

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

AMERICAN CIVIL LIBERTIES UNION
OF ALASKA, DUNLEAVY FOR
ALASKA and ERIC SIEBELS,

Plaintiffs,

v.

STATE OF ALASKA, and the STATE OF
ALASKA DEPARTMENT OF
TRANSPORTATION & PUBLIC
FACILITIES,

Defendants.

Case No. 3AN-18-_____ CI

**MOTION FOR EXPEDITED CONSIDERATION OF MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiffs American Civil Liberties Union of Alaska, Dunleavy for Alaska, and Eric Siebels, by and through their attorneys, Holland & Knight LLP, hereby move pursuant to Alaska R. Civ. P. 77(g) for expedited consideration of their Motion for Temporary Restraining Order and Preliminary Injunction. Expedited consideration is necessary because the State is currently suppressing Plaintiffs' First Amendment right to engage in political speech through the enforcement of an unconstitutional campaign sign ban, AS 19.25.075–.180.¹ On its face, AS 19.25.075–.180 prohibits Alaska citizens from placing political messages on their own property almost anywhere within eyeshot of a public roadway. And the State has been invoking AS 19.25.075–.180 specifically to target

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¹ See Affidavits of T. Gales and E. Siebels, attached to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction.

political speech. More troubling still, this suppression comes in the midst of a hotly contested election season, when political expression should be virtually sacrosanct. Immediate relief is required to safeguard the First Amendment rights of Alaskan citizens.

The Alaska Supreme Court has recognized that extraordinary legal remedies are required to safeguard the First Amendment rights because any delay in correcting the suppression of protected speech amounts to a denial of justice:

Extraordinary legal remedies to protect First Amendment rights are frequently employed and are constitutionally mandated The First Amendment will not permit the majority to silence the minority for reasons or by methods which are constitutionally infirm. In the case at bar, the chilling effect of such a prosecution is not hard to imagine. Here, if anywhere, justice delayed is truly justice denied.²

And the United States Supreme Court has made clear that First Amendment rights are at their apex in the context of contests for political office:

“[T]he First Amendment has its fullest and most urgent application to speech uttered during a campaign for political office.” *Eu v. San Francisco County Democratic Central Comm.*, 489 U.S. 214, 223 (1989). And the Court has made it clear that “the right of citizens to band together in promoting among the electorate candidates who espouse their political views” is among the First Amendment’s most pressing concerns. *Clingman v. Beaver*, 544 U.S. 581, 586, (2005).³

The 2018 general election is now just over two months away. Alaskan citizens are entitled to engage in full-throated promotion of their preferred candidates every single day until then without fear of sanction or reprisal from their government. Each day that passes while

² *Hanby v. State*, 479 P.2d 486, 490-91 (Alaska 1970).

³ *Nevada Comm'n on Ethics v. Carrigan*, 564 U.S. 117, 131 (2011) (Kennedy, J. Concurring).

these rights continue to be infringed is intolerable to the United States and Alaska Constitutions. Expedited consideration is warranted so that this Court can grant immediate relief.

For all of the foregoing reasons, Plaintiffs respectfully request expedited consideration. Pursuant to Alaska R. Civ. P. 65(b), and for the reasons set forth in the underling motion, Plaintiffs request that the Court rule on their motion for a temporary restraining order as soon as is practicable without awaiting a response from the State. Plaintiffs further request that the Court schedule a hearing on Plaintiffs' motion for a preliminary injunction as soon as is practicable, and in no event less than 10 days from the date that a temporary restraining order may be granted.⁴

Plaintiffs are contemporaneously serving the State of Alaska and the Department of Transportation & Public Facilities with copies of the Complaint, Motion for Temporary Restraining Order and Preliminary Injunction, and this Motion for Expedited Consideration pursuant to Alaska R. Civ. P. 4(d)(7) and (8).⁵ Plaintiffs are also providing informal email service of all pleadings and supporting documents to the Department of Law and the Department of Public Transportation & Public Facilities.⁶

⁴ See Alaska R. Civ. P. 65(b) (providing that a temporary restraining order may not exceed 10 days without further order of the court, and that "the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and takes precedence of all matters except older matters of the same character").

⁵ See Affidavit of Counsel, submitted with Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction.

⁶ *Id.*

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DATED at Anchorage, Alaska this 23rd day of August, 2018.

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ORDER GRANTING MOTION FOR EXPEDITED CONSIDERATION

Plaintiffs' motion for expedited consideration of their motion for a temporary restraining order and preliminary injunction is GRANTED. Defendants may file an opposition to the underlying motion no later than _____, 2018. Any reply thereto shall be filed no later than _____, 2018.

A hearing on the motion for preliminary injunction is scheduled for _____ a.m./p.m. on _____, 2018, in Courtroom _____ of the Nesbett Courthouse, 825 W. 4th Avenue, Anchorage, Alaska 99501.

DATED at Anchorage, Alaska this _____ day of _____, 2018.

Hon.
Superior Court Judge

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