

# Native American Rights Fund

## Indigenous Peoples' Rights

<https://www.narf.org/cases/toyukak-v-treadwell/>

## Campaign and Advocacy

Alaska Native language speakers asked the court to order the state to comply with the language assistance provisions of the Voting Rights Act and the voting guarantees of the 14th and 15th Amendments to the U.S. Constitution.

Status: Active

Although settled in 2015, this case is still under court supervision, and we successfully extended the order because the state never fully complied with the order to adequately translate ballots and voting materials into Alaska Native languages.

On July 19, 2013, NARF and co-counsel Morgan, Lewis & Bockius LLP and Armstrong Teasdale LLP, acting on behalf of Native Village of Hooper Bay and Traditional Village of Togiak along with two Alaska Native voters, [filed suit in federal court](#) charging state elections officials with ongoing violations of the federal Voting Rights Act and the United States Constitution. The suit claims state officials have failed to provide oral language assistance to citizens whose first language is Yupik, the primary language of many Alaska Natives in the Dillingham and Wade Hampton regions. The voting guarantees of the Fourteenth and Fifteenth Amendments to the United States Constitution prohibit state officials from denying the right to vote on account of race or color, which federal courts have found includes Native voters.

Lead plaintiff Mike Toyukak of Manokotak Village explained through a translator that he needed to receive voting information in Yupik so [he] would be able to understand what [hes] voting for.

Plaintiff Fred Augustine of the Village of Alakanuk elaborated, saying through a translator, Sometimes I wonder if my votes count. Poll workers speak to me in English, but I dont understand. I didnt understand any of the ballots but I still voted. We go to vote and vote, but we dont know what to do and how to vote.

In the complaint, Mr. Toyukak of Manokotak, Mr. Augustine of Alakanuk, the Native Village of Hooper Bay, and the Traditional Village of Togiak asked the court to order state election officials to comply with the language assistance provisions of the Voting Rights Act and the voting guarantees of the Fourteenth and Fifteenth Amendments to the United States Constitution.

The relief requested includes implementing procedures in the Dillingham and Wade Hampton areas similar to those secured by Alaska Natives in the Bethel area in the Nick, et al. v. Bethel, et al. litigation, requiring state election officials to obtain approval from the federal court or the Attorney General of the United States for any changes in those procedures, and to appoint federal observers to oversee future elections in the two regions. Language assistance requires translating ballots and other election materials and information into Yupik and providing trained bilingual staff to register voters and to help voters at the polls through complete, accurate, and uniform translations.

Seven regions of Alaska, including the Dillingham and Wade Hampton regions, are required to provide language assistance for Alaska Natives under Section 203, the language assistance provision of the Voting Rights Act. Section 203 applies to states and localities that meet certain threshold requirements for the numbers of citizens with limited English proficiency. Two additional regions of Alaska have to provide language assistance in non-Native languages.

Defendants in the suit included former Lt. Governor Mead Treadwell, current Lt. Governor Byron Mallott, Division of Elections Director Gail Fenumiai, and Regional Elections Supervisors Becka Baker and Michelle Speegle. Trial was held June-July 2014 and the court rendered an oral decision on September 3, 2014. The court held that the defendants had in fact violated Section 203 of the VRA in all the census areas at issue. The court further found that the defendants had improperly relied on what they called outreach workers in villages to translate the entire Official Election Pamphlet themselves, even though these workers had never been asked to do so and there was no evidence showing they could do this. The court found that the end result was an absence of all pre-election information such as candidate statements, ballot measures, pro and con statements for ballot measures and all other information available to English speaking voters before an election. After briefing, the court ordered broad remedial relief including the written and audio translation of all pre-election materials distributed in English, posting of bilingual translators at all polling places, and also ordering defendants to report back to the court on their progress after the November 2014 election, which was submitted shortly before Christmas.

NARF and our plaintiffs spent several months in an extended negotiation with the State of Alaska to settle the case. On September 30, 2015, the court approved a [settlement agreement](#) with the defendants that provides broad relief in the form of a comprehensive language assistance program. **This case is still under court supervision, and we successfully extended the order because the state never fully complied with the order to adequately translate ballots and voting materials into Alaska Native languages.**

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