

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
)
v.)
)
JEAN CUNNINGHAM, et al.,)
)
Defendants.)
_____)

Case No. 3:08CV709

ORDER AS TO PERMANENT RELIEF

This matter comes before the Court on the United States’ Motion for Order Granting Permanent Relief. On October 15, 2009, this Court entered an order finding that the Commonwealth of Virginia and the Virginia State Board of Elections (“Defendants”) violated the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (“UOCAVA”), 42 U.S.C. § 1973ff et seq., by failing to mail timely-requested absentee ballots to UOCAVA voters 30 days or more before the November 4, 2008 general federal election, and ordered the Defendants to count as validly-cast all timely-requested, but late-mailed and otherwise-valid absentee ballots that were received by local electoral boards and registrars within 30 days of the close of polls on November 4, 2008.

The parties were unable to reach agreement as to what additional relief is appropriate to ensure full compliance with UOCAVA in future elections. On May 11, 2010, the United States filed a Motion for Permanent Relief to seek appropriate training, monitoring, and reporting procedures in the Commonwealth of Virginia, in order to assure future UOCAVA compliance.

After reviewing that Motion, the Defendants' response, and based on good cause, this Court hereby **ORDERS**:

1. That the Defendants, prior to each Federal election cycle, train at least one election official from each local electoral board or general registrar's office in Virginia on the requirements of UOCAVA, as amended, and the need to send absentee ballots to UOCAVA voters in a timely manner. Such training shall include instructions on the provisions of this Order, including the monitoring and reporting requirements, and of all Virginia laws and procedures governing voting by UOCAVA voters, including those pertaining to the use of the Federal write-in absentee ballot. Defendants shall provide copies of such training materials to counsel for the United States upon request;

2. That Defendant Virginia State Board of Elections shall, for each Federal election during the time period covered by this Order, immediately upon receipt of certification from each Virginia locality of that locality's compliance with the Commonwealth's 45-day mailing requirement for military and overseas ballots, provide copies of these certifications to the United States to confirm timely mailing of said ballots. For purposes of compliance with this order, the format of these certifications shall be devised in consultation with the United States and shall be delivered to the United States in a manner agreed upon by the Parties.

3. If, during the time of the period covered by this Order, it becomes apparent that any general registrar will be unable to transmit, or did not transmit, regular absentee ballots to UOCAVA voters by the 45th day before a Federal election as required by UOCAVA, the Defendants shall contact counsel for the United States and inform them of the situation, and the parties shall work to establish an alternative plan that allows these military and overseas voters sufficient time to vote by absentee ballot; and

4. That the monitoring, reporting, and training provisions contained in Paragraphs 1 and 2 shall remain in effect through December 31, 2012, unless extended by written agreement of the parties or further Order of this Court.

Date:

RICHARD L. WILLIAMS
SENIOR UNITED STATES DISTRICT JUDGE