

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.
	)	2:12-cv-00179-MHT-WC
	)	
STATE OF ALABAMA and	)	
HONORABLE JIM BENNETT,	)	
Secretary of State, in his official capacity,	)	
	)	
Defendants.	)	

STATE DEFENDANTS' NOTICE OF REMEDY

The State of Alabama and the Alabama Secretary of State, defendants in this action, hereby respectfully notify the Court of the remedy implemented for the June 3, 2104 primary election.

1. On January 17, 2014, this Court entered a remedial order which required information gathering and reporting for regularly scheduled federal primary elections and regularly scheduled federal general elections held in Alabama in 2014 and 2016. Doc. 119, as amended by doc. 128 (March 14, 2014).

2. Alabama is holding a regularly scheduled federal primary election on June 3, 2014. The 45-day deadline for this election was last Saturday, April 19, 2014.

Earlier this week, the State Defendants filed the 55-day report, 45-day surveys, and 45-day report for this election. Doc. 135 and attachments.

3. The State Defendants reported that, of the 59 jurisdictions that had valid applications for absentee ballots on file from UOCAVA voters as of the 45-day deadline, 57 reported that they timely transmitted those ballots and 32 jurisdictions reported completing transmission no later than April 12, 2014, that is, one week early. Doc. 135 and attachments.¹

4. The State Defendants further reported that Marion County and Jefferson County each reported transmitting electronic ballots two days late, *i.e.*, on Monday, April 21, 2014. Marion County was late with two of its six electronic ballots and Jefferson County-Birmingham was late with 118 electronic ballots. Exhibit 1 attached hereto is an affidavit from Ed Packard, the Elections Director and State UOCAVA Coordinator, and it speaks to the issues in Jefferson County-Birmingham and Marion County at paragraphs 2 through 6.

5. The Remedial Order provides that “In the event of a UOCAVA violation, the State shall investigate the cause of the violation, consult with the United States, determine an appropriate remedy, and report the same to the Court. The United

¹ The absentee balloting duties are handled by absentee election managers in Alabama’s 67 counties. Jefferson County has an AEM for the Birmingham division and one for Bessemer, bring the total reporting jurisdictions to 68.

States shall file its response to that report, if any, within three business days.” Doc. 119 at V.

6. Following consultation with the United States, the State reports as follows:

- a. Because the electronic ballots were *two* days late and Act No. 2014-006 has already extended the ballot receipt deadline for all UOCAVA votes from noon on Election Day to noon *seven* days after the election, there is no need for any further extension of the ballot receipt deadline.
- b. The Secretary is taking steps to notify UOCAVA voters about the additional time they have to return their ballots to the AEMs. The Secretary has issued a press release on April 25, 2014 which includes a paragraph about the seven day extension. *See* Affidavit of Edward Packard and Attachment C thereto. This press release will be posted on the Secretary of State’s website. *Id.*
- c. The Secretary has also sent an email to each of the 1015 UOCAVA voters who requested electronic ballots on or before April 19, 2014, as well as the few additional UOCAVA voters who requested electronic ballots through April 23, 2014, individually notifying them about the additional seven days they have to return their ballots. *See* Affidavit of Edward Packard and Attachment B thereto.

- d. The Secretary's Office is working to update its own website on the new deadline and has notified the Overseas Vote Foundation of the need to update its website to reflect the new deadline.
 - e. Secretary Bennett and Ed Packard are currently scheduled to meet next week with the AEM for Jefferson County-Birmingham.
7. While the Secretary regrets that not all UOCAVA ballots were timely transmitted by the 45-day deadline, he is pleased with the substantial progress made by nearly all of the AEMs in complying with this important federal law and believes the remedy described above is appropriate under the circumstances.

Respectfully submitted,

LUTHER STRANGE (ASB-0036-G42L)
Attorney General

BY:

s/ Misty S. Fairbanks Messick
James W. Davis (ASB-4063-I58J)
Misty S. Fairbanks Messick (ASB-1813-T71F)
Assistant Attorneys General

OFFICE OF THE ATTORNEY GENERAL
501 Washington Avenue
Post Office Box 300152
Montgomery, Alabama 36130-0152
Telephone: (334) 242-7300
Facsimile: (334) 353-8440
jimdavis@ago.state.al.us
mmessick@ago.state.al.us

Attorneys for the State & Secretary Bennett

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of April, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel of record:

Victor J. Williamson
Amanda Hine
Anna Baldwin
Elizabeth M. Ryan
Erin M. Velandy
Ernest McFarland
Richard Dellheim
Spencer R. Fisher
Stephen M. Doyle
T. Christian Herren, Jr.
for the United States

J. Cecil Gardner
Robert D. Segall
Sam Heldman
Edward Still
for the amicus

s/ Misty S. Fairbanks Messick
Of Counsel