NO. PD-0881-20

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF TEXAS

CRYSTAL MASON,

Appellant,

v.

STATE OF TEXAS,

Appellee.

From the Second Court of Appeals
No. 02-18-00138-CR

Trial Court Cause No. 148710D
From the 432nd District Court of Tarrant County, Texas
The Honorable Ruben Gonzalez, Jr. Presiding

BRIEF OF AMICUS CURIAE, THE CATO INSTITUTE

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INTEREST OF THE AMICUS CURIAE

The Cato Institute is a public policy research organization dedicated to individual liberty, limited government, free markets, and peace. It conducts independent, nonpartisan research on policy issues, including criminal justice. One of Cato's criminal justice initiatives focuses on "overcriminalization," which unfairly jeopardizes individual liberties and unnecessarily expands the reach of government. Part of the overcriminalization initiative stresses enforcing mens rea requirements in statutes carrying criminal penalties in order to avoid criminalizing conduct not traditionally considered to be criminal.

No fees have been or will be paid for the preparation and filing of this amicus brief.

SUMMARY OF ARGUMENT

The purpose of the criminal justice system is to protect innocent citizens from harm inflicted by intentional criminal acts. It is not to turn innocent citizens into criminals for unintentional acts that caused no harm. Pursuing statute-stretching prosecutions against people who lack the requisite mental state disserves the criminal justice system.

This case provides a regrettable example of expanding a statute with criminal penalties to punish behavior that was simply an honest mistake. Crystal Mason was sentenced to five years for submitting a provisional ballot while in a supervised release program following a tax fraud conviction — despite the acknowledged lack of clear proof that she knew she was ineligible to vote. *Mason v. State*, 598 S.W.3d 755, 779 (Tex. App.—Fort Worth 2020, pet. filed). The court of appeals held: "[T]he fact that she did not know she was legally ineligible to vote was irrelevant to her prosecution." *Id.* at 770. Her knowledge that she was on supervised release — the condition that, unbeknownst to her, made her ineligible to vote — was considered sufficient to uphold her conviction. *Id.*

When the Legislature criminalized voting when ineligible, it adopted a specific mens rea requirement:

> A person commits an offense if the person . . . votes . . . in an election in which **the person knows the person is not eligible to vote**.

TEX. ELEC. CODE ANN. § 64.012(a)(1) (emphasis added). This articulation of mens rea is a departure from most statutes that criminalize "knowingly" committing the forbidden conduct. That construction leaves room for the argument that the court of appeals adopted here: that "knowingly" required only knowledge of the targeted action, rather than requiring knowledge that the action — here voting while ineligible — was unlawful. *See, e.g.*, *Delay v. State*, 465 S.W.3d 232, 250 (Tex. Crim. App. 2014) ("Here again, however, we are confronted with a statutory provision for which it is 'not at all clear how far down the sentence the word 'knowingly' is intended to travel.'"). But the Legislature's specific articulation of the mens rea requirement in section 64.012(a)(1) eliminates that potential ambiguity, and instead requires the State to prove that the person "**knows [she] is not eligible to vote**." TEX. ELEC. CODE ANN. § 64.012(a)(1).

Even though the statute involved in *Delay* contains the more ambiguous placement of "knowingly" than the statute in this case, this Court held in *Delay* that the State must also show that the actor was "aware, not just of the particular circumstances that render his otherwise-innocuous conduct unlawful, but also of the fact that undertaking the conduct under those circumstances in fact constitutes a 'violation of' the Election Code." *Delay*, 465 S.W.3d at 250. If a requirement of knowledge of violation of the Election Code can be read **into** subsection 253.003(a)'s ambiguous mens rea requirement, that same knowledge should not be

read **out of** subsection 64.012(a)(1), where the mens rea requirement is unambiguous.

Nevertheless, the Fort Worth Court of Appeals affirmed Ms. Mason's conviction, expressly holding that "the fact that she did not know she was legally ineligible to vote was irrelevant to her prosecution under Section 64.012(a)(1)." *Mason*, 598 S.W.3d at 770. The opinion largely ignores this Court's opinion in *Delay*, relegating it to a footnote. *Id*. at 769, n.12. Instead, the opinion relies on three Election Code cases decided by courts of appeals, *see Mason*, 598 S.W.2d at 668, two that pre-date *Delay*, one that disregards *Delay*, and all of which are factually distinguishable.

Because the Fort Worth court of appeals disregarded this Court's precedent regarding mens rea in the Election Code, this Court should reverse the conviction.

ARGUMENT

I. The Fort Worth Court of Appeals opinion contributes to overcriminalization by misinterpreting the mens rea requirement.

A. Overcriminalization is a growing concern that threatens the legitimacy of the criminal justice system.

Overcriminalization has "becom[e] an increasingly important issue in modern-day criminal law. Numerous commentators in the academy and elsewhere have discussed this phenomenon, as has the American Bar Association (ABA)." Paul J. Larkin, Jr., *Public Choice Theory and Overcriminalization*, 36 HARV. J. LAW & PUB. POL. 715, 721 (2013).[1] This development has been described as "the use of the criminal law to punish conduct that traditionally would not be deemed morally blameworthy." Larkin, *supra* at 719. Overcriminalization is a pathology that causes our criminal justice system to "vastly exceed[] the scope of what [it] may legitimately seek to address while routinely using force against peaceful people in morally indefensible ways." Clark Neily, *America's Criminal Justice System Is Rotten to the Core*, CATO AT LIBERTY (June 7, 2020), https://www.cato.org/blog/americas-criminal-justice-system-rotten-core.

[1] Larkin continues:

> Overcriminalization comes in several forms: '(1) untenable offenses; (2) superfluous statues; (3) doctrines that overextend culpability; (4) crimes without jurisdictional authority; (5) grossly disproportionate punishments; and (6) excessive or pretextual enforcement of petty violations.' Erik Luna, *The Overcriminalization Phenomenon*, 54 AM. U. L. REV. 703, 717 (2005).

Id. at 719, n.13.

Former U.S. Attorney Generals Edwin Meese (who served under President Reagan) and Richard Thornburgh (who served under President George H. W. Bush) have expressed concern about this development. *See, e.g.*, Edwin Meese, III, *Overcriminalization in Practice: Trends and Recent Controversies*, 8 SETON HALL CIRCUIT REV. 505 (2012); Dick Thornburgh, *The Dangers of Over-Criminalization and the Need for Real Reform: The Dilemma of Artificial Entities and Artificial Crimes*, 44 AM. CRIM. L. REV. 1279 (2007).

"Overcriminalization" has been described as "an unfortunate trend … that will erode the respect and support that the criminal process needs." Larkin, *supra* at 755.

B. One way to restrain overcriminalization is to clearly spell out and adhere to the mens rea requirements in statutes carrying criminal penalties.

Imprecision and inconsistent enforcement of mens rea standards in criminal statutes contribute to the problem of overcriminalization. Former Attorney General Meese addressed the Senate Committee on the Judiciary about the role that mens rea plays in constraining the scope of criminal liability:

> From its earliest days, our criminal law has contained both a moral and a practical element. For an act to be a crime, the law has traditionally required both that the act cause (or threaten) some kind of harm and that the individual who committed the act do so with malicious intent. The requirement of a guilty mind, also called *mens rea*, helps to separate conduct that may be harmful but that is not morally culpable from conduct truly deserving of criminal penalties. In this way, [the] criminal intent requirement protect[s] individuals who accidentally commit wrongful acts or who act without knowledge that what they are doing is wrong.

Testimony by Edwin Meese III, Hearing Before the Committee on the Judiciary, United States Senate, January 20, 2016, pp. 1-2, https://www.heritage.org/article/testimony-the-adequacy-criminal-intent-standards-federal-prosecution. Other commentators have echoed this theme:

> The historical role that mens rea standards played in protecting individuals from prosecution for unintentional acts is not always kept in sharp focus. Increasingly, the criminal law punishes accidents and criminalizes behavior without any regard to the defendant's intent. Mens rea reformers are concerned about this trend and want to ensure that the state does not incarcerate 'people who engage in conduct without any knowledge of or intent to violate the law and that they could not reasonably have anticipated would violate a criminal law.'

Giancarlo Canaparo, Paul Larkin, Jr. & John Malcom, *Four Ways the Executive Branch Can Advance Mens Rea Reform*, pp. 2-3, January 28, 2020, https://www.heritage.org/courts/report/four-ways-the-executive-branch-can-advance-mens-rea-reform. *See also* John G. Malcolm, *Criminal Justice Reform at the Crossroads*, 20 TEX. REV. L. & POL. 249; Benjamin Levin, *Mens Rea Reform and its Discontents*, 109 J. CRIM. L. & CRIMINOLOGY 491 (Summer 2019).

This Court also has recognized that "where otherwise innocent behavior becomes criminal because of the circumstances under which it is done, a culpable mental state is required as to those surrounding circumstances." *Huffman v. State*, 267 S.W.3d 902, 908 (Tex. Crim. App. 2008) (quoting *McQueen v. State*, 781

S.W.2d 600, 603 (Tex. Crim. App. 1989)). In *Cook v. State*, 884 S.W.2d 485 (Tex. Crim App. 1994), this Court quoted the United States Supreme Court:

> The contention that an injury can amount to a crime only when inflicted by intention is no provincial or transient notion. It is as universal and persistent in mature systems of law as belief in freedom of the human will and a consequent ability and duty of the normal individual to choose between good and evil ....

Id. at 487 (quoting *Morisette v. U.S.*, 342 U.S. 246, 250 (1952)).

The weakening of mens rea standards can have undesirable consequences both for individuals and for the criminal justice system. As former Attorney General Meese has cautioned:

> Criminal laws with weak or inadequate intent requirements empower the government to rain down these devastating consequences in situations where a person didn't know he was doing anything wrong or was powerless to stop the violation. This harms the individuals ensnared in these unjust prosecutions, as well as society at large. It breeds distrust of government and undermines the rule of law, which is predicated on the ability of individuals to understand the law and conform their conduct to it. More than anything else, it is deeply and fundamentally unfair. Before the government brands a person—or an organization—a criminal, it should have to prove that his conduct was morally culpable.

Meese Testimony, *supra* at 4.

Accordingly, legislatures must "legislat[e] more carefully and articulately regarding mens rea requirements, in order to protect against unintended and unjust conviction" Canaparo, *et al.*, *supra* at 3. Where, as here, the Legislature has done that, courts should honor the language used.

C. The Legislature clearly spelled out the mens rea requirement for voting illegally, but the State failed to adhere to that standard.

In the statute at issue here, the Legislature did a commendable job of "carefully and articulately" defining the mens rea standard. Unfortunately, the lower courts failed to adhere to that carefully articulated mens rea standard.

1. The statute making it illegal to vote when ineligible requires that "the person knows that the person is ineligible to vote."

Ms. Mason was prosecuted under section 64.012(a)(1) of the Texas Election Code. It provides: "A person commits an offense if the person . . . votes . . . in an election in which the person knows the person is not eligible to vote." TEX. ELEC. CODE ANN. § 64.012(a)(1).

This articulation of the mens rea requirement contrasts with many sections of the Penal Code, as well as the other subsections of the Election Code statute at issue here. *See* TEX. ELEC. CODE ANN. §§ 64.012(a)(2), 64.012(a)(3), 64.012(a)(4). The traditional construction prohibits "knowingly" committing certain acts, when "it is 'not at all clear how far down the sentence the word 'knowingly' is intended to travel.'" *Delay*, 465 S.W.3d at 250. If the Legislature had followed that pattern here, it would have prohibited "knowingly voting in an election in which the person is not eligible to vote." That might have left doubt about whether "knowingly" referred to the voting or the ineligibility. But the Legislature diverged from the typical

construction and eliminated any doubt by clarifying that the person must know they are ineligible to vote.

2. Binding precedent from this Court requires that the State prove knowledge that "undertaking the conduct under those circumstances in fact constitutes a 'violation of the Election Code.'"

This Court addressed the importance of interpreting mens rea requirements to avoid criminalizing otherwise innocent activity in *Delay*, also a prosecution under the Election Code. Eight of the judges agreed that knowledge of the predicate acts alone was insufficient to prove mens rea, but instead knowledge that those acts were violations of the Election Code was required. *See id.* at 250[2], 253[3].

Although Ms. Mason cited *Delay* in the court of appeals, the opinion mentions *Delay* only once, in a footnote. *See Mason*, 598 S.W.3d at 769, n.12. Instead, it relies on three court of appeals opinions. *See Mason,* 598 S.W.3d at 768 (citing *Thompson v. State*, 9 S.W. 486 (Tex. Ct. App. 1888); *Medrano v. State*, 421 S.W.3d 869 (Tex. App.—Dallas 2014, pet. ref'd); *Jenkins v. State*, 468 S.W.3d 656 (Tex. App.—Houston [14th Dist.] 2015), *pet. dism'd improvidently granted*, 520 S.W.3d 616 (Tex. Crim. App. 2017) (per curiam)). *Thompson* and *Medrano* pre-date *Delay*, and were

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[2] "Section 253.003(a) **requires that the actor be aware**, not just of the particular circumstances that render his otherwise-innocuous conduct unlawful, but also of the fact **that undertaking the conduct** under those circumstances in fact **constitutes a 'violation of' the Election Code**." *Id.*

[3] "[T]he **state had to prove** for count II that **the contribution** made by TRMPAC to RNSEC **violated the Election Code, that appellant was active in the process, and that he knew that the process violated the Election Code**." *Delay*, 465 S.W.3d at 253 (Johnson, J. concurring) (emphasis added).

abrogated by this Court's subsequent opinion; *Jenkins* came a few months later, and relied on *Medrano*, ignoring *Delay.*

In *Thompson*, the prospective voter had been convicted of assault with intent to murder — a far cry from Ms. Mason's conviction for tax fraud. In *Medrano* a prospective voter lied about her address so she could register in a different precinct to vote for her uncle. In *Jenkins*, a politically active voter falsely changed his voter application address from his residence of 18 years to a motel (where he had not stayed in the previous year) because it was within the district voting on an issue of interest to him. In contrast, Ms. Mason was not politically active and had no strong motivation to vote, other than pleasing her mother. *See* 2RR116, 143 ("I didn't even want to go vote. My mom made me go vote."). Thus, Ms. Mason's case is wholly unlike *Medrano* and *Jenkins,* which involved conscious subterfuge of the voting residence requirements for a political purpose, or *Thompson*, which involved a serious violent crime.

The Fort Worth court disregarded this Court's *Delay* opinion because "the different statutes at issue in *Delay* were ambiguous … because they placed the 'knowingly' descriptor before both the verb describing the actus reas and the following clause describing the actus reas." *Mason*, 598 S.W.3d at 769 n.12.

The Election Code provision in *Delay* is more ambiguous than the one here. *See* TEX. ELEC. CODE ANN. § 253.003(a) ("A person may not knowingly make a

political contribution in violation of this chapter."). Yet, even with that ambiguity, this Court still held that the knowledge possessed by the accused must include knowledge that his conduct violated the Election Code. *See Delay*, 465 S.W.3d at 250-51. The statute here was not ambiguous, requiring that "the person knows the person is not eligible to vote." TEX. ELEC. CODE ANN. § 64.012(a)(1). So the difference in the statutes should have made the conviction more difficult to affirm here than in *Delay*. Yet this Court reversed the conviction in Delay because of a lack knowledge of violating the Election Code, and here the court of appeals affirmed because it found that same knowledge to be irrelevant.

Again, the statute involved in *Delay* was Election Code section 253.003(a): "A person may not knowingly make a political contribution in violation of this chapter." But the next subsection of the Code provides, "A person may not knowingly accept a political contribution the person knows to have been made in violation of this chapter." TEX. ELEC. CODE ANN. § 253.003(b). The dissenting judge in *Delay* contrasted subsections 253.003(a) and 253.003(b), concluding that subsection (a) did not require knowledge of illegality, but subsection (b) did. *See Delay*, 465 S.W.3d at 254 (Meyers, J., dissenting).[4] The statement of mens rea in

[4] "[I]t should be noted that **Section 253.003(b)**, the provision that immediately follows the one at question here, states that 'A person may not knowingly accept a political contribution the person knows to have been made in violation of this chapter.' There, **the Legislature specifically identifies that the actor must know of the illegality**. In the provision that immediately precedes it, however, the Legislature makes no such clarification. If the Legislature intended what the majority now holds, it would have worded the provision in the same way it did Section 253.003(b):

64.012(a)(1) (this case) is similar to that in section 253.003(b) (mentioned but not applicable in *Delay*). *Compare* TEX. ELEC. CODE ANN. § 253.003(b) ("A person may not knowingly accept a political contribution the person knows to have been made in violation of this chapter."), *with* TEX. ELEC. CODE ANN. § 64.012(a)(1) ("A person commits an offense if the person votes . . . in an election in which the person knows the person is not eligible to vote."). Thus, it appears that even the dissenting judge in *Delay* would have found a requirement to prove knowledge of illegality under the statute at issue here.

Similarly, the majority and dissenting opinions in *Delay* both note that in a civil case involving the same Election Code section under which Delay was prosecuted, the Supreme Court of Texas reached a different result than this Court did in *Delay* regarding the need to prove knowledge of illegality. *See Delay*, 465 S.W.3d at 250 (Price, J., majority), 254 (Meyers, J., dissenting) (both citing *Osterberg v. Peca*, 12 S.W.3d 31 (Tex. 2000)). The *Osterberg* opinion also mentions subsection 253.003(b) of the Election Code as an example of statutory language requiring knowledge of illegality. *See Osterberg*, 12 S.W.3d at 38 ("The Legislature made clear in other sections of the Election Code when it specifically wanted to require a person to know the law is being violated. *See, e.g.,* TEX. ELEC. CODE ANN.§

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a person may not knowingly make a political contribution the person knows to be in violation of this chapter." *Delay*, 465 S.W.3d at 254 (Meyers, J., dissenting) (emphasis added).

253.003(b). So even a court that reached a different result than this Court's *Delay* opinion in a civil context[5] noted that a mens rea requirement similar to that in section 253.003(b) would require knowledge of illegality.

Thus, all the opinions by this Court in *Delay*, as well as the Supreme Court's opinion in Osterberg, agree that a subsection of the Election Code with a mens rea requirement similar to the one at issue here requires knowledge that one's conduct violates the Election Code. The same analysis, applied to this statute, requires that Ms. Mason have knowledge that she was ineligible to vote.

3. The court of appeals acknowledged the lack of clear evidence that Ms. Mason knew she was ineligible to vote.

Ms. Mason did not know she was ineligible to vote. 2RR126. The only indirect inference of her knowledge was based on testimony that she looked at the provisional ballot, but that witness was not certain that she read the part of the affidavit that addressed eligibility. 2RR86-87. Ms. Mason testified that she did not. 2RR122.

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[5] This Court explained why the analysis in *Delay* was different than *Osterberg*: "Here, however, we are construing a criminal provision, not a civil one. Moreover, it is a penal provision that appears outside of the Penal Code itself, and in construing penal provisions that appear outside the Penal Code, we have recognized that the rule of lenity applies, requiring "that ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity." And indeed, even when construing provisions within the Penal Code, we have typically resolved ambiguities with respect to the scope of the applicable *mens rea* in favor of making sure that mental culpability extends to the particular circumstance that renders otherwise innocuous conduct criminal. That the Legislature may have more explicitly assigned mental culpability to attendant circumstances in neighboring statutory provisions does not eliminate the patent ambiguity from Section 253.003(a) itself. Nor does it absolve us of the duty to ascribe a culpable mental state to the particular 'statutory elements that criminalize otherwise innocent conduct.'" *Delay*, 465 S.W.3d at 250-51.

On this record, the Fort Worth Court of Appeals conceded that "Mason may not have known with certainty that being on supervised release as part of her federal conviction made her ineligible to vote under Texas law." *Mason*, 598 S.W.3d at 779-80. Still, the court concluded that "**the fact that she did not know she was legally ineligible to vote was irrelevant** to her prosecution under Section 64.012(a)(1)," and that the State needed to prove only that Ms. Mason voted while knowing that she was on supervised release, a condition that made her ineligible. *Id.* at 770 (emphasis added).

II. The prosecution of Ms. Mason is particularly unjust because a federal statute invites and exonerates the conduct that is the basis of her prosecution.

The 2000 national election exposed flaws in and raised concerns about both voting irregularities and voter intimidation and exclusion. In response, Congress passed the Help America Vote Act (HAVA). *See* 52 U.S.C. § 21082. Among other things, HAVA provides that if individuals believe they are eligible to vote in a precinct, but their name does not appear on the rolls of registered voters in that precinct, election officials are required to inform the prospective voter that they can submit a provisional ballot. *Id.* at § 21082(a)(1), (2). The provisional ballot is subsequently held subject to a final determination of the prospective voter's eligibility. *Id.* at § 21082(a)(3). If the prospective voter is eligible, the vote is

counted; if the voter is ineligible, the ballot is not counted and the prospective voter is informed. § 21082(a)(4), (5).

Before HAVA, if prospective voters were not on the voter rolls, they were not allowed to vote, and even if the polling list turned out to be mistaken, that voter's vote was forever lost. *See Sandusky Cnty. Democratic Party v. Blackwell*, 387 F.3d 565, 569 (6th Cir. 2004). But HAVA provides a saving procedure for eligible voters erroneously missing from voter rolls, and a sanctuary for uncertain voters to submit a provisional ballot that is not counted if they turn out to be ineligible.

Ms. Mason was a classic candidate for a provisional ballot. Her eligibility to vote was terminated while she was incarcerated, the notice of her ineligibility was mailed to an address where she was no longer present, and she never saw the notice. *See Mason*, 598 S.W.3d at 765. When she submitted her provisional ballot she had served her prison sentence, had been released from a half-way house, and had returned to her former home address. The supervisor of her release program testified that participants were not told they were ineligible to vote while completing their supervised release. *Id*. When her name did not appear on the roll, she was invited by an election official to submit a provisional ballot, in accordance with HAVA, and she did. *Id.* at 766. When a subsequent review revealed that she was ineligible, her provisional ballot was not counted, in accordance with the statute. 3RR, Ex. 6.

HAVA creates a mechanism for those who are innocently unaware that their understanding of their eligibility status is different from what is reflected on the rolls, and it does so in a way that does not jeopardize the integrity of the election if those citizens are truly ineligible. Ms. Mason availed herself of that process after she was invited to do so by an election official at her usual polling place. For the State to prosecute her for innocently being mistaken about her eligibility to vote is particularly perverse under these circumstances. If the mens rea requirement in the Illegal Voting Statute had been properly interpreted and applied, that perverse result would have been — and still can be — avoided.

III. The failure to properly interpret and apply mens rea requirements in this case results in potentially far-reaching negative consequences.

In the 2016 election, over 44,000 provisional ballots were submitted by prospective voters in Texas who were later determined to be ineligible. *See* Petition for Discretionary Review at 3. If actual knowledge of ineligibility to vote is not required and simply submitting a provisional ballot that is subsequently rejected for ineligibility is all that is necessary for the State to convict, then every one of those 44,000 provisional voters who were ineligible could have been prosecuted, as long as they knew the underlying fact that technically rendered them ineligible, even if they had no knowledge they were actually ineligible.

For example, consider a voter who lived and voted in one county her entire adult life, but prior to an election moved to an assisted living facility in a neighboring

county and innocently failed to update her voter registration. She might have a good faith belief that she could vote in her old county because that is where she is still registered. However, according to the Fort Worth Court of Appeals, going to vote at the polling place where she had voted for decades could result in a criminal conviction based on an innocent mistake. The voter would have knowledge of the underlying fact that rendered her ineligible to vote — moving to another county — but no knowledge that moving rendered her ineligible to vote in her old precinct.

Alternatively, assume that same person did not know she had to re-register in her new county, but decided to go vote in her new county. She would not find herself on the voting rolls in the new county, but could, under HAVA, submit a provisional ballot. The provisional ballot would be rejected because she had not registered in her new county. However, according the Fort Worth Court of Appeals, she could be prosecuted because she knew of the underlying facts — moving to and not registering in her new county — that rendered her ineligible, even if she did not actually know she was ineligible.

Criminal law should not be a scheme to set traps for the unwary. This interpretation of the Illegal Voting statute and HAVA would not only result in a massive example of criminalizing innocent conduct, but awareness of these consequences would have a chilling effect on prospective voters uncertain about their eligibility. Anyone who did not appear on the voting roles at the polling place

where they attempted to vote would be forced to walk away without voting, rather than preserving the possibility of voting through the HAVA procedures. This would be entirely counterproductive to the purpose of a statute whose title makes clear that it was intended to "Help America Vote."

CONCLUSION AND PRAYER

Amicus, Cato Institute, urges the Court to grant the petition for discretionary review, reverse the conviction, and order a judgment of acquittal.

Respectfully submitted,

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/s/ *Kevin Dubose*
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