

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 2:14-cv-27456
v.	)	
	)	
THE STATE OF WEST VIRGINIA; and	)	
NATALIE E. TENNANT, Secretary of	)	
State of the State of West Virginia, in her	)	
official capacity,	)	
	)	
Defendants.	)	
_____	)	

**THE STATE OF WEST VIRGINIA’S RESPONSE TO  
THE UNITED STATES’ BRIEF ON THE MERITS**

The State of West Virginia (“State”) does not oppose the relief requested by the United States in its brief on the merits. *See* ECF 17 at 18.

In general, the State continues to believe that every reasonable effort should be made to ensure that all qualified voters under the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) are “permit[ted] . . . to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office.” 52 U.S.C. § 20302(a)(1). UOCAVA thus extends to qualified voters the opportunity to exercise the fundamental right to vote in federal elections. *See id.* *See, e.g., United States v. West Virginia*, No. 14-27456, 2014 WL 6471493, at \*3 (S.D. W. Va. Nov. 18, 2014) (“state officials have taken such steps as necessary to ensure that affected overseas voters . . . have sufficient opportunity to receive, mark and return ballots for the two federal offices”); *Doe v. Walker*, 746 F. Supp. 2d 667, 682 (D. Md. 2010) (“Extending the deadline will allow absent uniformed services and

overseas voters the same opportunity to have their votes counted as is afforded other Maryland voters.”); *United States v. Cunningham*, No. 08-709, 2009 WL 3350028, at \*7 (E.D. Va. Oct. 15, 2009) (“Defendants violated UOCAVA by failing to give UOCAVA voters a reasonable opportunity to execute and return as validly-cast their timely-requested absentee ballots.”); *United States v. Alabama*, 857 F. Supp. 2d 1236, 1242 (M.D. Ala. 2012) (“[E]nsuring that [UOCAVA] voters, many of whom risk their lives at the request of their government, have the opportunity to vote is certainly in the public interest.”); *Bush v. Hillsborough Cnty. Canvassing Bd.*, 123 F. Supp. 2d 1305, 1311 n.11 (N.D. Fla. 2000) (“‘When overseas voters fail to receive their absentee ballots in time to vote and return them[,] . . . [a] solution is to ensure that affected voters . . . nonetheless have an opportunity to vote.’ (quoting H.R. Rep. No. 99-765, at 10, 12-13 (1986))) (ellipses omitted).

Respectfully submitted,

PATRICK MORRISEY  
Attorney General of West Virginia

/s/ J. Zak Ritchie

Richard R. Heath, Jr.

Deputy Attorney General

J. Zak Ritchie

Assistant Attorney General

State Capitol Complex

Bldg. 1, Room E-26

Charleston, WV 25305

Tel. (304) 558-2021

Fax (304) 558-0140

richie.r.heath@wvago.gov

*Counsel for Defendant State of West  
Virginia*

December 12, 2014

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants:

R. BOOTH GOODWIN II  
United States Attorney  
GARY L. CALL  
Assistant United States Attorney  
WV State Bar No. 589  
P.O. Box 1713  
Charleston, WV 25326  
Telephone: (304) 345-2200  
Facsimile: (304) 347-5440  
gary.call@usdoj.gov

VANITA GUPTA  
Acting Assistant Attorney General  
Civil Rights Division  
T. CHRISTIAN HERREN, JR.  
SARABETH DONOVAN  
SPENCER R. FISHER  
Attorneys, Voting Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
Telephone: (202) 305-0015  
Facsimile: (202) 307-3691  
spencer.fisher@usdoj.gov  
sarabeth.donovan@usdoj.gov

MISHA TSEYTLIN  
Deputy Attorney General  
State Capitol Complex  
Bldg. 1, Room E-26  
Charleston, WV 25305  
Telephone: (304) 558-2021  
Facsimile: (304) 558-0140  
misha.tseytlin@wvago.gov

JENNIFER S. GREENLIEF  
Assistant Attorney General  
State Capitol Complex  
Bldg. 1, Room E-26  
Charleston, WV 25305  
Telephone: (304) 558-2021  
Facsimile: (304) 558-0140  
jennifer.s.greenlief@wvago.gov

RICHARD R. HEATH, JR.  
Deputy Attorney General  
State Capitol Complex  
Bldg. 1, Room E-26  
Charleston, WV 25305  
Telephone: (304) 558-2021  
Facsimile: (304) 558-0140  
richie.r.heath@wvago.gov

J. ZAK RITCHIE  
Assistant Attorney General  
State Capitol Complex  
Bldg. 1, Room E-26  
Charleston, WV 25305  
Telephone: (304) 558-2021  
Facsimile: (304) 558-0140  
zak.j.ritchie@wvago.gov

/s/ J. Zak Ritchie

J. Zak Ritchie