

# In the Supreme Court of the State of Alaska

**Keven Windel and Marlene Windel,**

Appellants,

v.

**Matanuska-Susitna Borough,**

Appellee.

Trial Court No. **3PA-15-02151CI**

Supreme Court No. **S-17159**

## **Order**

Petition for Rehearing

Date of Order: **10/8/2021**

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

On consideration of the Petition for Rehearing filed on **9/7/2021**, and the response filed on **9/21/2021**,

It is Ordered:

1. The Petition for Rehearing is **GRANTED**.
2. Opinion No. 7546 issued on 7/30/2021, is **WITHDRAWN**.
3. Opinion No. 7560 is issued on this date in its place.

**Footnote 46 at page 18 is inserted in the opinion as follows:**

The Windels' reliance on AS 09.60.101(c) to claim constitutional litigant status is precluded by the superior court's finding that their claims were frivolous. See AS 09.60.010(c)(2) (stating that unsuccessful constitutional claimant is protected from attorney's fees award only if, among other things, "the action or appeal asserting the right was not frivolous").

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Entered at the direction of the court.

Clerk of the Appellate Courts  
/s/ Meredith Montgomery

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Meredith Montgomery

cc: Supreme Court Justices  
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