

**IN THE SUPREME COURT
OF THE STATE OF NEVADA**

Supreme Court Case No. 89149

Electronically Filed
Oct 15 2024 01:51 PM
Elizabeth A. Brown
Clerk of Supreme Court

REPUBLICAN NATIONAL COMMITTEE; ET AL.,
Appellants,

v.

FRANCISCO AGUILAR, in his official capacity as Nevada Secretary of State; ET
AL.,
Respondents.

Appeal from Order Denying Motion for Preliminary Injunction
First Judicial District Court, Case No. 24 OC 00101 1B
The Honorable James Russell

RULE 31(e) NOTICE OF SUPPLEMENTAL AUTHORITY

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Pursuant to NRAP 31(e), Appellants hereby file this Rule 31(e) Notice of Supplemental Authority.

This case was argued on Tuesday, October 8, 2024. The issue of whether a voter can control if a mail ballot is postmarked was discussed. See also Opening Br. 43 (discussing the same). Plaintiffs-Appellants' counsel responded by referencing the United States Postal Service's "2024 Election Fact Sheet," promulgated on September 24, 2024, or four days after the Reply brief was filed in this appeal. According to the fact-sheet:

"A voter can ensure that a postmark is applied to his or her return ballot by visiting any of our more than 30,000 Postal Service retail offices and requesting a postmark from a retail associate"

See USPS website, https://about.usps.com/what/government-services/election-mail/pdf/fact-sheet_election-mail_09242024.pdf, a copy of which is attached as Exhibit A. This supplemental authority supports

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the Plaintiffs-Appellants' position and is consistent with prior statements from the USPS subject to judicial notice.

DATED this 11th day of October 2024.

/s/ Jeffrey F. Barr

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Rule 31(e) Notice of Supplemental Authority was filed electronically with the Nevada Supreme Court on the 11th day of October 2024. Electronic service of the foregoing document shall be made in accordance with the Master Service List.

/s/ Jeffrey F. Barr

An Employee of Ashcraft & Barr LLP

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EXHIBIT A

2024 Election Fact Sheet,

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EXHIBIT A



2024 U.S. Postal Service Election Mail Fact Sheet

The U.S. Postal Service is committed to the secure, timely delivery of the nation's Election Mail. In 2024, just as we have in previous elections, the Postal Service will collect, process, transport, and deliver the nation's Election Mail when public policy makers choose to use the mail as a part of their election system or when voters choose to use our services to participate in an election. We will employ our robust and proven processes to ensure proper handling and delivery of all Election Mail, including ballots.

For past performance information, see our [2020](#) and [2022](#) Election Mail reports.

Key Points

- The Postal Service is ready to deliver your ballot on time. But don't delay. If you choose to vote by mail, please mail early.
- The organization was successful in 2020 delivering a historic volume of mail in ballots. It repeated that success in 2022 and will do so again in November 2024.
- The Postal Service has more than enough operational capacity to deliver the nation's ballots in the final weeks of the election.
 - In 2020, ballots accounted for just 0.11% of the Postal Service's total mail volume.
- In the 2020 general election, the Postal Service delivered 99.89 percent of ballots mailed by voters to election officials within seven days.
- The 2022 midterm elections saw a similar level of on-time performance, with 99.93 percent of ballot mail delivered within the same timeframe.

Extraordinary Measures (Starting Oct. 21)

We routinely monitor performance in all of our facilities, and we implement certain processes and procedures specific to Election Mail all year round, including advancing election Mail ahead of other mail in processing and using daily "all clears" to ensure that all Election Mail is accounted for in the system and that mail scheduled or "committed" to go out is processed accordingly.

Starting Oct. 21, local postal management is authorized and expected to use extraordinary measures, such as the following, to accelerate the delivery of ballot mail, when the Postal Service is able to identify the mailpiece as a ballot. These measures are consistent with our efforts in past elections.

The Postal Service's extraordinary measures include but are not limited to:

- **Retail Operations:** Post offices may establish a dedicated line for ballot postmarks and drive-through ballot drop options, staffed through Election Day.
- **Extra Deliveries and Collections:** the Postal Service will make additional deliveries and collections to ensure timely delivery of ballots. Early collections will be run on Nov. 2, Nov. 4 and Nov. 5, with special runs to Boards of Elections on those days and the last day that Boards of Elections will accept ballots as timely in states that accept ballot mail after Election Day.
- **Special Pickups:** Postmasters will arrange after-hours handoffs with Boards of Elections and utilize the Express Mail network for completed ballots entered close to Election Day. Misprinted ballots will be redirected.
- **Local Carriers:** Carriers will check every residential mailbox for outgoing mail starting Oct. 21.
- **Processing Plants:** Facilities will utilize special sort plans to "hold out" ballot mail early in the process to expedite delivery to Boards of Election. Ballots for non-local destinations will be expedited using Priority Mail Express if needed.



National Election Mail Taskforce

In Aug. 2024, the Postmaster General reestablished the National Election Mail Taskforce for the 2024 general election. The Task Force is dedicated to reinforcing and amplifying our policies and procedures for Election Mail, especially ballots, for the 2024 election. The Task Force aims to maintain public trust through efficient mail handling processes, staff training, and monitoring of mail delivery. Open communication with all stakeholders, appropriate resource allocation, and swift escalation of unresolved concerns are the Task Force's priorities. Beginning Oct. 1, we will assign ballot monitors and ambassadors in our Processing Operations and Retail & Delivery units.

Addressing Issues Immediately As They Arise

We take any reports of delayed Election Mail seriously and work to solve problems even when it turns out that they were not caused by the Postal Service. For example, we identified several flawed ballot envelope designs and address quality issues that caused ballot mail to loop within our system or to be incorrectly delivered or returned to sender. In those cases, when election officials bring concerns to our attention, or when we discover the issues on our own, we work with election officials to ensure their ballot envelopes and addressing conform with our best practice recommendations that we consistently share information with election officials to ensure effective use of the mail.

Training and Consistency in Implementation of Postal Election Mail Policies

We have prioritized robust internal training for our employees, routinely enhancing our processes and tracking systems for efficiency. We have adopted the Office of the Inspector General's recommendations, ensuring clear communication and instructions are accessible in all facilities. We have also formed a Performance Excellence Team to ensure the timely processing of Election Mail. The Postal Service Office of Inspector General is conducting audits to ensure any issues are addressed promptly. We are committed to the smooth processing and delivery of all Election Mail.

Postmarking of Ballots

In recognition of the importance that the election laws in some states place on postmarks, it has been the long-standing policy of the Postal Service to try to ensure that every return ballot mailed by voters receives a postmark, regardless of whether the return ballot is mailed with postage pre-paid by election officials (such as Business Reply Mail) or with a stamp affixed by the voter.

The Postal Service has instructed employees throughout the country about our ballot postmarking processes and procedures and reviewed the standard operating procedures for ballot postmarking. Although we instruct our employees throughout the country to adhere to our ballot postmarking policy, such practice does deviate from normal procedures, since the primary purpose of cancellation is to ensure that postage cannot be reused, and some categories of postage are pre-cancelled before they enter the mailstream. As a result, situations can occur where the policy is mistakenly not observed, and circumstances can arise that prevent ballots from receiving a legible postmark.

A voter can ensure that a postmark is applied to his or her return ballot by visiting any of our more than 30,000 Postal Service retail offices and requesting a postmark from a retail associate when dropping off the ballot.

Service Performance

The Postal Service takes great pride in our delivery record for Election Mail.

- In the 2020 general election, we successfully delivered 99.9% of ballots mailed by voters to election officials within seven days.
- We repeated that success in the 2022 midterm elections, delivering 99.93% of ballots mailed by voters within that seven-day timeframe.



- Between Dec. 1, 2023, and April 30, 2024, we maintained high on-time processing scores for Election and Political Mail, ranging from 97.01% to 98.17%, as reported by the Postal Service Office of the Inspector General.
- Currently, our average mail delivery time is 2.7 days, but Election Mail often surpasses this average, demonstrating our commitment to efficient and timely service.

Mail Returned as Undeliverable

The Postal Service's Performance Excellence team has implemented initiatives to ensure that employees working with our Postal Automated Redirection System (PARS), which intercepts "undeliverable as addressed" mail, adhere to standard work instructions. This helps maintain current conditions and prevents ballots from being mistakenly returned to election officials. The most common reason for a mailpiece being returned to the sender is poor address quality. Regardless of the cause, we are committed to resolving any issues promptly to ensure efficient delivery.

Regarding the Security of the Postal Service, Election Mail and Election Officials

The U.S. Postal Inspection Service ("Postal Inspection Service"), as the federal law enforcement and security arm of the Postal Service, is responsible for defending the nation's mail system from illegal or dangerous use.

The Postal Inspection Service is committed to ensuring the safe and secure delivery of Election Mail, the integrity of Election Mail, and the protection of election officials from threatening and dangerous mail. The Postal Inspection Service serves as a member of the Department of Justice (DOJ) Election Threat Task Force and we work closely with our federal, state, and local law enforcement partners to respond to and investigate reports of suspicious, threatening, and dangerous mail. The Postal Inspection Service employs Postal Inspectors who have specialized training and equipment to respond to and investigate these types of incidents.

In February 2024, the Postal Inspection Service, the Federal Bureau of Investigation (FBI), the Cybersecurity and Infrastructure Security Agency (CISA), and the Election Assistance Commission (EAC) released guidance for the election community on procedures for the handling of mail to protect against threatening and dangerous mail. The Postal Inspection Service also has additional awareness materials available to the election community and the public which provide guidance on the identification of, and response to, suspicious, threatening, and dangerous mail including Poster 84, Suspicious Mail or Packages, and Publication 166, Guide to Mail Center Security.

The Postal Inspection Service has raised awareness among the election community through engagement with, and presentations to, local and state election officials. Postal Inspectors have delivered presentations on procedures for the handling of mail to protect against threatening and dangerous mail to the National Association of State Election Directors (NASD), the National Association of Secretaries of State (NASS), the National Association of Election Officials, and other groups of local and state election officials.

The Postal Inspection Service provides mail room security reviews to local and state election offices and guidance on procedures in handling mail to protect against threatening and dangerous mail.

The Postal Inspection Service provides and oversees security across postal facilities and provide awareness to USPS employees on the reporting of suspicious mail destined to election officials and election offices. All 16 Postal Inspection Service field divisions have designated Election Security Coordinators who coordinate the response to election security concerns involving the mail, and they also coordinate Election Mail Inspections within their divisions. Election Mail Inspections, formerly known as Observations of Mail Conditions, are a process and operational security measure. As part of these inspections, Postal Inspectors and other Postal Inspection Service personnel physically observe Election Mail processing and delivery operations. They review the physical security of Election Mail and the workplace, and they report their findings to Postal Inspection Service and Postal Service leadership so



that corrective action may be taken for any concerns that are identified. Postal Inspectors also provide Postal Service managers and employees with guidance and recommendations to ensure election-related mail is handled securely and properly processed and delivered.

For more information on our efforts to keep Election Mail safe and secure, please visit [Election Mail Security – United States Postal Inspection Service \(uspis.gov\)](https://www.uspis.gov/election-mail-security).

About Overseas Voters

In support of voters eligible under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), we are working closely with the Federal Voting Assistance Program, the U.S. Department of State, and the Department of Defense. We have provided this page of resources for UOCAVA and overseas military voters seeking information on working with their election officials:

<https://about.usps.com/what/government-services/election-mail/>

The Postal Service further recommends that military voters visit - fvap.gov/eo/overview - for return ballot mailing dates.

Voters covered by UOCAVA should monitor possible service disruptions to foreign countries, including service disruptions due to COVID-19. We maintain steady communications with our customers to let them know about possible disruptions that may impact delivery in an affected area via our USPS Service Alerts webpage at: <https://about.usps.com/newsroom/service-alerts/>.

International alerts can be found here: https://about.usps.com/newsroom/service-alerts/international?utm_source=residential&utm_medium=link&utm_campaign=res_to_intl.

Voters should contact their local election officials if their current country of residence is not receiving mail delivery from the United States. UOCAVA voters may return their ballots at a local consulate or embassy, or at Military Post Offices if they have access to the military base or installation.

Commonly Asked Questions

- **How is the Postal Service working to ensure Election Mail is delivered on time?**

In 2024, just as we have in previous elections, the Postal Service will collect, process, transport, and deliver the nation's Election Mail when public policy makers choose to utilize the mail as a part of their election system or when voters choose to use our services to participate in an election. We are employing robust and proven processes to ensure proper handling and delivery of all Election Mail, including ballots.

We continue to recommend as a common-sense measure that domestic voters should mail their completed ballot before Election Day, and at least one week prior to the deadline by which their completed ballot must be received by their local election official.

- **Will the Postal Service deploy the same “extraordinary measures” — dedicated ballot-expediting procedures — in the 2024 general election that it used in 2020 and 2022?**

Yes. We will once again deploy longstanding processes and procedures to securely and timely move the nation's Election Mail, and we will again engage in extraordinary measures beyond our normal course of operations to accelerate the delivery of mailpieces that we can identify as containing ballots. Our successful delivery of the nation's historic Election Mail volume in 2020, as well as in the 2022 election, proves our commitment.

- **Is the Postal Service equipped to handle a surge in mail volume resulting from ballot delivery?**



The Postal Service has more than enough capacity to handle the nation's Election Mail volume in 2024. The Postal Service delivers on average of 433 million pieces of mail. In 2022, Election Mail accounted for just 0.09% of total volume. We are fully capable and committed to delivering all Election Mail securely and timely.

- **What impact will the network changes you are making have on Election Mail?**

The network modernization initiative will result in improved service performance for years to come for our customers, including election officials and voters. The changes will have no bearing on the Postal Service's commitment to fulfilling its role in the electoral process.

- **Are you suspending the removal of blue collection boxes ahead of the general election?**

The Postal Service will use its discretion to avoid unnecessary optics or perception concerns, even when not related to new initiatives, and even when there is no real possibility that they will impact the Election Mail performance of the Postal Service.

For example, management will suspend certain activities around collection management. Changes, such as replacement (unless due to vandalism) or removal of collection boxes, time changes to collections, or changes to eLocks will be suspended between September 1 and November 8.

- **How many ballots are lost or uncounted due to mishandlings or lack of postmarks?**

In the 2020 general election, the Postal Service successfully delivered 99.9% of ballots mailed by voters to election officials within seven days. Regarding uncounted ballots, the Postal Service does not determine which ballots are counted or uncounted after we deliver them.

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