

In the Supreme Court of the State of Alaska

**Michael J. Dunleavy, in his Official
Capacity as Governor for the State of
Alaska,**

Appellant,

v.

**The Alaska Legislative Council, on
Behalf of the Alaska State
Legislature,**

Appellee.

Supreme Court No. **S-18003**

Order

Date of Order: **4/8/2021**

Trial Court Case No. **1JU-20-00938CI**

Before: Winfree, Maassen, Carney, and Borghesan, Justices, and Fabe, Senior Justice.* [Bolger, Chief Justice, not participating.]

Before the court is an expedited appeal filed from the superior court's summary judgment order dated February 18, 2021, that granted a motion for summary judgment filed by the Alaska Legislative Council, on behalf of the Alaska State Legislature, and denied a cross-motion for summary judgment filed by Governor Mike Dunleavy. The superior court entered final judgment on February 25. This court heard oral argument on April 6. Having considered the parties' briefs, the superior court record, and the parties' arguments,

IT IS ORDERED: the superior court's February 18, 2021 summary judgment is **REVERSED**, and the February 25, 2021 final judgment is **VACATED**. The

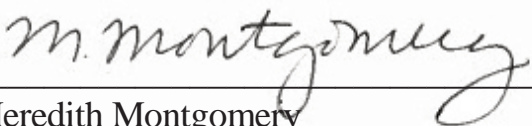
* Sitting by assignment made under article IV, section 11 of the Alaska Constitution and Alaska Administrative Rule 23(a).

Dunleavy v. Alaska Legislative Council
Supreme Court No. S-18003
Order of 4/8/2021
Page 2

court concludes that the Alaska Constitution, Article III, sections 25 and 26, requires that the legislature may decide whether to confirm or to decline to confirm the governor’s appointments only “by a majority of the members of the legislature in joint session.” The final sentence of AS 39.05.080(3) — “Failure of the legislature to act to confirm or decline to confirm an appointment during the regular session in which the appointment was presented is tantamount to a declination of confirmation on the day the regular session adjourns” — is therefore unconstitutional. Appointments requiring confirmation therefore remain in effect until the legislature acts on them in joint session. A full opinion explaining this order will follow.

Entered at the direction of the court.

Clerk of the Appellate Courts


Meredith Montgomery

cc: Judge Pallenberg
Trial Court Clerk - Juneau

Distribution:

Email:
Hafner, Janell
Paton-Walsh, Margaret
Milks, William E.
Wallace, Megan A.
Martin, Hilary V.
Marx, Marie