

Affidavit of William Peck

State of Alaska)
) ss.
City and Borough of Juneau)

William Peck, being first duly sworn upon oath, deposes and states as follows under penalty of perjury:

1. I have personal cognizance of the matters set forth herein, and hereby verify that the same are true and correct to the best of my information and belief.
2. I have been a write-in ballot observer for several days, usually 2-4 hours at a time. I was also one of two supervisors on the floor who provided the final decision for Joe Miller. I was perhaps doing this 55% of the time or slightly more during Saturday, November 13 through Tuesday, November 16.
3. This affidavit describes primarily my observations in regards to misspellings as well as several observations in regard to voter intent, because I believe it is relevant as to the lack of / changing standard.
4. Here is a list of misspellings that Gail Fenumiai approved for Lisa Murkowski:

Precinct 11-400 Badger (~9am, Weds, Nov 10)			
Murkosw	Murkoski (very common)	Mirkouski	Merkowski
Mirkowski	Mokowski	Liza Murkowski	Liz Murkoski
Lisa Murskowski	Lisc Murkowsky		
Precinct 11-405 Badger # 1 (~10am, Weds, Nov 10)			
Liza Murkowski	Murkoskie	Mirkowski	Les a Murkowski
Murski	Leisa Murkowskie	Murkoski	Mekowski
Muroski	Murowski	Murchowski	Murkowshi (clearly an H)
Murkoski (sp?) Murkowski	Mucoski	Murcowski	Muskowski
Others (mostly as an observer) (as the final review for Joe Miller)			
Muskisk	Murcowshit		

While these clear misspellings are not awful, they are nonetheless misspelled, and that was our standard. As the final reviewer, I saw many, many really butchered “variations” of Murkowski, many of which are documented elsewhere.

Sometimes Gail would huddle up with two Department of Law lawyers, then she would come back and pronounce her decision. For me, it took about 2 seconds to determine if the ballot was valid, the only issue I ever had was making the call on poor misspellings. If it wasn't clearly misspelled, the benefit of the doubt went to a legitimate vote for Lisa.

5. On November 10, 2010, either Scott Kendall or my counterpart challenged a vote for Joe Miller (oval filled in), there was a simple straight line in the write-in spot. I believe Gail accepted this for Joe.

6. The Murkowski observer challenged "Fuck Lisa", my notes say "overvoted" but no oval, so I don't recall the final disposition, nor do I recall if Gail accepted it. I wrote this down because I was both surprised and irritated that the Murkowski campaign would challenge this. Below I will describe my belief in many protest votes, such as "Murcowshit", which Gail accepted.

7. The Murkowski team challenged a vote for Joe but in the write-in spot it said Murky-cow-ski, probably it did not have the dashes in the name, I wrote it in my notes phonetically to emphasize what I felt was really happening (a protest).

8. On November 10 as I was at dinner (the night of the first day), Brett Freyder called me and discussed a number of things, one being "about half way through [the process] the Murkowski lawyers started contesting ballots where the oval was not filled in." On November 18 around noon at the Prospector Hotel, he clarified: About 2:00 on Weds, Nov 10, Ben Ginsburg came around and told the Murkowski observer to start contesting "no oval" votes, so they would be put in Box 4 (and not Box 2). The Murkowski observer asked why this was being done, and Ben's answer was "it was a decision we made."

9. I have in my notes (not dated) that the Murkowski lawyer's kept saying "voter intent." While there wasn't any direct intimidation on the floor, the counting exercise was nevertheless an intimidating event, one where many, if not most, of the observers had not ever participated in that had this level of scrutiny and importance (coupled with the fact that the entire process was rushed, both in terms of dates (moving it from November 18 to November 10), plus on the floor, it was rush, rush, rush (this is described in a separate affidavit).

10. On the very first day (November 10) during my first precinct, the worker put "no ovals" in Box 2. I believe that's where it remained and so was then never challenged. Box 4 is where challenges are pulled from, this is the box that Gail pulled from to do her final review of (mostly) Miller challenges, so anything in Box 2 is not pulled for review, both as I understand it and as I recall. This is further described in a separate affidavit.

So I challenged "Murkoski" with no oval (as written in my notes), both for the improper spelling as well as the no oval. This was around 9:15am as documented in my notes, and it went in Box 2.

Before things changed, as noted in the next paragraph, my table maybe completed 1 or 2 precincts, I don't recall how many, but we had gotten into a nice routine with all parties.

On November 10, 2010, per my notes, things changed at my table. What changed was that during the initial review at the table with just the workers and the observers, the Murkowski lawyer (Scott Kendall) pretty much elbowed his way into the mix and told my counterpart that the no ovals were going to be challenged, so if I recall correctly, they would go in Box 4, which is the box Gail is supposed to pull from to do her final review. Gail would put "no ovals" in the

“challenged not counted” pile, so I have no particular evidence that she ever counted “no ovals” and I do not think this was ever the case.

I got upset when Scott jumped into our review area for two reasons:

- After having built some professional respect with my counterpart (because we were being consistent with the review and the challenges), then Scott popped over and changed things. So I was personally upset that he invaded our area and changed the rules.
- I also challenged Scott that “you’re challenging no ovals?” I thought that was wrong, because “no oval” is not only an improperly filled out ballot.

Because I got upset, one of Gail’s subordinates physically put herself between Gail and me, but then this prevented me from seeing the ballots that we had contested and that Gail was reviewing. After a little tense protectiveness by the subordinate, she backed off and we continued the process without issue.

The Murkowski observer at my table was a tall, distinguished gentleman with gray beard, suit, and a granny-type magnifying glass that he used on occasion. For example, he used it to great effect to show me that a straight line (of the “k”) followed by a clear space followed by a “<” followed by another clear space followed by another squiggly line that could perhaps be an i, was “intended” to be, in fact, “ki” the last two letters. I conceded that vote but by the end of the week I would have challenged this as it was not clearly spelled correctly nor even close, and in fact, it takes some effort to butcher “ki” in the manner this voter had.

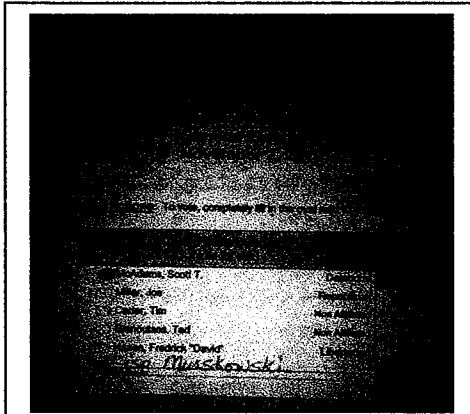
11. After Matt Johnson and I took over as the final review, there was no doubt how we would rule, and we even got a nice quote in the Anchorage Daily News that the Murkowski camp felt we were NOT challenging frivolous misspellings. If it was poor penmanship and kind of iffy, we conceded it as a vote for Lisa, even though our table observer initially flagged it. One of the table workers commented we were going after Granny because I challenged one where there was a clear “u” and now a “w”. But I reminded her of my personal “Granny exception rule”, where if it was shaky handwriting and pretty close to being correct and therefore hard to throw out, I gave the benefit of the doubt to Granny. I wasn’t changing my standard, I was just doing the right thing.

12. In regards to protest votes and voter intent, I came to the conclusion after a couple of days as the final reviewer for the Miller camp that there were a lot of protest votes being cast. Murcowshit is a perfect example, the final ‘t’ was very light with the top part just barely visible. I was looking at a drawing of this by Brett Freyder, so it wasn’t spelled out with good penmanship. But it was clearly Murcowshit upon reflection.

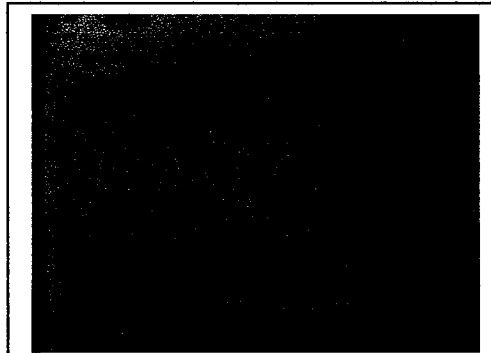
I also observed as a final reviewer one where there as a sad face ☹, which was accepted by Gail. Now, if voter intent was the standard, I was thinking, wouldn’t this indicate something other than a vote for Lisa?

There were many, many misspellings, more than I thought there would be. People with clear handwriting either butchered the name or clearly wrote it with a "y" at the end or and "e" as the second letter.

13. I have documented separately the case where an "X" over Joe's oval and the write-in properly filled out was counted as a vote for Lisa. In another case, however, an "X" over Lisa's properly filled out oval (along with the oval for Scott) was counted for Lisa, but here is the evidence again.



This was counted as a vote for Lisa (on Penny Mayo's table on Weds, Nov 17), even though there was an "X" over the oval.



This was also counted as a vote for Lisa. As far as I can tell, the ovals were in black, but the scratch out was in blue. It seemed kind of puzzling that the person would at first vote for Joe Miller, then "changed their mind" on the spot and voted for Lisa. That really perplexed me.

Plus in another case (documented separately), there was a vote for one of the candidates with an "X" over the oval, plus a correctly completed write-in vote. Yet this was accepted for Lisa.

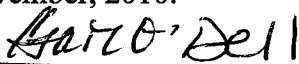
Further affiant sayeth naught.

Dated this 18th day of November, 2010 in Juneau, Alaska.



William Peck

Subscribed and sworn to before me, a notary public in and for the State of Alaska this 18th day of November, 2010.


STATE OF ALASKA
OFFICIAL SEAL
Gail O'Dell
NOTARY PUBLIC
My Commission Expires 08/12/2017