

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

FILED
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CLERK OF THE TRIAL COURTS

BY CLERK

ARCTIC VILLAGE COUNCIL *et al.*,

Plaintiffs,

v.

Case No. 3AN-20-07858 CI

KEVIN MEYER *et al.*,

Defendants.

**RESPONSE TO DEFENDANTS' EXPEDITED MOTION FOR STAY OF
COURT'S INJUNCTION**

Plaintiffs Arctic Village Council, League of Women Voters of Alaska, Elizabeth L. Jones, and Barbara Clark respectfully submit this Response to Defendants' Expedited Motion for Stay of Court's Injunction. Defendants submitted simultaneous motions for stay in both this Court and the Alaska Supreme Court. On October 7, 2020, the Parties came to an agreement regarding a stipulated stay while the Supreme Court decides Defendants' Petition for Review. Later that same day, the Supreme Court granted that stipulated stay.

Following this Court's order directing the Parties to submit proposed preliminary injunction orders, the Parties in good faith discussed the best way to draft a joint proposed preliminary injunction order. The parties reached agreement on almost all the language in the proposed order, but ultimately ran out of time. The Parties disagreed on a single issue and each filed separate proposed injunction orders with this Court. These two proposals are nearly identical, differing only in one respect. The State's proposal ends with this language:

This Order will go into effect in the event that the Alaska Supreme Court upholds the preliminary injunction.

Arctic Village Council v. Kevin Meyer

RESPONSE TO DEFS.' EXPEDITED MOT. FOR STAY OF COURT'S INJ.

Case No. 3AN-20-07858 CI

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Plaintiffs' proposal ends with this language:

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 one-hundred percent prepared and ready to effectuate immediately all the relief set forth in this Order, 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.

Subsequently, Defendants clarified that they are willing to undertake all *preparations* for voter education save for printing and remaking of advertisements even while review before the Supreme Court is pending. The Parties' agreement modifies the final provision in Plaintiffs' proposal so that it reads:

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.

~~Accordingly, with these terms, the Parties stipulated to a stay of this Court's preliminary~~
injunction pending the Supreme Court's resolution of the Petition for Review. The Supreme Court granted that stipulated stay.

Attached to this Response is the agreed to proposed preliminary injunction order discussed above, a copy of the Party's Notice of Stipulated Stay Pending Petition for Review filed with the Supreme Court, and the Supreme Court's order granting the stipulated stay.

RESPECTFULLY SUBMITTED this 8th day of October, 2020.



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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of October, 2020, I mailed and emailed a true and correct copy of the foregoing to:

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IN THE SUPREME COURT OF THE STATE OF ALASKA

KEVIN MEYER *et al.*,

Plaintiffs,

v.

ARCTIC VILLAGE COUNCIL *et al.*,

Defendants.

Case No. S-17902

Superior Court Case No. 3AN-20-07858 CI

Hon. Dani Crosby, Superior Court Judge

FILED
STATE OF ALASKA
THIRD DISTRICT
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CLERK OF DISTRICT COURTS
BY _____

NOTICE OF STIPULATED STAY PENDING PETITION FOR REVIEW

This Response addresses Defendants-Petitioners (“Defendants”) Motion for an Emergency Stay Pending Petition for Review. Following additional email correspondence, the parties have come to an agreement to the terms of a stay as described herein. The parties were not far apart before, but now agree that Defendants will undertake all preparations save any printing or production of replacement television ads.

On October 5, 2020, the Superior Court Judge Crosby granted Plaintiffs-
Respondents’ (“Plaintiffs”) Motion for Preliminary Injunction on the basis that Plaintiffs

established a probability of success on the merits on their right to vote claim—that enforcing the Witness Requirement during a pandemic severely burdened Plaintiffs, Plaintiffs’ members, and Alaskans’ right to vote and that the state’s interests did not justify such an infringement. Order at 12–14 (Oct. 5, 2020). As for effectuating relief and eliminating the Witness Requirement, the Court provided both sides an opportunity to propose the terms of the injunction and delay the issuance of relief and permit Defendants to seek review in this Supreme Court. *Id.* at 15.

On October 6, 2020, in response to Judge Crosby’s order that Plaintiffs and

Defendants propose the contours of preliminary injunctive relief, the parties in good faith discussed the best way to draft a joint proposed preliminary injunction order. The parties reached agreement on almost all the language in the proposed order, but ran ultimately ran out of time. The Parties disagreed on a single issue and each filed separate proposed injunction orders. These two proposals are nearly identical, differing only in one respect.

The State's proposal ends with this language:

This Order will go into effect in the event that the Alaska Supreme Court upholds the preliminary injunction.

Plaintiffs' proposal ends with this language:

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 one-hundred percent prepared and ready to effectuate immediately all the relief set forth in this Order, 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.

Subsequently, Defendants clarified that they are willing to undertake all *preparations* for voter education save for printing and remaking of advertisements even while review before this Court is pending. This agreement modifies Exhibit B so that it reads:

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.

Accordingly, with these terms, the Parties stipulate to a stay of the superior court's preliminary injunction pending this Court's resolution of the Petition for review. A copy

of this proposed order is filed herewith.

DATED this 7th day of October 2020.

/s/ Natalie A. Landreth
/s/ Matthew N. Newman
/s/ Wesley James Furlong

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In the Supreme Court of the State of Alaska

State of Alaska, Office of the
Lieutenant Governor, Division of
Elections, and Director Gail
Fenumiai, in an official capacity,
Petitioners,

v.

Arctic Village Council, League of
Women Voters of Alaska, Elizabeth
L. Jones, and Barbara Clark,
Respondents.

Trial Court Case No. 3AN-20-07858CI

Supreme Court No. S-17902

Order

Stay Trial Court Order

Date of Order: October 7, 2020

Before: Bolger, Chief Justice, Winfree, Maassen, Carney, and Borghesan,
Justices.

On consideration of the parties' notice of stipulated stay pending petition
for review, filed on October 7, 2020,

IT IS ORDERED: The stipulation is **APPROVED**. The superior court's
preliminary injunction is **STAYED** pending the resolution of the petition for review.

The emergency motion for stay pending petition for review, filed by the
petitioners on October 6, 2020, is **DENIED** as **MOOT**.

Entered at the direction of the court.

State v. Arctic Village Council, et al.
Supreme Court No. S-17902
Order of October 7, 2020
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Clerk of the Appellate Courts

/s/ R. Montgomery-Sythe

Ryan Montgomery-Sythe,
Chief Deputy Clerk

cc: Supreme Court Justices
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Trial Court Clerk

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