

Mailing Overseas Absentee Ballots on Time in Georgia in 2004

United States v. Georgia

(Charles A. Pannell, Jr., N.D. Ga. 1:04-cv-2040)

The Justice Department filed a federal complaint against Georgia for mailing primary-election ballots to overseas voters late. The district judge ordered Georgia to (1) accept faxed ballots, (2) accept internet-based write-in absentee ballots, (3) pay for express delivery of absentee ballots, and (4) accept absentee ballots until three days after the election if mailed by election day.

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

On July 13, 2004, the Justice Department filed a federal complaint against Georgia in the Northern District of Georgia claiming that several counties had failed to mail overseas voters their absentee ballots in time to be returned by the day of July 20 primary elections, and the planned runoff-election date of August 10 did not allow for enough time to mail overseas voters absentee ballots, as required by the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA).¹ With its complaint, the department filed a motion for a temporary restraining order and a preliminary injunction.²

On the same day, Georgia's secretary of state filed a motion seeking similar relief in a 2003 case that resulted in court-ordered redistricting for Georgia's legislature.³

Judge Charles A. Pannell, Jr., who had been assigned the 2003 case, heard the motions in court on July 14 and agreed to grant immediate injunctive relief.⁴ On July 15, he issued written orders providing the following relief for overseas voters: (1) Georgia would accept faxed ballots, (2) Georgia would accept internet-based write-in absentee ballots, (3) Georgia would pay for express delivery of absentee ballots, and (4) Georgia would accept absentee ballots until three days after the election if mailed by election day.⁵

1. Complaint, *United States v. Georgia*, No. 1:04-cv-2040 (N.D. Ga. July 13, 2004), D.E. 1; see 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. Motion, *United States v. Georgia*, No. 1:04-cv-2040 (N.D. Ga. July 13, 2004), D.E. 2.

3. Motion, *Larios v. Cox*, No. 1:03-cv-693 (N.D. Ga. July 13, 2004), D.E. 259; see *Larios v. Cox*, 314 F. Supp. 2d 1357 (N.D. Ga. 2004) (approving a plan by special master); *Larios v. Cox*, 300 F. Supp. 2d 1320 (N.D. Ga.) (determining that legislative districts violated the principle of one person one vote), *summarily aff'd*, 542 U.S. 947 (2004); see also *Cox Asks Feds for Help Counting Overseas Votes*, *Macon Telegraph*, July 14, 2004, at B6.

4. Minutes, *United States v. Georgia*, No. 1:04-cv-2040 (N.D. Ga. July 14, 2004), D.E. 3; Minutes, *Larios*, No. 1:03-cv-693 (N.D. Ga. July 14, 2004), D.E. 260.

5. Order, *United States v. Georgia*, No. 1:04-cv-2040 (N.D. Ga. July 16, 2004), D.E. 4; Order, *Larios*, No. 1:03-cv-693 (N.D. Ga. July 16, 2004), D.E. 261; see *United States v. Georgia*,

The 2004 action was dismissed by stipulation on July 25, 2005.⁶

892 F. Supp. 2d 1367 (N.D. Ga. 2012) (providing similar injunctive relief eight years later); *see also* Reagan, *supra* note 1, at 4–5.

6. Stipulated Dismissal, *United States v. Georgia*, No. 1:04-cv-2040 (N.D. Ga. July 25, 2005), D.E. 7.