

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

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| ROBERT HAGOPIAN, et al., |) | |
| |) | |
| Plaintiffs |) | |
| |) | |
| v. |) | Civil No. 1:20-CV-00257-LEW |
| |) | |
| MATTHEW DUNLAP, SECRETARY |) | |
| of STATE for the STATE of MAINE, et al., |) | |
| |) | |
| Defendants. |) | |

**DECLARATION OF DEPUTY SECRETARY OF STATE
JULIE L. FLYNN IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION**

I, Julie L. Flynn, declare as follows:

1. My name is Julie L. Flynn. I am over the age of 21 years, have personal knowledge of the facts stated herein, and am competent to testify to the same.
2. 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 from March of 1995, until I was appointed Deputy.
3. The Elections Division of the Bureau of Corporations, Elections and Commissions oversees the administration of state and federal elections in accordance with Title 21-A of the Maine Revised Statutes and applicable federal election statutes. This includes but is not limited to the review of nominating petitions for all candidates, the design and lay-out of all ballots and sample ballots for such elections, and the preparation and distribution to local election officials of pertinent instructional and informational materials. In my capacity as Deputy Secretary of State for the Bureau, I have supervisory responsibility for all of these activities. I supervised the ranked-choice vote ("RCV") count in the 2018 primary and general

election races where that method applied, as well as in the 2020 primary races concluded last month.

4. By statute, 21-A M.R.S.A. § 354(8-A), June 1, 2020 was the deadline for candidates who were not enrolled in any political party to file nominating petitions in order to qualify for the general election ballot in November 2020. In response to the COVID-19 pandemic, Governor Mills issued an Executive Order extending the petition deadline to 5:00 pm on July 1, 2020. Executive Order 39 FY 19/20. The deadline for party candidates to qualify to participate in the primary election was 5:00 pm on March 15, 2020. 21-A M.R.S.A. § 335(8).

5. Candidates Susan Collins and Sarah Gideon submitted nominating petitions seeking nomination as the Republican and Democratic Party candidates for U.S. Senate by March 15, 2020, and our office accepted them as valid, pursuant to 21-A M.R.S.A. § 337. Sarah Gideon won the primary contest to become the Democratic Party nominee on July 14, 2020. Incumbent Senator Susan Collins was unopposed in the Republican primary.

6. In early to mid-April 2020, Lisa Savage submitted petitions to our office to qualify as a non-party candidate for U.S. Senate. On April 17, 2020, we reviewed those petitions and determined that they contained 5,221 valid voter signatures, thus qualifying Lisa Savage for the general election ballot.

7. As soon as Lisa Savage qualified for the general election ballot, it was clear by law that the general election for U.S. Senate would be conducted by RCV, meaning that we would design and print an RCV style ballot and determine the election results using the RCV method, unless one candidate receives a majority of first choice votes. *See* 21-A M.R.S.A. §§ 1(27-C) & 723-A.

8. Max Patrick Linn also submitted non-party petitions for U.S. Senate in April and May of 2020. On June 16, 2020, our office determined that he had submitted a total of 4,636 valid signatures and had qualified for the general election ballot, pursuant to 21-A M.R.S.A. § 354. This means that there will be a total of four candidates whose names will be printed on the ballot for U.S. Senate at the November 3, 2020 general election. For the Congressional races, there will be only two major party candidates on the ballot for both Districts 1 and 2. The deadline for anyone to file a declaration of write-in candidacy is 5:00 pm on September 4, 2020, pursuant to 21-A M.R.S.A. § 722-A.

9. Attached as Exhibit 1 is a true and accurate copy of the official tabulation for the 2018 Congressional District 2 general election. This is also posted on the Secretary of State's web site, election results page at: <https://www.maine.gov/sos/cec/elec/results/index.html>. The total number of "overvotes" listed in the first column under "Round 1" of these results reflects the number of ballots cast in this race in which the voter ranked more than one candidate as their first choice, or skipped the first ranking and marked more than one candidate as their second choice. The total number of "undervotes" listed in the first column under Round 1 represents the number of ballots cast in this race where the voter failed to rank any candidate as their first choice or second choice.

10. Attached as Exhibits 2A and 2B are charts showing certain primary election and general election results that are posted on the official election results page of the Secretary of State's web site: <https://www.maine.gov/sos/cec/elec/results/index.html>

a) The type of ballot is marked "RCV" if that is the type of ballot provided to voters to cast, even if the RCV count proved unnecessary because one candidate won by receiving a majority of first-choice votes. The type of ballot is designated as "plurality" if it is the traditional

ballot where the voter gets to make only one choice and the election is determined by which candidate receives a plurality in the first and only round of counting.

b) The column labeled “# blank votes” includes, for the races determined by RCV, both undervotes and overvotes in Round 1. These are all the ballots that could not be counted in the race because the voter either failed to rank any first or second choice, or ranked more than one candidate at the same level of ranking. For plurality elections, the “# of blank votes” column shows the number of ballots where the voter either left all the ovals blank for that race (an undervote), or filled in the ovals for more than one candidate in the race (an overvote). This represents the total number of voters who did not participate in that race by casting a vote that could be counted.

c) The column labeled “% blank votes” represents the number of votes not counted for reasons explained in paragraph (b) above, as a percentage of the total number of ballots cast in that race. This represents the percentage of voters who did not cast a vote in that race that could be counted.

11. Exhibit 3 is a copy of a sample ballot for the Republican Primary that was conducted on July 14, 2020, including both plurality and RCV races, with voter instructions.

12. Exhibit 4 is a copy of the poster that our office distributes to all 500 voting jurisdictions in Maine, which local election officials are required to post in each voting booth. *See* 21-A M.R.S.A. §§ 605-A & 651.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 5, 2020

/s/ Julie L. Flynn
Julie L. Flynn
Deputy Secretary of State

CERTIFICATE OF SERVICE

I hereby certify that on this, the 5th day of August, 2020, I electronically filed the above document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all registered participants.

Dated: August 5, 2020

/s/ Phyllis Gardiner
PHYLLIS GARDINER
Assistant Attorney General
Office of the Attorney General
6 State House Station
Augusta, Maine 04333-0006
Tel. (207) 626-8830
Fax (207) 287-3145
phyllis.gardiner@maine.gov