IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND
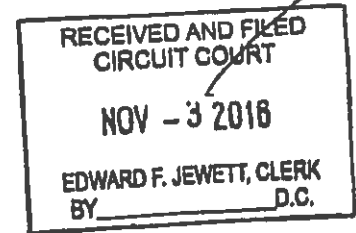
JAMES O. WALPOLE, JR.,

    Petitioner

v.

J. KIRK D. SHOWALTER, in her official
capacity as General Registrar for the City of
Richmond, Virginia, and OFFICE OF THE
GENERAL REGISTRAR FOR THE CITY
OF RICHMOND, VIRGINIA

    Respondents

CASE NO. CL16004844-00

AFFIDAVIT OF JAMES O. WALPOLE, JR.

COMES NOW James O. Walpole, Jr., being first duly sworn, under oath, and states as follows:

1. My name is James O. Walpole, Jr. I was born on ▆▆▆▆▆▆▆▆▆ I am a homeless individual. I reside on the ▆▆▆▆▆▆▆▆▆▆▆▆▆▆▆ the City of Richmond, Virginia, ▆▆▆▆ I have resided at that location for 12 to 15 years because it is safer than other parts of the City.

2. Prior to September 2, 2016, I attempted on two separate occasions to obtain education and instruction on how to register to vote at the General Registrar's Office for the City of Richmond.

3. I am a convicted felon. On or about September 2, 2016, my civil rights were restored by Governor Terence McAuliffe. (Exhibit 1)

4. Since September 2, 2016 I have made several attempts to register to vote. I have spent considerable time and effort shuffling between government offices attempting to secure my right to vote. During all my attempts to register to vote, I disclosed that I am a homeless individual.

5. On October 6, 2016, I was instructed to leave mandatory fields of information blank on my voter registration form by an employee of the Virginia State Department of Elections. (Exhibit 2). I did as instructed and received a dated receipt of my voter registration application. (Exhibit 3) The employee told me to wait three weeks to check to confirm whether I was registered to vote even though I confirmed with the employee that the deadline to register was October 17 (and was later extended to October 21).

6. Because I did not receive a denial letter, three weeks later, on or about October 27, I went back to the Department of Elections to confirm that I was registered to vote. I received verbal confirmation that my registration had been denied.

7. I did not receive written notification of the denial of my registration from the General Registrar for the City of Richmond pursuant to Virginia Code Section 24-422, despite providing my mailing address on my voter registration form.
8. I filed a petition with this Court to appeal my voter registration denial on October 28, 2016 after obtaining a copy of a denial letter and the official petition form.
9. As of November 3, 2016, I am not a registered voter as a direct result of misinformation and ineffective assistance provided by employees of the General Registrar of the City of Richmond and the Virginia State Department of Elections.
10. I respectfully request that the Court grant my petition to be immediately registered to vote in the City of Richmond so that I am able to vote on November 8, 2016.

FURTHER, Affiant states that:

I am a homeless man residing in the City of Richmond. I have been convicted of a felony.

Prior to receiving notification about my civil rights restoration, I made two separate trips to the City of Richmond General Registrar's office in efforts to educate myself on how to register to vote if my civil rights were restored. I did not receive instruction or assistance. From my experience, it appeared as though the Richmond General Registrar employees were unclear about instructions and guidance for a homeless individual who sought to register to vote. Dismayed, afterward, I visited the Secretary of the Commonwealth's office and I was provided some instruction on how to register to vote, but was also told that I must wait for the letter from the Governor restoring my civil rights.

In September 2016, I received an individualized letter from Governor Terence McAuliffe and the Secretary of the Commonwealth, Kelly Thomasson, restoring my civil rights, including my right to vote. After my civil rights were restored, I promptly registered to vote at the City of Richmond General Registrar. I was instructed by a registrar employee to show an ID, and to write the address listed on my driver's license as my residence on the voter registration form. I informed the employee that I did not live at that location. My driver's license lists my son's address in King William County. But I did as instructed. Finally, I checked the box indicating that I am homeless and provided my former attorney and friend's mailing address, where I receive important documents. Shortly thereafter, on October 3, 2016, my former attorney informed me that I had received voter registration information from King William County in the mail. I promptly called the King William County General Registrar and requested that they cancel my voter registration and explained I wanted to vote in Richmond City where I reside. King William County election staff cancelled my voter registration. They did not advise or instruct me that I could simply update my registration information to reflect my current residence.

On October 6, 2016, I went to the Virginia State Department of Elections' (Department) office for assistance. I hoped that, unlike the Richmond General Registrar, I would be able to get help and register to vote. Garry Ellis, NVRA/Voter Registration Coordinator (Ellis), at the Department instructed and assisted me with filling out my voter registration application. Ellis instructed me to fill out the mandatory field (signified by an asterisk) marked "Residence" with "homeless" and instructed me to leave the mandatory fields of "City/Town" and "Zip" blank. I checked the box indicating that I was homeless and provided my former attorney/friend's

address as my mailing address. I asked when I would hear back from the Registrar. Ellis told me to call back in three weeks. I questioned if that would leave enough time to fix any problems and Ellis assured me that it was sufficient. I witnessed Ellis drop my registration application in the internal mail system for processing and left with my registration receipt dated October 6, 2016.

On October 27, 2016, I called Ellis at the Department for an update on my registration status at the three week marked as I was instructed to do. I informed Ellis that I had not received any information in the mail about my registration. Ellis informed me that I was not registered to vote and advised me to go to the Richmond General Registrar. When I asked for more information regarding why I was not registered, Ellis said he would find out and call me back. He did not call me back.

On October 28, 2016, I returned to the Richmond General Registrar's office and spoke with an employee (Katina) who confirmed that I was not registered. I asked how to fix my status. Not getting much information or assistance, I returned to the Department. Ellis apologized for the registration mishap. Another Department employee (Martin Mash) appeared and I explained to him as well my frustration with not being registered to vote. I then went to the Secretary of the Commonwealth's (SOC) office to seek help. SOC employee, Ms. Singleton, telephoned the Department. She advised me to return to the Department to obtain information on how to file a petition to appeal my registration denial. It was only at this juncture that I learned about a right to appeal. I returned again to the Department where Ellis apologized again for the mistake and attempted to give me the $10 filing fee for the petition. I declined Ellis' money.

I immediately went to the Circuit Court of Richmond to file a petition to appeal my registration denial. I handwrote a petition; however, the Circuit Court clerk informed me that I needed to provide the letter notifying me of the denial and complete an official petition, along with the $10 fee. Because I never received a petition and denial form, I left the court and returned once again to the General Registrar's office to obtain a copy of my denial letter and petition form. The denial letter printed by the General Registrar's office was dated for that day (October 28, 2016) possibly as an auto-fill date instead of the date my application was likely processed and denied. I returned to the circuit clerk's office and completed the proper petition form, provided a copy of the denial letter, and paid the filing fee. I spent the entire day of October 28, 2016 shuffling between government offices attempting to resolve my registration status.

On October 31, 2016, I contacted the clerk of the circuit court to inquire when my petition would be heard and was told to call back on November 2, 2016.

I contacted the American Civil Liberties Union of Virginia (ACLU) to help me fix my voter registration and to make sure I am able to vote on November 8, 2016. The ACLU has been helping me to secure my right to vote. Voting is very important to me and because my civil rights have been recently restored, I want to exercise my constitutional right to vote on November 8, 2016. I understand that the Virginia Attorney General's Office has been trying to help fix my registration because of the misinformation and ineffective assistance I received from Department employees. I understand that there may be a very limited opportunity to properly register before in-person absentee ballot voting ends on November 5, 2016. I am particularly concerned about the unique difficulties for the homeless population in registering to vote.

I swear (or affirm) that the above is true and correct to the best of my knowledge, information and belief.
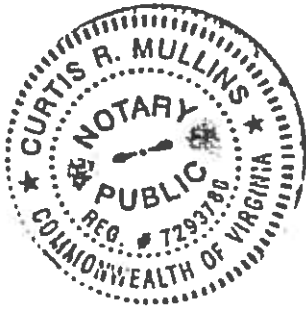
Signature: _James O. Walpole_

Date: _11-03-16_

COMMONWEALTH OF VIRGINIA

City of Richmond

I, the undersigned Notary Public, do hereby affirm that the affiant, James O. Walpole, Jr., did personally appear before me on the third day of November, 2016 and did sign the above affidavit as a free and voluntary act.

Signature: _Curtis R Mullins_

My commission expires: _MAY 31, 2017_

COMMONWEALTH of VIRGINIA
Office of the Governor

Kelly Thomasson
Secretary of the Commonwealth

Dear James Owen Walpole Jr.,

I am pleased to inform you that Governor Terence R. McAuliffe has restored your civil rights. Enclosed is your official restoration order that will serve as documentation of Governor McAuliffe's decision on your behalf. Please keep the order in a safe place as duplicates cannot be issued.

Your prior conviction no longer restricts your right to register to vote, become a notary public, serve on a jury, or hold public office. All Virginians must be registered in order to vote. You may register to vote online by visiting the Virginia Department of Elections' Citizen Portal at https://vote.elections.virginia.gov/VoterInformation. You may also register to vote by completing the enclosed voter registration form and returning it in the enclosed return envelope. Please note that the voter registration form must be received by October 17, 2016, if you wish to vote in this year's November general election.

This action does not restore the right to ship, transport, possess or receive firearms, which must be restored in accordance with Va. Code §18.2-308.2. To regain state firearms privileges, you must apply through the circuit court of your residence.

If you have any questions or concerns regarding your voter registration status, please contact the Virginia Department of Elections at (804) 864-8901. If you have any questions regarding rights restoration, please contact the Restoration of Rights Office for the Secretary of the Commonwealth at (804) 692-0104 or visit our website for more information www.commonwealth.virginia.gov/ror.

Exhibit 1

Sincerely,

Kelly Thomasson
Secretary of the Commonwealth

COMMONWEALTH of VIRGINIA
Executive Department

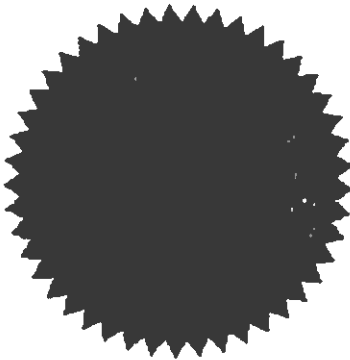### TO ALL TO WHOM THESE PRESENTS SHALL COME — GREETINGS:

WHEREAS, James Owen Walpole Jr., after being convicted and sentenced for crime(s) committed prior to August 25, 2016, when the Executive completed review of the particulars of the individual's case; and

WHEREAS, James Owen Walpole Jr., by reason of conviction(s), suffers political disabilities, to wit: denial of the right to vote, to hold public office, to serve on a jury, to be a notary public and to ship, transport, possess or receive firearms; and

WHEREAS, it appears that James Owen Walpole Jr. has rejoined society free from state supervision and it seems appropriate to the Executive to remove certain of those political disabilities by restoring the right to vote, hold public office, serve on a jury, and to be a notary public;

NOW, THEREFORE, I, Terence R. McAuliffe, Governor of the Commonwealth of Virginia, by virtue of the authority vested in me, do hereby remove the political disabilities, except the ability to ship, transport, possess or receive firearms, under which James Owen Walpole Jr. labors by reason of conviction as aforesaid, and do hereby restore the rights to vote, hold public office, serve on a jury, and to be a notary public.

Given under my hand and under the Lesser Seal of the Commonwealth at Richmond, on September 02, 2016 in the 241st year of the Commonwealth.

_____
Governor of Virginia

_____
Secretary of the Commonwealth

Exhibit 1
pg. 2

Virginia Voter Registration Application

Starred (*) items are required. If you do not complete all of the items that are marked with *, your application may be denied (See instructions on reverse side).

1.
☑ YES ☐ NO
* I am a citizen of the United States of America.

* Full social security number

* Date of birth

* Gender _Male_

2.
* Last name _Walpole_   Ⓙᴿ Sr. II III IV *(Circle if applicable)*

* First name _James_   *** Middle name** _Owen_   ☐ None

* Residence address *(May not be a P.O. Box)* _Homeless_   Apt # _____

* City/Town _____   *** ZIP** _____

E-mail _____   **Phone** |_|_|_|_|-|_|_|_|-|_|_|_|_|

3.
* Have you ever been convicted of a felony or judged mentally incapacitated and disqualified to vote? .... ☐ YES ☐ NO   If YES, has your right to vote been restored? .... ☐ YES ☐ NO

4.
☐ I am an active-duty uniformed services member, spouse or dependent; or an overseas citizen.

☑ I am providing a mailing address *(below)* because my residence address is not serviced by the U.S. Postal Service or I am homeless.

▶ I am providing a Virginia P.O. Box *(below)* to protect my residence address from public disclosure because:

☐ I am an active or retired law enforcement officer, judge, U.S. or Virginia Attorney General attorney
☐ I have a court issued protective order for my benefit
☐ I have evidence of filing a complaint with law enforcement that either I or a household member is in fear for personal safety from another person who has threatened or stalked either me or a household member
☐ I am a participant in the Virginia Attorney General's Address Confidentiality Program

My mailing address *(Complete only if you have checked a box in this section)*

8 ~~█████████████~~   *missing address 10/13/16 ⊔⊔*

Richmond Va ~~█████████~~

5. ☐ I am currently registered to vote in another state: __ __ . *(Indicate state of previous registration)*

6. ☐ I am interested in being an Officer of Election (poll worker) on Election Day. *Please send me information.*

7.
AFFIRMATION: I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true. I authorize the cancellation of my current registration and I have read the Privacy Act Notice.

OCT 13 2016

* Signature _James O Walpole_   Today's date: |_|_|/|_|_|/|_|_|_|_|

☐ By checking this box, I affirm both that I am an individual with physical disabilities and the Affirmation Statement above. Pursuant to Article II, § 2 of the Constitution of Virginia, individuals with physical disabilities are not required to sign the application for voter registrations.

Exhibit 2   10-6

* Virginia Voter Registration Application Receipt

The application collector must submit your completed application within 10 days or by the deadline to register for the next election, whichever comes first. You can check your voter registration status online at *elections.virginia.gov/register* . If you do not receive confirmation of your voter registration status within 30 days, contact your local voter registrar or the Virginia Department of Elections.

GARRY E. ELLIS
ELECT
804 864 - 8910

Name, phone and e-mail of office, group or individual receiving application

|1 0|,|0 6|,|2 0 1 8|
Date application received

Thank you for applying to vote in Virginia!

Exhibit 3