

## Mailing Overseas Absentee Ballots on Time in Georgia in 2012

*United States v. Georgia*  
(*Steve C. Jones, N.D. Ga. 1:12-cv-2230*)

The Justice Department filed a federal complaint against Georgia on June 27, 2012, because a planned primary runoff election would not allow enough time after the initial primary election to mail absentee ballots overseas. The district judge extended the deadline for return of absentee runoff ballots and ordered Georgia to pay for their express delivery. The court retained jurisdiction over absentee voting in Georgia in 2013 and 2014. In 2014, Georgia amended its election laws to comply with the Uniformed and Overseas Citizens Absentee Voting Act, so the lawsuit was dismissed.

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

The Justice Department filed a federal complaint in the Northern District of Georgia on June 27, 2012, to enforce the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA),<sup>1</sup> as amended by the Military and Overseas Voter Empowerment Act of 2009 (MOVE Act),<sup>2</sup> because Georgia's scheduling a possible runoff election for August 21, only three weeks after a July 31 primary election, did not allow enough time for overseas voters to receive and cast their absentee ballots.<sup>3</sup> With its complaint, the department filed a motion for a temporary restraining order and a preliminary injunction.<sup>4</sup>

The court assigned the case to Judge Steve C. Jones, who immediately directed all three of his law clerks to work on it.<sup>5</sup> On the following day, Judge Jones set the matter for hearing on July 3.<sup>6</sup> Aside from his ultimate ruling, the

---

1. Pub. L. No. 99-410, 100 Stat. 924, *as amended*, 52 U.S.C. §§ 20301–20311. *See generally* Robert Timothy Reagan, *Overseas Voting: The Uniformed and Overseas Citizens Absentee Voting Act* (Federal Judicial Center 2016).

2. National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111-84, 123 Stat. 2190, 2318–35.

3. Complaint, *United States v. Georgia*, No. 1:12-cv-2230 (N.D. Ga. June 27, 2012), D.E. 1; *United States v. Georgia*, 952 F. Supp. 2d 1318, 1321 (N.D. Ga. 2013); *United States v. Georgia*, 892 F. Supp. 2d 1367, 1369 (N.D. Ga. 2012); *see* Sarah Fay Campbell, *Federal Run-offs Could Pose Problem for Military Voters*, *Newnan Times-Herald*, July 15, 2012 (“On June 15, the Georgia Secretary of State’s office received notice the federal government was suing the state over its runoff procedures . . .”).

4. Motion, *United States v. Georgia*, No. 1:12-cv-2230 (N.D. Ga. June 27, 2012), D.E. 2; *United States v. Georgia*, 892 F. Supp. 2d at 1368, 1371.

5. Interview with Hon. Steve C. Jones, Jan. 28, 2013.

Tim Reagan interviewed Judge Jones for this report by telephone.

6. Notice, *United States v. Georgia*, No. 1:12-cv-2230 (N.D. Ga. June 28, 2012), D.E. 5; Minutes, *id.* (July 3, 2012), D.E. 9; *United States v. Georgia*, 892 F. Supp. 2d at 1371.

most important thing that Judge Jones did in the case was to promptly advise the parties of a clear schedule for how the case was to proceed at a fast pace.<sup>7</sup>

At the July 3 hearing, Judge Jones informed the parties that he had known Georgia's secretary of state for fifteen years and the secretary was invited to Judge Jones's investiture the previous year, but that the secretary was a defendant in his official capacity only.<sup>8</sup> Moreover, it was the legislature and not the secretary who established election dates.<sup>9</sup> The attorney for the Justice Department stated that the department had no objection to Judge Jones's hearing the case.<sup>10</sup>

On July 5, the first court day after the hearing, Judge Jones issued an injunction, ordering, among other things, that Georgia extend the deadline for return of absentee runoff ballots and pay for their express delivery.<sup>11</sup>

On April 30, 2013, Judge Jones granted the Justice Department summary judgment and ordered Georgia to propose changes to its election laws that would allow for the transmittal to overseas voters of absentee ballots in runoff elections at least forty-five days before the election, as required by the statute.<sup>12</sup> On July 11, because Georgia had offered no assurances that it would change its election laws and because the proposed remedy of extending the deadline for counting overseas ballots would not comport with UOCAVA, Judge Jones issued a permanent injunction specifying an election calendar for Georgia: for example, primary elections would be held twenty-two weeks before general elections (June 3 in 2014) and runoff elections would be held nine weeks after general elections (January 6, 2015, if necessary).<sup>13</sup> Later, the primary elections were moved to two weeks earlier so that advance voting would not occur during Memorial Day weekend.<sup>14</sup>

In light of January 21, 2014, changes to Georgia's election laws bringing them into compliance with UOCAVA, the court of appeals, on February 24, 2015, dismissed as moot an appeal from Judge Jones's rulings.<sup>15</sup>

---

7. Interview with Hon. Steve C. Jones, Jan. 28, 2013.

8. Transcript at 2–3, *United States v. Georgia*, No. 1:12-cv-2230 (N.D. Ga. July 3, 2012, filed Aug. 15, 2012), D.E. 17; see Federal Judicial Center Biographical Directory of Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges) (noting that Judge Jones received his judicial commission on March 3, 2011).

9. Interview with Hon. Steve C. Jones, Jan. 28, 2013.

10. Transcript, *supra* note 8, at 3.

11. *United States v. Georgia*, 892 F. Supp. 2d at 1378–81; *United States v. Georgia*, 952 F. Supp. 2d 1318, 1324 (N.D. Ga. 2013); see *It's Déjà Vu Again with Order Extending Georgia's Overseas Ballot Time*, Marietta Daily J., July 9, 2012; *Judge Tells Georgia to Extend Its Absentee Deadline*, Waycross J.-Herald, July 6, 2012, at 1.

12. *United States v. Georgia*, 952 F. Supp. 2d 1318.

13. Opinion, *United States v. Georgia*, No. 1:12-cv-2230 (N.D. Ga. July 11, 2013), D.E. 38; see Reagan, *supra* note 1, at 10–11; Kristina Torres, *Federal Elections*, Atlanta J.-Const., July 13, 2013, at A1.

14. Order, *United States v. Georgia*, No. 1:12-cv-2230 (N.D. Ga. Aug. 21, 2013), D.E. 44.

15. *United States v. Georgia*, 778 F.3d 1202 (11th Cir. 2015); see Order, *United States v. Georgia*, No. 1:12-cv-2230 (N.D. Ga. Feb. 27, 2015), D.E. 62 (dismissing the original case for lack of subject-matter jurisdiction in light of changes to Georgia's election laws); see also Aaron Gould Sheinin, *Legislature 2014 Primary Date*, Atlanta J.-Const., Jan. 18, 2014, at B1.