’t of Justice, Executive Office for Immigration Review, Board of Immigration Appeals, 26 I&N Dec. 559 (BIA 2015).

<sup>4</sup> *Kimani v. Holder*, 693 F.3d 666 (7<sup>th</sup> Cir. 2012).

<sup>5</sup> Andy Pietroni, NBC Investigates: Four Frails (Feb. 2, 2012), available at [www.nbc.com/news/1666284/2012/02/02/nbc2-investigates-voter-frauds/citizenship/primable](http://www.nbc.com/news/1666284/2012/02/02/nbc2-investigates-voter-frauds/citizenship/primable).

<sup>6</sup> *Cruz, Div. of Pub. Integrity Section, U.S. Dept. of Just., Election Fraud Prosecutions & Convictions: October 2002–September 2003* (2006). DOJ also prosecuted noncitizens for registering and voting in Alaska, Colorado, and North Carolina.

<sup>7</sup> *U.S. v. Velazquez*, Case No. 03-CR-20233 (S.D. Fla 2003).



# Defendant's Expert: Hans von Spakovsky



## Incomplete and Misleading Work: Florida

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1 after this NBC report, there was a follow-up by the same  
2 NBC station that dete  
3 100 individuals had d  
4 were, in fact, United  
5 A. I'm aware of i  
6 Q. Okay. In your  
7 mention the fact that  
8 in fact, had document  
9 United States citizen  
10 A. Well, as you k  
11 aware of that at the  
12 Q. Right. Becaus  
13 100 individuals in yo  
14 to see that there was  
15 determining that at l  
16 not non-citizens, rig  
17 A. I was not awar  
18 apparently the-- the  
19 significant number we  
20 Q. You're aware t  
21 submitted to the Cour  
22 A. I am.  
23 Q. Okay. And you never sought to correct or  
24 supplement or expert report to caveat that 100 number  
25 and say that at least a third of these people were

Kelli Stewart, CSR, RPR, CRR, RMR

6 Q. Okay. In your expert report, though, you did not  
7 mention the fact that at least 35 of these individuals,  
8 in fact, had documents to demonstrate that they were  
9 United States citizens. Correct?  
10 A. Well, as you know, from my deposition, I was not  
11 aware of that at the time he wrote the expert report.

Source: Hans von Spakovsky, Mar. 9, 2018 PM Rough Draft Trial Tr. 115:6-11

# Defendant's Expert: Hans von Spakovsky



## Incomplete and Misleading Work: GAO Study

In 2005, the U.S. Government Accountability Office found that up to 3 percent of the 30,000 individuals called for jury duty from voter registration rolls over a two-year period in just one U.S. district court were not U.S. citizens.<sup>14</sup> Just 3 percent of registered voters would have been more than enough to provide the winning presidential vote margin in Florida in 2000 or to have decided the state attorney general's race in Virginia in 2013, which was won by only 907 votes.

These numbers represent a small percentage of registered voters in Orange County, Virginia, and registration list, in those individuals a significant number of voter registration list.

The current and enforcing federal laws that were not voting in Virginia, District of Virginia, taken to either inv

In fact, one from becoming citizenship administrator to an immigrant as removed from the no

Another example, in Arizona, in testimony jurors who admit

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<sup>14</sup> Gov't Accountability Office, *Immigrants Who Failed to Register to Vote: A Study of the Impact of the Voting Eligibility Requirements for Jury Duty* (2005).

<sup>15</sup> Press Release, California Sec'y of State, *Official Status Report on Orange County Voter Fraud Investigation* (Feb. 2, 1998).

<sup>16</sup> See 18 U.S.C. §611, 18 U.S.C. §10150, and 18 U.S.C. §911.

<sup>17</sup> Letter of August 19, 2011, from Edgardo Cortes, General Registrar, Fairfax County, Virginia, to Neil H. MacBride, U.S. Attorney for the Eastern District of Virginia, and to Jack Smith, Chief of the Public Integrity Section, U.S. Department of Justice.

<sup>18</sup> *Immigrants Who Failed to Register to Vote*, FOX News, August 26, 2016.

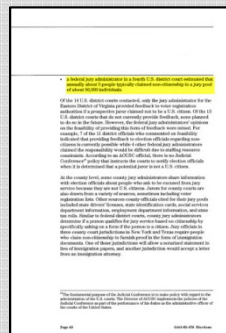
# Defendant's Expert: Hans von Spakovsky



## Incomplete and Misleading Work: GAO Study

but federal jury administrators in eight U.S. district courts provided either exact numbers or estimates. Of the eight district courts, four federal jury administrators said no one had been disqualified from jury service because they were not U.S. citizens. In the other four district courts:

- a federal jury administrator in one U.S. district court estimated that 1 to 3 percent of the people out of a jury pool of 30,000 over 2 years (about 300 to 900 people) said they were not U.S. citizens;
- a federal jury administrator in a second U.S. district court estimated that less than 1 percent of the people out of a jury pool of 35,000 names each month (less than 350 people) said they were not U.S. citizens;
- a federal jury administrator in a third U.S. district court estimated that about 150 people out of a jury pool of 95,000 names over 2 years said they were not U.S. citizens; and
- a federal jury administrator in a fourth U.S. district court estimated that annually about 5 people typically claimed non-citizenship in a jury pool of about 50,000 individuals.





# Defendant's Expert: Hans von Spakovsky



## Incomplete and Misleading Work: 2011 Op-Ed on Somali Voters

Commentary on Rule of Law (/issues/legal/rule-of-law), Elections (/issues/legal/elections)

August 6, 2011

13

Voter ID is  
By Hans A. von Spakovsky

"Requiring identification to ensure the accuracy of voter registrations, double-voting by individuals registered in more than one state, and voting by undocumented immigrants."

So said Rhode Island Governor Lincoln Chafee when he signed his state's new voter ID law in July. In the seventh state this year to require voter ID, voters present valid identification at the polls.

Polling shows that a majority of voters support voter ID, and ethnic backgrounds are not a significant factor in opposition.

Voter ID can prevent impersonation fraud, voting under fictitious voter registrations, double-voting by individuals registered in more than one state, and voting by undocumented immigrants.

[Hans A. von Spakovsky](#)  
[/about/staff/hans-von-spakovsky](#)  
Managing Director, Election Law Reform Institute  
Legal Fellow  
Edwin M. McMane III Center for Legal and Public Policy

Opponents suggest there is no voter fraud, or at least not enough to worry about. But historians cite many instances of voter fraud on a scale sufficient to determine the outcome of close elections.

A 2010 election in Missouri that ended in a one-vote margin of victory included 50 votes cast illegally by citizens of Somalia. A 1996 congressional race in California was almost overturned by hundreds of votes illegally cast by noncitizens.

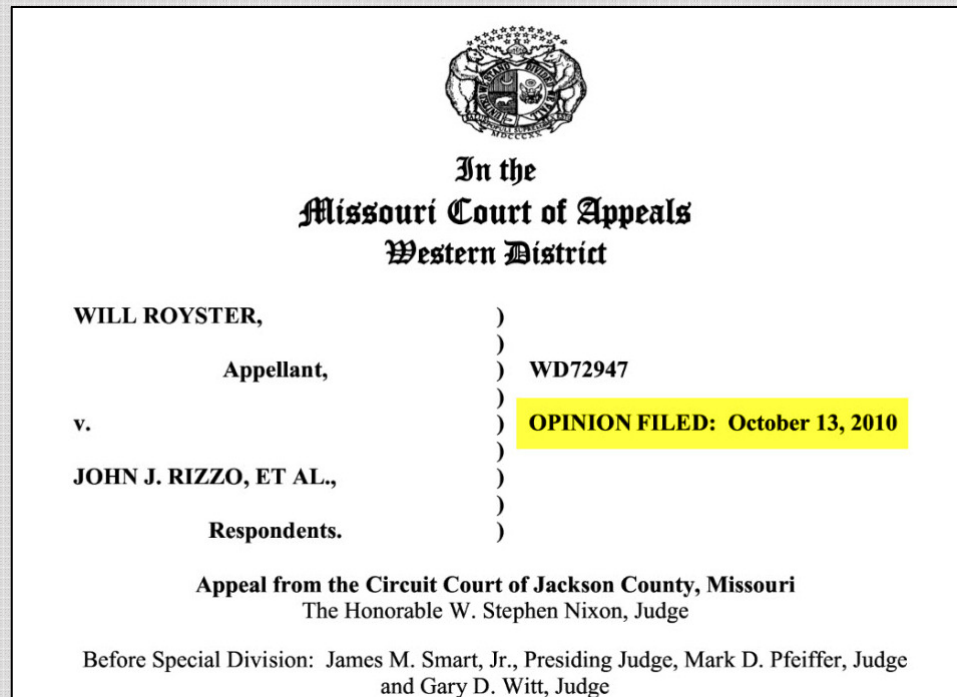
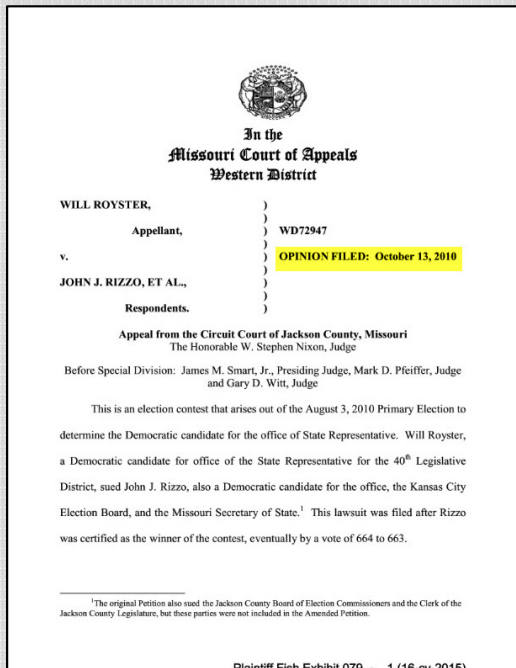
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See Hans von Spakovsky, Mar. 9, 2018 (Day 4 PM) Trial Tr. at 1166-67

# Defendant's Expert: Hans von Spakovsky



## Incomplete and Misleading Work: 2010 Decision on Somali Voters



Source: PX 079



# Defendant's Expert: Hans von Spakovsky



## Is He Just Sloppy?

### Expert Report of Hans A. von Spakovsky

*Fish v. Kobach*, U.S. District Court, District of Kansas, No. 2:16-cv-0216

#### Background and Experience

My name is Hans A. von Spakovsky. I am a Senior Legal Fellow in the Institute for Legal and Judicial Studies at The Heritage Foundation and Manager of the Law Reform Initiative.<sup>1</sup> I earned a B.S. from the Massachusetts Institute of Technology J.D. from the Vanderbilt University School of Law. I am an adjunct professor at the Mason School of Law, where I teach a course on election law.

I spent four years at the U.S. Department of Justice as a career civil service lawyer including three years as Counsel to the Assistant Attorney General for Civil Rights (2006-2007) where I oversaw and coordinated the enforcement of federal voting laws, including the Rights Act, the National Voter Registration Act, and the Help America Vote Act. I spent years as a commissioner at the Federal Election Commission (2006-2007). I served on the Board of Advisors of the U.S. Election Assistance Commission and on the Fullon County (GA) Board of Registrations and Elections. I am the former vice chairman of the Fairfax County (Virginia) Electoral Board and a former member of the Virginia Advisory Board to the Commission on Civil Rights.

I am widely regarded as an expert on U.S. elections with both knowledge of the laws governing elections as well as the actual administration of the voting, election, and campaign finance process. I have not testified as an expert in litigation within the last four years. I have testified before Congress and state legislatures in Georgia, North Carolina, Tennessee, Virginia, Pennsylvania, and Washington state on election issues.<sup>2</sup>

I am the author of numerous studies and articles on voting, elections, and campaign finance issues, including a chapter on the National Voter Registration Act in the American Bar Association's book on elections, "America Votes! A Guide to Modern Election Law and Voting Rights" (ABA Section of State and Local Government 2012) as well as a chapter on issues in "Liberty's Nemesis: The Unchecked Expansion of the State" (Encounter Books 2016). I am the coauthor with John Fund of "Who's Counting? How Fraudsters and Bureaucrats Put Your Vote At Risk" (Encounter Books 2012). More information on my background and experience is in my resume attached to this report.

I have been asked to provide an opinion on the problem of illegal registration of noncitizens in Kansas and the rest of the nation and whether it is necessary to require citizenship to remedy this problem. I have conducted and published research on this

<sup>1</sup> The title and affiliation are for identification purposes. The views expressed here are my own, and do not represent the views of The Heritage Foundation or its board of trustees.

<sup>2</sup> My testimony before the North Carolina legislature was recently cited in the opinion issued by Judge Schroeder in *U.S. v. North Carolina*, Case Nos. 1:13CV658, 1:13CV660, and 1:13CV861 (M.D.N.C. 2016), pages 187-189.

Expert Report of Hans A. von Spakovsky

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DEFENDANT  
KOBACH'S  
EXHIBIT 865  
16-CV-2105

# Defendant's Expert: Hans von Spakovsky



## Claims No Preconceived Opinions in 2016...

**Question: Did you have a view prior to your engagement as an expert in this case as to whether or not the documentary proof-of-citizenship law is burdensome?**

**Answer: I had not. I knew about the Kansas law, but I had not reviewed it in depth...**

# Defendant's Expert: Hans von Spakovsky



## ... But Advocated for DPOC in 2012 Book

**Q. ...Now, at the time that you wrote your book "Who's Counting" in the year 2012, you were already an advocate for documentary proof-of-citizenship requirements like the one at issue in this case, right, Mr. von Spakovsky?**

**A. That's correct. I've made that recommendation on a number of occasions.**

# Defendant's Expert: Hans von Spakovsky



## 2010 Fundraising for Kobach

REALTIME DISCLAIMER - ROUGH DRAFT - DO NOT DISSEMINATE 110

1 for Secretary of State, you wrote an e-mail promoting a  
2 fund receiv  
3 Secretary of  
4 A. I be  
5 Q. Okay  
6 report that  
7 campaign an  
8 for him. d  
9 A. I d  
10 Q. Now  
11 Page 3. Ar  
12 And I want  
13 of aliens c  
14 the tip of  
15 A. Yes  
16 Q. Okay  
17 Spakovsky?  
18 A. I d  
19 Q. Why  
20 iceberg?  
21 A. I've used that before in other things that I've  
22 written.  
23 Q. But I mean, the reason you used that rephrase is  
24 because in your view, the 30 instances of non-citizen  
25 registration in Sedgwick County, those could be

Kelli Stewart, CSR, RPR, CRR, RHR

5 Q. Okay. You didn't mention the fact in your expert  
6 report that you had contributed to Secretary Kobach's  
7 campaign and that you had written fundraising e-mails  
8 for him. Correct?  
9 A. I did not.



# Defendant's Expert: Hans von Spakovsky



## 2001: NVRA a "failure"

#4  
**Hans A. von Spakovsky**  
Vice Chairman, Future Guard Board  
of Registration and Elections  
6520 Burdett Drive  
Atlanta, Georgia 30328  
Telephone (404) 851-9834  
Facsimile (404) 851-9834  
Mobile (678) 296-7498  
vspakovsky@aol.com

Testimony for the Senate Rules Committee  
July 23, 2001  
(Prepared July 19, 2001)

### Voter Fraud and Election Reform

One of the biggest threats to voter rights and election integrity today is the condition of our voter registration rolls. Many jurisdictions now have more registered names on their voter rolls than they have voting age population within their borders. This is an invitation to fraud and chaos since the many invalid and multiple registrations that exist can serve as a source pool for fraud. Additionally, in an effort intended to reverse our long-term decline in voter turnout and to increase voting "convenience," some states have adopted no fault absentee balloting statutes. Unfortunately, when absentee ballots are combined with the restrictions imposed by the National Voter Registration Act of 1993 or Motor Voter, absentee ballots make the job of voter thieves easier. Motor Voter's attempt to make registration universal is instead a universal failure because it was so flawed as to actually undermine our registration system.

The United States has a long history of voter fraud, from an election in New York in 1844 in which 135% of the eligible voters turned out, to cases in more recent years involving fraudulent absentee ballots in a 1993 state senatorial election in Philadelphia, election in Greene County, Alabama, a county commission race in 1996 in Dodge County, Georgia, and the mayor's race in 1997 in Miami. There have been numerous other cases of voter fraud, many of them furthered by some of the unfortunate side effects of Motor Voter. While allowing registration at government offices is a good idea, some of Motor Voter's provisions have opened security holes in our voting process. For example, Motor Voter allows an individual to register and cast an absentee ballot without any election official or poll watcher present. This makes multiple registrations and multiple votes very easy and the chances of voter fraud are negligible.

Absentee ballots make vote buying and voter intimidation easier to commit and make poll watching impossible. The secret ballot prevents coercion and helps prevent voter tampering. It was instituted in the U.S. in the late 1800's to prevent these very practices which were prevalent in American elections. Absentee ballots are voted in unsecured settings where there is no election official or independent election observer available to ensure that there is no illegal coercion or intimidation. The ability of poll watchers to monitor absentee sites is also an important guarantee of the integrity and security of our election process. Transparency must be maintained. No fault absentee ballot laws make it easier for campaigns

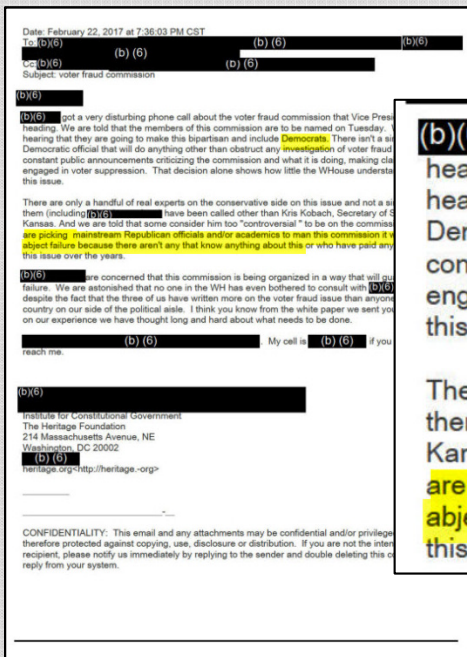
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# Defendant's Expert: Hans von Spakovsky



## 2017 Email: "Democrats", "Mainstream Republican Officials", and "Academics" don't "know anything" about voter fraud



(b)(6) got a very disturbing phone call about the voter fraud commission that Vice President Pence is heading. We are told that the members of this commission are to be named on Tuesday. We're also hearing that they are going to make this bipartisan and include Democrats. There isn't a single Democratic official that will do anything other than obstruct any investigation of voter fraud and issue constant public announcements criticizing the commission and what it is doing, making claims that it is engaged in voter suppression. That decision alone shows how little the WHouse understands about this issue.

There are only a handful of real experts on the conservative side on this issue and not a single one of them (including (b)(6)) have been called other than Kris Kobach, Secretary of State of Kansas. And we are told that some consider him too "controversial" to be on the commission. If they are picking mainstream Republican officials and/or academics to man this commission it will be an abject failure because there aren't any that know anything about this or who have paid any attention to this issue over the years.



# Defendant's Expert: Hans von Spakovsky



