



**ATTORNEY GENERAL STEVE MARSHALL COMMENTS ON STATE POSITION ON  
PRESERVING DIGITAL IMAGES OF BALLOTS**

(MONTGOMERY) – Alabama Attorney General issued the following statement today responding to confusion concerning the State’s position on preserving digital images of election ballots.

“Media and social media stories that the State of Alabama is seeking to prevent the preservation of records in the event of a recount or challenge of the December 12 election are false,” said Attorney General Steve Marshall. “Recent confusion over Alabama election record keeping procedures has led to a misunderstanding of the facts. Alabama election procedures already provide a path to a recount. The plaintiff’s lawsuit and resulting Circuit Court order, which have fortunately been stayed, would have only created chaos and delay in the election process. The Alabama Supreme Court’s actions helped ensure a smooth election and will not result in the destruction of records needed if there is a recount or a challenge to the election.”

Here are the facts.

- 1) Digital images of ballots are not required in the event of a recount or an election contest. Original paper ballots are preserved while electronic images generally are not preserved. The same records have always been used in election contests and recounts.
- 2) The vast majority of Alabama ballot scanning machines are not programmed to preserve the images. To change them, as the plaintiffs seek, would not mean simply flipping a switch, but would require the third-party vendor, Elections Systems and Software, to travel to 2000 voting machines around Alabama to change them. This process could not be completed in a day. To attempt it the day before and day of the election would cause chaos, confusion, and delay.
- 3) The lawsuit was filed against the Secretary of State and a member of his staff, but no other parties. The Secretary does not have the authority to require changes to voting machines. That authority resides with Alabama’s probate judges who were not included in the plaintiff’s lawsuit. Therefore, the proper parties were not before the court in order to provide the relief plaintiffs seek.

Last week, just before the special election, plaintiffs filed a lawsuit against the Alabama Secretary of State seeking a temporary restraining order requiring the State to preserve digital images of ballots in the event of a contested election. On Monday, the temporary restraining order was granted by a Montgomery County Circuit Court judge. Later in the day, the

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Attorney General's Office filed an emergency motion to stay the court order which was granted by the Alabama Supreme Court Monday night.

*Copies of the State motion and Alabama Supreme Court stay are [linked here](#).*

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