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THE SUPREME COURT OF THE STATE OF ALASKA

ALASKA DEMOCRATIC PARTY and	)	
ANITA THORNE,	)	Supreme Court No. S-19231
	)	
Appellants,	)	Superior Court No. 3AN-24-08665 CI
	)	
v.	)	<u>O P I N I O N</u>
	)	
CAROL BEECHER, DIRECTOR,	)	No. 7776 –July 25, 2025
DIVISION OF ELECTIONS, in an official	)	
capacity; and STATE OF ALASKA,	)	
DIVISION OF ELECTIONS,	)	
	)	
Appellees,	)	
	)	
and	)	
	)	
ALASKA REPUBLICAN PARTY,	)	
	)	
Intervenor-	)	
Appellee.	)	

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Ian Wheelles, Judge.

Appearances: Thomas P. Amodio, Reeves Amodio LLC, Anchorage, and David R. Fox, Elias Law Group LLP, Washington, District of Columbia, for Appellants. Jessica M. Alloway, Thomas S. Flynn, and Katherine Demarest, Assistant Attorneys General, Anchorage, and Treg Taylor, Attorney General, Juneau, for Appellees. Stacey C. Stone, Holmes Weddle & Barcott, P.C., Anchorage, and Richard R.

Moses, Holmes Weddle & Barcott, P.C., for Intervenor-Appellee.

Before: Maassen, Chief Justice, and Carney, Borghesan, Henderson, and Pate, Justices.

PATE, Justice.

CARNEY, Justice, dissenting.

I. INTRODUCTION

This case concerns a challenge to the Alaska Division of Elections' inclusion of Eric Hafner — a federal prisoner in New York — as one of the four candidates on the 2024 general election ballot for the United States House of Representatives. Hafner finished in sixth place during the open primary under ranked-choice voting, but the Division elevated him to appear on the general election ballot after two of the top-four primary candidates timely withdrew. The Alaska Democratic Party and Anita Thorne, a registered Democrat (collectively ADP), argue that Hafner cannot be elevated to the general election ballot because Alaska law allows a single replacement for a withdrawn candidate: the fifth-place candidate in the primary election. The superior court held that ADP's jurisdiction was not exhausted by the Division's decision. Due to the time-sensitive nature of election appeals, we affirmed the superior court in a short order dated September 12, 2024. We now explain our reasoning in full, holding that the laws establishing ranked-choice voting require successive replacements on the general election ballot if more than one top-four primary candidate timely withdraws and additional primary candidates are available as replacements.

II. FACTS AND PROCEEDINGS

A. Ballot Measure 2

In 2020 Alaskan voters established a system of ranked-choice voting through "Alaska's Better Election Process Ballot Measure 2."

Measure 2.¹ Prior to the enactment of Ballot Measure 2, the Division oversaw partisan primary elections for each political party.² Under the prior system, the candidates who received the most votes for each political party advanced to the general election ballot.³ Candidates who were not affiliated with a political party could gain ballot access by gathering the requisite number of signatures on a nominating petition from registered voters.⁴ On the general election day, voters selected only one candidate; the winner was the candidate who received a plurality of the votes.

Ballot Measure 2 altered both the primary and general election processes. Following the enactment of Ballot Measure 2, all candidates, regardless of party affiliation, run in an open primary.⁵ Each voter chooses one candidate in the primary election;⁶ the four candidates receiving the greatest number of votes then advance to the general election ballot.⁷ If after the primary election one of the top-four candidates “disqualifies himself, resigns, or is disqualified as being qualified to hold office,” AS 15.25.100(c) the director of the Division is obligated to fill the vacancy by replacing

¹ STATE OF ALASKA, DIV. OF ELECTIONS, OFFICIAL ELECTION PAMPHLET: REGION I 75-106 (2020) [hereinafter ELECTION PAMPHLET], https://www.elections.alaska.gov/election/2020/General/OEPBooks/2020%20AK%20Region%20I%20pamphlet_FINAL-web.pdf; *see also* *Guerin v. State*, 537 P.3d 770, 773-76 (Alaska 2023) (summarizing Ballot Measure 2).

² Former AS 15.25.010, .060 (2020) (amended Feb. 28, 2021).

³ Former AS 15.25.100 (2020) (repealed and reenacted Feb. 28, 2021).

⁴ Former AS 15.25.140-.200 (2020) (repealed Feb. 28, 2021).

⁵ AS 15.15.025.

⁶ AS 15.25.010.

⁷ AS 15.25.100(a). Candidates who do not finish in the top four may run as write-in candidates in the general election, but their names do not appear on the ballot. AS 15.25.105.

the writ had drawn the “writ dried caettie ewhfoisft th etsh ei n primary election .”

Ballot Measure 2 also altered the general election process. Rather than selecting one candidate, voters now rank up to four candidates in order of preference.⁸ The winner is chosen through a series of vote-tabulation rounds. First, the Division “tabulate a vote [sic] also to n ef otrhoet ev” o-ranked candidate.⁹ If one candidate receives more than half of the votes, then that candidate is the winner.¹⁰ If no candidate receives more than half of the votes, then the candidate with the fewest votes is defeated.¹¹ The votes cast for the defeated candidate are reallocated to the remaining candidates in order of preference.¹² The process continues until one candidate receives more than half of the active ballots, or if only two candidates remain, the candidate with more votes wins.¹³

Ranked-choice voting was first implemented in the August 2022 special general election to replace former U.S. Representative Don Young and again in the

⁸ See AS 15.15.350(c), (d); AS 15.15.030(17) (requiring director to instruct voter to “mark candidates in order of preference and to mark as many choices as the voter wishes”) .

⁹ AS 15.15.350(d).

¹⁰ *Id.*

¹¹ AS 15.15.350(d)(2).

¹² *Id.*

¹³ *Id.* A n a c t i v e i s b a n h i e s t t s a t i t l A n t e d a c t i v e b a l l o n o n g a b u b a t e d s e o e i s t a m o t y o n t i m a n i d i g d o a n t t e a , i n s a o v e r v o t e a t t h e h i g h e s t c o n t i n u i n g r a n k i n g , o r c o n t a i n s t w o o r m o r e s e q u e n t i a l s k i p p e d r a n k i n g s b e f o r e i t s h i r a n e . A S 1 5 . 1 5 . 3 5 0 (g) (2) n u i n g

November 2022 general election.¹⁴ Mary Peltola prevailed in both elections¹⁵ and sought reelection to the U.S. House of Representatives in the November 2024 general election.

B. The 2024 Primary Election

In May 2024, Eric Hafner, a Democrat, challenged Peltola's seat in the House of Representatives. Hafner was incarcerated in federal prison in New York and was not scheduled for release until 2036. Nonetheless, there were no challenges to his qualifications as a candidate in the primary election.

Alaska held its open primary election in August 2024 to determine which candidates would appear on the November general election ballot. The top-four candidates were incumbent Peltola, a Democrat, and Republicans Nick Begich, Nancy Dahlstrom, and Matthew Salisbury, with the candidates receiving 50.9%, 26.7%, 19.9%, and 0.6% of the votes cast, respectively. John Wayne Howe, a member of the Alaskan Independence Party, finished fifth, and Hafner, a Democrat, finished sixth, receiving 0.57% and 0.43% of the votes cast, respectively.

Dahlstrom withdrew from the general election on August 27 and Salisbury withdrew on August 30. On September 2 — shortly after the deadline for a candidate to withdraw¹⁶ — the Division updated its website to list both Howe and Hafner as candidates who would appear on the general election ballot in place of the two

¹⁴ STATE OF ALASKA, DIV. OF ELECTIONS, ELECTION INFORMATION, <https://www.elections.alaska.gov/election-information/#GENR>; *see also* *Guerin v. State*, 537 P.3d 770, 776-77 (Alaska 2023).

¹⁵ STATE OF ALASKA, 2022 SPECIAL GENERAL ELECTION: RCV TABULATION 2 (2022), <https://www.elections.alaska.gov/results/22SSPG/RcvDetailedReport.pdf>; STATE OF ALASKA, RCV DETAILED REPORT 3 (2022), <https://www.elections.alaska.gov/results/22GENR/US%20REP.pdf>.

¹⁶ AS 15.25.100(c) (imposing 64-day deadline to withdraw).

withdrawn candidates. Thus, the four general election candidates for U.S. Representative were Peltola, Begich, Howe, and Hafner.

Shortly thereafter, the Division finalized the general election ballot designs and sent them to the printer on September 5. And the next day, the Division began printing the ballots. State¹⁷ and federal law¹⁸ required the Division to mail ballots to uniformed, overseas, and certain remote Alaskan voters by September 20.¹⁹

C. Proceedings

ADP filed suit on September 4 seeking to enjoin the Division and its director from including Hafner on the ballot. The Alaska Republican Party intervened without opposition.²⁰ ADP moved for a temporary restraining order and preliminary injunction.²¹ The superior court granted expedited consideration of the motion.

ADP argued it was likely to succeed on the merits, contending that in the event more than one of the top-four primary candidates withdraws, AS 15.25.100(c), as amended by Ballot Measure 2, permits the Division to elevate only a single candidate to the general election ballot, the one receiving the fifth most votes. Additionally, ADP maintained that Hafner was constitutionally ineligible to run as a candidate in Alaska because he was incarcerated in New York and unlikely to be released by election day. ADP argued that because Hafner was running as a registered Democrat it would suffer

¹⁷ See AS 15.20.081(k), (l) (r e q u i r e d [to] send an absentee ballot and other voting material " h a t e 4 5 d a y s n b e f o r e a t t h e l e d a r e t t t h e x p e c t s to be living, working, or traveling in a remote area of the state where distance, terrain, or other natural conditions deny the voter reasonable access to a polling place at the time of the election ") .

¹⁸ See 52 U.S.C. § 20302(a)(8).

¹⁹ Because the statutory deadline was Saturday, September 21, ballots were required to be delivered to the post office on the prior business day. See 52 U.S.C. § 20302(a)(8); AS 15.20.081(k), (l).

²⁰ See Alaska R. Civ. P. 24(a).

²¹ See Alaska R. Civ. P. 65.

irreparable harm both in the form of competitive damage to its chosen candidate, Peltola, and to its associational rights by suggesting that it was affiliated with a convicted felon, unless the Division was enjoined from including Hafner on the ballot.

The Division opposed the motion, arguing that the plaintiffs did not demonstrate a likelihood of success on the merits. Division's AS 15.25100(c) requires the director to replace successive vacancies created by candidate withdrawals for candidates who finished behind the fifth-place primary candidate. It also argued that Hafner was qualified to appear on the ballot because the constitutional ineligibility requirement applies only if and when a candidate is elected.

The superior court consolidated the hearing on the temporary restraining order and preliminary injunction with the merits hearing and denied ADP's request for relief.²² The superior court found that ADP did not demonstrate that it would suffer irreparable harm. The court also concluded that ADP's request for a preliminary injunction was premature because voters may rank as many candidates as they prefer. Moreover, the court reasoned that ADP did not demonstrate associational harm because Hafner's association with the Democratic Party did not indicate that the Democratic Party endorsed him. The superior court also sided with the Division on the merits. It found that Hafner was not constitutionally disqualified and that AS 15.25.100(c) required the Division to replace successive withdrawn candidates. Finally, the superior court also concluded, in the alternative, that dismissal was required because Hafner was an indispensable party under Alaska Civil Rule 19(a) and the litigation could not

²² See Alaska R. C.P. 65(b)(1)(A) (Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application.).

proceed without his joinder.²³ The court entered a final judgment on September 10 denying the requested relief.

ADP immediately appealed, arguing that the superior court erred in its interpretation of AS 15.25.100(c), denial of preliminary injunctive relief, and finding that Hafner was an indispensable party.²⁴ We heard oral argument and announced our decision on September 12 — today's date — by a majority of the court. We issued a written summary order that same day affirming the superior court and noting that this full opinion would follow.

III. STANDARD OF REVIEW

A party seeking injunctive relief must establish certain predicate elements, each of which is “studied and found to be necessary.”²⁵ “[S]uperior court” decisions about irreparable harm, adequate protection, and the probability of success on the merits of a claim may present pure questions of law that we review de novo. *See* *State v. Galvin*, 491 P.3d 325, 332 (Alaska 2021). “[W]e review de novo the superior court’s legal conclusions regarding the preliminary injunction.”²⁷ Where the facts presented by the parties are undisputed, we review the superior court’s legal conclusions regarding the preliminary injunction de novo.

²³ The superior court found that Hafner was a necessary party because “Hafner’s participation in the case is essential to a full and complete understanding of the issues presented by this case.” *See* *State v. Galvin*, 491 P.3d 325, 332 (Alaska 2021). Because we uphold the superior court’s finding on the merits, we do not need to address the issue of whether the superior court’s finding is reversible error.

²⁴ We do not further address the issue of whether the superior court’s finding of constitutional disqualification because ADP does not raise it on appeal.

²⁵ *State v. Galvin*, 491 P.3d 325, 332 (Alaska 2021).

²⁶ *Id.*

²⁷ *Alsworth v. Seybert*, 323 P.3d 47, 54 (Alaska 2014); *Bridges v. Banner Health*, 201 P.3d 484, 489 (Alaska 2008).

of the “review” fact u failed to hear for , i f r e v a l u e i n g the entire record, we are left with a firm and definite conviction that a mistake was made . ”

IV. DISCUSSION

We affirm the superior court’s decision to uphold the denial of declaratory and injunctive relief.³⁰ We hold that AS 15.25.100(c) requires successive replacements on the general election ballot if more than one top-four primary candidate timely withdraws. As long as additional primary candidates are available as replacements, the withdrawn candidates must be replaced by the remaining candidates with the next-highest vote share.

A. Alaska Statute 15.25.100(c) Requires The Division To Replace More Than One Timely Withdrawn Primary Candidate On The General Election Ballot.

When interpreting a statute, we use the sliding-scale approach to interpret the language. If the language is clear, we interpret it according to its plain meaning. If the language is ambiguous, we interpret [a] statute according to reason, practicality, and common sense, considering the meaning of the statute’s language in light of the statute’s purpose. When reviewing a statute enacted pursuant to a ballot measure, “ we attempt

²⁸ *Galvin*, 491 P.3d at 332.

²⁹ *Id.* (citing *Stephan P. v. Cecilia A.*, 464 P.3d 266, 271 (Alaska 2020)).

³⁰ Because the superior court consolidated the hearing with a trial on the merits, we address the merits of ADP’s claims for relief. *See Haggblom v. City of Dillingham*, 191 P.3d 991, 994-95 (Alaska 2008).

³¹ *Guerin v. State*, 537 P.3d 770, 778 (Alaska 2023) (quoting *State v. Planned Parenthood of the Great Nw.*, 436 P.3d 984, 992 (Alaska 2019) (footnote omitted)).

³² *State v. Fyfe*, 370 P.3d 1092, 1095 (Alaska 2016) (quoting *State, Div. of Workers’ Comp. v. Titan Enters., LLC*, 338 P.3d 316, 320 (Alaska 2014)).

ourselves in the position of the voters at the time the initiative was placed on the ballot, and we try to interpret the initiative using the tools available to the citizens of this state at that time.³³ The district court, however, consider only materials that Alaska voters had available and would have relied upon when voting on the measure.³⁴ We look to these materials to discern the intent of the drafters and the voters who adopted the ballot measure.³⁵ We may consider unpublished arguments made in support or opposition to determine what meaning voters may have attached to the initiative.³⁶

We begin our analysis with the text of AS 15.25.100(c). We conclude that because the statute is susceptible to more than one reasonable interpretation, it is ambiguous. Next, we review the language and purpose of Ballot Measure 2, which support an intention by the drafters and voters who adopted it to have four candidates appear on the ballot whenever possible.³⁷ Finally, our precedent favors interpreting ambiguous statutes in favor of providing greater access to the ballot. Under these circumstances, we affirm the district court's decision on the judgment of the superior court.

1. The plain text of AS 15.25.100(c) is ambiguous.

Resolution of this case turns on the meaning of AS 15.25.100(c). In relevant part, the statute provides:

³³ *Alaskans for a Common Language, Inc. v. Kritz*, 170 P.3d 183, 193 (Alaska 2007).

³⁴ *Guerin*, 537 P.3d at 780 (quoting *Kritz*, 170 P.3d at 193).

³⁵ *Id.* at 781.

³⁶ *Id.* at 780 (internal quotation marks omitted).

³⁷ We use "Ballot Measure 2" if either the measure is enacted by voter initiative. We use individual statute sections when referring to specific provisions enacted by Ballot Measure 2.

[I]f a candidate nominated at the primary election . . . withdraws . . . after the primary election and 64 or more days before the general election, the vacancy shall be filled by the director by replacing the withdrawn candidate with the candidate who received the fifth most votes in the primary election.^[38]

The crux of ADP's argument that this means : In its view, if one of the top-four primary candidates withdraws, AS 15.25.100(c) requires the director to replace the withdrawn candidate with — and *only* with — the “c a n d i d a t e e i w h e o s b e i t h e f t h e l i n e a n d i n t w o” of the top-four candidates withdraw, ADP maintains that the Division can replace only one of the two vacancies with the fifth-place finisher; the other vacancy must remain unfilled because AS 15.25.100(c) authorizes only a single replacement candidate in the general election. It argues that had the drafters and the voters intended to create a mechanism for successive replacements, they would have instead referred to the c a n d i d a t e n e w i n t h e b o t h e r s h a s t h e a n d i d a t e e t i m e o f f i r s t b o t h v o t e s . ”

ADP's interpretation of AS 15.25.100(c) is reasonable. When read in isolation, phrases such as “acted directly and indirectly” may suggest that only the original fifth-place candidate in the primary election is a permissible replacement for a withdrawn candidate. And a natural way to provide otherwise would be to refer to a replacement candidate in relational terms — such as the candidate then existing — rather than “by a static position — “c a n d i d a t e e i w h e o s b e i t h e f t h e l i n e a n d i n t w o” How a court's interpretation of the statute.

³⁸ AS 15.25.100(c).

³⁹ *Id.*

vacancy when the candidate dies or is not, as the Division would read it, the candidate who received the next-highest vote total in the primary. And if the provision was intended to require the director to replace multiple withdrawn candidates, the phrase “the candidate who received the next-highest vote total in the primary” have more clearly conveyed the intent. The Division’s interpretation — that the phrase “the candidate who received the next-highest vote total in the primary” is a phrase that is not a phrase — is a reasonable interpretation. But it is not the only reasonable interpretation.

Our determination that AS 15.25.100(c) is ambiguous is supported by the Minnesota Supreme Court’s decision in *Martin v. Dicklich*.⁴⁴ At issue in that case was whether Minnesota election law required the state to accept a party’s withdrawal of a candidate’s withdrawal.⁴⁵ The parties advocated for opposing interpretations of the withdrawal provision in the party’s withdrawal of a candidate’s withdrawal.⁴⁶ The court determined that the withdrawal provision was ambiguous because it was susceptible to two reasonable interpretations.⁴⁷ Among other reasons, the court resolved the issue in favor of the plaintiffs because the

⁴³ *Id.*

⁴⁴ 823 N.W.2d 336, 338 (Minn. 2012).

⁴⁵ *Id.*

⁴⁶ *Id.* at 344.

⁴⁷ *Id.*

defendant' would require the court to add limiting language into the statute.⁴⁸

Similarly, the ballot replacement provision at issue here requires us to imply additional limiting language to support *either party's* interpretation meaning of AS 15.25.100(c) were unambiguous, we would not have to choose between two reasonable interpretations.

In an attempt to overcome the facial ambiguity in the statute, ADP argues that our decision in *Guerin v. State* is “inconsistent” with the interpretation that AS 15.25.100(c) requires four candidates to be placed on the ballot whenever possible. Our decision in *Guerin* is readily distinguishable. In *Guerin*, the main question before us was whether the replacement mechanism in AS 15.25.100(c) applies to special general elections.⁴⁹ We held that it does.⁵⁰ We also noted that the replacement is required if a candidate withdraws or dies or resigns 64 or more days before the general election.⁵¹ Here, the candidates withdrew well before the 64-day deadline, so *Guerin* is inapplicable.

⁴⁸ *Id.* at 344-47 (“[R]es interpretation would require that [the statute] be re-worded, by adding the underlined language, so that a vacancy in nomination occurs when a major political party candidate or nonpartisan candidate who was nominated at a primary dies or a major political party candidate for a constitutional office files an affidavit of withdrawal as provided in section 204B.12, subdivision 2a.” (emphasis in original)).

⁴⁹ *Guerin v. State*, 537 P.3d 770, 777-81 (Alaska 2023).

⁵⁰ *Id.* at 781.

⁵¹ *Id.* at 780.

⁵² *Id.* at 776-77; AS 15.25.100(c) (“If a candidate nominated at the primary election dies, withdraws, resigns . . . 64 or more days before the general election, the vacancy shall be filled by the director” (emphasis added)).

To summarize, both interpretations are reasonable, but neither is clearly resolved by considering the plain text alone.⁵³ Therefore, we conclude that AS 15.25.100(c) is ambiguous, and we must look to the language and purpose of the statutory scheme enacted by Ballot Measure 2 to resolve the ambiguity.

2. The language and purpose of Ballot Measure 2 support an intention to have four candidates appear on the ballot whenever possible.

When interpreting provisions of a statute, we will consider only materials that Alaska voters had available and would have relied upon when voting on the measure. . . . We determine a measure's meaning attached to the initiative. ' ⁵⁴ "The voters had access to the full text of Ballot Measure 2 when they approved it, and the statute as a whole provides context for its intent. ⁵⁵ The measure's intent is to provide the opportunity for more candidates by increasing. . . . ⁵⁶ It will generate more competition and candidates. ⁵⁷ To achieve its stated purpose, Ballot Measure 2

⁵³ See, e.g., *Ray v. State*, 513 P.3d 1026, 1044 n.9 (Alaska 2022) (Carney, J., dissenting) (if the statute is reasonably susceptible to more than one interpretation, then the statute is ambiguous. . . . *State v. Saathoff*, 29 P.3d 236, 240 (Alaska 2001) (holding statute was ambiguous because it could be interpreted in more than one way); *Mun. of Anchorage v. Adamson*, 301 P.3d 569, 576 (Alaska 2013) (concluding statute was ambiguous because it could be interpreted in more than one way); *Dirt Road Dev. LLC v. Hirschman*, 2017 W.433d 8, (1444) (2017) (statute is ambiguous if it is susceptible of more than one reasonable interpretation. . . . ") .

⁵⁴ *Guerin*, 537 P.3d at 780 (quoting *Alaskans for a Common Language, Inc. v. Kritz*, 170 P.3d 183, 193 (Alaska 2007)).

⁵⁵ *Id.* at 781.

⁵⁶ ELECTION PAMPHLET, *supra* note 1, at 79. The statement in support of Ballot Measure 2, "choosing a candidate is a simple change that gives voters more freedom to choose the candidate that best reflects their positions. *Id.* at 105.

⁵⁷ *Id.* at 80.

amended the then-existing primary election system to require that the candidate with the most votes in the primary election would appear on the general election ballot.⁵⁸ It amended AS 15.25.100(a) and AS 15.25.010 which both set forth the four candidates that would appear on the general election ballot. Alaska Statute 15.25.010 also explicitly notes that the primary system “*save[s] would more candidates whose names appear on the ballot to the general election.*”⁶⁰ And in the very next sentence, the statute states that “*if the number of candidates exceeds the number of votes for any office, the candidates shall be ranked in order of the number of votes for any office.*”⁶¹ The consistent references to *four* candidates suggest that voters would have understood that the ballot measure was intended to provide four candidate choices for each office on the general election ballot, provided that enough qualified candidates ran in the primary election.

ADP contends that the ballot measure was “*2017*” to filter out unpopular primary candidates so that only the most popular candidates advance to the general election.⁶² ADP provides no evidence in the text or supporting materials to back this claim. To the contrary, the language of the ballot measure made available to voters expressly states that its purpose was to *increase* candidate choice.⁶³ ADP’s interpretation contravenes this purpose by limiting to it only the candidates who received the most votes. ADP also contends that the ballot measure was “*2017*” to filter out unpopular candidates is a more apt characterization of the previous electoral system.

Under the prior system, a candidate unaffiliated with a political party could appear on the general election ballot only by filing a petition with the requisite

⁵⁸ *Id.* at 75.

⁵⁹ AS 15.25.100(a); AS 15.25.010.

⁶⁰ AS 15.25.010.

⁶¹ *Id.*

⁶² ELECTION PAMPHLET, *supra* note 1, at 79.

number of signatures.⁶³ The purpose of the petition requirement was to require candidates to start a campaign using a process that would not be confusing ballot and confusing voters.⁶⁴ Ballot Measure 2 repealed the petition provision. In place of the petition provision, it established the nonpartisan open primary election as the exclusive means for candidates to appear on the general election ballot.⁶⁵ It requires the director to place the top-four candidates on the ballot regardless of how much support each candidate received in the primary.⁶⁶ And even ADPF's interpretation were correct, allowing a single replacement candidate does not guarantee that the candidates appearing on the general election ballot have a threshold level of support. The result is that the candidates who are not in the top four but are not in the top five candidates both received 0.6% or less of the vote — an amount of support that would have likely been insufficient for the candidates to qualify by petition under the prior regime.⁶⁷

⁶³ See former AS 15.25.160 (2020) (repealed Feb. 28, 2021); former AS 15.25.170 (2020) (repealed Feb. 28, 2021).

⁶⁴ *Vogler v. Miller*, 651 P.2d 1, 4-6 (Alaska 1982); see also *State v. Metcalfe*, 110 P.3d 976, 980 (Alaska 2005).

⁶⁵ See AS 15.25.105. On October 1, 2021, the director shall place on the general election ballot only the names of the four candidates receiving the greatest number of votes for an office. ” (e m p h a s i s a d d e d) S o l e l y c a n d i d a t e s w h o w i l l n o t a p p e a r o n t h e g e n e r a l e l e c t i o n b a l l o t . S e e A S 15.25.105.

⁶⁶ See AS 15.25.100(a).

⁶⁷ See former AS 15.25.160 (2020) (repealed Feb. 28, 2021) (requiring petitioning candidates for United States senator or representative to collect signatures of at least 1% of number of voters in preceding general election). To qualify for ballot access under the old electoral system, petitioning candidates for U.S. representative would have needed to collect signatures from 1% of the 264,589 votes cast in the 2022 general election, or approximately 2,646 signatures. See STATE OF ALASKA, RCV DETAILED REPORT 2 (2022), <https://www.elections.alaska.gov/results/22GENR/US%20REP.pdf>. Assuming that a 2024 primary voter would have signed their chosen

of citizenship and should not be impaired or destroyed by strained statutory constructions. ’ 74 ”

Two of our prior decisions support resolution of ambiguous statutory provisions in favor of greater ballot access. First, in *O’Callaghan v. State*, we addressed whether a candidate who withdrew from one party’s nomination for appearing on the general election ballot as the candidate of another party.⁷⁵ We held that the candidate was not disqualified.⁷⁶ In *O’Callaghan*, a candidate for lieutenant governor won the Republican Party nomination.⁷⁷ Before the deadline, the candidate withdrew from the Republican ticket to fill a vacancy on the Alaska Independence Party.⁷⁸ The candidate was “disqualified” from appearing on the general election ballot because he withdrew from the Republican nomination.⁷⁹ We determined that the withdrawal provision at issue in *O’Callaghan* was ambiguous.⁸⁰ Crucially, we resolved the question in favor of allowing a candidate to do so “as a matter of public policy favoring open access to the ballot” — which we determined to be “in accord with public policy — along with a lack of clear legislative intent to the contrary — supported our

⁷⁴ *Guerin v. State*, 537 P.3d 770, 783-84 (Alaska 2023) (alterations in original) (quoting *Carr v. Thomas*, 586 P.2d 622, 626 (Alaska 1978)).

⁷⁵ 826 P.2d 1132, 1133 (Alaska 1992); former AS 15.25.110 (1989). AS 15.25.110(a) was repealed by the Alaska State Constitution’s language substantially similar to the current AS 15.25.100(c) and addressed the procedure for a political party to fill a vacancy in its general election ticket.

⁷⁶ *O’Callaghan*, 826 P.2d at 1137.

⁷⁷ *Id.* at 1133.

⁷⁸ *Id.*

⁷⁹ *Id.* at 1135-36.

⁸⁰ *Id.* at 1135.

⁸¹ *Id.* at 1137.

conclusion that a withdrawn candidate is only disqualified from appearing as a candidate of the *same* party that they withdrew from, not a wholly different political party.⁸²

Second, in *Municipality of Anchorage v. Mjos*, we held that where there is a statutory ambiguity as to whether or not a candidate is eligible to run for office, the statute should be interpreted that way.⁸³ There, a candidate for the local assembly sought reelection; however, the municipal charter was ambiguous as to whether he was eligible.⁸⁴ Although established principles of statutory interpretation suggested the candidate was ineligible, we nevertheless concluded that because both interpretations were reasonable, our presumption in favor of ballot access compelled the more possible interpretation that he was eligible.⁸⁵ Courts in other jurisdictions have similarly applied a presumption of candidate eligibility when interpreting ambiguous statutes.⁸⁶

⁸² *Id.* at 1136-37.

⁸³ 179 P.3d 941, 943 (Alaska 2008); *see also id.* at 943 n.1 (“Statutes dealing with . . . the right of citizens to aspire to and hold public office, should receive a liberal construction in favor of assuring . . . the right to aspire to and hold public office.”)

⁸⁴ *Id.* at 943-44. The provision at issue prohibited persons who have served “*in the service of the state*” from being elected to full term has in the past been interpreted to include both full and partial terms because the drafters used the modifier “*full*” when referring to intervening terms.⁸⁵ *Id.* at 943-44. We noted that the canon does not apply in all circumstances. *Id.* at 944.

⁸⁵ *Id.* at 943.

⁸⁶ *See, e.g., Bysiewicz v. Dinardo*, 6 A.3d 726, 738 (Conn. 2010) (holding that ambiguities in statutory limitations on eligibility should be resolved in favor of a candidate’s eligibility” *People ex rel. Dickerson v. Williamson*, 56 N.E. 1127, 1129 (Ill. 1900) (noting that ballot access laws should be liberally construed).

As discussed above, the purpose of Ballot Measure 2 is reasonable.⁸⁷ However, the language and purpose of Ballot Measure 2 favor the Division's interpretation: replacement of measured offices by the candidate choices for voters. And our clear precedent controls. We hold that AS 15.25.100(c) requires the director to fill successive timely vacancies on the general election ballot if more than one top-four primary candidate timely withdraws and additional primary candidates are available.⁸⁹

V. CONCLUSION

Based on the foregoing, the judgment of the superior court is AFFIRMED.

⁸⁷ See *supra* Section IV.A.1.

⁸⁸ See Richard L. Hasen, *The Democracy Canon*, 62 STAN. L. REV. 69, 78-79 (2009) (finding that Alaska case law demonstrates “parallelism” for ballot access).

⁸⁹ We hold only that the director must replace successive vacancies *provided that* the vacancies were timely and additional replacement candidates from the primary race remain. If four or fewer candidates appeared on the primary ballot, then any subsequent vacancy on the general election ballot would remain unfilled.

CARNEY, Justice, dissenting.

Alaska Statute 15.25.100(c) states that

if a candidate nominated at the primary election . . . withdraws . . . after the primary election and 64 or more days before the general election, the vacancy shall be filled by the director by *replacing the withdrawn candidate with the candidate who received the fifth most votes in the primary election*.^[1]

“ F i f t h ” means—~~the one that comes after the fourth~~. And the statute fixes its application ~~on the~~. “ c a n d i d a t e e i n w h o s e n o m i n a t i o n ” t h e r e f o r e means the candidate who received the next highest number of votes in the primary election after the candidate who received the fourth highest number. I fail to see “ t h e f a c i l i t y t h a t t h e c o u r t i d e n t i f i e s a s t h e r e a s o n t o u n d e r t a k e i t s c i r c u l a r j o u r n e y t h r o u g h p r i n c i p l e s o f s t a t u t o r y i n t e r p r e t a t i o n t o a r r i v e a t i t s s t a r t i n g p o i n t o f t h e a m b i g u i t y i t p o s i t e d . I r e s p e c t f u l l y d i s s e n t . ”³

Our longstanding approach to interpreting the meaning of a statute begins with the plain language. ~~plain language suggests that there is more evidence in the statute that it is not to be construed to imagine~~ ~~plain language than this statute uses to describe the candidate who will fill a vacancy on the general election ballot.~~

¹ Emphasis added.

² Opinion at 14.

³ ~~Because I believe that the statute is clear, I see no need to address any of the other issues raised. Hafner is not an indispensable party because the statute forbids his being placed on the ballot; the specifics of his unorthodox candidacy do not matter.~~

⁴ *Guerin v. State*, 537 P.3d 770, 778 (Alaska 2023) (quoting *State v. Planned Parenthood of the Great NW.*, 436 P.3d 984, 992 (Alaska 2019)).

Nothing about the text of AS 15.25.100(c) as a whole changes that plain meaning. Listing multiple causes that could lead a candidate whose name is on the ballot to withdraw is irrelevant.⁵ The statute's acknowledgment of a number of reasons that a candidate might withdraw says nothing about its mandate that a few with "draw a candidate who is to be elected in the primary election" shall fill the vacancy.

Nor do the history and purpose of Ballot Measure 2 undermine the statute's meaning. In AS 15.25.100(c), the legislature intended that its purpose is "to improve the election process."

No longer are primary elections separated by party or limited to those candidates who either were nominated by a major party or obtained sufficient signatures on a petition. Instead, all qualified individuals who wish to run for office are now listed on the primary election ballot.⁷ After voters cast their individual votes for a single chosen candidate, the four candidates who received the most votes are listed on the general election ballot. By opening the figurative floodgates of primary elections for potential candidates, Ballot Measure 2 has increased the number of candidates for representation.

And the change has made it easier for voters to elect a candidate further. No longer are Alaskan voters limited to the traditional single vote for a single candidate. Instead, Ballot Measure 2 introduced ranked choice voting — enabling each

⁵ Opinion at 13.

⁶ Opinion at 15 (second alteration in original).

⁷ The problem with AS 15.25.100(c) is that it lists 12 candidates in the primary election; in 2024, it listed 12. *Sample Ballot – Primary Election*, DIV. OF ELECTIONS (Aug. 16, 2022), <https://www.elections.alaska.gov/election/2022/prim/HD99.pdf>; *HD1 Sample Ballot – Primary Election*, DIV. OF ELECTIONS (Aug. 20, 2024), <https://www.elections.alaska.gov/election/2024/Primary/SampleBallots/HD1.pdf>.

In addition to these changes creating more choices for Alaskan voters, AS 15.25.100(c) increases choice a step further. In the event that a candidate who was among the top four vote recipients in the primary election withdraws, that vacancy can be filled by the candidate who received the fifth most votes in the primary election.

Finally, the court asserts that our precedent supporting greater ballot access supports its decision and its interpretation of AS 15.25.100(c).¹⁰ In doing so, the

⁹ This, of course, overlooks the reality that there have been many races on general ballots since the enactment of Ballot Measure 2 that have had fewer than four choices. *See, e.g., HD3 Sample Ballot – General Election*, DIV. OF ELECTIONS (Nov. 8, 2022), https://www.elections.alaska.gov/election/2022/genr/HD3_JD1.pdf (one candidate in state senator race); *HD2 Sample Ballot – General Election*, DIV. OF ELECTIONS (Nov. 8, 2022), https://www.elections.alaska.gov/election/2022/genr/HD2_JD1.pdf (two candidates in state representative race).

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court once again fails to acknowledge that Alaskans have already greatly increased ballot access by adopting Ballot Measure 2.

~~Because the court's reasoning is not supported by the facts, the court's conclusion to which the court has reached to conclude otherwise are unnecessary and unreasonable. I therefore respectfully dissent.~~