

JUL 13 2012

JEANNE G. QUINATA
CLERK OF COURT

IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM

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3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 vs.

6 GOVERNMENT OF GUAM; THE GUAM
7 ELECTION COMMISSION; and MARIA
8 I.D. PANGELINAN, its Executive Director,
9 in her official capacity,

Defendants.

CIVIL CASE NO. 10-CV-00025

**STIPULATED SUPPLEMENTAL
ORDER**

10 The United States initiated this action on October 6, 2010 against the Government of
11 Guam, the Guam Election Commission, and its Executive Director, to enforce the requirements
12 of the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), 42 U.S.C. §§
13 1973ff to 1973ff-7, as amended by the Military and Overseas Voter Empowerment Act, Pub. L.
14 No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-2335 (2009). On October 13, 2010,
15 this Court entered the requested declaratory and injunctive relief, ordering the Defendants to take
16 certain actions as an appropriate remedy for violating sections 102(a)(8)(A) and 102(f)(1) of
17 UOCAVA. Among other things, the Court's Order required Guam to establish email as the
18 electronic option for UOCAVA voters to receive a blank absentee ballot for the November 2,
19 2010 election, and extended the ballot receipt deadline for Guam UOCAVA voters from the
20 original deadline of November 2, 2010, to November 15, 2010. *See* ECF No. 19. The Court's
21 Order also required Guam to "take such actions as are necessary to assure that UOCAVA voters
22 shall have a fair and reasonable opportunity to participate in future Federal elections, including
23 proposing legislation and taking any administrative actions needed to fully remedy the potential
24 future UOCAVA violations arising from Guam's election schedule and practices." *Id.* The

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1 Order also requires the parties to confer on the progress of permanent relief. *Id.*

2 The parties have conferred multiple times concerning Guam's progress towards
3 permanent relief. Because permanent relief has not yet been provided, the parties agree to entry
4 of this Stipulated Supplemental Order to ensure that Guam's UOCAVA voters are able to
5 exercise their right to vote under Federal law in the upcoming Federal elections and will have the
6 option to receive an absentee ballot by electronic transmission, as required by UOCAVA.

7 1. Sections 102(a)(7) and (f)(1) of UOCAVA requires that Guam provide UOCAVA
8 voters the option of receiving a blank absentee ballot electronically.

9 2. Guam law does not authorize the Guam Election Commission to provide an
10 electronic transmission option for UOCAVA voters to receive a blank absentee ballot.

11 3. Under current Guam law, the Guam Election Commission will be unable to
12 provide absentee ballots electronically to UOCAVA voters who request such prior to the
13 September 1, 2012 primary and November 6, 2012 general elections.

14 4. The Guam Election Commission's inability to provide an electronic transmission
15 option for UOCAVA voters to receive a blank absentee ballot is a violation of Sections 102(a)(7)
16 and (f)(1) of UOCAVA.

17 5. An order from this Court requiring the Guam Election Commission to provide
18 UOCAVA voters with the option of receiving a blank absentee ballot electronically is necessary
19 to ensure the rights of UOCAVA voters to effectively participate in Federal elections are
20 protected and to ensure compliance with UOCAVA as follows:

21 (a) The Guam Election Commission shall establish email as Guam's electronic
22 transmission option for UOCAVA voters for the September 1, 2012 primary and
23 November 6, 2012 general Federal elections.

24 (b) The Guam Election Commission shall promptly transmit an absentee ballot by email

1 to all UOCAVA voters who request it by email for the September 1, 2012 primary
2 and November 6, 2012 general Federal elections in accordance with the requirements
3 of Section 102(a)(8) of UOCAVA.

4 (c) By no later than July 16, 2012 the Guam Election Commission shall provide a
5 notification to each UOCAVA voter who has validly requested an absentee ballot for
6 the 2012 Federal election cycle and who requested to receive an absentee ballot by a
7 method other than email. The notification shall be sent by email or fax to each
8 UOCAVA voter for whom the Guam Election Commission has an email address or
9 fax number, by telephone for all UOCAVA voters for whom it does not have an email
10 address or fax number but have a telephone number, and for all other UOCAVA
11 voters by mail. The notification shall inform each UOCAVA voter of the option to
12 receive an absentee ballot by email, and provide an email address for voters to use to
13 make the request to the Guam Election Commission. For all UOCAVA voters who
14 request to receive an absentee ballot by a method other than email after July 16, 2012
15 and through September 22, 2012, the Guam Election Commission shall provide the
16 notification described above and in the manner described above within two business
17 days of receiving such absentee ballot request.

18 (d) Upon the entry of this Order, the Guam Election Commission shall prominently post
19 notification on its website that at a minimum: (1) advises that UOCAVA voters may
20 receive, by email, their blank absentee ballots and explains how such a request can be
21 made; and (2) provides appropriate contact information at the Guam Election
22 Commission for assistance. Such notification shall also be included in all materials
23 provided to UOCAVA voters.

24 (e) Upon the entry of this Order, the Guam Election Commission shall issue a press

1 statement for immediate release, posted immediately on Guam's election information
2 website, and distributed as broadly and immediately as practicable to national and
3 local wire services, to radio and television broadcast stations, and to daily newspapers
4 of general circulation in Guam. The press statement shall also be distributed to the
5 Federal Voting Assistance Program; International Herald Tribune
6 (<http://www.iht.com>); USA Today International (<http://www.usatoday.com>); Military
7 Times Media Group (cvinch@militarytimes.com); Overseas Vote Foundation
8 (<http://www.overseasvotefoundation.org/intro/>); Stars and Stripes
9 (www.estripes.com), and any other appropriate newspaper or news media in Guam.

10 The press statement shall, at a minimum: (1) state that UOCAVA voters may receive,
11 by email, their blank absentee ballots and explain how such a request can be made;
12 and (2) provide appropriate contact information at the Guam Election Commission
13 for assistance.

14 (f) The Guam Election Commission shall provide a report to the United States
15 Department of Justice on July 20, 2012, and September 26, 2012, certifying that all
16 UOCAVA voters who have requested an absentee ballot have been notified in
17 accordance with paragraph 5(c) above.

18 (g) The Guam Election Commission shall file a report with this Court no later than June
19 15, 2013, providing a status update concerning any legislative efforts to amend Guam
20 law to authorize the Guam Election Commission to provide an electronic
21 transmission option for UOCAVA voters to receive a blank absentee ballot.

22 (h) Nothing in this Stipulated Supplemental Order shall be construed to waive any of
23 Guam's obligations under UOCAVA or the Court's October 13, 2010 Order.

24 (i) The Court shall retain jurisdiction over this action through December 31, 2014 to enter

1 such further relief as may be necessary for the effectuation of the terms of this Order
2 and the Court's October 13, 2010 Order and to enter such relief as may be necessary
3 to abate any UOCAVA violation with respect to future Federal elections caused by
4 Guam's election practices.

5 The undersigned agree to entry of this Stipulated Supplemental Order.

6
7 For the United States:

8 ALICIA A.G. LIMTIACO
9 United States Attorney
Districts of Guam and NMI

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Civil Rights Division

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16 For the Guam Election Commission:

17 By: [Signature]
18 MARIA I/D. PANGELINAN
19 Title: Executive Director
20 Date: 7/9/2012

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21 SO ORDERED this 13th day of July 2012.

22
23 [Signature]
24 HON. FRANCES M. TYDINGCO-GATEWOOD
Chief Judge, District Court of Guam