

Native American Rights Fund

Indigenous Peoples' Rights

<https://www.narf.org/cases/alaska-ballot-witness-law/>

Campaign and Advocacy

Alaskans successfully sought to waive mail-in ballot witness requirements in the midst of the highly contagious global pandemic.

Status: Archived

Victory! Alaskans will not need a witness to sign their absentee ballots for the November 2020 general election because of COVID-19, the Alaska Supreme Court decided Monday, October 12, 2020.

Alaskas witness signature requirement for casting an absentee ballot is unconstitutional, and immediate injunctive and declaratory relief must be granted, [a lawsuit filed on September 8, 2020](#) against Lieutenant Governor Kevin Meyer, Director of the Alaska Division of Elections Gail Fenumiai, and the Alaska Division of Elections argued. The lawsuit (*Arctic Village Council v. Meyer*) sought to waive a provision of a state law for the upcoming 2020 general election that requires voters who submit a mail-in ballot to have a witness sign their ballot return envelope, even in the midst of the highly contagious and deadly COVID-19 pandemic.

Alaskas witness signature requirement would force interaction on those who live alone, are immunocompromised, or have been self-isolating since the beginning of the pandemic. These voters reasonably fear contracting COVID-19 and have chosen not to be in the presence of others. The suit claims that the witness signature requirement places a significant burden on the fundamental right to vote, because people will have to risk their health and well-being to vote, or not cast their ballot at all.

Alaskans will not need a witness to sign their absentee ballots for the November general election because of COVID-19, the Alaska Supreme Court decided Monday, October 12, 2020. The state will be required to count unsigned ballots and to do voter outreach regarding the change.

NARF Staff Attorney Wesley Furlong responded to the courts decision, This witness requirement serves no legitimate purpose. Given the pandemic, it is an unconstitutional obstacle for voters that could especially affect Alaska Native communities. We are pleased that the courts have protected Alaskan voters for the upcoming election.

Yesterdays decision upholds the decision from Anchorage Superior Court Judge Dani Crosby, who last week ruled that the requirement impermissibly burdens the right to vote during the pandemic.

Alaskas highest court did what Lieutenant Governor Kevin Meyer refused to do, it ruled to protect the most fundamental right in our democracy the right to vote. It is the Lieutenant Governors duty to protect the Alaska and US Constitutions, but he failed to do his job. Instead he spent thousands of taxpayer dollars fighting to protect the witness signature requirement, which does nothing more than suppress voters and muzzle voices, said ACLU of Alaska Executive Director Joshua Decker.

No Alaska voter will have to sacrifice their health and well-being to cast their vote this November, said Pooja Chaudhuri, an attorney with the Lawyers Committee for Civil Rights Under Law. This ruling is another victory in the fight against voter suppression efforts. While Alaskas election officials failed to take common-sense steps to protect the fundamental right to vote, we are happy the courts ruled in our favor.

[The Superior Court for the State of Alaska, Third Judicial District, ruled that the witness requirement for absentee ballots is unconstitutional during the COVID-19 pandemic.](#) Parties in this case are working now to determine how the Election Division can alert voters about any subsequent changes.

When the preliminary injunction is finalized and implemented, the Anchorage Superior Courts ruling in *Arctic Village Council v. Meyer* will waive state law for the November general election that requires voters who submit a mail-in absentee ballot to have a witness sign their ballot return envelope, even in the midst of a highly contagious and deadly pandemic.

Alaskas witness signature requirement would force interaction on those who live alone, are immunocompromised, or have been self-isolating since the beginning of the pandemic. These voters reasonably fear contracting COVID-19 and have chosen not to be in the presence of others.

NARF Staff Attorney Natalie Landreth explained, Todays decision reflects the fact that there are many Alaskan voters burdened by the witness requirement. Thankfully, they wont have to put themselves at risk this year.

NARF, ACLU of Alaska, American Civil Liberties Union, and Lawyers Committee for Civil Rights Under Law were in Anchorage Superior Court today for arguments in their lawsuit seeking to make voting safer for Alaskans during the COVID-19 pandemic.

The case, *Arctic Village Council v. Meyer*, asks the court to waive the burdensome witness signature requirement for casting an absentee ballot, and for the Division of Elections to proactively communicate the waiver to every Alaskan, should the court rule to protect voting access during the COVID-19 pandemic.

NARF Staff Attorney Natalie Landreth presented arguments on behalf of the plaintiffs and all Alaskans being forced to choose between their health and their vote during election 2020.

NARF Staff Attorney Wesley Furlong explained, Tribes and individuals are taking the steps necessary to keep people safe during a devastating pandemic. The state should be helping them, not making them choose between their health and well-being and their ability to vote. There is no valid reason to encourage unnecessary contact during a health crisis like this one.

Until the courts rule otherwise, Alaskans opting to vote-by-mail for the November election will be forced to find a witness to sign the envelope of their absentee ballot even if that requires voters, including the most vulnerable, to dismiss COVID-19 mitigation guidelines recommended by public health experts.

We're asking for the state to take small steps that will have a great impact on Alaskans, steps that educate the people, protect their rights, and ensure that their vote is counted and their voice is heard. There were 456 ballots rejected in the August primary because of this useless requirement. That is 456 voices that Alaska's government muzzled: even one is too many, said ACLU of Alaska Executive Director Joshua Decker.

Alaskans should not be forced to choose between their health and safety or exercising the constitutional right to vote, said Pooja Chaudhuri, an attorney with the Lawyers Committee for Civil Rights Under Law. Alaska's highest election officials should have taken these common-sense steps to protect voters and ensure the will of the people is heard. Since they have not, we are turning to the courts for relief with just weeks to go before the election.

This case was brought on behalf of the following four plaintiffs:

Alaska's witness signature requirement for casting an absentee ballot is unconstitutional, and immediate injunctive and declaratory relief must be granted, [a lawsuit filed on September 8, 2020](#) against Lieutenant Governor Kevin Meyer, Director of the Alaska Division of Elections Gail Fenumiai, and the Alaska Division of Elections argues. The lawsuit seeks to waive a provision of a state law for the upcoming general election that requires voters who submit a mail-in ballot to have a witness sign their ballot return envelope, even in the midst of the highly contagious and deadly COVID-19 pandemic.

The suit claims that the witness signature requirement places a significant burden on the fundamental right to vote, because people will have to risk their health and well-being to vote, or not cast their ballot at all. Allowing the witness requirement could disenfranchise thousands of eligible voters in Alaska who cannot risk contact with other individuals to vote in-person or obtain a witness signature on their absentee ballot. A preliminary injunction was also filed today that hopes to immediately abolish the requirement and guarantee voters the ability to vote-by-mail.

NARF [Staff Attorney Wesley Furlong](#) explained, There are elders and Alaska Natives across the state who live alone and are protecting their health and community by staying home. How are they supposed to get a witness signature? The State of Alaska should be helping people vote during a pandemic, not making them choose between their health and their right to vote.

Alaska's Witness Signature Requirement forces interaction on those who live alone, are immunocompromised, or have been self-isolating since the beginning of the pandemic. These voters reasonably fear contracting COVID-19 and have chosen not to be in the presence of others. Because of the requirement, they will either have to interact with other citizens, or not cast their ballot at all. Among the communities that have been disproportionately affected by COVID-19 are Native Americans and Alaska Natives.

It is in no way permissible to force residents to sacrifice their health and well-being just to exercise their right to vote, but that is exactly what's happening because Alaska's highest election officials have failed to take the necessary steps to ensure that residents can vote safely amid the pandemic, said Pooja Chaudhuri, associate counsel at the Voting Rights Project at the Lawyers Committee for Civil Rights Under Law. With the election just weeks away, we are turning to the court to provide immediate relief and defend the right to vote for people all across Alaska. We live in a Democracy, and a key component of our society is giving everyone the opportunity to have their voice heard.

There is no greater disservice to our state, our communities and our country, than allowing voters to be suppressed, ACLU of Alaska Legal Director Joshua Decker said. Every vote rejected because of this unnecessary barrier is a voice of an Alaskan left behind at the choice of their government.

Last week, the ACLU of Alaska, the Lawyers Committee for Civil Rights Under Law, and the Native American Rights Fund [sent a letter to Alaska Lt. Gov. Kevin Meyer and Alaska Division of Elections Director Gail Fenumiai](#) asking they exercise their power to protect the health of Alaskans and our democracy by waiving the needless requirement.

In a response from Meyer on Friday, he refused to make this necessary change and was unwilling to protect the votes of every Alaskan. He, Fenumiai, and the Alaska Division of Elections are now named as defendants in this lawsuit.

Removing the witness requirement during the COVID-19 pandemic is a common-sense solution that protects Alaskans' health and their right to vote, said Julie Ebenstein, senior staff attorney with the ACLU's Voting Rights Project.

The litigation, *Arctic Village Council et al. v Meyer et al.*, was filed in the Superior Court for the State of Alaska for the Third Judicial District at Anchorage. The Lawyers Committee for Civil Rights Under Law, American Civil Liberties Union, ACLU of Alaska and the Native American Rights Fund represent the Arctic Village Council, League of Women Voters of Alaska, and two eligible, registered voters who intend to vote by mail.

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