

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOHN H. DAVIS, JR.,

Respondent-Appellee,

v.

**COMMONWEALTH ELECTION
COMMISSION; FRANCES M. SABLAN,
Chairperson of the Commonwealth Election
Commission; ROBERT A. GUERRERO,
Executive Director of the Commonwealth
Election Commission, ELOY S. INOS,
Governor of the Northern Mariana Islands,**

Petitioners-Appellants.

No. 14-16090

D.C. No. 14-CV-0002

U.S. District Court for the
Northern Mariana Islands

**DECLARATION OF ROBERT A. GUERRERO IN SUPPORT OF APPELLANTS'
URGENT MOTION**

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DECLARATION OF ROBERT A. GUERRERO

I, Robert A. Guerrero, hereby declare as follows:

1. I am over the age of eighteen (18). I have personal knowledge of the matters stated herein, and if called to testify, could and would testify competently thereto.

2. I am the Executive Director of the Commonwealth Election Commission and have served in that capacity for five years. As part of my statutory duties, I am charged with supervising all Commonwealth elections, maximizing registration, maintaining data regarding voter registration, preparing and providing ballots and other materials necessary for the conduct of elections, and all other duties assigned by the Commission.

3. During early voting (the period beginning on the 46th day before the election for the Northern Islands and the seventh day preceding the election for the remainder of the Commonwealth), ballot boxes are secured with locks and the keys are held by the Public Auditor. On each day of early voting when the polls close, police officers transfer the ballot boxes from the polling stations to the Department of Corrections, where the boxes are stored in a locked room until transported to the polling stations for the next day of early voting.

If the Court so ordered, the ballot boxes could be securely stored in the same fashion that they are stored during early voting until the appeal is decided.

4. At the close of the polls on Election Day, the ballot boxes are transported to the Multipurpose Center in Susupe where the ballots are tabulated. (The early voting ballot boxes are transferred to the Multipurpose Center at approximately 2:00 p.m. on Election Day.)

a. The ballots are tabulated electronically using Election Systems & Software (“ES&S”) tabulating machines (specifically, models M550, M150, and M100).

b. I have confirmed with ES&S that the tabulating machines could be coded in such a manner as to “skip” certain section of the ballots. The proper code needs to be entered into the tabulating machines before the Commission begins tabulating the ballots. If the Court so ordered, the tabulating machines could be programmed to skip Legislative Initiative 18-1.

I declare under penalty of perjury that the foregoing is true and correct, executed this 8th day of October 2014 at Omaha, Nebraska.


Robert A. Guerrero