



Wisconsin Elections Commission

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November 1, 2024

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Sent via email to: p.gitzlaff@gmail.com; sbowers@wrightstown.us;
pleitermann@wrightstown.us

Re: In the Matter of: **Patrick Gitzlaff v. Julie Sigmund et al (EL 24-32)**

Dear Mr. Gitzlaff, Clerk Bowers, Deputy Clerk Leitermann, Ms. Sigmund, Ms. Laabs, and Ms. Aerts:

This letter is in response to the verified complaint submitted by Patrick Gitzlaff (“the Complainant”) to the Wisconsin Elections Commission (“Commission”), which was filed in reply to actions taken by the municipal clerk and election officials of the Village of Wrightstown (Brown and Outagamie Counties) concerning alleged violations of Wis. Stat. § 7.30(2). The complaint alleges that the municipal clerk and election officials including Election Inspector Sigmund (“Respondents”) violated Gitzlaff and others’ rights under Wis. Stat. § 7.30(2) when Respondent Sigmund was an election official while also being a ballot candidate.

The Commission has reviewed the complaint and the response from Respondent Bowers. The Commission has also reviewed the Complainant’s reply to Respondent Bowers’ 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 with relation to the appointment of Respondent Sigmund as an election official.

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

Under Wis. Stat. §§ 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.

Commissioners

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

Administrator
Meagan Wolfe

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) (2021-22).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.”

Complaint Allegations

The Complainant alleges that at the Village of Wrightstown board meeting on December 19, 2023, Respondent Sigmund was approved as an election official for the Village of Wrightstown for the 2024–25 election cycle. The Complainant also alleges that Respondent Sigmund was a candidate for the office of village trustee on the ballot at the April 2, 2024, Spring Election. As a result, the Complainant alleges that the appointment of Respondent Sigmund was contrary to Wis. Stat. § 7.30(2)’s requirement that election officials “may not be a candidate for any office to be voted at an election at which they serve.” Wis. Stat. 7.30(2)(a).

The Complainant also submitted the board meeting minutes from the Village of Wrightstown’s meeting on December 19, 2023.

The Response

Respondent Bowers filed a response² to the complaint, countering the allegations by claiming that Respondent Sigmund was “scheduled off” on the day of the April 2, 2024, election and did not serve at that election.

Respondent Bowers admits that Respondent Sigmund was approved as an election official at the December 19, 2024, village board meeting. Respondent Bowers alleges that this appointment complies with Wis. Stat. § 7.30(2) because the statute states that “[a]n individual holding a local public office, as defined in s. 19.42 (7w), may be appointed to serve as an election official under this section without having to vacate the local public office.”

Reply

In the reply, the Complainant asserts that the fact that Respondent Sigmund did not work at the April 2, 2024, election does not matter. The Complainant argues that the only options would have been for Respondent Sigmund to either resign as an election official for the Spring Election cycle or to have not been on the ballot. The Complainant reasons that this result is required because the Spring Election started before election day itself and absentee ballots are “in play” weeks earlier.

¹ All subsequent references to the Wisconsin Statutes are to the 2021–22 version unless otherwise indicated.

² The response seems to have been sworn before a notary public, Respondent Leitermann, who is a party in the case. Under Wis. Stat. § 140.04(2), “[a] notarial officer may not perform a notarial act with respect to a record to which the officer ... is a party” and “[a] notarial act performed in violation of this subsection is voidable.” As such, the response of Respondent Bowers is not considered to be sworn before a notary. In resolving this complaint, however, the commission may still consider the response of Respondent Bowers as part of its investigation into the matter. *See* Wis. Stat. §§ 5.06(4) and (6).

The Complainant suggests that, unless it can be proven that Respondent Sigmund “wasn’t anywhere near” absentee ballots before or on election day, the only solution is to invalidate Respondent Sigmund’s votes in the village trustee election because they shouldn’t have been on the ballot.

Discussion

Appointment and qualifications of election officials

Wisconsin Statute § 7.30(2)(a) provides the necessary qualifications for election officials to be appointed. Specifically, an election official “**may not be a candidate for any office to be voted for at an election at which they serve.**” Wis. Stat. § 7.30(2)(a). (emphasis added).

The statute also describes special considerations for who may qualify for appointment as an election official. Certain local public officials, defined by the list in Wisconsin Statute § 19.42(7w), “may be appointed to serve as an election official under this section without having to vacate the local public office” except in a first class city, where election officials “may hold no public office other than notary public.” *Id.* This subsection of the statute concludes by providing instructions for the appointment and assignment of party-affiliated election officials. *Id.* Additionally, the vacancy provision of the election official qualification statute contemplates that an election official may be temporarily unable to serve due to “candidacy.” Wis. Stat. § 7.30(2)(b).

The Commission has published the following:

It is the opinion of the Commission that election inspectors may not serve at elections where they, their spouse, or immediate family member is a candidate on the ballot or under other circumstances where a candidate’s success or failure to win election would affect the election inspector financially. There may be other laws that specifically prohibit certain individuals from serving as election inspectors. Clerks are encouraged to check with their local municipal attorney if they have any questions as to whether a given individual may serve.

Election Day Manual for Wisconsin Election Officials (August 2024), at 8–9.

Analysis

The material facts in this matter are not in dispute. It is undisputed by the parties that Respondent Sigmund was appointed by the Village of Wrightstown’s Village Board of Trustees to be an election official for the 2024–25 election cycle. The Respondents did not contest the allegation that Respondent Sigmund was also a candidate on the April 2, 2024, Spring Election ballot. The Complainant did not allege that Respondent Sigmund served as an election official at the April 2, 2024, Spring Election. In the Complainant’s reply, they did not dispute the Respondents’ claim that Respondent Sigmund did not serve at the April 2, 2024, Spring Election.

The appointment of Respondent Sigmund as an election official for the 2024–25 election cycle and her presence as a candidate on the ballot for the April 2, 2024 Spring Election do not establish probable cause to believe that a violation of law occurred because there is no allegation, or evidence, that Respondent Sigmund served at the April 2, 2024, Spring Election.

The minutes of the December 19, 2023, board meeting appear to show that Respondent Sigmund is an incumbent member of the village board of trustees. As Respondent Bowers notes, an individual holding local public office including “[a]n elective office of a local governmental unit,” Wis. Stat. § 19.42(7w)(a), “may be appointed to serve as an election official . . . without having to vacate the local public office.” Wis. Stat. § 7.30(2)(a). This does not contradict the requirement that “all officials . . . may not be a candidate for any office to be voted for at an election at which they serve.” *Id.* Reading these consecutive sentences in context show that while an individual holding local public office may be appointed to serve as an election official without having to resign their local public office, such a person is not qualified to serve as an election official for any election at which they are a candidate. Further, the vacancy section provides a specific mechanism to allow a clerk to temporarily replace an election inspector who is not able to serve at an election due to “candidacy.” Wis. Stat. § 7.30(2)(b).

Acts in violation of the election official qualification statute, Wis. Stat. § 7.30(2)(a), such as a candidate working at the polls on election day, could create the appearance of potential influence or electioneering. The clerk’s action to avoid having Respondent Sigmund serve as an election official on April 2, 2024, complied with Wis. Stat. § 7.30(2)(a) because the official running for reelection did not serve during that election. The Complainant’s concerns in their reply about Respondent Sigmund’s potential presence “anywhere near” absentee ballots prior to the election are speculative and not supported by any evidence. The Commission cannot find a violation or the appearance of influence or electioneering when it has not been presented with any reason to believe that Respondent Sigmund served in any capacity in the April 2, 2024, election.

Commission Decision

Based upon the above review and analysis, the Commission does not find probable cause to believe that a violation of law or abuse of discretion occurred regarding the Village of Wrightstown’s scheduling of election officials to serve during the April 2, 2024, Spring Election.

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 the Commission at 608-266-8005 or elections@wi.gov.

Sincerely,

THE WISCONSIN ELECTIONS COMMISSION