

Mailing Nevada's Overseas Ballots on Time

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

On October 8, 2010, the Republican candidate for Nevada's secretary of state filed a pro se federal complaint seeking relief from a county's failure to mail absentee ballots to some overseas voters on time. The district judge dismissed the complaint as moot because of efforts election officials had already undertaken to remedy the error.

Subject: Absentee and early voting. *Topics:* Absentee ballots; Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); pro se party.

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 their complaint, the plaintiffs filed a motion to expedite consideration of the case.³

The court assigned the case to Judge Gloria M. Navarro, whose practice was to take note of all cases assigned to her on the day that they were 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 re-

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. *Doe* 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, *id.* (Oct. 27, 2010), D.E. 16, 2010 WL 4340804; see Robert Timothy Reagan, *Overseas Voting: The Uniformed and Overseas Citizens Absentee Voting Act 12–13* (Federal Judicial Center 2016); Ed Vogel, *Court Tables Bid to Block Military Vote*, Las Vegas Rev.-J., Oct. 29, 2010, at 2B.

quired 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 considerations 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

8. *Doe* Opinion, *supra* note 7, at 3.

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

10. *Id.*

11. *Id.*

12. *Id.*