

Accommodating Overseas Voters in a Special Election

*DuPage County Board of Election Commissioners
v. Illinois State Board of Elections
(Ruben Castillo, N.D. Ill. 1:08-cv-232)*

Election officials for seven northern Illinois counties and the City of Aurora filed a federal complaint in the Northern District of Illinois on Thursday, January 10, 2008, seeking relief from time requirements for a special election to fill a vacancy created by the resignation of U.S. Representative Dennis Hastert.¹ They claimed that a March 8 election with a February 5 primary—the day of Illinois’s Super Tuesday presidential primary—did not give the election officials enough time to comply with various state time requirements or the federal Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA).² On the following day, the plaintiffs filed a motion for an emergency hearing.³

On Monday, the federal government sought permission to participate in the case as an amicus curiae to protect the federal rights of overseas voters.⁴

Judge Ruben Castillo heard the case on Wednesday.⁵ He granted the federal government’s motion to participate and continued the plaintiff’s motion until two days later.⁶ On January 18, Judge Castillo issued an order specifying a calendar of time requirements, including departures from normal statutory deadlines, to accommodate the scheduled election dates.⁷

With respect to overseas ballots, Judge Castillo ordered that they be counted for the primary election if postmarked by February 4 and received by February 8.⁸ Overseas ballots for the March 8 election would be accepted if postmarked by March 7 and received by March 29.⁹ An important difficulty in providing overseas voters with timely ballots was the short time between the two elections, so Judge Castillo authorized the use of blank absentee ballots.¹⁰

1. [Complaint](#), DuPage Cnty. Bd. of Election Comm’rs v. Ill. State Bd. of Elections, No. 1:08-cv-232 (Jan. 10, 2008), D.E. 1; see Steve Lord, *Election Dates Cause Worries*, Chi. Sun Times, Jan. 14, 2008, at 18; Lisa Smith, *Special Election Will Be Headache for Officials*, Chi. Daily Herald, Dec. 1, 2007, at 4.

2. [Complaint](#), *supra* note 1; see Pub. L. No. 99-410, 100 Stat. 924, as amended 42 U.S.C. §§ 1973ff to 1973ff-7 (2012).

3. [Emergency Motion](#), *DuPage Cnty. Bd. of Election Comm’rs*, No. 1:08-cv-232 (Jan. 11, 2008), D.E. 13.

4. [Amicus Curiae Motion](#), *id.* (Jan. 14, 2008), D.E. 10.

5. [Minutes](#), *id.* (Jan. 16, 2008), D.E. 27.

6. *Id.*

7. [Order](#), *DuPage Cnty. Bd. of Election Comm’rs*, No. 1:08-cv-232 (Jan. 18, 2008), D.E. 32.

8. *Id.* at 17.

9. *Id.* at 18.

10. *Id.* at 18–20.