



Wisconsin Elections Commission

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August 12, 2024

Sandra L. Juno
616 Dauphin Street
Green Bay, WI 54301

Celestine Jeffreys, City Clerk
100 N Jefferson Street
Green Bay, WI 54301

Sent via email to: junosandra@yahoo.com; Celestine.Jeffreys@greenbaywi.gov;
Lindsay.Mather@greenbaywi.gov.

Re: In the Matter of Sandra Juno v. Celestine Jeffreys (Case No. EL 23–45)

Dear Ms. Juno and Clerk Jeffreys:

This letter is in response to the verified complaint submitted by Sandra Juno (Complainant) to the Wisconsin Elections Commission (Commission), which was filed to challenge actions taken by Green Bay City Clerk Celestine Jeffreys (Respondent). The complaint pertains to alleged violations of Wis. Stats. §§ 6.88(3)(b) and 6.15(4)(e) concerning absentee ballot return and canvassing policies at Green Bay’s Board of Absentee Ballot Canvassers during the Spring Election on April 4, 2023.

The Commission has reviewed the complaint and Clerk Jeffreys’s response. The Commission provides the following analysis and decision. In short, the Commission finds that the Complainant did not show probable cause to believe that a violation of law or abuse of discretion occurred.

Commission Authority and Role in Resolving Complaints Filed Under Wis. Stat. § 5.06

Under Wis. Stats. §§ 5.05(1)(e) and 5.06(6), the Commission is provided with the inherent, general, and specific authority to consider the submissions of the parties to a complaint and to issue findings. In instances where no material facts appear to be in dispute, the Commission may summarily issue a decision and provide that decision to the affected parties. This letter serves as the Commission’s final decision regarding the issues raised in this complaint.

The Commission’s role in resolving verified complaints filed under Wis. Stat. § 5.06, which challenge the decisions or actions of local election officials, is to determine whether a local official acted contrary to applicable election laws or abused their discretion in administering applicable election laws.

Complaints “. . . shall set forth such facts as are within the knowledge of the complainant to show probable cause to believe that a violation of law or abuse of discretion has occurred or will occur.” Wis. Stat. § 5.06(1). Probable cause is defined in Wis. Admin. Code § EL 20.02(4) to mean “the 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.”

Wisconsin Elections Commissioners

Don M. Millis, chair | Marge Bostelmann | Ann S. Jacobs | Carrie Riepl | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

Complaint Allegations

On July 18, 2023, the Complainant filed a sworn complaint with the Commission pursuant to Wis. Stat. § 5.06, alleging that the Respondent violated Wis. Stat. §§ 6.88(3)(b) and 6.15(4)(e) by allowing two voters to correct absentee ballot envelopes that were not properly sealed.

The Complainant alleges that she was an observer at the Green Bay Central Count for the April 4, 2023, election, when absentee ballot canvassers identified two absentee ballot certificate envelopes that were not sealed. She alleges that the unsealed absentee envelopes were brought to the attention of Deputy Jamie Fuge and Clerk Jeffreys who directed the canvassers to reject the ballots. The Complainant alleges that she contacted Commission staff to verify this was the correct decision. She alleges that Commission staff confirmed that rejecting the ballots correctly followed the statutes.

The Complainant further alleges that about an hour later, Clerk Jeffreys informed the canvassers that the two electors were on their way to Central Count to verify their votes on the unsealed ballots. She alleges that both voters “confirmed” the votes on their ballots were correct in regard to how they voted. The Complainant alleges that Clerk Jeffreys subsequently instructed the canvassers to accept, process, and tabulate the ballots. She alleges that she again contacted Commission staff about the decision to accept the ballots and she was informed that the state statutes did not allow these ballots to be accepted.

Response

On August 16, 2023, the Respondent submitted her response. The Respondent does not deny that during the processing of absentee ballots for the City of Green Bay there were two instances where unsealed absentee ballot envelopes were discovered. As to the two unsealed absentee ballot envelopes, the response states that, “Clerk Jeffreys made the decision to allow voters to correct their absentee envelope issues.” The Respondent alleges that the ballots were corrected in accordance with the procedure outlined in the Election Day Manual and that the two absentee ballots were then counted.

The Respondent provides a legal analysis of why she believes her actions were lawful. The Respondent argues that “[t]he statutory language referring to the “rejection” of ballots must be read together with the established practice of not rejecting ballots until after the polls close, allowing for the correction of correctable absentee ballot errors.” Therefore, she states that the complaint “centers around whether an absentee ballot envelope being unsealed is an error that can be fixed prior to ballots being rejected at the close of the polls at 8:00 p.m. on Election Day in the same way that insufficient absentee ballot certifications can be corrected to avoid rejection.” The Respondent argues that the statutes cited by the Complainant do not answer this question.

Additionally, the Respondent argues that the two absentee ballots were not “returned” to the voters because they never left Central Count. “Instead, the voters only examined the ballots that were inside the unsealed envelopes to verify they were their own before putting those same ballots in new envelopes in accordance with the WEC’s established envelope correction procedures.”

Discussion

Under Wis. Stat. § 7.52(3)(b), a ballot envelope that is open or has been opened and resealed must be rejected. Although the Complainant incorrectly cites § 6.88(3)(b), the relevant language is identical, and the statute cited contains a cross reference to the correct statute. Wis. Stat. § 7.52(3)(b) pertains to boards of absentee ballot canvassers, which applies to Green Bay, and Wis. Stat. § 6.88(3)(b) pertains to local canvasses that process

absentee ballots, and both statutes state that when “the ballot envelope is open or has been opened and resealed . . . the [election officials] shall not count the ballot.” Here, there is no dispute that during the April 3, 2023, election, there were two instances of canvassers in the City of Green Bay identifying absentee ballots with unsealed envelopes. Instead, there is a legal dispute over whether the absentee ballot canvassers, apparently following the advice of Clerk Jeffreys, properly followed the law when allowing the electors to correct their certificate envelopes instead of rejecting the absentee ballots at the end of the day.

Subject to two enumerated statutory exceptions, an absentee ballot may not be returned to an elector once the elector has returned it to the municipal clerk. Wis. Stat. § 6.86(6) states that “[e]xcept as authorized in sub. (5) and s. 6.87(9), if an elector mails or personally delivers an absentee ballot to the municipal clerk, the municipal clerk shall not return the ballots to the elector.” Here, there is no dispute of the fact that the two electors came to the board of absentee ballot canvassers location and were permitted to confirm the votes of their unsealed ballots.

The second exception contained in Wis. Stat. § 6.87(9) is relevant to this analysis, and states the following:

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 within the time period authorized under sub. (6).

The time period provided under Wis. Stat. § 6.87(6) is 8 p.m. on election day.

The Respondent’s allegation that “the voters only examined the ballots that were inside the unsealed envelopes to verify they were their own before putting those same ballots in new envelopes” appears to have been a return of the ballots to the electors because it appears that the voters themselves put the ballots in the new envelopes. The ballots were returned to the electors regardless of whether the ballots left the building.

Wis. Stat. § 6.87(9) allows an elector to correct an improperly completed certificate or missing certificate before 8 p.m. on election day. In this case, merely allowing the voter to verify the unsealed absentee ballot would be insufficient to cure the defect because a certificate envelope that has been opened and resealed would still need to be rejected. In order to correct the deficiency of an unsealed envelope, Wis. Stat. §§ 6.87(9) and 7.52(3)(b) require that the elector complete a new certificate envelope with the original witness present. If the original witness does not complete the witness section on the new certificate envelope, the certificate would be invalid.

In this case, the Respondent alleges that new absentee ballot certificate envelopes were completed “in accordance with the procedure outlined in the Election Day Manual,” which required that any new certificate envelope issued be completed with the original witness present. The complaint does not allege that a new certificate was not completed or that the original witness was not present. Further, there is also no allegation that the electors were allowed to correct their unsealed ballots after 8 p.m.

The facts alleged in the complaint fail to establish probable cause the correction and acceptance of these two absentee ballots was a violation of law or an abuse of discretion. From the complaint and response, it appears that two deficient certificate envelopes were corrected under Wis. Stat. § 6.87(9) by the voters completing new certificate envelopes at the board of absentee ballot canvassers location. The Commission has no reason to believe that the original witnesses were not present, or that the new envelopes were completed incorrectly.

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Based upon the above review and analysis, the Commission does not find probable cause that a violation of law or abuse of discretion occurred under Wis. Stat. § 6.87(9).

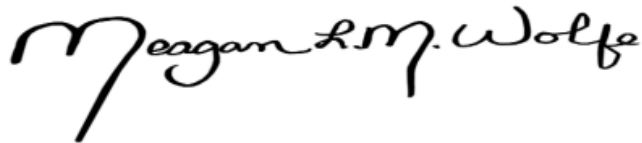
Right to Appeal – Circuit Court

This letter constitutes the Commission's resolution of this complaint. Wis. Stat. § 5.06(2). Pursuant to Wis. Stat. § 5.06(8), any aggrieved party may appeal this decision to circuit court no later than 30 days after the issuance of this decision.

If any of the parties should have questions about this letter or the Commission's decision, please feel free to contact me.

Sincerely,

WISCONSIN ELECTIONS COMMISSION

A handwritten signature in black ink that reads "Meagan Wolfe". The signature is written in a cursive style with a large initial "M" and a distinct "W".

Meagan Wolfe
Administrator

cc: Commission Members