



Lawton & Cates, s.c.

146 E. Milwaukee Street, Suite 120
PO Box 399
Jefferson, WI 53549
P 920.674.4567 | F 920.674.4726
www.lawtoncates.com

May 6, 2022

VIA EMAIL ONLY

Attorney Erick G. Kaardal
kaardal@mklaw.com

Mohrman, Kaardal & Erickson, PA
150 South Fifth Street, Suite 3100
Minneapolis, Minnesota 55402

RE: *Walter S. Jankowski II, by his Guardian Walter S. Jankowski, Jr.
v. Meagan Wolfe, Karla Endres, Carlo Esqueda*

Dear Mr. Kaardal:

Our firm has been appointed to represent the Wisconsin Elections Commission (“WEC”) in regard to the above-captioned matter. In that capacity, we are to assume the role of the administrator of the Commission and review the verified complaint in accordance with the Wisconsin Administrative Code EL 20.04(1), to determine whether its states probable cause. “Probable cause” is defined in EL 20.02(4) as “facts and reasonable inferences that together are sufficient to justify a reasonable, prudent person, acting with caution, to believe that the matter asserted is probably true.” For the following reasons, we find that the verified complaint does not state probable cause that a violation within the purview of the Commission has been committed. Accordingly, the complaint is being returned to you, without prejudice, in accordance with EL 20.04(2).

I. The verified complaint does not show that respondents Wolfe or Endres failed to perform any official act or duty based on information made known to either of them.

The complaint alleges a violation of Wis. Stat. § 6.03(1) in that Walter S. Jankowski, Jr., while the subject of a guardianship, was allowed to vote in the November 3, 2020 general election. It further alleges that pursuant to Wis. Stat. § 54.25(2)(c)1.g, Wisconsin’s circuit court clerks are required to send “no vote” guardianship orders to “election officials or agency” for the purpose of preventing the ward from voting. (Verified Complaint, ¶ 64.) The complaint goes on to allege that respondent Meagan Wolfe, as administrator of the WEC, failed to update the WisVote website, the statewide election management and voter registration system, to reflect that Walter S. Jankowski, Jr. was ineligible to vote. (¶¶ 3, 70.)

Respondent Karla Endres is identified as the City Clerk of Waunakee, Wisconsin, where Walter S. Jankowski, Jr. resides and allegedly voted in the 2020 election. (¶¶ 4, 7.) The complaint alleges that municipal clerks also have a role in administering the WisVote database and an obligation “to account for people who are ineligible to vote.” (¶ 42.) According to the complaint, both the WEC and municipal clerks, including the City of Waunakee Clerk, “do not and have not

accurately recorded “no vote” guardianship orders in the WisVote database for the purpose of preventing ineligible wards from registering to vote and from voting.” (¶ 43.)

Taking the afore-mentioned allegations as true, the complaint nonetheless fails to state probable cause that respondent Wolfe or Endres committed any violation because it fails to assert that either of them, or their offices, actually received notice that Walter S. Jankowski, Jr. was under a guardianship and therefore ineligible to vote. In fact, the complaint asserts, upon information and belief, that the Circuit Court Clerk or Register in Probate “does not deliver the Notice of Voting Eligibility” to either the WEC or the municipal clerk. (¶¶ 68-69.) The statutory duty to communicate a judicial determination of voter ineligibility lies with the clerk of court. Wis. Stat. § 54.25(2)(c)1.g. The complaint does not allege, nor is there any apparent authority to support the proposition that respondent Wolfe, respondent Endres or their respective offices are responsible for searching judicial records to determine if an individual is under a guardianship. Accordingly, the complaint does not state probable cause that respondent Wolfe or Endres violated Wisconsin law.

II. Respondent Esqueda is not an election official over whom the WEC has jurisdiction.

Respondent Carlo Esqueda is identified in the complaint as the Dane County Circuit Court Clerk. (¶ 5.) The complaint alleges that the clerk of court is responsible for forwarding guardianship orders to the municipal clerk and WEC. (¶ 5.) As stated above, the complaint alleges, on information and belief, that the clerk of court did not perform that function with respect to the guardianship of Walter S. Jankowski, Jr.

Wisconsin statutes authorize the WEC to investigate violations of laws administered by the commission. Wis. Stat. § 5.05(2m)(a). Any person may file a complaint with the commission alleging a violation of Chapters 5-10 or 12, Wisconsin Statutes. Wis. Stat. § 5.05(2m)(c)2.a. The complaint in this matter was filed pursuant to Wis. Stat. § 5.06. Wis. Stat. § 5.06(1) provides that complaints may be filed against an “election official.” An “election official” is defined as “an individual who is charged with any duties relating to the conduct of an election.” Wis. Stat. § 5.02(4e).

The duties of election officials are set forth in Chapter 7, Wisconsin Statutes. The complaint does not allege that respondent Esqueda is an election official. Chapter 7 does not include any responsibilities delegated to a clerk of court. Accordingly, the complaint fails to state probable cause that respondent Esqueda committed a violation subject to review by the WEC.

For the forgoing reasons, the verified complaint does not meet the standards set forth in EL 20.02(4) and 20.04(1), and is being returned to the complainant, without prejudice, pursuant to EL 20.04(2).

Very truly yours,

LAWTON & CATES, S.C.

/s/ Daniel P. Bach

Dixon R. Gahnz
Daniel P. Bach
Special Counsel

DPB/kaf

C: Karla Endres (Via mail)
Carlo Esqueda (Via mail)
Thomas C. Bellavia, Esq. (Via email)
Steven C. Kilpatrick, Esq. (Via email)