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

DANIEL J. SULLIVAN, Appellant, v. STATE OF ALASKA, DIVISION OF ELECTIONS, Appellee.	)	Case No. 3AN-26-0748 CI

ON APPEAL FROM
A FINAL DETERMINATION OF THE DIVISION OF ELECTIONS

BRIEF OF APPELLEE
ALASKA DIVISION OF ELECTIONS

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AUTHORITIES PRINCIPALLY RELIED UPON

United States Constitution, Article I, Section 4, Clause 1

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

Alaska Statute 15.15.010

> The director shall provide general administrative supervision over the conduct of state elections, and may adopt regulations under AS 44.62 (Administrative Procedure Act) necessary for the administration of state elections. The director shall adopt regulations that establish for the broadcasting of notices under AS 15.15.070 the frequency of the broadcasts, appropriate broadcast times, and the locations for the broadcasts. The broadcasting regulations must be reasonably calculated to provide the widest possible exposure of the notices.

Alaska Statute 15.15.030(1) through (5)

> The director shall prepare all official ballots to facilitate fairness, simplicity, and clarity in the voting procedure, to reflect most accurately the intent of the voter, and to expedite the administration of elections. The following directives shall be followed when applicable:
>
> (1) The director shall determine the size of the ballot, the type of print, necessary additional instruction notes to voters, and other similar matters of form not provided by law.
>
> (2) The director shall number ballots in series to ensure simplicity and secrecy and to prevent fraud.
>
> (3) The director shall contract for the preparation of ballots under AS 36.30 (State Procurement Code).

(4) The director may not include on the ballot, as a part of a candidate's name, any honorary or assumed title or prefix but may include in the candidate's name any nickname or familiar form of a proper name of the candidate.

(5) The names of the candidates shall be placed in separate sections on the state general election ballot under the office designation to which they were nominated. If a candidate is registered as affiliated with a political party or political group, the party affiliation, if any, may be designated after the name of the candidate, upon request of the candidate. If a candidate has requested designation as nonpartisan or undeclared, that designation shall be placed after the name of the candidate. If a candidate is not registered as affiliated with a political party or political group and has not requested to be designated as nonpartisan or undeclared, the candidate shall be designated as undeclared. The lieutenant governor and the governor shall be included under the same section. Provision shall be made for voting for write-in candidates within each section. Paper ballots for the state general election shall be printed on white paper.

6 AAC 25.260

(a) Any person may question the eligibility of a candidate who has filed a declaration of candidacy with the director for statewide or districtwide office, by filing a complaint with the director. A complaint regarding the eligibility of a candidate must be received by the director not later than the close of business on the 10th day after the filing deadline for the office for which the candidate seeks election.

(b) The complaint must be in writing and include the name, mailing address, contact phone number, and signature of the person making the complaint, and a statement in 200 words or less of the grounds, described in particular, on which the candidate's eligibility is being questioned.

(c) The director's review under this section is limited to the grounds cited in the complaint that are related to candidate qualifications addressed in the candidate's declaration of candidacy. The director may not consider other grounds cited in the complaint, including grounds related to issues under the authority of the Alaska Public Offices Commission under AS 15.13.

(d) Upon receipt of a complaint, the director will review any evidence relevant to the issues identified in the complaint which is in the custody of the division, including the candidate's registration record or declaration of candidacy, and including, in the

discretion of the director, any other document of public record on file with the state. Based on the review of the public documents, the director will determine whether a preponderance of evidence supports or does not support the eligibility of the candidate.

(e) The director will send notification in writing to the candidate whose eligibility is being questioned that a complaint has been received. The notification will include a copy of the complaint, and, based on the director's review of the public documents, a statement as to whether a preponderance of evidence supports or does not support the eligibility of the candidate.

(f) If the director determines that a preponderance of evidence supports the eligibility of the candidate, the director will issue a final determination upholding the candidate's eligibility.

(g) If the director determines that a preponderance of evidence does not support the eligibility of the candidate, notice to the candidate will identify any additional information or evidence that must be provided by the candidate in support of his or her eligibility, and the date by which the requested information must be received by the director. The director will consider any additional information provided by the candidate in issuing a final determination as to the candidate's eligibility.

(h) If the information requested by the director under (g) of this section is not received from the candidate by the specified deadline, the director will issue a final determination regarding the candidate's eligibility based on the public records initially reviewed.

(i) Upon issuing a final determination as to the candidate's eligibility, the director will send notice of the determination in writing to the person making the complaint and to the candidate. The determination of the director is final.

(j) Nothing in this section limits the authority of the director to evaluate a candidate's eligibility for office, as addressed in the candidate's declaration of candidacy, in the absence of a complaint.

I. RESTATEMENT OF ISSUE PRESENTED

The Division of Elections disagrees with Appellant's statement of the issue presented by his appeal. The issue presented for this Court's review is:

1. Whether Appellant Daniel J. Sullivan properly filed his declaration of candidacy for the office of United States Senator and is therefore entitled to have his name placed on the ballot for that office when the preponderance of the evidence in the Division's possession demonstrates that he filed his declaration of candidacy for the purpose of confusing or misleading voters, compromising the fairness and neutrality of the ballot and to harm the ballot's ability to accurately reflect the intent of the voter?

II. STATEMENT OF FACTS

A. Appellant Files a Confusing Declaration of Candidacy

It is relatively easy to file for office in Alaska's primary election. The Division of Elections operates a user-friendly website for candidates and voters.[1] The Division provides clear instructions and forms for filing for office, including both the qualifications for office [R. DOE 001], and declarations that include the additional state and federal filing requirements. [R. DOE 002-008] For the office of United States senator, qualifications for holding office are set by Article I, Section 3 of the U. S. Constitution. State filing requirements are described in the Candidate Filing Packet. [R. DOE 002-008] As part of these requirements, a candidate must complete a Declaration of Candidacy [R. DOE 004]

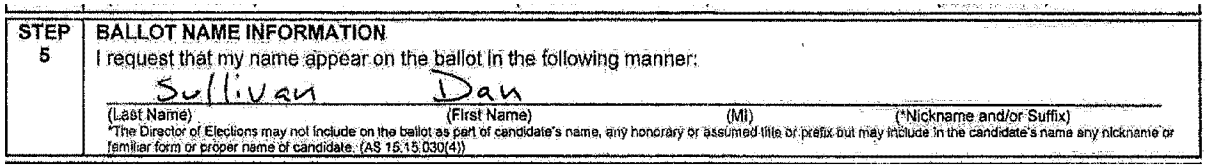
[1] https://www.elections.alaska.gov/

Step 4 of the declaration requires that the candidate provide their campaign website. *Id.* Step 5 of the declaration requires the candidate to spell out exactly how they would like their name to appear on the ballot. *Id.*

The incumbent Senator Dan Sullivan filed his declaration of candidacy for reelection to the U.S. Senate on July 11, 2025. [R. DOE 009-010] In Step 5 of the Declaration, he asked that his name appear on the ballot as "Sullivan, Dan." [R. DOE 009] He also appeared this way in his previous election to this office.[2]


STEP 5 | BALLOT NAME INFORMATION
I request that my name appear on the ballot in the following manner:
Sullivan (Last Name) Dan (First Name) (MI) (*Nickname and/or Suffix)
*The Director of Elections may not include on the ballot as part of candidate's name, any honorary or assumed title or prefix but may include in the candidate's name any nickname or familiar form or proper name of candidate. (AS 15.15.030(4))

On May 29, 2026, Appellant emailed the Division his declaration of candidacy for U.S. Senate. [R. DOE 010-011] Despite his knowledge of the sitting senator named Dan Sullivan, Appellant captioned his transmittal email "Declaration of Candidacy – Dan Sullivan." *Id.* In his declaration of candidacy, Appellant expressly asked to appear on the ballot as "Sullivan, Dan"—the exact same name by which voters have come to know the incumbent junior senator for the State of Alaska. *Id.*


STEP 5 | BALLOT NAME INFORMATION
I request that my name appear on the ballot in the following manner:
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*The Director of Elections may not include on the ballot as part of candidate's name, any honorary or assumed title or prefix but may include in the candidate's name any nickname or familiar form or proper name of candidate. (AS 15.15.030(4))

[2] *See* 2020 Alaska Republican Party Primary Ballot, https://www.elections.alaska.gov/election/2020/Primary/SampleBallots/HD1%20REP.pdf.

With his declaration, Appellant Sullivan also changed his party designation from undeclared to Republican. [R. DOE 011] In short, on the eve of the deadline for filing, Appellant for the first time presented the Division with an unprecedented situation—a declaration asking to appear on the ballot with an identical name and party designation as an incumbent. Appellant's declaration did not suggest any practical means for the Division to differentiate him from the sitting Senator Sullivan.

After initial review using an intake screening checklist [R. DOE 013], the Division issued form certification letters to all candidates who satisfied the checklist. [R. DOE 016-021] But during further review, the Division realized it faced a serious issue with two candidates asking to appear exactly the same way on the ballot. On June 1, Division Director Carol Beecher emailed both Senator Sullivan and Appellant, considering their identical requests to be placed on the ballot as "Sullivan, Dan," how they wanted to appear on the primary ballot. Director Beecher identified the Division's obvious goal: avoiding voter confusion. [R. DOE 047, 053]

B. The Division Receives Allegations of Appellant's Intent to Deceive

Also on June 1, the Division received a letter with several attachments from the National Republican Senatorial Committee ("NRSC"). This letter made detailed and concerning allegations that Appellant filed his declaration of candidacy with a deliberate intention to confuse and mislead voters. [R. DOE 022-046] Among other points, the letter from the NRSC observed that Appellant's campaign website listed under Step 4 of his declaration of candidacy used a format, color scheme, and overall design similar to the

campaign website of the incumbent Senator. [R. DOE 026, 038-39]

Appellant responded to the NRSC's allegations with a letter to the Division on June 3 arguing that he met all the legal requirements for filing. [R. DOE 048-050] He did not at this time respond to the Division's invitation to suggest how he would like his name to appear on the ballot to ameliorate voter confusion. [Id.] On June 8, Director Beecher emailed Appellant again asking for clarification as to how he wanted to appear on the ballot. [R. 052] Appellant's bewildering response was to ask to appear as "Dan S. Sullivan" using the middle initial of the sitting senator even though Appellant's middle initial is "J." [R. 052]

In light of Appellant's confusing declaration of candidacy, his bewildering request to be listed on the ballot with the sitting Senator's middle initial, and concerning allegations from the NRSC, the Lieutenant Governor sent a letter to the candidate on June 8 providing him yet another opportunity to clarify his candidacy with an affidavit to assist the Division in carrying out its mission to safeguard voter intent and provide a clear and impartial ballot. [R. 054-056] Appellant refused to attest to the questions posed by the Lieutenant Governor, choosing to instead respond by email challenging the Lieutenant Governor's authority investigate the unique circumstances presented by his declaration of candidacy. [R. DOE 057-059]

On June 10, the Division received two complaints challenging Appellant's eligibility under 6 AAC 25.260. These complaints, filed by the Chairman of the Alaska Republican Party, were based on the confusing and misleading nature of Appellant's

declaration of candidacy. The first alleged that Appellant misrepresented his party affiliation given that he had never before affiliated as a Republican in Alaska. [R. DOE 060-085]. The second complaint alleged that Appellant's entire declaration of candidacy was filed for the unlawful purpose of causing voter confusion rather than seeking office [R. DOE 086-126]. The director issued a preliminary determination of ineligibility on June 10 and provided Appellant with another opportunity to provide any additional information to respond to the complaints. [R. DOE 127]. Appellant did not respond.

C. The Division Determines Appellant is Ineligible

Without any additional evidence rebutting the complaints or the evidence on the face of Appellant's declaration of candidacy and in the agency record, the Division found, consistent with the second complaint, that Appellant's declaration of candidacy was filed with the purpose of confusing or misleading the electorate and compromising the fairness of the ballot. The Division issued a final determination on June 15, finding the preponderance of evidence did not support Appellant's eligibility. [R. 128-130] The Division also noted that ballots were scheduled to be printed on June 28.[3]

III. STANDARD OF REVIEW

Appellant has chosen to bring this matter as an administrative appeal. Hence, this court's review of the Division's final determination is as an appellate court and governed by AS 44.62.570. Questions of law are reviewed de novo. *Vasquez v. State,* 403 .3d 1178,

[3] The Division has since clarified that the very latest that ballots can be printed is June 30 at noon. At the request of the court during a status conference on June 23, the Division submits with this brief the Affidavit of Director Carol Beecher.

1185 (Alaska 2024). However, where a question of law involves agency expertise, the court "will defer to an agency's interpretation of a question of law that involves agency expertise so long as the interpretation is supported by the facts and has a reasonable basis in law." *State v. Jeffery*, 170 P.3d 226, 231 (Alaska 2007) (deferring to Division of Elections' interpretation of minimum requirements for judicial declarations of candidacy).

IV. ARGUMENT

This eleventh-hour appeal challenges the Division of Elections' June 15 determination that a candidate was ineligible who declared an intent to appear on the ballot as "Dan Sullivan," a name indistinguishable from the name of one of Alaska's sitting senators. Tellingly, Appellant Sullivan does not appeal the substance of the Division's decision, which was based on clear evidence that he sought to access the ballot in a manner designed to sow confusion and to compromise the fairness and neutrality of the election. Instead, he argues only that the Division is somehow not allowed to notice his attempt to subvert Alaska's primary election. But Alaska law requires the Division to determine whether a declaration of candidacy is properly filed. Given Appellant Sullivan's obvious purpose, his was not.

To be sure, the facts and circumstances raised by the Appellant's declaration of candidacy are unlike any before presented to the Division. Throughout its history, the Division has consistently adapted to novel circumstances to safeguard the intent of Alaska's voters and to ensure that every ballot can be accurately counted. The Division's actions here reflect not a slippery slope, but a necessary and principled line drawn to

prevent manipulation of the ballot, to protect voters from purposeful confusion, and to preserve the integrity of the electoral process. In taking this step, the Division acted in furtherance of its core responsibility: maintaining fair, neutral, and trustworthy elections.

Moreover, the court should refuse to consider this appeal, filed over a week after the Division's decision and in the shadow of Alaska's ballot certification deadline. The Division's decision also fully comported with the U.S. Constitution as a proper regulation of the "Manner" of holding elections under the Election Clause and not an additional qualification for being a Senator. If the Petition is not dismissed outright, the Court should affirm the decision and protect Alaskans' right to vote.

A. Appellant Sullivan's Appeal is Barred by the Doctrine of Laches

Alaska is just days away from certifying the ballot for the upcoming primary election. The Court should deny Appellant's requested relief because his own delay created the emergency he now asks this Court, the Division, and the public to absorb. The Division issued its final eligibility determination on June 15, and Appellant knew of eligibility concerns since at least June 1, when a publicized letter raised concerns with the Division of Elections. Appellant Sullivan responded to this publicized letter on his own on June 3. A subsequent letter from the Lieutenant Governor to Appellant Sullivan followed on June 8, and after complaints were filed on June 10, the Division issued a notice of preliminary determination of ineligibility later that day. Despite more than three weeks of notice of legal objections to Appellant's eligibility, he waited until June 22 to challenge the Division's final determination—leaving only days before the ballot certification deadline.

A party seeking equitable relief must act with reasonable diligence, and that "is true in election law cases as elsewhere." *Benisek v. Lamone*, 585 U.S. 155, 159 (2018). In election cases, laches bars relief when unreasonable delay prejudices the opposing party or the administration of justice. *Lubin v. Thomas*, 144 P.3d 510, 511 (Ariz. 2006). Laches is an equitable doctrine that bars parties from relief when their own unreasonable delay prejudices the opposing party. "To bar a claim under laches, a court must find both an unreasonable delay in seeking relief and resulting prejudice to the defendant." *Kollander v. Kollander*, 322 P.3d 897, 903 (Alaska 2014) (citation omitted).

The lost time matters because June 30 is the operative election-administration deadline (for printing of ballots), and a plaintiff who waits until the final days before an election deadline forces the State and the courts into a needless "judicial fire drill." *Crookston v. Johnson*, 841 F.3d 396, 398 (6th Cir. 2016). In election litigation, "timing is everything," and courts deny last-minute injunctions when delay deprives election officials and courts of time to address election-law issues responsibly. *Id.* at 398–400.

1. Appellant unreasonably delayed bringing this action.

Appellant has unreasonably delayed bringing this lawsuit. He had full knowledge of the grounds for this challenge by June 15. In his motion before this court, Appellant identifies no valid reason for waiting until June 22 to bring this action. Nor can Appellant avoid laches by invoking ballot-access rights. Courts routinely reject last-minute relief even when plaintiffs assert important constitutional interests because election cases require diligence precisely due to the public importance of the issues. *State v. Galvin*, 491 P.3d

325, 338 (Alaska 2021); *Crookston*, 841 F.3d at 398; *Republican Party of Pa. v. Cortés*, 218 F. Supp. 3d 396, 401 (E.D. Pa. 2017); *Memphis A. Phillip Randolph Institute v. Hargett,* 473 F.Supp.3d 789, 801-802 (M.D. Tenn. July 21, 2020).

2. Delay causes prejudice to Defendants and the Judiciary.

The delay here is prejudicial because it consumed nearly half of the already compressed period between the Final Decision and the June 30 ballot printing deadline. This leaves the Division and the Court to address an emergency ballot-access appeal—within days—while the Division carries out mandatory election-administration duties. The prejudice here is concrete. Alaska's election calendar required the Division to work toward the June 28 certification deadline and ballot printing on June 30; Appellant's unexplained delay forces the Division to defend an appeal, assemble and present the administrative record, brief the legal issues, and protect the ballot-certification process on an expedited basis. Likewise, the delay prejudices the courts: unreasonable delay "compel[s] the court to steamroll through … delicate legal issues in order to meet" election deadlines, *Lubin*, 144 P.3d at 512 (citation omitted), and harms "the quality of decision making in matters of great public importance." *Sotomayor v. Burns*, 13 P.3d 1198, 1200 (Ariz. 2000).

In sum, this is precisely the self-created election emergency laches exists to prevent. For these reasons, the Court should deny Appellant's requested relief. He knew the facts and legal basis for his challenge by at least June 15, with practical notice weeks earlier, and yet he offers no reason for waiting until June 22 to file. The Court should not allow

Appellant to transform his lack of diligence into an emergency for the Division, the judiciary, and Alaska's election process.

B. The Director Correctly Determined that Appellant Sullivan's Declaration of Candidacy was Not Properly Filed.

"The right to vote 'is fundamental to our concept of democratic government.' '[It] encompasses the [voter's] right to express [the voter's] opinion and is a way to declare [the voter's] full membership in the political community.'" *Miller v. Treadwell*, 245 P.3d 867, 868-69 (Alaska 2010) (internal citation omitted). The Division is charged with, among other things, supervising "the conduct of state elections." AS 15.15.10. Consistent with this charge, the Division prepares "all official ballots to facilitate fairness, simplicity, and clarity in the voting procedure, to reflect most accurately the intent of the voter, and to expedite the administration of elections." AS 15.15.030. In doing so, the Division must be cognizant that "[t]he purpose of holding elections is to ascertain the public will." *Boucher v. Bomhoff*, 495 P.2d 77, 79 (Alaska 1972). Thus, ballots must be able to fairly convey voter intent. *Id.* In fact, the Alaska Supreme Court held it was malconduct for the Division to prepare a ballot with language that "was inherently misleading." *Id.* at 81.

Here, Appellant filed a declaration of candidacy with the purpose of causing the Division to prepare a ballot that would be inherently misleading. Because Alaska's law—consistent with its constitutional authority to regulate the time place and manner of elections—doesn't permit the Division to do this, it correctly determined Appellant to be ineligible.

1. States Have a Duty to Protect their Ballots Against Voter Confusion Caused by Persons Asking for Ballot Access for a Reason other than Seeking Office.

The Constitution expressly recognizes the broad power of States to regulate the "Times, Places and Manner of holding Elections." Art. I, § 4, cl. 1. As such, "States may, and *inevitably must*, enact reasonable regulations of parties, elections, and ballots to reduce election and campaign-related disorder." *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997) (emphasis added). Among other things, states may regulate the number of candidates on the ballot "to avoid undue voter confusion." *Amer. Party of Texas v. White*, 415 U.S. 767, 783, n.14 (1974). Regulations affecting who may appear on the ballot as a candidate often serve the "important state interest .... in avoiding confusion, deception, and even frustration of the democratic process...." *Jenness v. Forston*, 403 U.S. 431, 442 (1971). "[B]allots serve primarily to elect candidates, not as forums for political expression." *Timmons*, 520 U.S. at 363. *See also Walden v. Kosinski*, 153 F.4th, 118, 138 (2d Cir. 2025) (holding that "*Timmons* compels us to conclude that political actors are 'not entitled to use the ballot to send a particular message.'")

Recognizing the duty of states to protect against voter confusion, deception, and frustration of the democratic process, courts have held that persons not truly seeking office do not have a right to access the ballot, particularly when they seek access under a name that would inherently mislead voters. For example, in *State ex rel. Johnson v. Marsh*, the Nebraska Supreme Court affirmed the decision of the Nebraska Secretary of State to

exclude Arthur Fred Johnson from the Republican Party primary ballot for the office of auditor. 232 N.W. 104, 104 (Neb. 1930). The court noted that Mr. Johnson "was not intending to be a good faith candidate for said office but to confuse his name with that of Fred H. Johnson, a good faith candidate who has already filed for the same office and who is affiliated with same party." *Id.* The court held that "to permit this to be done would be to sanction a patent fraud upon the [Secretary of State], upon a good faith candidate, *and particularly upon the electors who are entitled under the law to have their identification of candidates unobscured by trickery and fraud.*" *Id.* (emphasis added).

Similarly, in *Planas v. Planas*, Florida's District Court of Appeal affirmed the disqualification of a candidate for state representative. 937 So.2d 745, 745 (Fla. Dist. Ct. App. 2006). The disqualified candidate sought ballot access under the name "J.P. Planas," a name he had never used for official business. *Id.* at 746. He ostensibly challenged an incumbent legislator who had long used the name "J.C. Planas." *Id.* The court held that because the candidate "did not act in the good faith and honest purpose required of all candidates," he was properly disqualified. *Id.* (internal citations and quotations omitted). And in *None of the Above v. Hardy*, an ostensible candidate for Louisiana governor filed for office under his legal name: Luther Devine Knox. 377 So. 2d 385, 386 (La. Ct. App. 1979). A month after he was certified to the ballot under "Luther Devine Knox," he legally changed his name to "None-Of-The-Above." *Id.* He then demanded that the Secretary of State use his new name on the ballot. *Id.* The Secretary of State refused on the ground that "None-Of-The-Above" would confuse voters who might think they were registering

displeasure with all candidates when they would instead be affirmatively voting for the former Mr. Knox. *Id.* Noting that the former Mr. Knox had admitted he "has no hope of being a serious candidate" and "his sole purpose is to arouse interest in the adoption of a None of the Above" voting option, the court affirmed the Secretary's decision refusing to change Mr. Knox's name on the ballot. *Id.* at 387.

In sum, where state election administrators and courts have confronted circumstances like those presented in this case—an ostensible candidate who has by all appearances deliberately sought ballot access for the purpose of confusing and misleading voters rather than to affirmatively seek office in his own right—they have responded by refusing to permit such tactics. Alaska may not have previously encountered these specific tactics, but these decisions illustrate an important principle: state election officials and courts are not powerless when confronted with an effort to use the ballot itself to undermine the franchise. Such refusal to allow the deliberate misuse of the ballot is perfectly consistent with states' necessary and constitutional regulation of elections.

2. Like Other States, Alaska Law Protects the Fairness and Integrity of the Ballot by requiring Declarations of Candidacy to be Properly Filed and Requiring the Director to Review Complaints that a Declaration was not Properly Filed.

Alaska, like other states, has enacted laws and regulations protecting the fairness and neutrality of the ballot. Alaska law requires the Division, through the Director, to "provide general administrative supervision over the conduct of state elections." AS 15.15.010. The Director is also charged with preparing "all official ballots to facilitate

fairness, simplicity, and clarity in the voting procedure, to reflect most accurately the intent of the voter, and to expedite the administration of elections." AS 15.15.030. For Alaska's non-partisan primary election, the Director is required to prepare the ballots "in the manner prescribed for general election ballots except as specifically provided otherwise for the primary election." AS 15.25.060. The Director is specifically required print only the names of "all candidates who have *properly filed*" on the primary ballot in "groups according to offices." *Id.* (emphasis added). To be sure, the statute's requirement of proper filing is more than a bare requirement to list all candidates who have simply filed a declaration of candidacy. *See Yute Air Alaska, Inc. v. McAlpine*, 698 P.2d 1173, 1179 (Alaska 1985) (contrasting AS 15.45.190 which provides that a ballot proposition be placed on the first statewide election held after "the petition has been filed" with AS 15.45.180 requiring preparation of a ballot title and proposition only if a petition is "properly filed").

Alaska law allows any person to challenge a candidate's eligibility for placement on the ballot. AS 15.25.060(a). Such a challenge goes to whether the candidate's petition was properly filed such that the candidate is entitled to placement on the ballot by the Director under AS 15.25.060. When such a complaint is filed, the Director "shall determine eligibility under regulations adopted by the director." AS 15.25.042(a). The Director makes this determination "by a preponderance of the evidence." AS 15.25.042(b). The regulation governing adjudication of complaints regarding candidate eligibility provides, among other things, that the Director "will review any evidence relevant to the issues identified in the complaint which is in the custody of the division," including "the candidate's registration

record or declaration of candidacy," and "any other document of public record on file with the state." 6 AAC 25.260. Upon review of such records, the Director "will determine whether a preponderance of evidence supports or does not support the eligibility of the candidate." *Id.*

Hence, under Alaska law, the Director has a duty to determine, based on records on file with the state, whether a given declaration of candidacy has been properly filed. Appellant makes much of the fact that the Director's review "is limited to the grounds cited in the complaint that are related to candidate qualifications addressed in the candidate's declaration of candidacy" (App. Br. at 9 citing 6 AAC 25.260(c).) In so doing, he whistles past the graveyard: the second step in a declaration of candidacy is an affirmative declaration that the person filing the declaration is a candidate seeking election to office. That same step includes an affirmative declaration of the candidate's party affiliation and a request that this affiliation appear on the ballot. The fourth step asks the candidate to provide information about his website. The fifth step is an ostensible candidate's request regarding the name under which he will appear on the ballot. *See* AS 15.25.030 (providing requirements for declaration of candidacy). Just as the Director must verify a candidate's residential address to confirm that he or she has truly declared his or her residence, when presented with circumstances like those in this case, the Director must evaluate, based on documents of public record on file with the state, whether the candidate is seeking ballot access in order to render the ballot inherently misleading. If the ostensible candidate's aim is to confuse, mislead or otherwise frustrate the conduct of the election, his or her

declaration of candidacy is not properly filed with the Division, just as a declaration is not properly filed if a candidate lists an address at which he is not registered to vote.

3. The Preponderance of Evidence in the Division's Possession Demonstrates Appellant Sullivan's Declaration of Candidacy was not Properly Filed.

Here, the Director received a specific complaint credibly alleging that Appellant Sullivan filed his declaration to cause voter confusion and compromise the fairness of the primary ballot. The complaint specifically alleged that:

- Appellant was seeking ballot access under a name, "Dan Sullivan," that he had not used before. Indeed, over email he requested to be listed as "Dan S. Sullivan," which appropriated incumbent Senator Sullivan's middle initial.
- Appellant was seeking to have a party designation placed next to his name on the primary ballot (Republican) even though he had not, before filing his declaration of candidacy, previously affiliated with the Republican Party;
- Appellant was doing both these things in order that he might be confused with another declared candidate, the incumbent Republican Senator Dan Sullivan; and
- That the website listed on Appellant's declaration of candidacy and materials on that website, demonstrated an intent to deceive and/or confuse voters as the website used a template very similar to the website for Senator Sullivan and included a press release that appeared to have been authored by a consultant for one of Senator Sullivan's Democratic opponents.

After reviewing Appellant Sullivan's declaration of candidacy, the information contained in that declaration, and other records in the Division's possession, including his past voter registration, these allegations appeared true. Specifically, Appellant Sullivan had consistently used the name "Daniel J. Sullivan" or "Daniel J. Sullivan, Jr." in his voter registration records on file with the Division. Appellant had never—until May 29, the day he first attempted to file an electronic declaration of candidacy—affiliated as a Republican

in the Division's records. Appellant Sullivan's website—accessed at the address he provided in step 4 of his declaration of candidacy—was as described in the complaint. When compared with Senator Sullivan's website (accessed at the address provided in Senator Sullivan's publicly filed declaration of candidacy), Appellant Sullivan's site was strikingly similar.

As a result, the Director informed Appellant Sullivan on June 10 that the preponderance of the evidence in the Division's possession pursuant to 6 AAC 25.260 appeared to show he was ineligible. This letter asked him to provide a declaration under oath that would rebut these allegations and permit the Director to come to another conclusion. Appellant refused to do so. On this record, the Director concluded that his declaration of candidacy "was not properly filed with the Division" as required under AS 15.25.060, because it was "filed with a purpose to confuse or mislead and to thereby compromise the ballots' fairness or neutrality." [R. DOE 128]

Indeed, Appellant still does not contest the veracity of the Director's determination regarding his purpose in filing his declaration of candidacy. He argues only the Director's ability to notice his attempt to force the Division to create a ballot that is inherently misleading. But no Alaska law requires the Director—and by extension Alaska's capable and professional election administrators—to pretend that a declaration of candidacy filed for the obvious purpose of imperiling the fairness and neutrality of Alaska's ballot entitles its filer to use Alaska's ballot to undermine Alaskans' exercise of the right to vote. Because the Director was within her authority to determine that Appellant Sullivan's declaration

was not properly filed under these unique circumstances, this Court should affirm the Director's decision to safeguard the primary ballot.

C. The U.S. Constitution Does Not Require Alaska to Place a Candidate on the Ballot Where the Preponderance of the Evidence Shows the Candidate is Seeking Ballot Access in Order to Compromise the Fairness of the Ballot.

Appellant makes a final argument, without any direct precedent, that the U.S. Constitution requires Alaska to place a candidate on the ballot who seeks to deliberately confuse voters and frustrate the fair administration of an election. That rests on a false premise: that any state determination affecting whether a candidate's name appears on the ballot necessarily imposes a "qualification" for office adding to the U.S. Constitution's qualifications. On the contrary, and as noted above, the Constitution expressly delegates to the states the authority to regulate the "Times, Places and Manner of holding Elections." U.S. Const. art. I, § 4, cl. 1. The Division's determination that Appellant's declaration of candidacy was not filed as an actual good-faith candidacy—but was instead filed with a purpose to confuse or mislead voters and compromise ballot fairness or neutrality—is a quintessential exercise of the State's power to regulate the *manner* of elections. It does not add to the constitutional qualifications for office; it protects the integrity, reliability, fairness, and neutrality of the ballot itself. The Division's action falls squarely within the category of permissible manner regulations that courts have repeatedly sustained:

The Supreme Court has broadly interpreted the term "Manner" in the Elections Clause of the U.S. Constitution. In *Smiley v. Holm*, 285 U.S. 355, 366 (1932), the Court

explained that the word "Manner" embraces "a complete code for congressional elections," including "notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, making and publication of election returns." *Id.*

Consistent with this broad delegation, the Supreme Court has repeatedly affirmed that "States may, and *inevitably must*, enact reasonable regulations of parties, elections, and ballots to reduce election- and campaign-related disorder." *Timmons*, 520 U.S. at 351 (emphasis added). Among other things, States may regulate which candidates appear on the ballot "to avoid undue voter confusion." *Amer. Party of Texas*, 415 U.S. at 783 n.14. Such regulations serve the State's "important … interest in avoiding confusion, deception, and even frustration of the democratic process." *Jenness*, 403 U.S. at 442.

D. Requiring Candidates to File in Good Faith Does Not Add to Constitutional Qualifications.

As the Supreme Court explained in *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 835 (1995), permissible Elections Clause regulations are those that "regulat[e] election procedures" and "protect[] [the] integrity and regularity of the election process." See also *Anderson v. Celebrezze*, 460 U.S. 780, 788–89 n.9 (1983) ("generally applicable and evenhanded restrictions" may permissibly "protect the integrity and reliability of the electoral process itself"). Courts have sustained a wide variety of ballot-access regulations as permissible manner regulations, including:

- *Preliminary support to prevent frivolous candidates. Anderson v. Celebrezze*, 788-89 n.9 ("The State has the undoubted right to require candidates to make a

preliminary showing of substantial support in order to qualify for a place on the ballot, because it is both wasteful and confusing to encumber the ballot with the names of **frivolous candidates**.") (emphasis added); *Munro v. Socialist Workers Party*, 479 U.S. 189, 193 (1986) (same).

- *Signature and petition requirements. Jenness v. Fortson*, 403 U.S. 431, 442 (1971) (upholding requirement that independent candidates obtain petition signatures equal to five percent of the number of registered voters); *Libertarian Party of Illinois v. Rednour*, 108 F.3d 768, 777 (7th Cir. 1997) (upholding signature requirements as electoral-process regulations); *Cartwright v. Barnes*, 304 F.3d 1138, 1142–43 (11th Cir. 2002) (same).

- *Filing fees and deadlines. Bullock v. Carter*, 405 U.S. 134, 140–41, 145 (1972) (filing fee is permissible); *Lubin v. Panish*, 415 U.S. 709, 715 (1974);

- *Party-disaffiliation and sore-loser laws. Storer v. Brown*, 415 U.S. 724, 746 n.16 (1974) (upholding a party-disaffiliation requirement as electoral-process regulations designed to protect the integrity of the ballot).

- *Anti-confusion and ballot-integrity measures. See American Party of Texas v. White*, 415 U.S. 767, 783 n.14 (1974) (states may regulate candidates on the ballot "to avoid undue voter confusion"); *Jenness*, 403 U.S. at 442 (recognizing state interest in "avoiding confusion, deception, and even frustration of the democratic process").

These permissible "manner" regulations contrast to the categorical exclusionary rules that have been found to constitute an impermissible "qualification." Courts finding impermissible qualifications emphasize how each restriction imposed a substantive requirement based on a candidate's traits, statuses, prior conduct, or political positions—characteristics extrinsic to the electoral process itself:

- *Term limits. U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 829, 835, 837 (1995) (denied ballot access to congressional candidates who had served specified numbers of terms); *see also Cook v. Gralike*, 531 U.S. 510, 523–26 (2001) (term limits pledge printed on ballot).

- *State Residency and Voter Registration Requirements. Schaefer v. Townsend*, 215 F.3d 1031, 1037–38 (9th Cir. 2000) (the court deemed these requirements impermissible because they imposed a substantive personal status requirement that candidates for federal office reside in state before filing nomination papers); *Campbell v. Davidson*, 233 F.3d 1229, 1231, 1234 (10th Cir. 2000) (required candidate to be registered to vote).

- *Loyalty Oath Requirements. Shub v. Simpson*, 76 A.2d 332, 340 (Md. 1950) (striking oath requirement for congressional candidates as an additional qualification).

- *Felon disqualification. Danielson v. Fitzsimmons*, 44 N.W.2d 484, 486 (Minn. 1950). Such requirements excluded candidates based on prior criminal conduct—a personal status entirely unrelated to the administration of the ballot.

- *Tax Return Disclosure. Griffin v. Padilla*, 408 F. Supp. 3d 1169, 1179 (E.D. Cal. 2019) (required presidential candidates to disclose tax returns to appear on ballot).

Each of these impermissible qualifications shares a defining characteristic: the state excluded candidates based on some *personal attribute, status, or political position* that had nothing to do with the integrity of the ballot or the reliability of the electoral process. In contrast, the Division's determination here is categorically different. It does not exclude Appellant based on any personal trait or status but instead addresses ballot manipulation and voter confusion. Accord 6 AAC 25.212(b)(2) (a candidate's name may not appear on a ballot "in a manner that is confusing or misleading to voters or compromises the fairness or neutrality of the ballot.").

The Division's determination is precisely the kind of "prevention of fraud and corrupt practices" that *Smiley v. Holm* identified as within the scope of "Manner" regulations under the Elections Clause. 285 U.S. at 366. It is also the kind of "generally

applicable and evenhanded restriction" that *Anderson* recognized as permissibly protecting "the integrity and reliability of the electoral process itself." 460 U.S. at 788–89 n.9. The Division's conclusion that Appellant's filing was an attempt to confuse voters—and not a reflection of actual candidacy—is a ballot-integrity determination, not a qualifications determination.

Appellant fails to carry his burden to prove a constitutional violation. He cannot point to a single case—from the United States Supreme Court, any federal court of appeals, or any state court of last resort—holding that a good-faith-candidacy requirement constitutes an additional qualification for federal office. Appellant primarily relies on *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995) and the uncontested principle that states may not add qualifications to those the Constitution establishes. But *U.S. Term Limits* is readily distinguishable. That case involved a categorical bar preventing otherwise-qualified incumbents from appearing on the ballot based solely on the number of terms they had previously served. Thus, the restriction "exclude[d] candidates" based on a characteristic unrelated to the electoral process and effectively imposed a term limit the Constitution does not require. *Id.* at 835.

Finally, if Appellant's theory were correct—that any state determination affecting whether a candidate's name appears on the ballot constitutes an unconstitutional "qualification"—then virtually all ballot-access regulations would be unconstitutional. Signature requirements, filing deadlines, party-disaffiliation rules, and filing fees all affect whether a candidate's name appears on the ballot. The relevant distinction is not whether a

regulation affects ballot access—of course it does—but whether the regulation operates as a procedural safeguard for the electoral process or instead imposes a substantive trait-based exclusion. The Division's determination here falls on the procedural safeguard side of the ledger. Like signature requirements, it serves as a filter ensuring that the ballot functions reliably as an instrument of voter choice. Unlike the examples of impermissible qualifications, it does not require candidates to possess any characteristic, status, or attribute beyond what the Constitution requires.

Perhaps recognizing that his constitutional theory proves too much, Appellant offers an escape hatch: ballot design can address voter confusion (instead of excluding bad-faith candidates). But States have broad discretion in determining *how* to protect the integrity of the ballot. That some ballot design choices may decrease voter confusion does not mean election officials must place candidates on the ballot who filed with the purpose of confusing it, especially in a dynamic, ranked-choice voting system. The Constitution does not require States to place a sham candidate on the ballot and then attempt to mitigate the damage through design choices.

In sum, the Division's determination does not impose an unconstitutional additional qualification for the United States Senate. No case holds that a good-faith-candidacy requirement is an additional qualification for federal office. Alaska should decline the invitation to become the first. Appellant's reliance on cases involving substantive trait-based exclusions (term limits, voter registration, loyalty oaths, felony prohibitions, or

residency requirements) is misplaced. This Court should affirm the Division's Final Decision on the federal constitutional issue.

V. CONCLUSION

For the foregoing reasons, the Division of Elections requests this court either dismiss Appellant's appeal or affirm the June 15 final determination of Appellant's ineligibility. In any event, the Division respectfully requests this Court issue a ruling as soon as possible to permit review by the Alaska Supreme Court before noon Tuesday, June 30, 2026.

DATED June 24, 2026

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