

# Exhibit E

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Civil Action No. 92-523 LON
	)	
vs.	)	
	)	
STATE OF DELAWARE; RICHARD	)	
HARPER, COMMISSIONER OF	)	
ELECTIONS OF THE STATE OF	)	
DELAWARE,	)	
	)	
Defendants.	)	<u>O R D E R</u>

Having considered the Plaintiff's application for a temporary restraining order and the declaration filed in support thereof, and after service and notice to the State of Delaware, and having heard counsel for the parties, the Court hereby finds that:

1. Defendants have failed to take such steps as are necessary to ensure that overseas citizens who are duly qualified to vote absentee in the September 12, 1992, primary election and who have applied in a timely fashion for absentee ballots, will be given a reasonable opportunity to execute and return such ballots before the closing time of the polls on September 12, 1992 (the deadline for receipt of such ballots). Of the 116 absentee ballots forwarded to voters, the times between the mailing of the ballots and September 12, 1992, the time of the election, varied from 3 to 27 days. Clearly 20% of the times were less than 23 days. A review of the affidavits filed in this matter indicates that at least 47 ballots were sent outside the

times which could be considered sufficient for execution and return by September 12, 1992.

2. Defendants' failure to provide eligible uniformed services and overseas voters a reasonable opportunity to execute and return such absentee ballots would constitute a violation of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §1973ff, et seq.

3. United States citizens located abroad who are eligible to vote in the State of Delaware under the aforementioned Act will be irreparably injured by this failure because they have not been given a reasonable opportunity to execute and return absentee ballots before the closing of polls on Saturday, September 12, 1992, and, as such, they will effectively be denied their right to vote in the September 12, 1992, federal primary election.

4. Issuance of this Order will serve the public interest by protecting the right to vote of American citizens overseas as that right is set forth in the Uniformed and Overseas Citizens Absentee Voting Act.

5. The degree of harm, if any, that may be suffered by Defendants as a consequence of this Order is insignificant and, in any event, is outweighed by the irreparable injury which uniformed services and overseas voters would suffer if this Order were not entered. Under ordinary circumstances, certification of election results would occur no sooner than Monday, September 14, 1992, and the request of the Government to postpone certification

until Friday, September 18, 1992, or as soon thereafter as possible, poses a minimum inconvenience to the State and the public at large as compared to the more serious loss of voting rights by overseas voters. Unofficial results would be available soon after the close of the polls on September 12, 1992.

6. Of those absentee voters who had to affirmatively request the ballots by submitting a completed application, only 16 have been returned as of this date. The threat of disenfranchisement is imminent in that the time by which those outstanding overseas votes must be received to be counted for this election is less than 29 hours from the issuance of this Order.

NOW, THEREFORE, IT IS ORDERED that:

1. The Defendants, their agents, officers and employees and all those persons in active concert or participation with them, are temporarily restrained and enjoined from failing or refusing to take such steps as are necessary to ensure that overseas uniformed services voters and other overseas voters who are qualified to vote in the September 12, 1992, federal primary election and who have applied in a timely fashion for absentee ballots will be given a reasonable opportunity to execute and return such ballots and have their ballots counted. If such absentee ballots are received by the appropriate election officials on or before 5:00 p.m. on Friday, September 18, 1992 (and such ballots would have been counted as validly cast ballots if they had been received by the close of the polls on Saturday,

September 12, 1992), Defendants shall count those ballots as validly cast ballots.

2. Defendants shall immediately inform all local election officials in the State of the provisions of this Order.

3. Defendants shall notify the Director of the United States Department of Defense's Federal Voting Assistance Program ("FVAP") as soon as this Order 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 Delaware election officials of such ballots.

4. Subject to subsequent Orders of this Court, within 45 days after September 12, 1992, Defendants shall file a report with this Court with respect to the September 12, 1992, primary election which sets forth the following information:

(a) the dates on which county election officials for each county in the State of Delaware began and completed the process of mailing ballots to citizens located abroad;

(b) the number of valid absentee ballots, by county, received and counted by the time the polls closed on Saturday, September 12, 1992, from citizens located abroad;

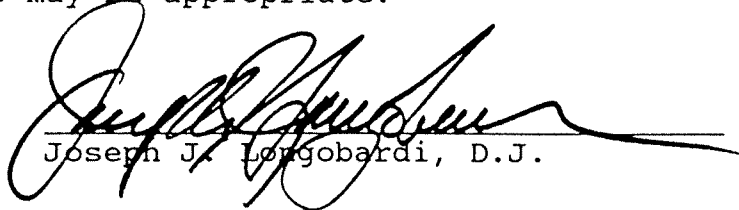
(c) the number of absentee ballots received and counted after the polls closed on September 12, 1992, but prior to 5:00 p.m. on September 18, 1992, from citizens located abroad;  
and

(d) the number of absentee ballots, by county, received from citizens located abroad later than 5:00 p.m. on September 18, 1992, and for that reason not counted.

5. The parties shall stipulate to a suitable briefing schedule on the motion for preliminary injunction. In the absence of such a stipulated schedule, either party may request the Court for relief.

6. The Court retains jurisdiction of this action for the purpose of enforcing the provisions of this Order and to order such further relief as may be appropriate.

9/11/92

  
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Joseph J. Longobardi, D.J.