

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ARCTIC VILLAGE COUNCIL *et al.*,

Plaintiffs,

v.

Case No. 3AN-20-07858 CI

KEVIN MEYER *et al.*,

Defendants.

[PROPOSED] PRELIMINARY INJUNCTION ORDER

On October 5, 2020, the Court granted Plaintiffs Arctic Village Council's, League of Women Voters of Alaska's, Elizabeth L. Jones's, and Barbara Clark's Motion for Preliminary Injunction and requested the parties submit a proposed order detailing how Defendants Kevin Meyer, Gail Fenumiai, and Alaska Division of Elections must implement the Court's order. Accordingly, finding good cause,

IT IS HEREBY ORDERED that the "Witness Requirement" for Absentee Ballots, as required by AS § 15.20.066(b), AS § 15.20.081(d), 6 AAC 25.550, and 6 AAC 25.680 is hereby vacated as an unconstitutional burden on the right to vote in the 2020 General Election during the COVID-19 pandemic.

IT IS FURTHER ORDERED:

(1) Defendant Alaska Division of Elections ("the Division") must count all returned absentee ballots for the 2020 General Election without witness signatures, provided that they satisfy all other requirements.

(2) The Division must send all voters to whom it sent absentee ballots a separate mailing as soon as practicable explaining that they do not need to have their ballots witnessed given the COVID-19 pandemic.

(3) As soon as practicable, the Division will send out an email to the list the Division has from the Permanent Fund Dividend Division that includes voters who applied for a PFD this year explaining that they do not need to have their ballots witnessed for the 2020 general election.

(4) Defendants must train all persons who count absentee ballots on the absentee ballot counting boards to count those ballots without witness signatures, provided that they satisfy all other requirements.

(5) The Division must post on its social media accounts, including but not limited to Facebook, www.facebook.com/akelections, and Twitter, www.twitter.com/ak_elections, notifications that the Witness Requirement is not in effect for the 2020 General Election and that voters do not need to have their absentee ballots witnessed. The first social media notifications will be posted shortly after this final order is issued and then on a weekly basis through the day of the election.

(6) Defendant Kevin Meyer must post on his official social media accounts, including, but not limited to, Facebook, <https://www.facebook.com/LtGovMeyer/>, and Twitter, <https://twitter.com/litgovmeyer>, notifications that the Witness Requirement is not in effect for the 2020 General Election and that voters do not need to have their absentee ballots witnessed. Defendant Meyer may fulfill this requirement by immediately re-

posting, sharing, and retweeting posts from the Division on its own social media accounts within a reasonable amount of time.

(7) The text of the above posts should read, “Recently, a court decided that voters do not need to have their by mail ballot witnessed. This is only for the November 2020 general election. Voters must still sign and provide an identifier on the back of the envelope. It is recommended for voters to date their signature.”

(8) The Division must issue a press release announcing that the Witness Requirement is suspended for the 2020 General Election and voters do not need to have their absentee ballots witnessed.

(9) The Division must make the following modifications to its website:

(i) On its “Press Releases and Public Service Announcements” page, <https://www.elections.alaska.gov/Core/pressreleasesandpublicserviceannouncements.php>, the Division must post an announcement that the Witness Requirement is suspended for the 2020 General Election and voters do not need to have their absentee ballots witnessed.

(ii) On its “Public Notice” page, <https://www.elections.alaska.gov/Core/publicnotice.php>, the Division must create a new heading and post an announcement that the Witness Requirement is suspended for the 2020 General Election and voters do not need to have their absentee ballots witnessed.

(iii) On its homepage, <https://www.elections.alaska.gov/>, the Division must post under “News” the press release that the Witness Requirement is suspended for

the 2020 General Election and voters do not need to have their absentee ballots witnessed.

(iv) On its “Early and Absentee Voting Options” page, <https://elections.alaska.gov/Core/AKVoteEarly.php>, the Division must: (A) post under “Absentee Voting By-Mail FAQ” a new FAQ to the effect of: “Do I need a witness signature for my absentee ballot?” “No. Recently, a court decided that voters do not need to have their by mail ballot witnessed. This is only for the November 2020 general election. Voters must still sign and provide an identifier on the back of the envelope. It is recommended for voters to date their signature. This applies to by-mail, by-fax, and online absentee ballots. Un-witnessed ballots will still be counted. If you do have your ballot witnessed, your vote will still count.”; (B) remove the FAQ entitled “What does reasonably accessible mean regarding witnessing?”; and (C) modify the answer for “If I have a Power of Attorney (POA) can I sign the ballot envelope for the voter?” to indicate that the Witness Requirement is not required for the 2020 General Election.

(v) On its “By-Mail Ballot Delivery” page, <https://www.elections.alaska.gov/Core/votingbymail.php>, the Division must: (A) include a notification that the Witness Requirement is suspended for the 2020 General Election and voters do not need to have their absentee ballots witnessed; and (B) under “How to Vote your By-Mail Ballot,” modify the instructions to state that the Witness Requirement is suspended for the 2020 General Election and voters do not need to have their absentee ballots witnessed.

(vi) On its “By-Fax Ballot Delivery” page,

<https://www.elections.alaska.gov/Core/votingbyfax.php>, the Division must: (A) include a notification that the Witness Requirement is suspended for the 2020 General Election and voters do not need to have their absentee ballots witnessed; and (B) under “How to Vote your By-Mail Ballot,” modify the instructions to state that the Witness Requirement is suspended for the 2020 General Election and voters do not need to have their absentee ballots witnessed.

(vii) On its “Online Ballot Delivery” page,

<https://www.elections.alaska.gov/Core/votingbyonline.php>, the Division must: (A) include a notification that the Witness Requirement is suspended for the 2020 General Election and voters do not need to have their absentee ballots witnessed; and (B) under “How to Vote your By-Mail Ballot,” modify the instructions to state that the Witness Requirement is suspended for the 2020 General Election and voters do not need to have their absentee ballots witnessed.

(10) The Division previously purchased television ad space for the 2020 general election, but the Division may not be able to change or add to the ads at this late date. If the Division determines it is possible, the Division will include information on the elimination of the ballot witnessing requirement in some of its ads.

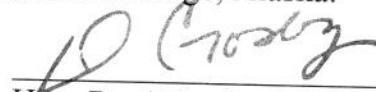
(11) The Division must create a short Public Service Announcement (“PSA”) explaining that the Witness Requirement is suspended for the 2020 General Election and that voters do not need to have their absentee ballots witnessed. The Division will distribute

the PSA to Alaska radio stations, but the Division has no control over whether the radio stations play the PSA.

(12) The Division will contact community get-out-vote organizations, tribal organization, Native Corporations, and political parties for which the Division already has an email or mailing address and encourage them to notify voters of the elimination of the witness requirement.

(13) In the event the Supreme Court of Alaska affirms this Court's injunction or denies Defendants' petition for review to the Supreme Court, Defendants will be fully prepared and ready to effectuate immediately all the relief set forth in this Order, with the exception of printing postcards and making television advertisements, without further delay. Defendants will not use any additional time or delay caused by the stay as a defense for not being able to comply with the terms of this Preliminary Injunction Order.

DATED this 13th day of October, 2020, at Anchorage, Alaska.



Hon. Dani Crosby
Superior Court Judge

I certify that on 10/13/2020
of the following was mailed/faxed/hand-delivered
to each of the following at their addresses of record

CCF

S. Kodwiler / M. Rabinowitz

Administrative Assistant

W. Furlong
N. Landreth
M. Newman
L. Harrison
M. Paton-Walsh