

STATE OF MAINE

SUPREME JUDICIAL COURT  
SITTING AS THE LAW COURT  
LAW DOCKET NO. CUM-20-227

DAVID A. JONES, JONATHAN  
KINNEY, and JOSHUA MORRIS,

Petitioners-  
Appellees

v.

MATTHEW DUNLAP, in his capacity  
as the MAINE SECRETARY OF STATE,

Respondent-  
Appellant

and

THE COMMITTEE FOR RANKED  
CHOICE VOTING, et al.,

Intervenors-  
Appellants.

**AFFIDAVIT OF JULIE L. FLYNN,  
DEPUTY SECRETARY OF STATE  
IN RESPONSE TO  
PETITIONERS' MOTION  
TO STAY THE MANDATE AND FOR  
AN INJUNCTION**

I, Julie L. Flynn, being duly sworn, hereby depose and state as follows:

1. I am the Deputy Secretary of State in charge of the Bureau of Corporations, Elections and Commissions and have held this appointed position since February of 1999. I served as Director of the same Bureau, including the Elections Division, from March 1995 until I was appointed Deputy.

2. The Secretary of State's Office, through the Elections Division of the Bureau of Corporations, Elections and Commissions, oversees all statewide elections and administers the Maine election laws set forth in Title 21-A. Our responsibilities include, but are not limited to, the preparation of ballots for all candidates for federal, state, and county offices, and for statewide referenda. *See* 21-A M.R.S. § 601. In my capacity as Deputy Secretary of State for the Bureau, I have supervisory responsibility for the preparation, printing and distribution of ballots for all statewide elections in Maine.

3. I am submitting this affidavit in response to Petitioners David A. Jones, Jonathan Kinney, and Joshua Morris's motion to stay the mandate and for an injunction following the Law Court's decision of September 22, 2020, in the above captioned matter. The purpose of this affidavit is to advise the parties and the Court of the status of ballot preparation, distribution, and absentee voting, and of timing issues regarding ballot production. I have personal knowledge of the matters set forth in this affidavit.

4. In Maine statewide elections, all registered voters are eligible to vote for all elective offices at the federal, state and county level. Thus, all elective offices are printed on one ballot. These offices include, without limitation, President, United States Senators, Representatives to Congress,

Governor, State Senators, Representatives to the Maine Legislature, and County Commissioners, Sheriffs, Judges of Probate, Registers of Deeds and Probate, and District Attorneys.

5. Statewide elections in Maine are administered at the municipal level by local officials acting under the guidance and supervision of our office. There are approximately 500 voting jurisdictions in the state.

6. The combination of offices on each voting district's ballot results in the need for many different ballot designs or "styles," one for use in each local jurisdiction. In other words, each district will have a different list of candidates for the various offices on the ballot. Statewide initiatives and referenda are typically printed on the back side of these ballots. There are 309 different ballots styles for the official ballots to be used in the November 2020 general election.<sup>1</sup>

7. Title 21-A, section 601 contains several provisions prescribing the lay-out and contents of ballots in Maine elections. "The ballots must be arranged in a manner that is as consistent and uniform as possible throughout the State, except that ranked-choice contests must be grouped together and may be presented ... on a separate ballot or ballot page from contests other than ranked-choice contests." *Id.* § 601(1). "Instructions must be printed on

---

<sup>1</sup> Our office prepares a sample ballot to match each official ballot, as required by 21-A M.R.S. § 603(1)(A).

the ballot informing the voter how to designate the voter's choices on the ballot." *Id.* § 601(2)(A). "Specific instructions must be presented above or next to the first contest of each type, such as ranked-choice contests, contests other than ranked-choice contests or referenda." *Id.*

8. Because of the particular software that we use to count ranked-choice ballots, electoral contests to be determined by ranked-choice voting cannot be on the same side of the ballot as contests to be determined by plurality.

9. The process of designing, laying out, printing, and distributing ballots in all the different ballot styles for a general election typically takes several weeks, and involves significant costs and staff time. Our office contracts with a printing company to print and ship the ballots to approximately 500 different voting jurisdictions. The Elections Division staff performs the design and lay-out of the ballots, using ballot-creation software created by the vendor of our tabulating machines. We proof each of the ballot styles before we send them to the printer, and also review proofs returned by the printer. In order to accomplish all of these steps and allow sufficient time for the printer to perform its work and meet statutory deadlines for issuance of ballots, our office needed to know the final content of the general election

ballot by the end of August, 2020, and we so advised all interested parties when asked.

10. The process at the print shop also involves several steps and takes a period of two to three weeks. After the ballots are printed, they have to be cut and scored for folding, and all absentee ballots have to be folded. General election ballots are packaged in lots of 50 each, which are then packaged in boxes with printed labels and shipped to the 500 municipalities and townships throughout the state. The process of packaging, labeling and shipping takes the print shop up to two weeks.

11. Our office contracts with a separate vendor to produce the absentee ballots for uniformed service and overseas voters (known as “UOCAVA” voters in reference to the federal Uniformed and Overseas Citizens Absentee Voting Act). Those ballots have to be capable of being submitted electronically. *See id.* §§ 783 & 29-250 Code Me. Reg. ch. 525. These ballots are issued by our office and processed centrally when returned by the voters.

12. Federal law requires the state to transmit absentee ballots to all eligible UOCAVA voters who have requested them at least 45 days ahead of the election in order to allow adequate opportunity for those voters to receive the ballots and return them in time to be counted on Election Day. 52 U.S.C. §

20302(a)(8). The 45<sup>th</sup> day before this general election was Saturday, September 19, 2020.

13. As of 9:30 this morning, September 28, 2020, our office had distributed over 4,800 absentee ballot to military and overseas voters. Approximately 1,875 of these ballots have already been returned by the voters, and we are receiving 100 to 200 more ballots electronically each day.

14. State law requires our office to provide each municipality with a supply of absentee ballots and return envelopes not less than 30 days prior to the election, which means by October 2, 2020. 21-A M.R.S. § 752. As soon as local officials receive these ballots from the printer, they are required to begin issuing them to voters who have requested them. *See* 21-A M.R.S. § 753-B(1) (“[u]pon receipt of an application or written request for an absentee ballot that is accepted pursuant to section 753-A, the clerk shall immediately issue an absentee ballot and envelope”).

15. Voters are allowed to submit applications for an absentee ballot up to three months before the election, pursuant to 21-A M.R.S. § 753-A(1). As of today, over 246,000 absentee ballots (exclusive of those for UOCAVA voters) have been requested by voters for the upcoming general election. This tally includes both requests made on-line using the state’s Absentee Ballot

Request service and any requests made directly by voters to their town officials by phone or in writing.

16. Approximately 1.1 million paper ballots have now been printed, at a total cost of close to \$440,000, with an estimated \$32,000 in shipping costs. Sixteen of the largest population cities and towns, including Portland, Lewiston, Bangor, Biddeford, Saco, Scarborough, Sanford, South Portland, Auburn, Augusta and Waterville, received their ballots by Friday, September 25, 2020, and will be issuing them to absentee voters beginning today, September 28, 2020. Another sixteen communities are due to receive their ballots today.

17. Attached is a reduced-size copy of a sample ballot for the town of York in Congressional District 1 (style #309) and another sample ballot for a group of towns and townships in Congressional District 2 (style #1). On all of the ballot styles, the three ranked-choice races for federal office appear on one side, and all other offices to be determined by plurality are listed on the other side, with different voter instructions on each side.

Dated: 9-28-2020

  
JULIE L. FLYNN

STATE OF MAINE  
KENNEBEC, ss.

September 28, 2020

Personally appeared before me the above-named Julie L. Flynn, and made oath that the foregoing statements made by her are true and correct to her own personal knowledge.

Cathy Beaudoin  
Notary Public  
Print Name: Cathy Beaudoin  
My Commission Expires: 9/4/2021

Cathy Beaudoin  
Notary Public • State Of Maine  
My Commission Expires September 4, 2021