



Wisconsin Elections Commission

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(608) 266-8005 | elections@wi.gov | elections.wi.gov

September 18, 2024

Katherine E. Thomas
W2289 Northside Drive
Watertown, WI 53094

Clerk Brian F. Neumann
N6830 County Road E
Oconomowoc, WI 53066

Sent via email to: mahlahdvets@gmail.com ; Clerk@concord.wi.gov

Re: In the Matter of: **Katherine Thomas v. Brian Neumann – EL 24-69**

Dear Ms. Thomas and Clerk Neumann:

This letter is in response to the verified complaint submitted by Katherine Thomas (“the Complainant”) to the Wisconsin Elections Commission (“Commission”), which was filed in reply to actions taken by Clerk Brian Neuman of the Town of Concord (Jefferson County) concerning alleged violations of Wis. Stat. § 7.15(1)(cm). The complaint alleges that Clerk Neumann has not been sending out absentee ballots to Ms. Thomas and her family until prompted to do so for the November 2022, April 2023, and August 2024 elections.

The Commission has reviewed the complaint and the response from Clerk Neumann. The Complainant did not submit a reply.

The Commission provides the following analysis and decision. In short, the Commission finds that the Complainant did show probable cause to believe that a violation of law or abuse of discretion occurred with relation to Clerk Neumann’s procedural actions. Clerk Neumann admits in his response that he failed to send out absentee ballots, as alleged, during the three previous elections. Clerk Neumann is ordered to conform his conduct to the law, and is further ordered to certify to the Commission that he has completed the remedial training described in this decision no later than **Friday, September 20, 2024**.

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.

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

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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.”

Complaint Allegations

The Complainant alleges that Clerk Neumann failed to send absentee ballots to her and her family during the required time period for the November 2022, February 2023, and August 2024 elections. She alleged she only was able to receive her ballots because she contacted Clerk Neumann repeatedly to tell him he must send them to her and her family. She alleges that after the February election, she spoke with Commission staff who in turn followed up with Clerk Neumann about the proper procedure. Despite this follow up, she alleges that she had the same issue getting her absentee ballots on time for the August 2024 election.

The Response

Clerk Neumann admits that he failed to meet the deadline to send absentee ballot requests to the Complainant and her family during the elections alleged. He affirmatively alleges that he has met all other requirements to send new absentee ballot requests within 24 hours of the requests. He claims that to address this problem in the future, he has added the deadlines to the town calendar to ensure these deadlines are met for future elections.

Reply

The Complainant did not submit a reply.

Discussion

Given Clerk Neumann’s admissions, it appears as if the parties agree that he failed to send out absentee ballots by the deadline for voters with requests on file on three separate occasions. The only remaining discussion will focus on remedies to ensure future compliance.

Municipal clerks are required to send out absentee ballots to voters with active requests on file no later than the 21 days before each election, and no later than 47 days before election for military and overseas voters. Wis. Stat. § 7.15(1)(cm). After those deadlines, clerks must send out new absentee ballot requests within 1 business day of receiving the request. Wis. Stat. § 7.15(1)(cm). Clerk Neumann is accordingly ordered to conform his conduct to Wis. Stat. § 7.15(1)(cm), and orders him to take affirmative steps ahead of September 20, 2024 to ensure his compliance with the deadlines in that statute.

The Commission is particularly concerned with Clerk Neumann’s repeated failures to timely send out absentee ballots to the Complainant and her family, and is not altogether reassured by Clerk Neumann’s reassurances that he has solved the issue by putting the deadlines in his town’s calendar. In order to ensure that the Complainant timely receives her absentee ballots ahead of the

November 2024 General Election, the Commission believes that stronger action is warranted to ensure Clerk Neumann’s compliance.

Accordingly, in addition to the compliance steps above, Clerk Neumann is further ordered to complete the following modules of the Commission’s absentee training series on the ElectEd Platform:

- **Absentee 1 – Absentee Voting Terms and Process**
 - Available at: <https://electiontraining.wi.gov/group/10681>
- **Absentee 2 – How Voters Make Absentee Requests**
 - Available at: <https://electiontraining.wi.gov/group/10706>
- **Absentee 3 – MyVote – WisVote Absentee Connection**
 - Available at: <https://electiontraining.wi.gov/group/10696>
- **Absentee 4 – How Requests are Processed**
 - Available at: <https://electiontraining.wi.gov/group/10611>
- **Absentee 5 – Recording Returned Absentee Ballots**
 - Available at: <https://electiontraining.wi.gov/group/10676>
- **Absentee 6 – Special Cases**
 - Available at: <https://electiontraining.wi.gov/group/10626>
- **Absentee 7 – In Person Absentee Voting**
 - Available at: <https://electiontraining.wi.gov/group/10606>
- **Absentee 8 – Special Voting Deputies**
 - Available at: <https://electiontraining.wi.gov/group/10716>
- **Absentee 9 – Absentees on Election Day**
 - Available at: <https://electiontraining.wi.gov/group/10636>

Clerk Neumann is ordered to complete all nine modules of absentee training and certify to the Commission that he has completed that training no later than **Friday, September 20, 2024**.

Commission’s Findings

Pursuant to the analysis above, the Commission hereby issues this order restraining Clerk Neumann from taking any action inconsistent with the analysis of the law in this decision. Wis. Stat. § 5.06(6).

Clerk Neumann is ordered to take affirmative steps to comply with the deadlines required by Wis. Stat. § 7.15(1)(cm). He is further ordered to complete the nine modules the Commission’s absentee voting training on ElectEd, and is ordered to certify to the Commission that he has completed that training no later than **Friday, September 20, 2024**.

Right to Appeal – Circuit Court

This letter constitutes the Commission’s resolution of these complaints. 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,

WISCONSIN ELECTIONS COMMISSION