

**STATE OF WISCONSIN
BEFORE THE ELECTIONS COMMISSION**

IESHUH GRIFFIN,

Complainant,

v.

Case No. EL 23-03

CITY OF MILWAUKEE ELECTION COMMISSION,

Respondent.

**VERIFIED RESPONSE AND REQUEST TO DISMISS OF RESPONDENT
CITY OF MILWAUKEE ELECTION COMMISSION**

INTRODUCTION

Respondent City of Milwaukee Election Commission, (“MEC”), acting by and through Assistant City Attorney Kathryn Z. Block, hereby submits the following response and asks the Wisconsin Elections Commission (“WEC”) to dismiss in its entirety the January 11, 2023, verified complaint (“Complaint”) of Complainant Ieshuh Griffin (“Griffin”).

FACTUAL BACKGROUND

On January 6, 2023, Phil Chavez, filed a timely verified complaint to challenge the nomination papers of Complainant Griffin for the Office of Municipal Court Judge, Branch 3 in the City of Milwaukee (“Challenge”). (Complaint Ex. E.) Chavez is the current incumbent and a candidate for the office of Municipal Court Judge in Branch 3. The sole basis for the

Challenge¹ is that Griffin is not currently licensed to practice law in the State of Wisconsin as required by § 3-34-2-b, of the Milwaukee City Charter,² which provides: “Eligibility. A municipal court judge shall be an attorney licensed to practice law in Wisconsin.” Chavez further argued that Griffin was therefore ineligible for ballot placement as a result of Wis. Stat. § 8.30, which provides in relevant part:

8.30 Candidates ineligible for ballot placement.

(1) Except as otherwise provided in this section, the official or agency with whom declarations of candidacy are required to be filed may refuse to place the candidate’s name on the ballot if any of the following apply.

...
(c) The candidate, if elected, could not qualify for the office sought within the time allowed by law for qualification because of age, residence, *or other impediment.*

(Emphasis added.)

After the Challenge was filed, Woodall-Vogg undertook an investigation to see if Griffin was or could become an attorney licensed to practice law in Wisconsin prior to May 1, 2023 (the date she would be required to take office) and made recommended findings to the MEC.

(Attachment A)

Woodall-Vogg first noted Supreme Court Rule 40.02 which lays out the qualifications to be admitted to the practice of law in Wisconsin. That Rule provides:

SCR 40.02 Qualifications generally.

A person who meets all of the following qualifications shall be admitted to practice law in this state by order of the supreme court:

- (1) Has attained the age of majority under law of this state.
- (2) Satisfies the legal competence requirements by diploma privilege (SCR 40.03), bar examination (SCR 40.04 or 40.055) or proof of practice elsewhere (SCR 40.05).
- (3) Satisfies the character and fitness requirements set forth in SCR 40.06.

¹ Note that MEC Executive Director Claire Woodall-Vogg, (“Woodall-Vogg”) otherwise found Griffin’s signatures to be sufficient and valid for ballot placement, and they were not challenged by Candidate Chavez; therefore, the validity of those signatures is not in dispute.

² Chapter 3-34 of the Charter Created the Milwaukee Municipal Court pursuant to the authority granted by Chapter 755 of the Wisconsin State Statutes.

- (4) (a) Takes the oath or affirmation prescribed in SCR 40.15 in open court before the supreme court or a justice thereof.
- (b) For individuals unable to appear at an in-person court ceremony and upon receipt of notification from the Board that an applicant has been certified for admission, a qualified applicant may request to take the oath or affirmation prescribed in SCR 40.15 remotely via audio-visual communications technology before the Wisconsin Supreme Court or a justice thereof. Qualified individuals may also request that they be permitted to take the oath or affirmation prescribed in SCR 40.15 before a member of the highest court of another jurisdiction or a person authorized by that jurisdiction to administer the attorney's oath for bar admission there or before a judge of the U.S. District Court of Appeals or a justice of the U.S. Supreme Court. Any such requests shall be sent to the Clerk of the Supreme Court.
- (5) Subscribes the roll of attorneys maintained by the clerk of the supreme court or has his or her name entered thereon by the clerk.

Additionally, Woodall-Vogg noted Supreme Court Rule 10.01(1), which provides:

SCR 10.01 State Bar of Wisconsin. (1) There shall be an association to be known as the "state bar of Wisconsin" composed of persons licensed to practice law in this state, and membership in the association shall be a condition precedent to the right to practice law in Wisconsin.

Woodall-Vogg determined that Griffin was not listed as a licensed attorney on the Wisconsin State Bar Website. See,

<https://www.wisbar.org/Pages/BasicLawyerSearch.aspx?lastName=griffin>. Woodall-Vogg therefore recommended to the MEC that Chavez' Challenge be granted.

At the January 9, 2023 hearing of the MEC,³ Griffin did not allege she was currently a licensed member of the Wisconsin bar, or that she would become one, either by sitting for the Wisconsin Bar Exam in February 2023, via the diploma privilege, or by proof of practice out-of-state. The MEC voted unanimously to remove Griffin from the ballot.

³ It should be noted that the MEC's hearings are not recorded by voice or video. An unofficial copy of the minutes of the January 9, 2023 MEC meeting is provided as Attachment B.

ARGUMENT

Griffin's Complaint makes much of the fact that Woodall-Vogg communicated to her at various times that her nomination papers were in "full compliance" and that she would "be recommended for ballot placement." (E.g., Cmpt. Ex. A) Of course these statements were in reference to Woodall-Vogg's determination about the validity of the signatures submitted by Griffin, which are not in question, and were made prior to the filing of the Challenge. They have no relevance to the issue at hand.

Griffin does correctly note that the Wisconsin Statutes do not require that municipal court judges in Wisconsin be attorneys licensed to practice in this state. Instead, contrary to her claim, that requirement is clearly established in Milwaukee's Charter. MCO 3-34-2-b. To the extent there is a question about the City's authority to establish such a requirement, the WEC is not competent to rule that it does not have such authority. In any event, it does have such authority.

The Wisconsin Supreme Court is the arbiter of who may practice law in this state. *See, e.g., State ex rel. Reynolds v. Dinger*, 14 Wis. 2d 193 (1961). It has done so clearly in SCR 40.02, (basically requiring either admission to practice through the diploma privilege, passing of the Wisconsin Bar Exam, or out-of-state practice requirements, plus a character and fitness application and oath), and membership in the State Bar per SCR 10.02. Additionally, the Wisconsin Supreme Court has promulgated a model ordinance for establishing a municipal court, that includes a requirement that its judges be licensed attorneys in the State of Wisconsin. <https://www.wicourts.gov/courts/municipal/docs/startcourt.pdf>. Clearly then, the Wisconsin Supreme Court – the entity empowered to judge the qualifications of those licensed to practice law in the State of Wisconsin – recognizes that the City could rightfully require a municipal court judge to be a licensed attorney.

The only real issue then is a factual one: Is Griffin now or could she become a licensed attorney in Wisconsin prior to May 1, 2023 before the day she would be required to take office, were she elected to Branch 3 of the City of Milwaukee Municipal Court.

As previously stated, Griffin does not appear to be a member of the State Bar on Wisbar's website. At the January 9, 2023 MEC hearing, when put under oath, Griffin did not testify that she was currently enrolled or that she had graduated from the Universities of Wisconsin-Madison or Marquette Law Schools, nor that she was planning to sit for the Wisconsin Bar exam in February 2023, nor that she was a licensed attorney of another state or other jurisdiction. Griffin referred to some paralegal experience and stated she had acted as an attorney (presumably her own). Under the circumstances, it was reasonable for the MEC to conclude there was an insurmountable "impediment" to her ability to qualify for the office she was seeking, and refuse to place her name on the spring ballot. Griffin does not challenge that factual conclusion in this Complaint.

CONCLUSION

For the foregoing reasons the WEC should dismiss Griffin's Complaint in its entirety.

Dated this 1st day of February, 2023

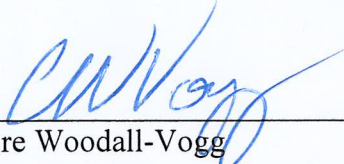
Respectfully submitted,

Electronically signed by Kathryn Z. Block
Kathryn Z. Block (State Bar No. 1029749)
Attorney for Respondent Milwaukee Election
Commission
CITY OF MILWAUKEE
200 E. Wells St., Room 800
Milwaukee, WI 53202-3515
Telephone: (414) 286-2601
Facsimile: (414) 286-8550
kblock@milwaukee.gov

VERIFICATION

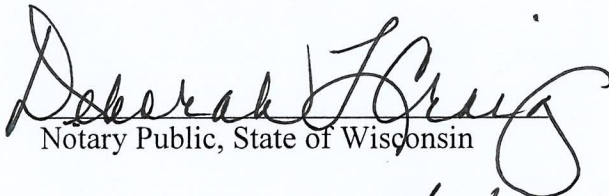
I, CLAIRE WOODALL-VOGG, being first duly sworn upon oath, state that I personally read the above Verified Response and Request to Dismiss and Impose Sanctions and that it is true and correct based upon my personal knowledge.

Dated this 13th day of January, 2023.



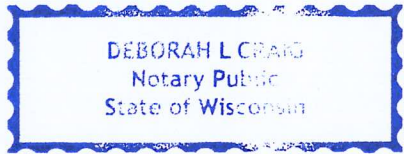
Claire Woodall-Vogg
Executive Director, Milwaukee Election Commission

Subscribed and sworn to before me this
13th day of January, 2023.



Notary Public, State of Wisconsin

My commission expires 3/23/23





Commissioners:
Terrell Martin, Chair
Patricia Ruiz-Cantu
Douglas Haag

Executive Director:
Claire Woodall-Vogg

January 9, 2023

TO: Milwaukee Election Commissioners
FROM: Claire Woodall-Vogg, Executive Director
RE: Chavez vs. Griffin & Griffin vs. Chavez

1. Phil Chavez filed a verified complaint on Friday, January 6, alleging that if Ms. Griffin were to be elected to the office of Municipal Judge Branch 3, she would not be able to qualify for the office sought within the time allowed by law because of "other impediment." Chavez referred to City of Milwaukee Charter, 3-34-2(b) which states that a Municipal Court Judge shall be an attorney licensed to practice law in the State of Wisconsin. Chavez alleges that Ms. Griffin is not currently a licensed attorney, nor will she become one within the time allowed by law to take office.
2. Wis. State Statute 8.30 outlines situations where a Candidate may be ineligible for ballot placement:
 - (1) "Except as otherwise provided in this section, the official or agency with whom declarations of candidate are required to be filed may refuse to place the candidate's name on the ballot if any of the following apply:

...
(c) The candidate, if elected, could not qualify for the office sought within the time allowed by law for qualification because of age, residence, or other impediment."
3. Ieshuh Griffin filed a complaint on Friday, January 6, alleging that Phil Chavez is not a licensed attorney because any license would need to be issued by the Wisconsin Department of Safety and Professional Services.
4. Supreme Court Rule 40.02 lays out qualifications generally to be admitted to the practice of law in Wisconsin:

SCR 40.02 Qualifications generally.

A person who meets all of the following qualifications shall be admitted to practice law in this state by order of the supreme court:

- (1) Has attained the age of majority under the law of this state.
- (2) Satisfies the legal competence requirements by diploma privilege (SCR 40.03), bar examination (SCR 40.04 or SCR 40.055) or proof of practice elsewhere (SCR 40.05).211
- (3) Satisfies the character and fitness requirements set forth in SCR 40.06.
- (4) (a) Takes the oath or affirmation prescribed in SCR 40.15 in open court before the supreme court or a justice thereof.



ATT. A

(b) For individuals unable to appear at an in-person court ceremony and upon receipt of notification from the Board that an applicant has been certified for admission, a qualified applicant may request to take the oath or affirmation prescribed in SCR 40.15 remotely via audio-visual communications technology before the Wisconsin Supreme Court or a justice thereof. Qualified individuals may also request that they be permitted to take the oath or affirmation prescribed in SCR 40.15 before a member of the highest court of another jurisdiction or a person authorized by that jurisdiction to administer the attorney's oath for bar admission there or before a judge of the U.S. District Court or Court of Appeals or a justice of the U.S. Supreme Court. Any such requests shall be sent to the Clerk of the Supreme Court.

(5) Subscribes the roll of attorneys maintained by the clerk of the supreme court or has his or her name entered thereon by the clerk.

5. Furthermore, Supreme Court Rule 10.01 states, "There shall be an association to be known as the "state bar of Wisconsin" composed of persons licensed to practice law in this state, and membership in the association shall be a condition precedent to the right to practice law in Wisconsin.
6. Because both candidates have raised concerns related to the other's qualifications, I have completed my due diligence to confirm who is a licensed attorney within the State of Wisconsin.
7. Per the State Bar of Wisconsin, Phil Chavez is a licensed attorney in good standing.
8. Per the State Bar of Wisconsin, there is no record of Ieshuh Griffin being a licensed attorney.

Respectfully submitted,
Claire Woodall-Vogg
Executive Director

Meeting of the City of Milwaukee Board of Election Commissioners
Monday, January 9, 2023, 5:00pm
City Hall, 200 E Wells St, Room 501

Minutes:

1. The meeting was called to order by Chair Martin at 5:12pm.
2. Executive Director Woodall-Vogg took a roll call; Commissioner Martin, Ruiz-Cantu, and Haag were all present.
3. Approval of polling place changes for Spring 2023
 - a. Commissioner Haag motioned to approve the polling place change of Ward 50 to Villard Library; seconded by Commissioner Ruiz-Cantu. Motion carried without a negative vote.
4. Review of Verified Complaints and Challenges to Nomination Papers
 - a. Jackson v. Hart
 - i. Executive Director presented a summary of the issues.
 - ii. Commissioner Martin provided Mr. Jackson and Ms. Hart the opportunity to make an oral statement.
 - iii. Commissioner Haag asked if any circulators of Ms. Hart's nomination papers were present. Melissa Zombor and Kristina Funa identified themselves as circulators for Ms. Hart's papers.
 - iv. Executive Director placed Ms. Zombor and Funa under oath. Commissioner Haag asked if any voters were confused as to Ms. Hart's committee and candidate names. Neither Zombor nor Funa found any voters were confused.
 - b. Reaves v. Milwaukee Election Commission
 - i. Executive Director Woodall-Vogg presented that she was changing her recommendation regarding ballot placement for Hendricks Reaves. A video on Getting on the Ballot on the Wisconsin Election Commission's (WEC) website refers to counting "supplemental signatures," beyond the maximum threshold established by state statute. While Woodall-Vogg and Assistant City Attorney Block both think that state statute and administrative rules are very clear regarding the maximum number of signatures, the Commission has a long history of following the standards set by WEC.
 - ii. Commissioner Martin provided Hendricks-Reaves with the opportunity to make an oral statement.
 - c. Chavez v. Griffin & Griffin v. Chavez

- i. Executive Director Woodall-Vogg presented a summary of Mr. Chavez's complaint and Ms. Griffin's complaint. She specifically reviewed the City of Milwaukee Charter that requires Municipal Judges be licensed attorneys in Wisconsin, along with State Statute 8.30 that outlines reasons someone may be ineligible for ballot placement.
 - ii. Commissioner Martin provided the representative of Mr. Chavez, Michael Maistelman, and Ms. Griffin the opportunity to make an oral statement.
 - iii. Executive Director placed Ms. Griffin under oath for the Commissioners to ask additional questions.
 - iv. Commissioner Ruiz-Cantu ask Ms. Griffin to explain her qualifications to occupy this office in light of the evidence presented that she is not a license attorney.
 - v. Ms. Griffin cited her written response to the challenge, including Keller v. State Bar of California and the separation of powers clause regarding the City's inability to establish such a rule. She also asserted that she is a paralegal, has assisted people in court, and that the court grants waivers for attorneys.
 - d. Commissioner Haag motioned that the Board convene into closed session, per Wis. Statute 19.85(1)(a) for the purpose of deliberating concerning a case which was the subject of a quasi-judicial hearing before the Commission. Commissioner Ruiz-Cantu seconded. Motion carried with a roll call vote all in favor.
 - e. Commissioner Martin called the meeting back to order at 6:07pm with all commissioners present.
 - f. Commissioner Ruiz-Cantu moved to dismissed the challenge of Jackson v. Hart; Commissioner Haag seconded. Motion carried without a negative vote.
 - g. Commissioner Haag moved to grant Ms. Hendricks Reaves request and place her on the ballot for School Board District 1 based upon her supplemental signatures; Commission Ruiz-Cantu seconded. Motion carried without a negative vote.
 - h. Commissioner Martin turned the meeting over to Commissioner Haag to act as chair.
 - i. Commissioner Martin motioned to remove Ms. Griffin from the ballot for Municipal Judge Branch 3 based upon the evidence that Ms. Griffin would not be able to meet the qualifications to hold office by May 1, 2023 if elected; Commissioner Haag seconded. Motion carried without a negative vote.
 - j. Commissioner Martin motioned to dismiss the challenge of Griffin v. Chavez; Commissioner Ruiz-Cantu seconded. Motion carried without a negative vote.
 - k. Commissioner Martin resumed leading the meeting as the Board's chair.
5. Certification of Candidates for 2023 Spring Election and 2023 Special Election

- a. Commissioner Haag motioned to certify the candidates as presented by Executive Director Woodall-Vogg; Commissioner Ruiz-Cantu seconded. Motion carried without a negative vote.
6. Executive Director Woodall-Vogg commenced the ballot order draw for all contests with multiple candidates:
 - a. School Board Director District 3
 - b. School Board Director At-Large
 - c. Municipal Judge Branch 2
 - d. Municipal Judge Branch 3
 - e. Alderperson District 1, 5, 9
7. Commissioner Haag motioned to adjourn at 6:25pm; Commissioner Ruiz-Cantu seconded. The motion carried without a negative vote and the meeting was adjourned at 6:25pm.

UNAPPROVED