

# Exhibit F

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

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CLERK U.S. DISTRICT COURT  
WESTERN DIST. OF MICH.  
BY \_\_\_\_\_

UNITED STATES OF AMERICA,  
  
Plaintiff,

v

No. L 88-208 CA5  
HONORABLE RICHARD A. ENSLEN

STATE OF MICHIGAN; RICHARD AUSTIN,  
SECRETARY OF STATE OF THE STATE  
OF MICHIGAN,  
  
Defendants.

\_\_\_\_\_

CONSENT DECREE

A. Stipulations of the Parties

The United States of America, Plaintiff, and the State of Michigan, and Richard Austin, Secretary of State of the State of Michigan, Defendants, stipulate and agree that:

1. This action is brought by the Attorney General on behalf of the United States pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 USC 1973ff et seq.
2. This Court has jurisdiction of this action pursuant to 42 USC 1973ff-4 and 28 USC 1345.
3. The Uniformed and Overseas Citizens Absentee Voting Act provides that each state shall permit absent uniformed services voters and overseas voters to use absentee registration

procedures and to vote by absentee ballot in general, special, primary, and runoff elections for federal office.

4. The Defendant State of Michigan is required by the Act, pursuant to 42 USC 1973ff-1 as follows:

"Each State shall --

"(1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office;

"(2) accept and process, with respect to any general, special, primary, or runoff election for Federal office, any otherwise valid voter registration application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election; and

"(3) permit overseas voters to use Federal write-in absentee ballots (in accordance with section 103) in general elections for Federal office."

5. Defendant Richard Austin, sued in his official capacity as Secretary of State of the State of Michigan, is the chief elections officer of the State and is responsible for assuring that elections in the State be conducted in accordance with the law.

6. The United States, by this action, seeks injunctive relief to ensure that United States citizens living abroad, who

are qualified to vote in the federal primary election to be held in the State of Michigan on August 2, 1988, and who have filed timely applications for absentee ballots, will be given a reasonable opportunity to execute and return such ballots and thus to have their ballots counted.

7. On August 2, 1988, a primary election for federal offices will be conducted in Michigan. This primary election is part of the process for selecting nominees for the United States Senate and for the United States House of Representatives.

8. Election officials of the State of Michigan have received requests for absentee ballots from civilian and military citizens overseas, which persons are entitled to vote pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act.

9. Under Michigan law, absentee ballots received after 8:00 p.m. on the date of the election are rejected. MCL 168.759a.

10. In order to allow overseas citizens a fair opportunity to vote by absentee ballot, election officials of Michigan must mail the ballots to the voters on a date sufficiently in advance of election day to allow the voter to receive the ballot, cast his or her vote, and return the ballot to the office of the election official by 8:00 p.m. on election day. The United

States Postal Service estimates that a period of 10 to 14 days is a reasonable benchmark from the time of posting to the time of delivery of international mail; the United States Department of State makes similar estimates. Thus, under these estimates, ballots must be mailed to the overseas voters at least 20 to 28 days prior to the deadline for their return. The Military Postal Service Agency estimates that 30 to 35 days are necessary for mail to make a complete round trip to and from an overseas locale.

11. In many cities in Michigan, election officials did not mail absentee ballots to overseas citizens (who have filed timely requests) on a date sufficiently in advance of August 2, 1988 to allow such voters to receive the ballot, cast a vote and return the ballot to election officials by 8:00 p.m., August 2, 1988. Exhibit A is the result of a telephone survey made to 11 of the larger of approximately 1,500 voting jurisdictions in the State of Michigan. The State of Michigan does not stipulate to the accuracy of the survey.

12. The failure to mail absentee ballots to overseas citizens on a date sufficiently in advance of August 2, 1988 so as to allow the voting and return of ballots by 8:00 p.m. on that date may deprive United States citizens living overseas of an opportunity to vote in the August 2, 1988 federal primary election.

13. To ensure that all citizens protected by the Uniformed and Overseas Citizens Absentee Voting Act and qualified to vote in Michigan, have a reasonable opportunity to have their ballots counted in the August 2, 1988 primary election, it is necessary for this Court to enter an order extending by ten days the deadline for receipt of ballots. Under this extension, overseas ballots mailed on or before August 2, 1988 and received by the close of business on August 12, 1988, will be accepted and tabulated in the final primary election results.

This consent decree and admissions are final and binding as to all issues resolved herein for purposes of the August 2, 1988 Michigan primary election only.

B. Order

WHEREFORE, the parties having freely given their consent and the terms of the decree being fair and reasonable for purposes of the August 2, 1988 primary election only:

IT IS HEREBY ORDERED that:

1. The Defendants shall take all steps necessary to ensure that all ballots cast by citizens located abroad pursuant to the Uniformed and Overseas Citizens Absentee Voting Act and received before the close of business on August 12, 1988, by the appropriate election officials, are counted to the extent required under that Act as validly cast ballots, so long as the

ballots would have been counted if they had been received by 8:00 p.m., Tuesday, August 2, 1988.

2. That the Secretary of State or his designee is specifically authorized to make all administrative orders necessary to tabulate and canvass ballots consistent with this Order, including but not limited to, requiring all ballots received after 8:00 p.m. August 2, 1988 and before the close of business on August 12, 1988 by all election jurisdictions to be forwarded to their respective county clerks for tabulation.

3. The Defendants shall notify the Director of the United States Department of Defense's Federal Voting Assistance Program (FVAP) as soon as this decree has been signed and request that the FVAP take such action as is necessary to notify overseas voters of the extension of time for receipt by Michigan election officials of such ballots. The State shall assist the FVAP in whatever way reasonable to publicize such extension of time.

4. Within 45 days after August 2, 1988, Defendants shall file a report with this Court, with respect to the August 2, 1988, primary election, which sets forth the following information from only those cities listed in Exhibit A:

a. the dates on which each city in the State of Michigan began and completed the process of mailing ballots to citizens located abroad;

b. the number of valid absentee ballots received by each city before 8:00 p.m., Tuesday, August 2, 1988, from citizens living abroad;

c. the number of absentee ballots, by city, received and counted after 8:00 p.m., August 2, 1988, but prior to the close of business, August 12, 1988, from citizens living abroad; and

d. the number of absentee ballots, by city, received from citizens located abroad later than the close of business, August 12, 1988, and for that reason not counted.

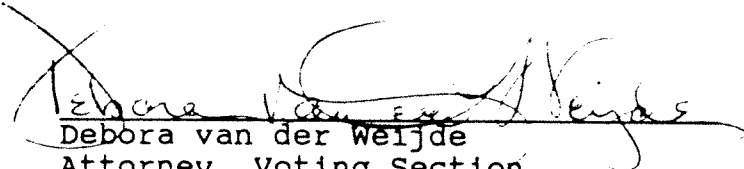
5. Upon compliance with this Order, this matter shall be dismissed with prejudice and without costs or attorney fees to either party.

ORDERED this 29 day of July, 1988. at 3:30 PM, EDT

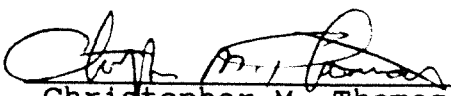
  
United States District Judge

The undersigned agree to the entry of this Decree

For the Plaintiff United  
States of America

  
Debora van der Weijde  
Attorney, Voting Section  
Civil Rights Division  
Department of Justice

For Defendants  
State of Michigan and  
Secretary of State

  
Christopher M. Thomas  
Director of Elections


  
Gary P. Gordon  
Assistant Attorney General



EXHIBIT A  
 DISTRIBUTION OF BALLOTS TO MILITARY AND OVERSEAS VOTERS  
 MICHIGAN  
 AUGUST 2, 1988 PRIMARY ELECTION

<u>CITY</u>	<u>POPULATION/<sup>1</sup></u>	<u>DATE MAILINGS BEGAN</u>	<u>DAYS BEFORE ELECTION (AUG 2)</u>	<u>NUMBER OF BALLOTS SENT</u>
Detroit	1,086,000	July 12	21	733 military 22 overseas
Grand Rapids	187,000	July 13	20	62 military 16 overseas
Warren	150,000	July 18	15	126 military 5 overseas
Flint	146,000	July 14	19	138 military 0 overseas
Lansing	129,000	July 14	19	58 military 14 overseas
Sterling Heights	112,000	July 15	18	75 military & overseas
Ann Arbor	108,000	July 14	19	26 military 11 overseas
Dearborn	90,660	July 15	18	100 military & overseas
Kalamazoo	76,690	July 13	20	23 military 6 overseas
Pontiac	69,957	July 12	21	51 military 45 overseas
Saginaw	67,764	July 18	15	168 military 2 overseas
Bay City	36,548	July 8	25	15 military 0 overseas

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<sup>1</sup> Data compiled from 1980 Census and 1986 and 1987 population estimates.

Total: 1280 military  
121 overseas  
175 combined /<sup>2</sup>  
military &  
overseas

Grand Total: 1,576 absentee ballots

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<sup>2</sup> The combined military and overseas count were given by the election officials as estimates only.