

Mailing Nevada's Overseas Ballots on Time

Doe v. Miller (Gloria M. Navarro, D. Nev. 2:10-cv-1753)

On Friday, October 8, 2010, the Republican candidate for Nevada's secretary of state filed a pro se federal complaint against the incumbent and the state seeking relief from Elko County's failure to mail absentee ballots to some overseas voters on time.¹ Also a plaintiff in the complaint was a soldier deployed to Iraq identified as Officer John Doe.² With his complaint, the candidate filed a motion to expedite consideration of his complaint.³

The court assigned the case to Judge Gloria M. Navarro, whose practice is to take note of all cases assigned to her on the day that they are filed.⁴ On Tuesday, her courtroom clerk ordered service of the motions on the defendants within five days.⁵ On October 21, on behalf of Judge Navarro, the clerk ordered the defendants to file a response by October 26 and set the matter for hearing on October 28.⁶

On October 27, Judge Navarro dismissed the complaint as moot without the need for a hearing.⁷

This lawsuit arose when Elko County, Nevada missed [a] deadline and sent out thirty-four (34) absentee ballots up to five days late, apparently due to a printing error on the part of a private contractor. . . .

. . . [E]ven before Plaintiffs filed this suit on October 8, 2010, Defendants were aware of the issue and began working toward a solution that would ensure that the affected voters would have the full statutorily required forty-five (45) days in which to receive, complete, and return their ballots for the November 2010 election.

On October 6, 2010, Nevada Secretary of State Miller promulgated emergency regulations requiring, *inter alia*, that the affected voters' ballots shall be counted for the purposes of the November election as long as they are received by 5:00 p.m. on November 8, 2010, which is six days after the November 2, 2010 date on which absentee ballots would normally be due.⁸

Judge Navarro found that this short case required the balancing of many considerations.⁹ On the one hand, she had some familiarity with the plaintiff's candidacy from news accounts; on the other hand, she made sure that her considera-

1. [Complaint](#), *Doe v. Miller*, No. 2:10-cv-1753 (D. Nev. Oct. 8, 2010), D.E. 1; *see* Ed Vogel, *Challenger Files Lawsuit Against Miller*, *Las Vegas Rev.-J.*, Oct. 12, 2010, at 3B.

2. [Complaint](#), *supra* note 1.

3. [Motion](#), *Doe*, No. 2:10-cv-1753 (D. Nev. Oct. 8, 2010), D.E. 2; *see* [Amended Motion](#), *id.* (Oct. 12, 2010), D.E. 3.

4. Interview with Hon. Gloria M. Navarro, Mar. 19, 2013. Tim Reagan interviewed Judge Navarro for this report by telephone.

5. [Order](#), *Doe*, No. 2:10-cv-1753 (D. Nev. Oct. 12, 2010), D.E. 5; Interview with Hon. Gloria M. Navarro, Mar. 19, 2013.

6. [Docket Sheet](#), *Doe*, No. 2:10-cv-1753 (D. Nev. Oct. 8, 2010) (D.E. 10).

7. [Opinion](#), *Doe*, No. 2:10-cv-1753 (D. Nev. Oct. 27, 2010), D.E. 16, *available at* [2010 WL 4340804](#); *see* Ed Vogel, *Court Tables Bid to Block Military Vote*, *Las Vegas Rev.-J.*, Oct. 29, 2010, at 2B.

8. [Opinion](#), *supra* note 7, at 3.

9. Interview with Hon. Gloria M. Navarro, Mar. 19, 2013.

tions in the case relied only on the case's record.¹⁰ Pro se plaintiffs typically require a balancing of efficient resolution of the case with considerations of the plaintiffs' inexperience.¹¹ Cases with time pressure often have special needs for prompt and fair resolutions.¹²

10. *Id.*

11. *Id.*

12. *Id.*