

STATE OF WISCONSIN

CIRCUIT COURT

WAUKESHA COUNTY

FILED

SEP 07 2022

CIRCUIT COURT
WAUKESHA COUNTY, WISCONSIN

MICHAEL WHITE, ET AL.,

Plaintiffs,

-vs-

Case: 22CV1008

WISCONSIN ELECTIONS COMMISSION,

Defendant.

TEMPORARY INJUNCTION

¶1. Plaintiffs filed this lawsuit against the Wisconsin Elections Commission (“WEC”) on July 12, 2022, seeking declaratory and injunctive relief. Plaintiffs alleged that WEC has issued and continues to provide guidance and information inconsistent with the express requirements of Wisconsin law through guidance contained in an October 18, 2016, memorandum entitled AMENDED: Missing or Insufficient Witness Address on Absentee Certificate Envelopes, in a memorandum dated October 19, 2020, entitled “Spoiling Absentee Ballot Guidance,” and other statements relating to missing or insufficient witness addresses on absentee certificate envelopes.

¶2. Plaintiffs moved for a TRO and Temporary Injunction on August 2, 2022. Plaintiffs requested temporary injunctive relief requiring WEC to cease and desist from offering

incorrect guidance, and directing WEC to issue corrected guidance to clerks and local election officials.

¶3. On or about August 11, 2022, the Wisconsin Legislature moved to intervene in the case and simultaneously filed its complaint and motion for temporary injunction or alternatively, a writ of mandamus. The declaratory and injunctive relief the Legislature seeks tracks the relief requested by the Plaintiffs.

¶4. The Court granted the Legislature's motion to intervene, as well as those filed by the League of Women Voters of Wisconsin and the Waukesha County Democratic Party.

¶5. Having considered the submissions, briefs, and arguments of the parties and intervening parties, and for the reasons stated on the record during the September 7, 2022, hearing on the motions for temporary injunctive relief, the Court GRANTS the motions for temporary injunctive relief. IT IS ORDERED THAT:

¶6. WEC is prohibited and enjoined from publicly displaying or disseminating the AMENDED: Missing or Insufficient Witness Address on Absentee Certificate Envelopes (Oct. 18, 2016), marked as Exhibit 2 to the Complaint, the October 19, 2020, memorandum entitled "Spoiling Absentee Ballot Guidance," marked as Exhibit 3 to the Complaint, or any prior or subsequent version of that substantive guidance relating to missing or adding information to absentee ballot witness certifications in any form.

¶7. WEC is prohibited and enjoined from advising, guiding, instructing, publishing, or otherwise communicating information to Wisconsin municipal clerks and local elections officials that is contrary to Wis. Stat. § 6.87, which provides that if a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may return the ballot to the elector, inside the sealed envelope when an envelope is received, together

with a new envelope if necessary, whenever time permits the elector to correct the defect and return the ballot by the applicable deadline.

¶8. WEC is prohibited and enjoined from advising, guiding, instructing, publishing or otherwise communicating information to Wisconsin municipal clerks and local elections officials that clerks or local election officials have the duty or ability to modify or add information to incomplete absentee ballot certifications.

¶9. WEC is ordered and required by September 14, 2022, to notify all municipal clerks and local election officials previously receiving the guidance mentioned in paragraph 6 above that this Court has declared that guidance invalid and contrary to law.

Dated this 7th day of September, 2022.

BY THE COURT:

/s/ Michael J. Aprahamian

Circuit Court Judge