

Department of Justice files suit to block certification of Alaska Senate vote—but only if Republican loses

Patrick Martin
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In an unprecedented action, taken 12 days before the November 3 midterm election, the federal Department of Justice filed suit late last Thursday to block the state of Alaska from certifying the results of its own Senate election if Republican Senator Dan S. Sullivan is defeated.

It argues that the presence of Dan J. Sullivan, a retired teacher, on the ballot could cause confusion and cost votes for the senator, leading to the election of his Democratic opponent, former Representative Mary Peltola.

Peltola is leading in the polls. She is one of seven challengers who lead or are within the margin of error in Republican-held Senate seats, along with candidates in Iowa, Kansas, Maine, North Carolina, Ohio and Texas. Republican-held seats in Florida, Mississippi and Nebraska are also threatened, along with Democratic-held seats in Michigan, Minnesota and New Hampshire.

The presence of two Dan Sullivans on the Alaska ballot has been extensively litigated in state courts. In June, the state Division of Elections struck the teacher from the primary ballot, claiming his candidacy was intended to confuse voters. A Superior Court judge overturned the decision, and the Alaska Supreme Court upheld that ruling on June 29. On the ballot, the senator is listed as “Sullivan, Dan S (Registered Republican) Incumbent” and the teacher as “Sullivan, Daniel J Jr.”

Under the state’s ranked-choice vote system, the top four candidates in the all-party primary advance to the general election, and Sullivan the teacher won enough votes to do so. He, Senator Sullivan, Peltola and another Republican, Gerald Heikes, will appear on the ballot, with votes from the candidates winning fewer votes redistributed based on voter preferences until one candidate has a majority.

The DOJ lawsuit cites the complexities of the ranked-choice system as an argument against certification of the election result, and Attorney General Todd Blanche repeated this argument in lengthy and contentious interviews on the Sunday morning news programs of CNN and CBS.

He claimed that it would be possible to identify votes cast by voters who were “confused” by the presence of two Sullivans on the ballot by examining their preference votes, although he did not explain how this could be done or what conclusions could be drawn from such a process.

When CNN interviewer Dana Bash pointed out that the US Constitution clearly assigns responsibility to the states for regulating elections, and that the state courts had issued definitive rulings, Blanche claimed wording in the preamble to the National Voter Registration Act of 1993 allowed the federal government to act to “protect the integrity of the electoral process.”

The implications of this unprecedented claim are ominous and deeply anti-democratic. It amounts to a blanket assertion of federal authority over state elections whenever the president orders it. In 2020, top Justice Department officials refused Trump’s demand that they declare the election corrupt and threatened to resign en masse if he installed a loyalist to do it. Now the department is acting on his direct order.

In Alaska, the Peltola campaign condemned the DOJ lawsuit as a “despicable political threat” which aimed “to suppress the voices of Alaskans.” Peltola and several Democratic Party committees filed their own lawsuit Friday. Marc Elias, the lawyer representing Peltola and the Democratic Senatorial Campaign Committee, said Saturday that the purpose of the lawsuit was “to fight DOJ’s lawsuit to rig the Alaska Senate election.”

The Democrats’ filing asks the court to dismiss the suit. “Alaskans, apparently, must elect Senator Dan S. Sullivan or the President will not let them elect anyone at all,” it says.

Both Democratic and Republican election law experts said the DOJ suit had little chance of prevailing on legal grounds. But that is not really its purpose. It is the beginning of a shift in the tactics of the Trump administration’s attack on the midterm election as a whole, the first effort to challenge the results of the election even before Election Day. There are

expected to be many such challenges, particularly in the closely contested Senate seats and key governorships.

The White House and congressional Republican leaders intend to challenge the certification and seating of Democratic senators and representatives on January 3, 2027, with the narrow Republican majorities in the House and Senate voting, in effect, to block their replacements from taking office.

The political importance of the Alaska case, despite its threadbare legal basis, was underscored by Blanche's appearances on CNN's "State of the Union" and CBS's "Face the Nation." On both programs, he appeared angry and offended over the slightest questioning, and on CNN, actually began shouting at his interviewer, Dana Bash.

The CNN anchor pointed out that "the Constitution says—Article I in the Constitution, Article I, section 4, states that the times, places, and manner of holding elections for senators and representatives shall be prescribed in each state." Alaska state courts had the final say here, she noted, and the state's senior Republican Senator Lisa Murkowski has publicly opposed the DOJ suit, saying it should never have been filed.

Blanche responded with an impenetrable jumble of words: "We're not saying that the federal government is going to decide who the next senator from Alaska is. What we're asking the—what we're asking the court to do is make sure that after the—after the election, if it's clear that there was confusion, if it's clear—and that's for a court to decide at a later date if there's litigation. But if it's clear that there was confusion, and that confusion led to an unjust, improper result that is not the will of the Alaskan voters, we want to make sure that the Alaskan system and the Alaskan state courts and the Alaskan electoral process can understand that in a way that lets them do the right thing."

There was an explosive reaction from the attorney general to Bash raising the question of the January 6, 2021 attack on the US Capitol, when Trump supporters, urged on by the president, sought to block certification of his electoral defeat. The transcript reads:

BASH: And let's just talk turkey, because one of the big questions is whether or not the president is laying the groundwork for a scenario where the—whether it's Alaska or somewhere else, there is, in your words, a couple of days ago, a doomsday scenario, and we could be in a situation where President Trump tries to overturn the election, and the result of that could be, God forbid, what we saw after January 6. That is one of the fundamental questions.

BLANCHE: I mean, oh, stop it.

BASH: No.

BLANCHE: Oh, you got to stop it with that. You are not being a real person. Come on, man.

BASH: Why are you yelling at me? Oh, come on.

BLANCHE: That is crazy.

BASH: It is not crazy.

Blanche went on to say that Bash was asking him about the president, "is he going to do something crazy." To which Bash replied, "This is a president that has a history." Blanche returned to the subject a minute later, saying, "you're talking about January 6, OK? And that's so embarrassing to this network that that's what you're talking about."

This was a thinly veiled appeal to Blanche's real audience in the financial oligarchy, including, of course, Trump himself. CNN and CBS, the two networks on which Blanche appeared, have both been acquired by David Ellison, the son of billionaire oligarch Larry Ellison, the founder of Oracle and an ardent ally of Trump. Blanche was effectively warning Bash that her own position at CNN could soon be put in question, following the Ellison-directed purge at CBS.

The Democratic Party's response has been confined to the courtroom. Peltola and the Democratic Senatorial Campaign Committee have filed a motion to intervene, and Senator Adam Schiff told NBC's "Meet the Press" on Sunday that "it's not the federal government's business to run Alaskan elections." Senate Minority Leader Charles Schumer and House Minority Leader Hakeem Jeffries have said nothing about the suit.

No leading Democrat has warned the public that the president is openly preparing to overturn the results of an election, still less called for opposition to it. The Democrats' concern is to keep the crisis within the courts and the state apparatus, the same channels through which Trump is organizing the attack.



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