

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

ARCTIC VILLAGE COUNCIL *et al.*,

Plaintiffs,

v.

KEVIN MEYER *et al.*,

Defendants.

COPY
Original Received

SEP 28 2020

Clerk of the Trial Courts
Case No. 3AN-20-07858 CI

AFFIDAVIT OF WESLEY JAMES FURLONG

I, Wesley James Furlong, affirm the following:

1. I am over the age of eighteen and competent to testify to the information herein if called to do so. I have personal knowledge of the information contained in this affidavit.

2. I am counsel for Plaintiff Arctic Village Council in the above-captioned case.

3. On Saturday, September 26, 2020, I became aware that the Alaska Division of Elections would begin sending absentee ballots to voters on October 2, 2020, the day after the hearing on Plaintiffs' Motion for Preliminary Injunction and Defendants' Motion to Dismiss. See @ak_elections, Twitter.com (Sept. 25, 2020, at 4:45 p.m.), https://mobile.twitter.com/ak_elections/status/1309657672023552002. Ordinarily, the Division would send ballots twenty-five days before the election. For this year's general election, that date is October 9, 2020. Attached is a true and correct copy of the Division's Twitter post announcing the change.

4. Plaintiffs have requested in their Complaint affirmative relief, including an

injunction that would “[o]rder Defendants to modify election materials, including mail-in ballots to reflect the elimination of the Witness Requirement for the November 2020 general election” Pls.’ Compl. at 28, ¶ iv.

5. Plaintiffs would have opposed any lengthening of the Preliminary Injunction briefing timeline that occurred at the September 22, 2020, status conference, and would have opposed expedited consideration of Defendants’ filed motion to dismiss so that Plaintiffs could have focused their efforts in responding to just the arguments related to their motion for preliminary injunction. Had Plaintiffs known Defendants were poised to significantly alter the relevant timeline for this case, Plaintiffs also would have included this in the relief requested in their Complaint or at least brought this attention to the Court much earlier.

6. On Sunday, September 27, 2020, at 4:26 p.m., I emailed Margaret Paton-Walsh and Lael Harrison, attorneys for Defendants, giving them notice of Plaintiffs’ intent to file a temporary restraining order. In that email, I informed Ms. Paton-Walsh and Ms. Harrison that Plaintiffs would file their temporary restraining order on Monday, September 28, 2020, at 8:30 a.m., unless Defendants agreed not to begin mailing absentee ballots on October 2 and begin mailing absentee ballots of October 9.

7. On Monday, September 28, 2020, at 8:40 a.m., I received a response from Ms. Harrison indicating that Defendants would oppose the application for Temporary Restraining Order. Attached is a true and correct copy of these emails.

I swear under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 28th day of September, 2020, in Anchorage, Alaska.


Wesley James Furlong (AK Bar No. 1611108)
Native American Rights Fund

Subscribed and sworn to me on this 28th day of September, 2020.




Notary Public
In the State of Alaska
My Commission Expires April 15, 2023



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AK Division of Elections ✓
@ak_elections

The cat's out of the bag. We can't keep this EXCITING secret any longer. Voters now have more time to return their voted ballots on time. DOE is working extra hard to ensure every eligible ballot is counted and this will be a huge help. [#Democracy](#) [#AKDOE](#) [#TrustedInfo2020](#)



4:54 PM · Sep 25, 2020 Twitter Web App



Wesley Furlong 🔒
@jackstraw_bbc

23 Retweets 1 Quote Tweet 40 Likes

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AK Division of Elec... ✓
@ak_elections

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We strive to ensure eligible voters have a meaningful opportunity to cast a ballot, have their voice count and conduct impartial, accurate and secure elections.

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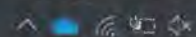
Johnny Rotten

A 2018 photo of Sex Pistols frontman and punk rock pioneer Johnny Rotten wearing Make America Great Again shirt is making the rounds again

Messages



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10:13 AM
9/28/2020



Wesley Furlong

From: Harrison, Lael (LAW) <lael.harrison@alaska.gov>
Sent: Monday, September 28, 2020 8:40 AM
To: Wesley Furlong; Paton-Walsh, Margaret A (LAW)
Cc: Natalie Landreth; Matthew Newman; Chloe Cotton; Pooja Chaudhuri; Ezra Rosenberg; Aadika Singh; Stephen Koteff; Joshua Decker; Natasha Chabria; Julie Ebenstein
Subject: RE: Arctic Village Council v. Meyers, No. 3AN-20-07858CI_Notice of TRO

Wesley—

I was very surprised to receive this email. As voter advocates, we would expect that you and your clients would be glad of the news that absentee voters in Alaska will have additional time in which to receive, vote and return their ballots.

We will oppose any TRO that you file to this effect. As a matter of law, AS 15.20.081(c) states: "After receipt of an application, the director shall send the absentee ballot and other absentee voting material to the applicant by the most expeditious mail service...Except as provided in (k) of this section, the absentee ballot and other absentee voting material shall be sent as soon as they are ready for distribution." So the Division has no discretion to sit on its hands once the material is ready to go.

And as a practical matter, the Division has been working hard to get this material ready to go as early as possible. The Division needs to send out tens of thousands more absentee ballots than ever before. Given the current state of the postal service, sending ballots out early seems all the more important, both to give the ballots more time to reach voters and to give voters more time to return them.

Also, I note that you and your clients were on notice that the Division was making efforts to get these ballots out earlier than October 9. Ms. Fenumiai provided that information in paragraph 15 of her affidavit filed last Monday. I understand that the number of processed applications has increased significantly in the last week and they are now preparing to send out 81,000.

If your clients decide to go ahead with the TRO in any case, we will respond to this effect by the end of the day.

Yours, Lael

Lael Harrison
Senior Assistant Attorney General
Special Litigation Section
Alaska Department of Law
PO Box 110300
Juneau, AK 99811
907-465-3600

From: Wesley Furlong [mailto:wfurlong@narf.org]
Sent: Sunday, September 27, 2020 4:26 PM
To: Paton-Walsh, Margaret A (LAW) <margaret.paton-walsh@alaska.gov>; Harrison, Lael (LAW) <lael.harrison@alaska.gov>
Cc: Natalie Landreth <landreth@narf.org>; Matthew Newman <mnewman@narf.org>; Chloe Cotton <Cotton@narf.org>; Pooja Chaudhuri <pchaudhuri@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Aadika Singh <ASingh@acluak.org>; Stephen Koteff <skoteff@acluak.org>;

Joshua Decker <jdecker@acluak.org>; Natasha Chabria <nchabria@lawyerscommittee.org>; Julie Ebenstein <jebenstein@aclu.org>

Subject: Arctic Village Council v. Meyers, No. 3AN-20-07858CI_Notice of TRO

Importance: High

Good afternoon,

On Saturday, September 26, 2020, we became aware that the Alaska Division of Elections moved up the date it will begin mailing absentee ballots from October 9, 2020—twenty-five days before the November general election—to October 2, 2020, the day after the hearing in this case on the pending motions for preliminary injunction and to dismiss. See https://mobile.twitter.com/ak_elections/status/1309657672023552002. Accordingly, we will be filing tomorrow, Monday, September 28, 2020, an application for a temporary restraining order, requesting that the Court temporarily restrain Defendants from beginning to mail absentee ballots on October 2, and further enjoin Defendants to begin mailing absentee ballots after the Court resolves Plaintiffs' Motion for Preliminary Injunction or October 9.

Plaintiffs will refrain from seeking a temporary restraining order if Defendants agree not to begin mailing absentee ballots on October 2, and instead wait until the Court has resolved Plaintiffs' motion for preliminary injunction. Please let us know your clients' position as soon as possible, but no later than tomorrow, Monday, September 28 at 8:30 a.m., at which time we will file our application.

Thank you,

Wesley James Furlong | he/his/him

Staff Attorney

Native American Rights Fund

745 West 4th Avenue, Suite 502

Anchorage, AK 99501

(907) 276-0680 w.

(907) 276-2466 f.

www.narf.org

Our Anchorage, Alaska, office is currently closed due to the COVID-19 pandemic. I am teleworking normal hours. If you need assistance, you may also contact Jill Rush, Office Manager, at: rush@narf.org.

Alaska Bar Association No. 1611108

State Bar of Montana No. 42771409

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