

Challenges to the 2020 Vote Count in Nevada

Stokke v. Cegavske

(*Andrew P. Gordon, D. Nev. 2:20-cv-2046*)

While the 2020 general-election vote was being counted in Nevada, a federal complaint alleged that a county’s use of signature-matching software for absentee ballots was improper and that media access to vote counting was inadequate. The district judge denied the plaintiffs relief.

Subject: Voting procedures. *Topics:* Signature matching; voting technology; absentee ballots; early voting; news media; intervention; equal protection; matters for state courts; Covid-19; recusal; case assignment.

Two days after the November 3, 2020, general election, two candidate committees, a voter, and a member of the media filed a federal complaint against the secretary of state for Nevada and the registrar of voters for Clark County, the county that includes Las Vegas.¹ The complaint alleged that Clark County was using improper signature-matching software to verify absentee ballots, and the county denied the member of the media an adequate opportunity to view the counting of ballots.² The complaint alleged that the voter returned an absentee ballot by mail without a signature and was wrongfully prevented from voting in person on election day.³ With their complaint, the plaintiffs filed a motion for a temporary restraining order and a preliminary injunction⁴ and a motion for expedited hearing and briefing.⁵

The court initially assigned the case to Judge Gloria M. Navarro, but she recused herself, and the court reassigned the case to Judge Andrew P. Gordon,⁶ who set the case—which was filed during a time of social distancing made necessary by a global Covid-19 infectious pandemic—for a hearing by videoconference on November 6.⁷ A docket entry provided the public with contact information for the hearing and an admonishment not to broadcast or record it.⁸ Judge Gordon reminded participants of the admonishment at the hearing: “Let me put everyone on notice that recording—and this includes the folks on the phone as well—recording, taping, streaming, or otherwise broadcasting district court hearings is expressly prohibited by this court’s General Order 2017-02 and the policies of the Judicial Conference.”⁹

1. Complaint, *Stokke v. Cegavske*, No. 2:20-cv-2046 (D. Nev. Nov. 5, 2020), D.E. 1; see Rory Appleton, *GOP Campaigns, Voter File Lawsuit Alleging Improper Votes in Nevada*, *Las Vegas Rev.-J.*, Nov. 6, 2020, at A1.

2. Complaint, *supra* note 1.

3. *Id.* at 3.

4. Motion, *Stokke*, No. 2:20-cv-2046 (D. Nev. Nov. 5, 2020), D.E. 3.

5. Motion, *id.* (Nov. 5, 2020), D.E. 4.

6. Docket Sheet, *id.* (Nov. 5, 2020) (D.E. 2, 5).

7. Order, *id.* (Nov. 6, 2020), D.E. 11; see Docket Sheet, *supra* note 6 (minutes, D.E. 27).

8. Docket Sheet, *supra* note 6 (D.E. 20).

9. Transcript at 5, *Stokke*, No. 2:20-cv-2046 (D. Nev. Nov. 6, 2020, filed Nov. 17, 2020),

At the hearing, Judge Gordon granted a motion to intervene by a political party, which argued in its motion that the federal suit followed a similar and unsuccessful suit in state court.¹⁰ Judge Gordon expressed a reluctance to “usurp [the] proper role of state legislatures and rewrite state election laws.”¹¹ He denied the plaintiffs immediate relief.¹²

The plaintiffs voluntarily dismissed their case on November 24.¹³

D.E. 30.

10. *Id.* at 7; Docket Sheet, *supra* note 6 (minutes, D.E. 27); Intervention Motion, *Stokke*, No. 2:20-cv-2046 (D. Nev. Nov. 6, 2020), D.E. 10.

11. Transcript, *supra* note 9, at 76.

12. Docket Sheet, *supra* note 6 (minutes, D.E. 27); Transcript, *supra* note 9, at 76–82; *see* Alexander Burns & Jonathan Martin, *New Leading in Pa., Ga. as Count Goes On*, Boston Globe, Nov. 7, 2020, at A1 (“the plaintiffs lacked evidence that the automatic scanner was affecting voters”); *see also* Emily Bazelon, *The Trump Campaign Has Filed 16 Lawsuits Contesting the Election*, N.Y. Times, Nov. 16, 2020, at A16.

13. Voluntary Dismissal, *Stokke*, No. 2:20-cv-2046 (D. Nev. Nov. 24, 2020), D.E. 31.