

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

JOE MILLER,

Plaintiff,

vs.

LIEUTENANT GOVERNOR CRAIG  
CAMPBELL, in his official  
capacity; and the STATE OF  
ALASKA, DIVISION OF ELECTIONS,

Defendants.

Case No. 3:10-cv-0252-RRB

**ORDER REGARDING MOTION  
FOR PRELIMINARY INJUNCTION**

On Tuesday, November 9, 2010, shortly after 5:00 p.m., Plaintiff Joe Miller filed a Complaint for Injunctive and Declaratory Relief and a Motion for Preliminary Injunction at Dockets 1 and 13. At Docket 13, Plaintiff seeks briefing, oral argument, and a decision on his Motion for Preliminary Injunction on extremely shortened time.

In response, at Docket 15, the Attorney General has filed a pleading that succinctly sums up this Court's evaluation of the case at this juncture. The Court agrees that an 18-hour window to

respond to a 37-page motion is patently unfair and that no exigent circumstances warrant such a briefing schedule.

Based on Exhibit A attached to the Complaint, the contested process for counting write-in votes in the Alaska U.S. Senate Race calls for segregating those ballots which reflect write-in votes for Lisa Murkowski where the name is spelled correctly and are not challenged, from ballots where the name written appears to be a variation or misspelling of "Murkowski." Given that the questionable ballots will remain segregated and subject to subsequent review, with the results recorded separately, the Court finds no good reason to enjoin counting the ballots while the underlying Complaint is addressed in due course. Plaintiff has shown no potential for irreparable harm by allowing the Division of Elections to proceed with its hand-count as scheduled. Plaintiff's request for relief in this regard is therefore **DENIED**.

However, the Court finds it is prudent to consider this matter as quickly as possible. Therefore, the parties shall file briefing as follows:

1. Defendants' Response in Opposition to the Motion for Preliminary Injunction shall be filed no later than **3:00 p.m.** on **Monday, November 15, 2010.**

2. Plaintiff's Reply shall be filed no later than **3:00 p.m.** on **Thursday, November 18, 2010.**

3. The parties shall address the significant jurisdictional issue raised by this matter in their briefing.

Whether or not a hearing will be required will be determined upon review of the pleadings.

**IT IS SO ORDERED.**

ENTERED this 10<sup>th</sup> day of November, 2010.

S/RALPH R. BEISTLINE  
UNITED STATES DISTRICT JUDGE