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IN THE SUPREME COURT OF THE STATE OF IDAHO

IDAHOANS FOR OPEN PRIMARIES and
RECLAIM IDAHO,

Petitioners,

v.

RAÚL R. LABRADOR, in his official
capacity as the Idaho Attorney General , and
PHIL MCGRANE, in his official capacity as
the Idaho Secretary of State,

Respondents.

Case No. 50940-2023

**DECLARATION OF LUKE
MAYVILLE IN SUPPORT OF
PETITION FOR A WRIT AND
MOTION TO EXPEDITE**

I, Luke Mayville, having first been duly sworn upon oath, declare as follows:

1. My name is Luke Mayville, and I am a Co-founder of Reclaim Idaho, a
Petitioner in this case.

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MOTION TO EXPEDITE- 1

My Background

2. I have served in leadership roles for Reclaim Idaho since spring 2017, when I co-founded the organization in my hometown of Sandpoint. I served as a volunteer leader and organizer from spring 2017 until summer of 2021, and I served on the organization's staff in the role of Executive Director from summer 2021 until the present. My role with Reclaim Idaho has included setting strategic priorities, managing staff, fundraising, communicating with media, writing opinion columns, drafting initiative proposals, coalition-building, and traveling the state to recruit volunteers and leaders.

3. I attended North Idaho College and graduated summa cum laude with a bachelor's degree from the University of Oregon in 2008. I received the McNair Post-baccalaureate Scholarship from the U.S. Department of Education and I studied at Middle East Technical University in Ankara, Turkey, as a recipient of the U.S. Department of State's Gilman Scholarship. I earned my Ph.D. in political science from Yale University in 2014.

4. I am an academic by training and was most recently employed as an adjunct faculty member at Boise State University Honors College, where I taught a seminar entitled Democracy and Its Critics. I have also held teaching and research

positions at Yale University, American University, and Columbia University. In 2016, I published a book on the political thought of President John Adams.

Reclaim Idaho

5. Reclaim Idaho is a grassroots organization designed to make government work for all Idahoans, not just those with the most money and influence. We organize to pass citizens' initiatives and engage in advocacy efforts to secure common-sense election reforms, to strengthen public schools, to protect initiative rights, and to extend healthcare coverage to working families.

6. Reclaim Idaho has more experience with the Idaho signature-gathering process than any organization in the state. In the decade since the current signature requirements were enacted, only three initiative campaigns have collected the signatures necessary to qualify for the ballot. Two of those three (Medicaid Expansion in 2018 and the Quality Education Act in 2022) were led by Reclaim Idaho, with our organization's volunteers collecting the vast majority of the required signatures in both instances.

Idaho's Strict Initiative Requirements

7. Of the 26 states that allow ballot measures, Idaho is among the most restrictive in terms of signature requirements. In the decade since the enactment of

Idaho's current signature requirements, just 13% of the initiatives filed with the Secretary of State have met the signature requirements to qualify for the ballot.

8. Idaho requires signatures from 6% of the total number of voters who were registered at the time of the previous general election. This requirement alone makes Idaho an outlier, as most states require signatures only from a percentage of *votes cast* during the previous election, not *total registered voters*. In Idaho, the total number of registered voters at the time of the 2022 general election was 1,048,250, and so the signatures required to qualify an initiative for the 2024 ballot is 62,895. If the requirement were 6% of votes cast, the number of required signatures would be just 35,976.

9. In addition to the large total number of signatures required, Idaho has a geographic distribution requirement that is among the most restrictive in the country. In order to qualify for the ballot, an initiative must receive signatures from 6% of registered voters in each of 18 state-legislative districts. The combination of a high total-signature threshold and a restrictive distribution requirement makes Idaho's signature requirements among the most difficult in the nation. Only two states—Wyoming and Utah—have sets of signature requirements that are more restrictive than those of Idaho.

The Impact of the Delay Caused by the Attorney General's Bad Ballot Titles

10. The Attorney General's failure to provide fair and sufficient ballot titles has left us little choice but to litigate the provided titles. This litigation is already causing delay that harms our chances of meeting Idaho's demanding signature requirements. We intentionally filed our initiative by early May in order to seize the opportunity to collect signatures during the Independence Day festivities of July 4th—one of the largest single-day opportunities of the year for volunteer signature drives. During the month of June, we worked with volunteers in 20 different communities across the state to plan signature collection at July 4th parades and fireworks shows. We cancelled all of these activities as soon we received the Attorney General's ballot titles and realized that we would need to bring this litigation.

11. More significantly still, we've had to cancel or postpone local kick-off events in 30 Idaho communities, including Bonners Ferry, Sandpoint, Hope, Coeur d'Alene, Moscow, Lewiston, Orofino, Grangeville, McCall, Weiser, Gooding, Fairfield, Twin Falls, Hailey, Burley, Pocatello, Idaho Falls, Blackfoot, Rexburg, Dubois, Salmon, Challis, Caldwell, and four different parts of Boise. Each of these events was carefully planned and scheduled in coordination with local volunteers. The cancellation of these events has been a major setback to our chances of qualifying this initiative. In past campaigns, we've found that kick-off events are critically important for training large numbers of volunteers with the information and know-how they need to be successful.

To make a real difference, these events must be early enough in the election cycle so that volunteers, once trained, have enough time to collect the number of signatures needed in their geographic area.

12. The setbacks we've already endured as a result of this litigation will only be multiplied by further delay. Just as detrimental as the loss of July 4th would be the loss of opportunities to collect signatures during the upcoming season of state fairs, county fairs, and major late-summer community events such as the Raspberry Festival in Cottonwood, the Festival at Sandpoint, and Timber Days in Priest River. Moreover, a significant delay would deprive us of the opportunity to reschedule our kick-off events for dates early enough to be successful. Our chances of qualifying for the ballot decline significantly each additional week that volunteers are prevented from kicking off their local signature-collection efforts.

"Nonparty Blanket Primary" is a Confusing and Obscure Term

13. In the paragraphs that follow, I will speak to the insufficiency of the Attorney General's short title, with an emphasis on the Attorney General's use of the terms "nonparty blanket primary."

14. Idaho code requires that words used in the title must be "words by which the measure is commonly referred to or spoken of" (Idaho Code 34-1809). But the

opening sentence of the AG's short title describes the measure as proposing a "nonparty blanket primary" — an obscure term that is almost entirely absent from common usage.

15. In the Idaho media coverage and published discussion of the initiative to date, the terms "blanket primary" and "nonparty blanket primary" have not once been used to describe the initiative. In the months since the Idahoans for Open Primaries coalition filed the initiative, we at Reclaim Idaho have carefully tracked media coverage related to the initiative, as well as opinion columns and other public statements for and against. To date, twenty-one distinct pieces of media reporting on the proposal have appeared in Idaho newspapers, on radio, and on TV news programs. Five newspapers have published editorials on the initiative. We have reviewed all of these reports and editorials, and not in a single instance have the terms "blanket primary" and "nonparty blanket primary" been used to describe the initiative. In the few instances when these terms have been mentioned, they've been mentioned only in direct reference to either the AG's ballot titles or his Certificate of Review.

16. The terms "blanket primary" or "nonparty blanket primary" have also been absent from the public arguments we've tracked on both sides of the issue. Fifteen newspaper op-ed columns have been published — ten in favor of the initiative and five opposed. Proponents and opponents have discussed the initiative on six different radio programs. Not once have the proponents or opponents used the terms "blanket

primary” or “nonparty blanket primary” to describe the initiative. Nor have these terms been used in public statements against the initiative issued by the Idaho Solicitor General Theo Wold, Idaho State Senator Brian Lenney, Idaho State Representative Dale Hawkins, or Chair of the Idaho Republican Party Dorothy Moon.

17. Meanwhile, the Idaho Secretary of State has officially designated the initiative as the Idaho Open Primaries Act, and the Secretary of State’s office has at no time used the terms “blanket primary” or “nonparty blanket primary” to describe the initiative. The name “Idaho Open Primaries Act” appeared when the Secretary of State published the full petition on its website on June 30th. On the same day, the Secretary of State’s office issued a statement on Twitter: “Supporters of the Open Primaries ballot initiative may begin collecting signatures, following review by the Idaho Attorney General’s Office.”

18. The Idaho Open Primaries Initiative proposes a primary system that is both open and nonpartisan. The proposed primary system is “open” in the sense that candidates and voters of all parties are free to participate. It is “nonpartisan” in the sense that the primary election does not select nominees of parties but merely serves the purpose of narrowing the field of candidates who will appear on the general-election ballot.

19. To date, ballot titles have been assigned to twelve measures in ten states for open, nonpartisan primary systems similar to that proposed in the Idaho Open Primaries Initiative. Ballot measures proposing top-two open primaries, in which two candidates advance from an open, nonpartisan primary, have been assigned titles in Washington, California (twice), Oregon (twice), South Dakota, Florida, and Arizona. Ballot measures proposing top-five or top-four open primaries, nearly identical to that proposed by the Idaho Open Primaries Initiative, have been assigned titles in Alaska, North Dakota, Missouri, and Nevada. In the ballot titles issued for these twelve measures, the terms “blanket primary” or “nonparty blanket primary” have not appeared in a single instance.

20. In Idaho and elsewhere, the term “nonparty blanket primary” has not been adopted as common usage by analysts, reporters, or in public debates—likely in part because use of such a term would confuse open nonpartisan primary systems with a primary system that has been invalidated by federal courts.

Instant Run-Off is a More Precise Term than “Ranked- Choice”

21. The ballot titles proposed to the Court by Idahoans for Open Primaries and Reclaim Idaho use the term “instant runoff” in the place of “ranked-choice.” While both terms are commonly used to describe the proposed reform, “instant runoff” more accurately describes the content of the initiative. “Instant runoff” is the term

consistently used in the initiative text. More importantly, it is more precise than the term “ranked-choice.” Ranked-choice voting is a broad term commonly used to describe an entire family of voting systems. There are five variants of ranked-choice voting that have been adopted by jurisdictions and political organizations in the United States. *See* (https://www.ssoar.info/ssoar/bitstream/handle/document/78800/ssoar-politicsgovernance-2021-2-santucci-Variants_of_Ranked-Choice_Voting_from.pdf?sequence=1&isAllowed=y). The specific variant of ranked-choice voting proposed by the Idaho Open Primaries Initiative is sometimes called “single-winner ranked choice voting,” but it is much more commonly referred to as “instant runoff voting.”

Comparison to Other States’ Open Primary Titles

22. Previous ballot measures that most closely resemble the design of the Idaho Open Primaries Initiative are the top-four and top-five open primary measures filed in Nevada, Missouri, North Dakota, and Alaska. In each of these four states, the officially assigned ballot titles described the proposed reform using a variation of the term “open primary,” as follows:

23. Nevada: **“Shall the Nevada Constitution be amended to allow all Nevada voters the right to participate in open primary elections to choose candidates**

for the general election...”

(<https://www.nvsos.gov/sos/home/showpublisheddocument/10970/63799280815327000>)

24. Missouri: **“...make primary elections for statewide office, Missouri General Assembly and United States Congress open elections in which all candidates appear on a single ballot...”**

(<https://www.sos.mo.gov/petitions/2022IPcirculation#2022048>)

25. North Dakota: **“This initiated measure...would establish a new process for open primary elections in which all electors would be allowed to vote the ballot regardless of political party affiliation”**

(<https://vip.sos.nd.gov/pdfs/Measures%20Info/Petitions%20Being%20Circulated/09%20Approved%20petition%2030Apr20.pdf>)

26. Alaska: **“An Act Replacing the Political Party Primary with an Open Primary System...”**
(https://www.elections.alaska.gov/petitions/19AKBE/19AKBE_Ballot_Summary_FINAL.pdf).

30. I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

EXECUTED ON this 8th day of July 2023.

s/ _____
Luke Mayville

CERTIFICATE OF SERVICE

DECLARATION OF LUKE MAYVILLE IN SUPPORT OF PETITION FOR WRITS AND
MOTION TO EXPEDITE has been served on the following on this 10th day of July, 2023, by
filing through the Court's e-filing and serve system to:

aglabrador@ag.idaho.gov
theodore.wold@gmail.com

Attorneys for Respondents Phil McGrane and Raúl Labrador

/s/Deborah A. Ferguson

Deborah A. Ferguson