

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 1:12-cv-00788

v

HON. ROBERT J. JONKER

STATE OF MICHIGAN; RUTH JOHNSON,
SECRETARY OF STATE OF THE STATE OF
MICHIGAN, in her official capacity; and
CHRISTOPHER M. THOMAS, DIRECTOR OF
ELECTIONS OF THE STATE OF MICHIGAN, in
his official capacity,

Defendants.

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STIPULATED ORDER AND DISMISSAL WITH PREJUDICE

Plaintiff United States of America (“United States”) and the State of Michigan (the “State”), Ruth Johnson, Secretary of State, and Christopher M. Thomas, Director of Elections, in stipulate to the following Order:

WHEREFORE, the parties having freely given their consent, and the terms of the Agreement being fair, reasonable, and consistent with the requirements of UOCAVA, it is hereby ORDERED, ADJUDGED, AND DECREED that:

- (1) Extension of ballot receipt deadline in late-transmittal jurisdictions for August 7, 2012 Federal primary election. Defendants shall extend the deadline for receipt of ballots from UOCAVA voters for the August 7, 2012 Federal primary election beyond August 7, 2012 by the total number of days past June 23, 2012 that each late-transmittal city or township transmitted the requested ballots. Defendants shall extend the deadline only for UOCAVA voters where late transmittal of their ballot occurred. The calculation of the extension is from the date the ballot was originally transmitted plus 45 days. Defendants may formally certify the election results for the August 7, 2012 Federal primary election by late-transmittal cities and townships if the number of outstanding absentee ballots from UOCAVA voters could not mathematically alter the outcome of the election, subject to amendment to add any votes from any ballots returned by the extended receipt deadline.
- (2) Acceptance of UOCAVA ballots for August 7, 2012 Federal primary election. Defendants shall take all reasonable steps necessary to ensure that all timely-requested UOCAVA ballots, including Federal Write-in Absentee Ballots, are counted as validly-cast ballots and tabulated in the final results for the August

7, 2012 Federal primary election, provided such ballots are executed and sent by August 7, 2012, are received by close of business on the date of the applicable extended receipt deadline, and are otherwise valid.

(3) Contacts with UOCAVA voters for August 7, 2012 Federal primary election.

Defendants shall take all reasonable steps necessary to ensure that any affected UOCAVA voters for whom the late-transmittal cities or townships have email contact information are contacted by email to notify these voters who have not yet returned their ballots: (a) explain that the deadline for the ballot to be executed and sent is August 7, 2012 for the Federal primary election; (b) explain that the deadline for receipt of the ballot has been extended to the applicable extended receipt deadline; and, (c) provide appropriate contact information at the Bureau of Elections of the Secretary of State's office for assistance.

(4) Ballot counting rules and notice for August 7, 2012 Federal primary election.

To ensure that UOCAVA voters who received two ballots will have their federal ballot validly counted, the Director of Elections shall establish a procedure providing which ballot shall be counted if both ballots are returned, and instruct the chief elections official in each county to notify all other elections officials and UOCAVA voters affected by this Order of these rules.

(5) Extension of ballot receipt deadline for September 5, 2012 Federal special

primary election. The deadline for receipt of ballots from UOCAVA voters for the September 5, 2012 Federal special primary election is extended beyond September 5, 2012 by one day, to September 6, 2012 at 5:00pm. Defendants

shall take all reasonable steps necessary to ensure that all timely-requested UOCAVA ballots, including Federal Write-in Absentee Ballots, are counted as validly-cast ballots and tabulated in the final results for the September 5, 2012 Federal special primary election, provided such ballots are executed and sent by September 5, 2012, are received by close of business on September 6, 2012, and are otherwise valid.

- (6) Coordination with FVAP. Upon entry of this Stipulated Order, Defendants shall notify the Director of the Federal Voting Assistance Program of the United States Department of Defense ("FVAP") and request assistance in notifying military and other eligible voters of the relief afforded by this agreement, and coordinate with FVAP as necessary to facilitate such notice.

- (7) Reporting requirements for the 2012 primary and special elections.

Defendants shall provide a report to counsel of record for the United States no later than August 27, 2012, concerning the number of UOCAVA absentee ballots, by city, township, received and counted for the August 7, 2012 Federal primary election in the late-transmittal cities and townships. For the September 5, 2012 Federal special primary election, Defendants shall provide a report to counsel of record for the United States no later than September 12, 2012 concerning the number of UOCAVA absentee ballots, by city or township, received and counted. These reports will set forth the following information, by city or township:

- a. The number of absentee ballots from UOCAVA voters received and counted by city and township before the close of business on election day and within the extension period;
- b. The number of absentee ballots from UOCAVA voters that were not returned by the last day of the extension period;
- c. The number of absentee ballots from UOCAVA voters that were not counted in the August 7, 2012 Federal primary election and the September 5, 2012 Federal special primary election. For the ballots that were not counted, Defendants shall specify the reasons such ballots were not counted.

(8) Reporting requirements for the November 6, 2012 Federal general election.

Michigan will conduct its own pre-election survey, as required by MCL

168.759a(14)(2012 PA 279, effective August 15, 2012) using a new ballot tracking program developed through an FVAP grant. Michigan will provide the results of this survey to counsel for the United States once the report is compiled.

This case shall be dismissed with prejudice without payment of costs and attorneys' fees.

AGREED AND CONSENTED TO this 6th day of August, 2012.

For the Plaintiff:

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Civil Rights Division

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/s/ David Munley
Governor's Office

SO ORDERED this 6th day of August, 2012.

/s/Robert J. Jonker
United States District Judge