

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS**

))
In Re 2011 Redistricting Cases))
))
) Superior Court No. 4FA-11-2209-CI
_____))

**MEMORANDUM AND MOTION FOR LEAVE FOR THE
DEMOCRATIC PARTY OF ALASKA TO PARTICIPATE
AS AMICUS CURIAE**

The Alaska Democratic Party (“ADP”), pursuant to Alaska Rules of Civil Procedure 77 and 90.8 and Appellate Rule 212(c)(9), hereby moves for an order allowing it to participate as amicus curiae in this proceeding on a limited basis solely to submit a brief addressing the statutory deadline created by AS 15.10.120.

ADP is a recognized political party under AS 15.80.010 (25). Pursuant to AS 15.10.120(b), ADP has a statutory right to nominate two persons to serve on each precinct election board. The statutory right of ADP to make such nominations has been directly affected by the delay in the adoption of a final redistricting plan. ADP wishes to file the attached amicus brief to call this issue to the Court’s attention and urge the Court to address it in any final order.

ADP requests that it be granted amicus status and that the attached Brief Regarding AS 15.10.120 be accepted by this court. ADP’s participation will not cause any undue delay or cause the parties to incur any additional costs. ADP requests no other accommodation.

DATED: April 16, 2012

By: 
Joe McKinnon (8310133)
1434 Kinnikinnick St.
Anchorage, Alaska 99508
Phone: (907) 278-9307
Fax: (888) 557-6098

Joe McKinnon
1434 Kinnikinnick St.
Anchorage, Alaska
99508-3015
(907) 278-9307
Fax: (888) 557-6098

Certificate of Service

The undersigned hereby certifies that the on the 16th day of April, 2012, a true and correct copy of the Memorandum and Motion for Leave for the Alaska Democratic Party to Participate as Amicus Curiae, Proposed Order, Brief of Amicus ADP Regarding AS 15.10.120, and the Declaration of Kay Brown was sent by electronic mail to:

Office of the Clerk, Fairbanks	4faclerk@courts.state.ak.us
Karen Erickson	kerickson@courts.state.ak.us
Kelly Krug	kkrug@courts.state.ak.us
Michael White	MWhite@PattonBoggs.com
Michael Walleri	walleri@gci.net
Thomas Klinkner	tklinkner@bhb.com
Natalie Landreth	landreth@narf.org
Gail Fenumiai	gail.fenumiai@alaska.gov


Joe McKinnon

Joe McKinnon
1434 Kinnikinnick St.
Anchorage, Alaska
99508-3015
(907) 278-9307
Fax: (888) 557-6098

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS**

In Re 2011 Redistricting Cases)
)
) Superior Court No. 4FA-11-2209-CI
)
)
)

**(PROPOSED) ORDER GRANTING LEAVE FOR THE ALASKA
DEMOCRATIC PARTY TO PARTICIPATE
AS AMICUS CURIAE**

The Alaska Democratic Party (ADP) has requested that it be allowed to participate as amicus curiae on a limited basis in this proceeding. The motion is hereby granted. The Brief of Amicus ADP Regarding AS 15.10.120 is hereby accepted as an amicus brief.

DATED this _____ day of April, 2012.

By: _____
Michael P. McConahy
Superior Court Judge

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS**

In Re 2011 Redistricting Cases)
)
) Superior Court No. 4FA-11-2209-CI
)
)
_____)

BRIEF OF AMICUS ADP REGARDING AS 15.10.120

These proceedings are taking place on an expedited basis. One of the main reasons, of course, is to complete the redistricting process promptly so that the June 1, 2012 filing deadline for candidates does not have to be extended. Today, however, a much less well-known statutory deadline passed almost without notice. AS 15.10.120 establishes a deadline for the nomination by political parties of persons to serve on precinct election boards.

ADP is a recognized political party under AS 15.80.010 (25). Pursuant to AS 15.10.120 (b), ADP has a statutory right to nominate two persons to serve on each precinct election board:

(b) On or before April 15 in each regular election year, or at least 60 days before a special election, a party district committee or state party central committee of each political party may nominate two candidates for each election board. Nominations shall be presented in writing to the election supervisor for the district in which the precinct is located.

Joe McKinnon
1434 Kinnikinnick St.
Anchorage, Alaska
99508-3015
(907) 278-9307
Fax: (888) 557-6098

Since April 15th fell on a Sunday, April 16th is the deadline for political parties to submit nominees for precinct election boards. Today ADP complied with the statute by submitting a list of such nominees.

Those nominees were selected based on precinct boundaries established by the Division of Elections pursuant to the original Redistricting Board proclamation. It is clear now that precinct boundaries will, at a minimum, change in at least the Fairbanks area. It is possible that precinct boundaries in other parts of the state may also be affected depending on the outcome of these proceedings. As a result, it is possible that some of the nominees submitted today may be "redistricted out" of the precincts for which they were nominated. Others persons willing to serve may be redistricted into precincts for which there are openings.

Attached is an affidavit of Kay Brown, executive director of the Alaska Democratic Party, describing efforts she has made to address this issue with the Division of Elections. While the Director of Elections recognizes the problem, she has been unwilling to reach an accommodation to administratively accept the submission of nominees after today if precinct boundaries change. She takes the position that the statutory deadline cannot be administratively altered even when precinct boundaries change and will not accept nominees after today without a court order.

The statutory right of ADP to make nominations to precinct elections boards has been directly affected by the delay in the adoption of a final redistricting plan. ADP urges the Court to address this issue in any final order by extending the statutory deadline in AS 15.10.120(b) until 60 days before the primary election. The statute

itself concludes that 60 days before an election is an acceptable deadline for submission of nominees by establishing it as the deadline in the case of a special election. Given the delay in finalizing precinct boundaries caused by this litigation, it is appropriate to use a similar approach here.

DATED: April 16, 2012

By: 
Joe McKinnon (8310133)
1434 Kinnikinnick St.
Anchorage, Alaska 99508
Phone: (907) 278-9307
Fax: (888) 557-6098

Joe McKinnon
1434 Kinnikinnick St.
Anchorage, Alaska
99508-3015
(907) 278-9307
Fax: (888) 557-6098

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS**

))
In Re 2011 Redistricting Cases))
))
) Superior Court No. 4FA-11-2209-CI
))
))

DECLARATION OF KAY BROWN

1. I am the executive director of the Alaska Democratic Party (ADP).
2. As part of my duties, I am responsible for recruiting people to be nominated by ADP to serve on precinct election boards pursuant to AS 15.10.120(b). The precincts define voting locations within each House District. Once the new House district boundaries become final, precinct boundaries will then be finalized and all voters are assigned to a precinct. Election Board nominations by the political parties are normally made under the new precincts that will be used in the upcoming elections.
3. Given the uncertainty regarding redistricting and the likelihood that some precinct boundaries would be changed following a final resolution of this case, I emailed Gail Fenumiai, Director of Elections, with some questions on Feb. 13, 2012. I wanted to find out how the division intended to handle party nominations to election boards if this case was delayed beyond the April 15, 2012 statutory deadline for those nominations set forth in AS 15.10.120(b). At that time, the Amended Board Plan had not been finalized and the new precinct lines had not been announced.
4. In an email on February 14, 2012, Ms. Fenumiai responded to several questions I asked regarding political party nominations for appointment to election boards. Regarding the April 15th deadline she stated that she could not accept nominations after that date without a court order to the contrary. She stated that any nominations made by April 15th would be reassigned to the proper precinct if precinct boundaries

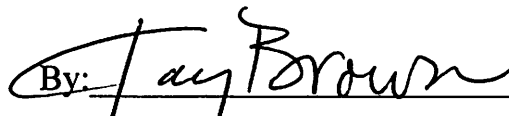
later change. KB

5. Following that response, on Feb. 20 I asked via email for a phone meeting with Ms. Fenumiai, which occurred on Feb. 22. In that conversation we discussed the status of redistricting and possible timelines for resolution, and I attempted to persuade her that, given the unusual situation, she might have the administrative discretion to continue accepting election board nominations beyond the statutory deadline, in order to address potential precinct boundary changes after that date. She said she didn't think she had any flexibility to extend the deadline or accept additional nominations, even if precinct boundaries changed after the deadline, but she said she would take it under advisement.

6. On March 5, I received an email from Ms. Fenumiai following up on our Feb. 22 phone call, in which she said: "I respectfully disagree that I have the administrative authority to extend the April 15 statutory deadline stated in AS 15.10.120."

7. I do not believe the procedures Ms. Fenumiai intends to follow adequately protect the statutory right of political parties to make nominations to precinct election boards. Reassignment of nominees to new precincts if boundary changes are made could result in some precincts having more nominees than the two authorized by statute and other precincts could have no nominees at all. The nominations submitted today by the Alaska Democratic Party to Division of Elections Regional Supervisors were based on the original Proclamation Plan, which already has been changed in the Amended Plan, but revisions to the precincts resulting from the Amended Plan have not been announced. The redistricting map, and thus the precinct boundaries, remain uncertain.

Dated April 16, 2012.

By: 
Kay Brown
Executive Director
Alaska Democratic Party

Joe McKinnon
1434 Kinnikinnick St.
Anchorage, Alaska
99508-3015
(907) 278-9307
Fax: (888) 557-6098