

1 Q The Journal?

2 A But who?

3 Q Andrea Cook was the Journal staff that went ahead and
4 posted the article.

5 A I quite possibly did say that, because it is true.

6 Q If you are talking with the Argus Leader on or about
7 January 18, 2012?

8 A Can you give me the name of the reporter.

9 Q No. Do you recall talking with anyone at the Argus
10 Leader.

11 A Vaguely.

12 Q Do you remember talking about sympathizing with the
13 Plaintiffs?

14 A No.

15 Q You don't recall saying that?

16 A Not specifically, no, I don't recall that.

17 Q Generally?

18 A I don't recall that.

19 Q Do you recall making any statement regarding the
20 Plaintiffs in your discussions at any time with the
21 Argus Leader?

22 A Not specifically.

23 Q Generally?

24 A I do not remember our conversation. I did talk to them.

25 I don't remember specifically any statements that I

1 made.

2 **Q** Don't remember saying that's all we could afford; I
3 agree with the voters in the county?

4 **A** I may have said that.

5 **Q** Don't remember saying you sympathize with the
6 Plaintiffs, but the county can't afford a more permanent
7 voting site?

8 **A** Any time I said our county can't afford it, I'm sure I
9 did, because I harp on that continually.

10 **Q** Do you sympathize with the voters at Shannon County that
11 don't have the equal number of days of early vote in
12 Shannon County?

13 **A** No.

14 **Q** Why don't you?

15 **A** Because I believe that every voter, if they're
16 interested in voting, has a personal obligation to find
17 a way to do that. I also think that it would be nice if
18 our county could offer the opportunities that every
19 other county gets.

20 **Q** It would be nice, what do you mean by that? Necessary?

21 **A** Nice.

22 **Q** Explain; it would be nice.

23 **A** Every resident of our county has always had an
24 opportunity to vote. I have gone out of my way to vote.
25 I think if someone is interested in voting they'll do

1 I believe it to be probably a third of her salary.

2 **Q** But it didn't hire any extra people?

3 **A** No.

4 **Q** All right. The Clerk's salary of \$20,000, did that hire
5 any additional people in the office?

6 **A** Specifically to be a Shannon County person, is that what
7 you are asking?

8 **Q** Yes, ma'am.

9 **A** I don't believe this \$20,000 completely pays that Clerk,
10 no.

11 **Q** What is your understanding of what that \$20,000 goes
12 for?

13 **A** Our Clerk services.

14 **Q** So Shannon County has a Clerk that's a different person
15 than the Fall River Clerk?

16 **A** No. All the clerks in that office devote some of their
17 time to Shannon County. This 20,000 goes to pay -- we
18 give 20,000 for Clerk services.

19 **Q** Do you know how that amount was determined, ma'am?

20 **A** No. Other than the fact that that's all we have.

21 **Q** You've been involved in the negotiations of three or
22 four contracts with Fall River regarding services?

23 **A** There's no negotiation.

24 **Q** Explain.

25 **A** A contract is presented to us and a budget is presented

1 to us. We know the bottom line is all we have to split
2 up. We know Fall River is the only place we can
3 contract. We do what we have to do.

4 **Q** Why do you say Fall River is the only place we can
5 contract?

6 **A** Because back in 1973 I believe it was, we were assigned
7 to Fall River County by the State.

8 **Q** In the middle of the American Indian Movement.

9 **A** Imagine that. We are just there. No other county would
10 want us. This is my own personal interpretation.

11 **Q** I'm taking your deposition, that's what I'm asking.

12 **A** My personal interpretation is that other counties would
13 not want us because we can't pay our way. Fall River
14 has been stuck with us long enough that they've adapted.

15 **Q** Why do you make reference to 1973?

16 **A** Because I believe that was the date -- I have
17 information, but I don't have it with me -- I believe
18 that was the date that our county was officially
19 designated as an unorganized county and assigned to Fall
20 River.

21 **Q** When you say "adapted", Fall River and Shannon County
22 has adapted, what do you mean by that?

23 **A** If Shannon were to disappear, just not be on the map and
24 Fall River on their own without us, I'm sure that they
25 would have to cut some personnel, because their county

1 in my packet, but I don't specifically remember reading
2 it before.

3 **Q** When is the first time you knew some of the Shannon
4 River(sic) folks were requesting early voting in Shannon
5 County?

6 **A** For this election cycle?

7 **Q** For the 2012 primary?

8 **A** I've known since 2008 that early voting was always a
9 request.

10 **Q** What do you mean?

11 **A** When we talk election, that's part of it. We know that
12 people want that.

13 **Q** So why didn't you start looking for office space for
14 early voting until March 2, 2012 in Shannon County?

15 **A** Because it is not available. Jean Belt is our election
16 coordinator, and it was her task to find a place to do
17 that.

18 **Q** How do you know that?

19 **A** Sue Ganje, the Auditor, told her to find some where to
20 do early voting.

21 **Q** How do you know that?

22 **A** Jean comes to our commission meetings to report that she
23 had looked.

24 **Q** When was that?

25 **A** I don't know, specifically.

1 Q Generally?

2 A One of our meetings in the last six months.

3 Q No idea when though?

4 A I don't recall exactly. She'll be at our meeting
5 tomorrow to report again, and she was at our meeting
6 last month.

7 Q How many pages do you have there on that?

8 A Two.

9 (Exhibit No. 103 was marked for identification.)

10 Q Do you recognize this document marked Exhibit 103?

11 A Yes, I do recognize this.

12 Q Do you recall when you first saw this letter?

13 A Not specifically, no.

14 Q Generally?

15 A At I believe our December regular meeting, 2011.

16 Q Had you been looking for early voting locations by this
17 time?

18 A I hadn't personally; no.

19 Q Had anybody?

20 A According to the Auditor, yes.

21 Q Was there a report at the December meeting regarding
22 early voting?

23 A There was discussions regarding early voting.

24 Q What was the discussion?

25 A How long we could afford to have it; where we would have

1 it; who would be in charge of it; how we would pay for
2 it.

3 **Q** Tell me everything you remember about the discussions
4 regarding whether or not you could pay for it, whether
5 you could afford it?

6 **A** Well, I'm the one that always brings up the,
7 we-can't-afford-it issue, so I remember that.

8 **Q** So you got the request and said, we can't afford this?

9 **A** The request has nothing to do with it. It's like any
10 other thing that we need to plan and budget for. No one
11 needs to request that it be done.

12 **Q** Are you sure?

13 **A** I'm sure. It's on our list of things to try to do
14 right. It doesn't take a request to cause it to happen.

15 **Q** What do you mean the request to do things right?

16 **A** Well, that's like requesting that you hold monthly
17 meetings. By State statute, we're supposed to. Now by
18 State statute we're supposed to have early voting.

19 **Q** When did you first know that?

20 **A** I first became aware of it in 2008.

21 **Q** Why didn't it happen in 2010 then?

22 **A** Because we didn't have the money to make it happen right
23 away. We did the best we could with what we had to work
24 with.

25 **Q** Go to Exhibit 16, ma'am.

1 **A** Yes.

2 MS. FRANKENSTEIN: Well, I'd just ask you to take
3 a look at when this was signed. Was it signed before or
4 after?

5 THE WITNESS: It was signed after the letter.

6 MS. FRANKENSTEIN: So it was not in effect at the
7 time --

8 THE WITNESS: Right. And it wouldn't have been in
9 effect until January 1st.

10 **Q** So what contract was in effect when you got my letters?

11 **A** The 2011 contract.

12 **Q** Do you have that in front of you.

13 **A** Number 17.

14 **Q** Does that have the same language in it?

15 MS. FRANKENSTEIN: The paragraphs aren't the same.
16 The last sentence is slightly different, but it's of the
17 same result.

18 **Q** What had to occur for early voting to happen in Shannon
19 County?

20 **A** The Shannon County Commission needs to request of our
21 County Auditor that it happen.

22 **Q** And when did Shannon County make the request for the
23 2012 primary election?

24 **A** In December of 2011, I believe.

25 **Q** And how many days were provided before the primary

1 election?

2 **A** Six.

3 **Q** And how many days before the general election?

4 **A** Six.

5 **Q** How did you come up with six days before the primary?

6 **A** We determined that was how much money we would have to
7 spend.

8 **Q** Explain that process.

9 **A** The process was sitting at the meeting with a doodle pad
10 trying to figure out, we had to do some days. We had no
11 money to bury anyone or to put anybody in jail, but we
12 determined we had to do some days.

13 **Q** Why did you have to do some days?

14 **A** To comply with what everybody wanted.

15 **Q** To comply with what who wanted?

16 **A** Everyone that is requesting early voting.

17 **Q** Who else requested early voting besides my office?

18 **A** Four Directions. They're not from your office, are
19 they?

20 **Q** Who else did?

21 **A** Department of Justice in the Agreement of Memorandum.

22 **Q** Where does it say in the DOJ --

23 **A** And I'm not certain that it does, but verbally they
24 would like us to do that.

25 **Q** How do you know that?

1 Q Generally?

2 A I don't know, generally.

3 Q How did you come up with six days on your doodle pad?

4 A We determined that would be an amount that would allow
5 people to get to vote if they wanted to vote early.

6 Q How did you make that determination? What was the
7 discussion?

8 A I don't remember, specifically.

9 Q Generally?

10 A Some commissioners said why do we need to do that;
11 others said, let's do it all and we met in the middle.

12 Q Who wanted to do it all on your commission, the entire
13 46-day period?

14 A There was no mention of number of days.

15 Q I thought you just said some of us wanted to do none,
16 some of us wanted to do all, so we split it in the
17 middle. Who wanted all of it?

18 A There was no mention of number of days being all.

19 Q What did you mean when you just said, some people on the
20 commission wanted all of it?

21 A Whatever is offered in other counties.

22 Q Who wanted that?

23 A Wendell Yellow Bull.

24 Q The chair?

25 A That's my recollection, yes.

1 Q Why did he want all of it?

2 A Everyone wants it all.

3 Q Did he provide any reasons for wanting to do the entire
4 period?

5 A There was no reason to give a reason. I understood he
6 would like to have it all.

7 Q What did you say at the meeting?

8 A We can't afford that.

9 Q And how many days did you propose?

10 A Two days.

11 Q Before the primary?

12 A Yes.

13 Q How many days before the general?

14 A Two.

15 Q Why did you think that was fair?

16 A I don't know that it's fair, but I thought that would
17 give people an opportunity to early vote if they needed
18 to.

19 Q Two days?

20 A The whole world voted on election day at one time and it
21 seemed to work. I thought two days was plenty.
22 Personally, that's how I feel.

23 Q That's what I'm asking you. Did you have any two days
24 in particular before the primary election?

25 A No.

1 Q Did you have any two days in particular before the
2 general election?

3 A No, I was open to suggestions. That was just something,
4 I threw out as something to consider.

5 Q Who wanted none?

6 A I don't remember specifically.

7 Q What was the positions of the other commissioners? I
8 understand Wendell's.

9 A I'm not going to speak to what they felt or said?

10 Q You will speak to what they said?

11 A I don't remember specifically who said what.

12 Q You don't remember anything that was said besides
13 Wendell saying --

14 A I remember specifically the County Auditor saying, no,
15 we have to do more than that, and I want to, and I'm
16 willing to. But I don't specifically remember anyone
17 else's comments, other than we need to provide some days
18 of early voting.

19 Q But the County Auditor said you needed to do more than
20 two days?

21 A Yes.

22 Q And you said --

23 A That's really all we can afford, and she said, we need
24 to afford more; we need to do more than that.

25 Q And here's what I need to understand, how did you come

1 up with two days before the primary on cost?

2 **A** I just threw two days out as a starting point for
3 negotiating.

4 **Q** Do you have any idea how much two days cost?

5 **A** No.

6 **Q** Do you have any idea how much six days of early voting
7 costs?

8 **A** I know two days is a third of six, and it's cheaper.

9 **Q** Okay. But you had no idea how much it cost?

10 **A** No, I didn't. I'm looking at the whole budget of which
11 voting is one aspect, and I'm thinking of someone dying
12 that we can't bury or some child raper in jail that we
13 can't keep there.

14 **Q** So why did you restrict the number of voting or proposed
15 restriction of the number of voting days to do two days
16 before the primary, if you didn't even know how much it
17 cost?

18 **A** I threw two days on the table to get the discussion
19 going.

20 **Q** And then what came back next? You threw out two and
21 what came back?

22 **A** I don't recall specifically.

23 **Q** Do you recall how long the discussion was before you got
24 to six days?

25 **A** No, I don't. Probably ten minutes.

1 Q Was there a single comment on by anyone on how much a
2 day of early voting in Shannon County cost?

3 A No, not broken down by day.

4 Q By a week?

5 A No.

6 Q Did anyone give any indication of anything regarding
7 costs of early voting?

8 A No.

9 Q So you are just throwing around days and you have no
10 idea how much it costs?

11 A It didn't much matter, we couldn't afford -- whatever we
12 did was going to be gravy. We couldn't afford any of
13 it. We are doing it now; we've had some help.

14 Q Right. But how did you get to six days?

15 A Just threw it out on the table; had to start somewhere.

16 Q I thought you threw two days out on the table to start
17 somewhere?

18 A I did, and the County Auditor said that's not enough we
19 have to do more than that.

20 Q Did she say how much more you have to do?

21 A She wanted to do it all, and I didn't think we could
22 afford to.

23 Q What did she say about doing it all?

24 A That we needed to.

25 Q Why?

- 1 **A** Because that's what other people get.
- 2 **Q** Do you want to take a break?
- 3 **A** No, I don't. I want to shut my phone off.
- 4 **Q** So it's a ten minute discussion?
- 5 **A** Approximately.
- 6 **Q** And it was open session?
- 7 **A** Yes.
- 8 **Q** And all five commissioners were there?
- 9 **A** I believe so.
- 10 **Q** And it was a unanimous vote on six days?
- 11 **A** Whatever the minutes say.
- 12 **Q** Do you remember?
- 13 **A** No, not without looking at the minutes?
- 14 **Q** And what was the response to Sue Ganje when Sue Ganje
15 said you need to do it for the entire period like
16 everybody else?
- 17 **A** The discussion opened on how can we afford this, and
18 obviously we can't.
- 19 **Q** Last thing I'll ask on this. How can you make a
20 budgetary decision on what you can afford if you have no
21 idea how much a day of voting cost?
- 22 **A** We put every spare dime we could find into elections.
23 You can see by looking at our budget. We cut everything
24 that was discretionary.
- 25 **Q** That day?

1 **A** Yes. The commissioners receive no salaries.

2 **Q** That day?

3 **A** That's my recollection, yes. We cut everything out of
4 the budget and what was left we stuck in elections.

5 **Q** How much was that?

6 **A** \$45,150.

7 MR. SANDVEN: Could we take a break? Can I visit
8 with you off the record?

9 MS. FRANKENSTEIN: Sure.

10 (An off-the-record discussion was held; and a
11 break was taken from 3:20 to 3:40.)

12 **Q** Do you remember the six days you picked for early voting
13 for the 2012 primary?

14 **A** Not specifically, no. They are listed in the minutes.

15 **Q** Right. Was it May 21st, 23rd, 25th, 28th and 30th?

16 **A** If that's what the minutes said.

17 **Q** And one of the days you picked was Memorial Day, a
18 holiday?

19 **A** You brought that to our attention.

20 **Q** You didn't know that?

21 **A** Didn't realize it, no.

22 **Q** How did you pick those six days?

23 **A** We just picked three days for two weeks prior to each
24 election.

25 **Q** How come?

1 **A** Because we had to start somewhere.

2 **Q** Why didn't you pick during the voter registration
3 period?

4 **A** We didn't think about that at the time, because we have
5 a satellite office that's open where people can register
6 at any time.

7 **Q** And do you know what the hours are on that office are?

8 **A** Not specifically, no.

9 **Q** Generally?

10 **A** Jean will be at our meeting tomorrow to tell us.

11 **Q** Do you know what the hours are?

12 **A** Not exactly, no.

13 **Q** Okay. Do you remember the six days you picked for the
14 general election?

15 **A** Same answer.

16 **Q** Can I hear it again?

17 **A** Three days each week for the two weeks prior to the
18 election.

19 **Q** So that was October 22, 24th, 26th, 29th, 31st?

20 **A** And one day in November.

21 **Q** And those were all days outside of the voter
22 registration period?

23 **A** Same story there. The election satellite office would
24 be open to register.

25 **Q** Today, do you know how much it cost to staff the early

1 voting location in Shannon County?

2 **A** No, I don't. I believe Jean will be bringing us a
3 budget tomorrow.

4 **Q** Do you know how much Perdiem is for staffing early
5 voting locations?

6 **A** No, I don't. I have some notes to that effect in my
7 briefcase which I don't have with me.

8 **Q** Do you know why early voting locations require two staff
9 workers?

10 **A** Yes, I do. One is a part-time assistant, in case Jean
11 needs to be gone to a tribal meeting or to KILI Radio or
12 to our commission meetings, something that takes her out
13 of the office, we have an assistant to fill in while
14 she's gone.

15 **Q** Do you know what the miscellaneous costs are associated
16 with early voting in Shannon County?

17 **A** Not without looking at a budget.

18 **Q** Are you talking about that early voting budget you were
19 discussing earlier?

20 **A** No. I'm talking about one that Jean Belt was going to
21 work up for what she needed for supplies; moving costs,
22 cardboard, crayons, whatever it is she needs.

23 **Q** Is Exhibit Number 131, is that the only document that
24 you know regarding the cost of early voting in Shannon
25 County for this election cycle?

1 **A** So far. I believe Jean is going to give us a breakdown
2 tomorrow.

3 **Q** When did early voting start?

4 **A** I don't know specifically which day it was. I don't
5 recall.

6 **Q** Do you know it has started?

7 **A** Yes.

8 **Q** Do you know how much it cost for notices or KILI?

9 **A** No, I don't.

10 **Q** Do you know how much the publications costs?

11 **A** No, I don't.

12 **Q** Is there internet available at the location?

13 **A** I believe that they had that installed.

14 **Q** Do you know if anyone researched, before the
15 installation at this facility, whether or not internet
16 resources were available at Pine Ridge?

17 **A** It's available in Pine Ridge, yes.

18 **Q** Everybody knows that?

19 **A** Who's everybody?

20 **Q** Everybody who lives there knows how to get to internet
21 locations?

22 **A** If they want to I'm assuming they figure a way to; I
23 don't know.

24 **Q** Is internet readily available in Pine Ridge?

25 **A** I don't know.

1 Q Do you know if that was a concern by the Shannon County
2 Commission whether or not --

3 A Yes, it was a concern.

4 Q Why?

5 A Because there was a possibility that we could have vote
6 centers, and we would need internet to do that.

7 Q Did anyone research where internet was available in Pine
8 Ridge?

9 A We asked Bob Palmer when we brought us that agreement
10 with the Tribe to rent that facility.

11 Q So as far as you know, no one even researched what
12 internet was available in Pine Ridge before March 2,
13 2012?

14 A No, not that we know of.

15 Q On March 2nd you went ahead and made a motion to provide
16 46 days of early voting for each 2012 election; correct?

17 A Yes.

18 Q And that was due to the Secretary of State's commitment
19 to provide an additional \$12,000?

20 A Partially, yes.

21 Q What do you mean, partially?

22 A I mean that we just plainly have to do that, so we will
23 do it.

24 Q What do you mean you have to do it? Why did you have to
25 do it on March 2nd, but not last year?

1 **A** Last year wasn't an election year.

2 **Q** 2010?

3 **A** We were doing all we can do.

4 **Q** Why?

5 **A** Because we are broke.

6 **Q** You're doing all you can do because you're broke or
7 because of the pending litigation?

8 **A** Both.

9 **Q** How has the pending litigation influenced your decision
10 to go ahead and do early voting in Pine Ridge?

11 **A** Personally I'm more convinced that it's more necessary
12 than anything else.

13 **Q** Does the litigation have any influence on whether or not
14 Shannon County Commission is doing the full 46 days of
15 early voting?

16 **A** Yes, it does.

17 **Q** Was the first time you met with Bob Palmer from the
18 Oglala Sioux Tribe at the March 2, 2012 meeting?

19 **A** Yes.

20 **Q** And he told you at that meeting that he had to take it
21 back to the Tribe to sign?

22 **A** Yes.

23 **Q** Did he indicate what the approval requirements were for
24 the Oglala Sioux Tribe for that lease?

25 **A** No, he did not.

1 **Q** Do you know why before this litigation started, why the
2 Shannon County Commission didn't push harder on the
3 South Dakota Secretary of State to provide additional
4 HAVA funds?

5 **A** Because we received what the regulations said we could
6 have.

7 **Q** Did you ever ask for any additional HAVA funds besides
8 what was allotted in the State plan?

9 **A** I don't know. I didn't.

10 **Q** Why not?

11 **A** Because it's not my job. Because we beg from everybody
12 we talk to until people won't talk to us.

13 **Q** Did you know that the hours for early voting for the
14 limited number of days in Pine Ridge during the 2010
15 election was shorter than that of the Fall River County
16 Courthouse?

17 **A** We talked about that earlier today, yes.

18 **Q** Why was it shorter in 2010?

19 **A** Because we couldn't afford to pay them overtime, and it
20 was the drive time, so it was ten to three, which made
21 their day eight to five.

22 **Q** So how many hours were they actually doing early voting
23 for those limited number of days?

24 **A** Ten until three.

25 **Q** And just took their lunch and sat there from ten to

1 Q This is the first time you've seen it?

2 A Yes. May I take time to read it?

3 Q Of course. First time you've read it?

4 A Yes.

5 Q Have a position on it at all on the initial read?

6 A A definite one.

7 Q Can I hear it?

8 A I don't know, sometimes it's not good for me to spout my
9 thoughts in a hurry, but I have several.

10 Q Let me hear them.

11 A Okay. First of all, just the fact that the Secretary of
12 State Gant said that does not make it so. Does every
13 other county vote on Saturdays and Sundays?

14 Q Were you at the hearing where you heard that some can?

15 A I did hear that. I thought he misspoke and I just
16 ignored that. I still think that, unless I'm convinced
17 otherwise. Does anybody know?

18 Q And what are your other thoughts on this?

19 A Thought number two, personally, I can't speak for the
20 whole commission --

21 Q I'm asking your thoughts?

22 A I would vote no on accepting any money again from Four
23 Directions.

24 Q Why?

25 A Because I don't believe that's how elections were meant

1 to be paid for. That's how you would buy an election.

2 That's a good start. I'm not saying that's what Four
3 Directions intent is, but I don't believe that we should
4 take donations to have an election in our county.

5 That's not the proper way --

6 **Q** I thought I heard at the hearing you say something, if
7 we had the money we would do it?

8 **A** Money needs to come from the right place, the way the
9 law was intended to afford elections; that's my personal
10 position.

11 **Q** So what's the right place?

12 **A** Taxes. The Government made the law about elections, the
13 Government should afford elections. I don't believe an
14 entity or any individual should be donating money to buy
15 an election. That's my personal opinion. I don't think
16 that's the right way to afford an election. And I don't
17 think that our county should do that, when I know no
18 other county in the U.S. has to pay for their election
19 in that manner.

20 Thirdly, I don't blame Mr. Steele for wanting
21 this, but I think this is way over and above. Because
22 like I stated earlier, I never saw anything wrong with
23 people voting on election day, everyone, one day. It
24 seemed to work for many years. So I'm kind of against
25 blowing all the money to do this for months on end, when