

AUDIT USA

Americans United for Democracy, Integrity and Transparency in Elections



PRESS RELEASE: <https://bit.ly/3WTVsw6>

In the Court of Appeals Division One on January 4th at 10 am, the State of Arizona Court of Appeals will hear **ORAL ARGUMENTS** on case # 1 CA-CV 22-0254 AUDIT-USA v. MARICOPA COUNTY. **AUDIT Elections USA**, a nonpartisan, nonprofit public interest organization based in Arizona, filed an appeal in the Court of Appeals on March 31, 2022, against the Maricopa County Board of Supervisors for their refusal to make ballot images available to the public. AUDIT USA is asking the Appeals Court to order the Maricopa Board of Supervisors to follow the law and release electronic copies of the 2.1 million ballot images from

the November 2020 General Election **and all elections thereafter.**

On Sept 12, 2022, Plaintiff AUDIT USA filed its **final reply-summarizing the case.** Link to AUDIT's reply to Maricopa County Answering Brief: <https://bit.ly/3QD9COy>

"I'm hopeful we will win this case because the facts are with us and transparency in our elections is vital for democracy," said John Brakey, co-founder, and director of AUDIT USA. **"Transparency is the currency of trust and without it, our democracy will die in darkness."**

Ballot images are a picture of every ballot cast in an election. The images are completely anonymous because ballots are anonymous once they leave a voter's hands, so the images do not reveal the identity of voters. The images are an invaluable tool for verifying election results and can be sorted by candidate, by precinct, by overvotes or undervotes, and in a variety of other ways. While Maricopa County is preventing public access to ballot images, other places such as San Francisco, one of the largest voting jurisdictions in the United States, posts all its ballot images online for the public to be able to view.

The constitutional provision cited by the Court as Ariz. Const. Art VII, §1.

It reads in full:

§1. Method of Voting: secrecy

Section 1. All elections by the people shall be by ballot, or by such other method as may be prescribed by law;

Provided, that secrecy in voting shall be preserved.

Voting is the process of casting a ballot. After voting the same ballot has been "voted." There is no secrecy in counting votes on ballots. Ballots are anonymous and are deposited unsigned in boxes along with all other anonymous ballots.



Attorney & Co-founder Bill Risner

Audit USA won an important legal victory in 2016 with its lawsuit to require all Arizona counties to retain ballot images for 22 months after every election. As a result of AUDIT's court case, all Arizona counties now preserve ballot images. Following this court decision, the Arizona legislature passed a law, § 16-625, to protect the original ballot image files from unauthorized access. While this law was a good step to protect the original images, Maricopa County has wrongly chosen to interpret it to mean that copies of the original ballot files cannot be given to the public, something that the legislature did not intend to happen.

AUDIT'S lawsuit to release ballot images to the public is a "de novo" (first-of-a-kind) case because the Arizona courts have never been asked before to interpret Arizona statute § 16-625. This statute, passed in early 2017, is only 47 words long and is the center of the controversy between Maricopa County and AUDIT USA. **The statute reads:**

*"The officer in charge of elections shall ensure that electronic data from and electronic or digital images of ballots are protected from physical and electronic access, including **UNAUTHORIZED** copying or transfer, and that all security measures are at least as protective as those prescribed for paper ballots."*

Audit USA believes the language in this statute makes it clear that the "officer in charge of elections" is authorized to permit copies of ballot images to the public as long as the original ballot images are protected.

"Unfortunately, the judge in the lower court case declined to even hear the evidence," said Bill Risner, AUDIT USA's Arizona attorney. *"We were forced to go to the Court of Appeals, but we believe the Appeals Court will agree with the plain language of the statute. Anyone with a computer knows that you can give a copy of a file to someone without endangering the original data."*

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“Releasing anonymous ballot images from the 2020 election and all future elections will go a long way towards increasing public confidence and reducing cynicism about Arizona’s elections,” Brakey said. “We are simply seeking elections that are transparent, trackable, and publicly verified for our democracy to thrive.”

AUDIT USA’s court appeal and all other documents in this case can be found at this links:

- 01 Plaintiff AUDIT USA Appeal Opening Brief - July 20, 2022: <https://bit.ly/3d89tF8>
- 02 Defendant Maricopa County Answering Brief Aug.23.2022: <https://bit.ly/3RjQ5C7>
- 03 Plaintiff AUDIT USA Reply to Maricopa County Answering Brief filed Sept 12, 2022: <https://bit.ly/3QD9COy>
- 04 Arizona Court of Appeals Division one Court Case AUDIT-USA v. MARICOPA COUNTY online: [1 CA-CV 22-0254](https://www.courts.az.gov/cases/1CA-CV-22-0254)
- 05 Maricopa Superior Court Case file online: <https://bit.ly/3evZwBC>

Once the ballot image is made, the digital scanner reads the image and creates a single Cast Vote Record, (CVR). Then the CVR data is imported into the Cast Vote Records database / Spreadsheet. See the image below that shows the process and chain of custody.

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A personal message from John R Brakey

We at AUDIT USA believe and teach that elections must be transparent, trackable, and publicly verified with a simple ballot storage library system in order to prove to candidates and the public that the images they just added up were real.

What is amazing is that well over 90% of the country election systems are now digital and the infrastructure to do this is already in place. It would cost little to nothing to implement a transparent, trackable, and publicly verified system.

In 2016, Democrats doubted the results of the presidential election. In the 2020 Election, REPUBLICANS had election doubts on STEROIDS. Clearly, in our country we have passed the Rubicon, and there's no going back to a system telling us to trust without real verified audits.

We must not continue to lurch from election to election without public confidence in election results. I have often said that it is more important for losers to believe they have lost than it is for the winners to believe they have won. Doubts will continue unless we implement solutions to help get our nation functioning on an even keel.

These two short videos makes the point better than I can write in this press release on why ballot images are so important, and why they may be the most persuasive evidence one can present: Close Elections: Convincing the Loser: <https://vimeo.com/757275436> and See the Vote – Fight Disinformation: <https://vimeo.com/757284892>

Confidence in election results is good for all political parties, for voters, candidates, election officials, and very important for our country

Wouldn't it be nice if, after an election, people would believe the results and the winner would have a “honeymoon” for at least a few months before the politics of division starts up. **It used to be that way!**

Cast Vote Record / CVR's are public records of how people voted.

*** They do NOT show how a particular person voted as they are anonymous.**

Excerpt from a Pima County CVR from November 2016 GE :

Cast Vote Record	Ballot Style	PRESIDENTIAL ELECTOR	U.S. SENATOR	U.S. REPRESENTATIVE	U.S. REPRESENTATIVE IN C.S. REPRESENTATIVE STA
131	177013	532	REP TRUMP	REP MCCAIN, JOHN	REP MCCALLY, AMARITHA
132	177012	531	DEM CLINTON	REP MCCAIN, JOHN	REP MCCALLY, AMARITHA
133	177013	546	GEN 146-1	REP TRUMP	REP MCCALLY, AMARITHA
134	177014	532	GEN 202-0	REP TRUMP	REP MCCALLY, AMARITHA
135	177015	544	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM GRIMALVA, RAUL
136	177016	542	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM GRIMALVA, RAUL
137	177017	532	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM O'HALLERAN, TON
138	177018	544	REP TRUMP	REP MCCAIN, JOHN	REP BABELL, PAUL
139	177019	532	DEM CLINTON	REP MCCAIN, JOHN	DEM HEINZ, MATT
140	177020	536	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM HEINZ, MATT
141	177021	537	GEN 127-0	DEM CLINTON	REP BABELL, PAUL
142	177022	537	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM O'HALLERAN, TON
143	177023	538	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM HEINZ, MATT
144	177024	544	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM HEINZ, MATT
145	177025	535	GEN 235-0	GEN STEIN	DEM GRIMALVA, RAUL
146	177026	545	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM GRIMALVA, RAUL
147	177027	507	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM HEINZ, MATT
148	177028	534	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM HEINZ, MATT
149	177029	547	REP TRUMP	REP MCCAIN, JOHN	REP MCCALLY, AMARITHA
150	177030	546	GEN 145-0	REP TRUMP	REP BABELL, PAUL
151	177031	537	GEN 187-0	REP TRUMP	REP MCCALLY, AMARITHA
152	177032	525	REP TRUMP	REP MCCAIN, JOHN	REP MCCALLY, AMARITHA
153	177033	537	REP TRUMP	REP MCCAIN, JOHN	REP BABELL, PAUL
154	177034	563	GEN 063-0	REP TRUMP	REP MCCALLY, AMARITHA
155	177035	525	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM HEINZ, MATT
156	177036	535	DEM CLINTON	DEM KIRKPATRICK, ANN	DEM HEINZ, MATT
157	177037	532	GEN 032-0	REP TRUMP	REP MCCALLY, AMARITHA

*** They do show how people in the aggregate voted.**

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