

Alora Thomas-Lundborg*
Jonathan Topaz**
Dale Ho*
AMERICAN CIVIL LIBERTIES UNION
125 Broad Street
New York, NY 10004
(212) 519-7866
(212) 549-2693
athomas@aclu.org
jtopaz@aclu.org
dale.ho@aclu.org

Alex Rate (MT Bar No. 11226)
Akilah Lane
ACLU OF MONTANA
P.O. Box 1968
Missoula, MT 59806
406-224-1447
ratea@aclumontana.org
alane@aclumontana.org

Attorneys for Plaintiffs
*Admitted *pro hac vice*
***Pro hac vice* pending

Jacqueline De León*
Matthew Campbell*
NATIVE AMERICAN RIGHTS FUND
1506 Broadway
Boulder, CO 80302-6296
(303) 447-8760
jdeleon@narf.org
mcampbell@narf.org

Samantha Kelty*
NATIVE AMERICAN RIGHTS FUND
1514 P Street N.W. (Rear) Suite D
Washington, D.C. 20005
(202) 785-4166
kelty@narf.org

Theresa J. Lee*
ELECTION LAW CLINIC, HARVARD LAW SCHOOL
6 Everett Street, Suite 5112
Cambridge, MA 02138
(617) 998-1010
thlee@law.harvard.edu

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
COUNTY OF YELLOWSTONE

WESTERN NATIVE VOICE, Montana)	Consolidated Case No. DV 21-0451
Native Vote, Blackfeet Nation, Confederated)	
Salish and Kootenai Tribes, Fort Belknap)	Judge Michael G. Moses
Indian Community, and Northern Cheyenne)	
Tribe,)	AFFIDAVIT OF DAWN GRAY IN
Plaintiffs,)	SUPPORT OF PLAINTIFFS'
)	MOTION FOR PRELIMINARY
v.)	INJUNCTION
)	
Christi Jacobsen, in her official capacity as)	
Montana Secretary of State,)	
)	
Defendant.)	
)	
)	

I, Dawn Gray affirm that:

1 I am the Managing Attorney of the Blackfeet Nation, a plaintiff in this case. I submit this affidavit in opposition of HB 530 and HB 176.

2 I have lived in Montana for 37 years. I am a member of the Blackfeet Tribe. I have been the Blackfeet Indian Reservation for over 30 years.

3. The Blackfeet Nation is a federally recognized tribe with 17,313 enrolled members. The reservation is located in northwestern Montana and covers approximately 1.5 million acres. The reservation is intersected by Glacier and Pondera counties.

4. Houses on the Blackfeet Reservation do not receive mail delivery. As a consequence, tribal members rely on P.O. boxes to send and receive mail. Often, tribal members share P.O. boxes because there is a fee associated with the boxes, because there may not be enough boxes to service the entire population, and because members often cannot regularly pick up their own mail and must depend on others to pick up and deliver their mail for them.

5. Distance to post offices varies widely among members living on the reservation. Some members can live within a mile of the post office while others live 15 miles from the post office. However, even when a post office is “close” travel to the post office may still be difficult for members that lack access to a vehicle, especially given the harsh weather on the Blackfeet reservation.

6. Snow is present 8-9 months of the year on the Blackfeet Reservation. Snow, ice, and mud can make travelling difficult or roads impassable.

7. The Blackfeet Nation has a poverty rate of 35.8 %. The median household income in 2017 was \$24,713. Given the extreme poverty, members cannot always afford a tank of gas and instead may choose to spend limited funds on necessities such as food or heating.

8. Lack of access to a vehicle, or shared vehicles is also very common on the Blackfeet reservation. One vehicle is often responsible for getting many members of a household to and from work or school, to all social engagements, all doctor's appointments, and all errands including mail runs. Dependable vehicles that can manage difficult road conditions are even rarer, making a working vehicle in the election month of November especially difficult to come by.

9. There is an extreme housing shortage on the reservation, with many family, friends, and acquaintances sharing homes. Overcrowding is extremely common and there is a lengthy waitlist for housing. It is not uncommon to have upwards of 10 people sharing a home.

10. Due to poverty, road conditions, lack of vehicle access, cultural norms, necessity, and convenience, picking up and dropping off mail for family, neighbors, friends, acquaintances, and friends of friends is common on the Blackfeet Reservation. Crowded living conditions facilitate the picking up and dropping off of mail by one person for many people at once.

11. Native Americans who are enrolled members of the Blackfeet Nation have voted in Montana elections through the collection and conveyance of their ballots to their local county election offices by organizations such as Western Native Voice.

12. Western Native Voice and Montana Native Vote pick up and drop off ballots on the Blackfeet Reservation. The Blackfeet Nation authorizes these organizations to pick up and drop off ballots. If these organizations were not able to perform this function because of HB 530 it would be more difficult for Blackfeet members to vote.

13. Typically, Blackfeet Nation does not perform Get Out the Vote operations. However, during the 2020 Election Pondera County refused to open satellite polling places and Blackfeet was forced to sue Pondera County to secure in person access. Due to confusion around the location and

availability of voting options due to the late resolution of settlement negotiations, and out of concern for the coronavirus pandemic, the Blackfeet Nation decided to conduct a ballot collection effort for two days – the day before Election Day and Election Day.

14. Blackfeet hired 32 people to collect ballots on Monday, November 1, 2020. Blackfeet hired 29 people to collect ballots on Tuesday, November 2, 2020. Each person worked 8 hours a day at a rate of \$20/hour. The total expenditure was \$9,760. In total, Blackfeet collected 197 ballots.

15. Blackfeet was reimbursed for this GOTV expenditure by the Native American Rights Fund. Currently, Blackfeet does not have the funds to continue this GOTV effort and instead relies on organizations like Western Native Voice to pick up and drop off ballots.

16. Additionally, Blackfeet tribal members rely on same day voter registration. Blackfeet tribal members are located a significant distance from the county seat and registration opportunities on the reservation are limited to a few days a year. The county seat is located an average of 44 miles from tribal members and some members have to travel over 60 miles – or 120 miles roundtrip – to reach the county seat in order to register.

17. Typically, there is a satellite polling place on Blackfeet on Election Day and many of our tribal members rely on Election Day registration. HB 176 banning Election Day voter registration would significantly impact Blackfeet tribal members that rely on Election Day registration.

18. While there is typically on reservation Election Day registration during elections, during the 2020 Election Pondera County only provided a ballot drop box following settlement negotiations.

19. The relationship between the tribe and Pondera County can be poor. Election officials refused to speak with us when they refused to provide in person access despite maintaining in person access at the county seat. The County's refusal to engage ultimately led to litigation.

20. Additionally, during this past 2020 election the Blackfeet tribe experienced difficulty with a Glacier County Election Administrator who refused to provide drop boxes mandated by the Glacier County Commission. The Administrator only relented after public pressure three business days before the Election.

21. Due to these strained relationships in bordertowns tribal members may prefer to register and vote on the reservation. Same day registration is particular important for this reason.

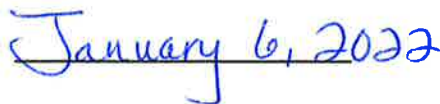
22. HB 530 and HB 176 makes participation in elections by Blackfeet Nation members substantially more difficult. These laws also disproportionately burden Native American voters compared to non-Native voters due to inequities in mail delivery service, access to post offices and post office boxes, distance to county seats and increased burdens on Native voters due to disproportionate rates of poverty and lack of vehicle access. Because of the disproportionate barriers placed on Blackfeet Nation voters by HB 530 and HB 176, Blackfeet Nation's members' attempts to vote are more likely to be unsuccessful and Blackfeet Nation's political power and ability to advocate for Blackfeet Nation needs would be reduced by these laws' suppressive effects. The Blackfeet Nation would also be denied full participation in the federal system through its diminished political power.

Signed:



DAWN GRAY, Managing Attorney for Blackfeet Tribe.

Date:



State of Montana County of Glacier: This instrument was signed or acknowledged before me on January 6, 2022 by DAWN GRAY, known to me to be the Managing Attorney for the Blackfeet Tribe.



NOTARY PUBLIC FOR MONTANA

