

Exhibit I

WILMERHALE

June 4, 2026

Brittany Amadi

By Electronic Mail

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Re: *King v. O'Bannon*, No. 3:23-cv-408-JAG (E.D. Va.)

Dear Attorney General Jones and Solicitor General Breckenridge:

We write regarding Defendants' failure to implement the Court's Permanent Injunction (Dkt. 223), entered January 22, 2026. While we remain willing and available to collaborate regarding implementation, absent immediate rectification of these issues, Plaintiffs will be forced to seek appropriate relief from the Court. Accordingly, Plaintiffs request that the parties meet and confer pursuant to Local Civil Rule 7(e) by Tuesday, June 9. Please provide your availability.

I. Defendants' Implementation Does Not Comply with the Court's Order

The Court's injunction provides that Defendants "SHALL not deny a person attempting to register to vote or cancel a person's existing registration except for convictions of" eleven enumerated common-law felonies. Dkt. 223 ¶ 4. Plaintiffs identify three categories of non-compliance below. This letter does not purport to identify all deficiencies, and Plaintiffs reserve all rights with respect to additional areas of non-compliance not enumerated below.

A. Defendants Have Not Updated Their Own Materials To Reflect The Injunction, Which Risks Confusing Voters And Election Officials

Defendants represented to the Court that they were "updating voter-registration forms and voter education materials" to accurately reflect the current registration requirements. Order Granting Joint Stipulation to Extend Implementation Deadline, Dkt. 238 ¶ 4. They have not done so.

The Virginia voter registration application continues to require applicants to affirm whether they have been "convicted of a felony" and, if so, whether their "right to vote has been restored"—criteria that do not accurately describe voter eligibility following the Court's order. An eligible class member who reads this form and answers honestly—that he has a felony conviction and has not received a gubernatorial restoration—could reasonably conclude that he is ineligible to register, when in fact the injunction provides otherwise.

The Department of Elections' public-facing materials are similarly inaccurate. As of the date of this letter, the Department's Frequently Asked Questions page states: "Any person convicted of a felony loses their right to vote in Virginia and that right can only be restored by the Governor of Virginia." The "How to Register" page lists among eligibility requirements: "If convicted of a felony, your right to vote must have been restored." These statements are inconsistent with the Court's order.

Defendants represented to the Court that they would "prepare and distribute guidance for . . . potentially-impacted voters, and the public." Dkt. 238 ¶ 5. Plaintiffs are aware of no outreach to inform the

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approximately 300,000 individuals affected by the injunction that they may now be eligible to register and vote. Class members who do not know the injunction exists cannot benefit from it—and Defendants’ own materials, as described above, continue to convey that they are disqualified.

B. Registrars Have Received No Meaningful Guidance And Eligible Voters Are Being Denied Registration

Defendants represented to the Court that they would “prepare and distribute guidance for election officials.” Dkt. 238 ¶ 5. Plaintiffs have received reports that local registrars have not received meaningful guidance on how to process voter registration applications under the injunction. We have heard from registrars who have had eligible voters attempt to register on and after June 1 and who did not know how to process those applications.

On June 2, Mr. Tati Abu King, a named Plaintiff in this case, attempted to register to vote at the Fairfax County Election Board. After submitting his completed registration application to the election worker on duty, she informed Mr. King that his registration was “void” because he had checked the boxes that he had a prior felony and had not had his rights restored; she then informed Mr. King that he would need to contact the Secretary of the Commonwealth to seek restoration of his rights in order to register to vote and provided him with the Secretary's phone number. A supervisor at the office subsequently acknowledged that the office was still awaiting guidance from the state on how to process applications from individuals with felony convictions who are not on the prohibited table. As of that date, to our knowledge, Mr. King’s application had not been processed.

We understand that, rather than registering eligible voters whose convictions are not among the eleven enumerated offenses, registrars have been instructed to hold applications pending further review and, in some cases, to require supplemental information from applicants. Indeed, Mr. King was informed by the supervisor that there may be a “supplemental form” he would need to fill out, but the supervisor could not provide any details or even a timeline for that information. The Department of Elections’ own advisory notice to registrars indicated that the supplemental form and process would be provided at a later date—the process was not operational on the day the injunction took effect.

The injunction does not condition registration on supplemental forms or authorize holding applications pending further review. It provides that Defendants “SHALL not deny” registration except for the eleven enumerated offenses. Dkt. 223 ¶ 4. The Court specifically rejected Defendants’ contention that implementation would require “thousands of discrete inquiries” and held that the enumerated list provides a clear, administrable standard. *See* Memorandum Opinion, Dkt. 222 at 16; Memorandum Order, Dkt. 235 at 4-5.

We are deeply concerned that other eligible voters are similarly attempting to register and are either being denied outright by election officials who have not received adequate guidance or having their applications improperly held.

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C. Defendants' Classification Of Offenses Includes Crimes With No Common-Law Analog

Plaintiffs have reviewed the Commonwealth's revised list of offenses designated as "applicable" common-law felonies and the separate list of offenses designated for "additional evaluation." Both lists appear to include offenses that do not fall within the scope of the eleven common-law felonies enumerated in the injunction. For example, the "applicable" list includes offenses such as the illegal use of tear gas, Va. Code § 18.2-312; charitable gaming penalties, Va. Code § 18.2-340.37(c); removal of a catalytic converter, Va. Code § 18.2-146; and lottery ticket theft, Va. Code § 58.1-4014(C)—none of which have a plausible common-law analog. Indeed, certain of these offenses appeared on Professor Hessick's Exhibit E, which identified offenses that are definitively not felonies at common law. *See* Decl. of Carissa Byrne Hessick, Dkt. 153-3 at 69-106.

The "additional evaluation" list similarly includes offenses with no plausible connection to the eleven enumerated felonies, such as ballot box tampering, Va. Code § 24.2-1009, and gang participation, Va. Code § 18.2-46.2—offenses rooted in twentieth- and twenty-first-century statutory frameworks that did not exist in any form in 1870.


II. Defendants Must Take Immediate Action To Comply With The Court's Order

Early in-person voting for the August primary begins on June 18, 2026. The issues identified above therefore require immediate correction.

The parties sought and obtained the June 1 extension based on representations that additional time would permit implementation "in a manner that minimizes confusion among voters and election officials and ensures accurate administration consistent with federal law." Dkt. 238 ¶ 6. Defendants' actions are inconsistent with those representations, and their failure to follow through on their word amounts to non-compliance with the Court's order.

We are eager to find a way to collaborate to ensure that qualified voters can cast their ballots. However, given Defendants' prior decision to end our discussions and failure to implement the Court's order, please provide your availability for a meet-and-confer by Tuesday, June 9.

Sincerely,



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Cc: Eden Heilman, ACLU of Virginia
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