



Wisconsin Elections Commission

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March 3, 2023

Ieshuh Griffin
2722A N Richards St.
Milwaukee, WI 53212

Claire Woodall-Vogg
City of Milwaukee Election Commission
200 E Wells St. Rm. 501
Milwaukee, WI 53202

Sent via email: eyeforjustice@yahoo.com and cwooda@milwaukee.gov

Re: Ieshuh Griffin v. City of Milwaukee Election Commission (EL 23–03)

Dear Ms. Griffin and Executive Director Woodall-Vogg,

This decision letter is in response to the verified Complaint submitted by Ieshuh Griffin (Complainant) to the Wisconsin Elections Commission (Commission), which was filed in reply to a ballot access decision made by an election official. The Complaint alleges that the City of Milwaukee Election Commission (Respondent), erred by finding that the Complainant was not qualified to appear on the ballot for the Spring Election on April 4, 2023.

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.”

The Commission has reviewed the Complaint, Response, Reply, and all supporting documentation. The Commission provides the following analysis and decision. In short, the Commission has determined that the Complainant has not shown probable cause that the Respondent improperly denied ballot access to the Complainant.

Summary of Complaint, Response, and Reply

The Complaint alleges that the Respondent improperly denied ballot access to the Complainant for the office of Municipal Judge, Branch 3, for the 2023 Spring Election. The Complainant makes a number of allegations, and the most relevant are summarized below. The Complainant alleges:

- That the Complainant certified she was qualified for the office and that her nomination materials were in substantial compliance with the law and should be entitled to a presumption of validity.

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- That “there has not been provided to me or any evidence given or shown to me or on record that demonstrate ‘a failure to comply with statutory or other legal requirements to be placed on the ballot for Municipal Judge, Branch 3.’”
- That on January 5, 2023, she was notified by the City of Milwaukee Election Commission that “my nomination papers were ‘deemed’ sufficient” and that she had “‘completed all other filing requirements.’”
- That on January 5, the Respondent emailed the Complainant to state that, under § 3-34-2(b) of the Milwaukee Charter, municipal judges must be licensed attorneys in Wisconsin, and asked if the Respondent would “‘become a licensed attorney prior to May 1, 2023.’” After this email, the Respondent stated in an email that no complaint concerning the licensed attorney issue had been received and that the Complainant was in “‘full compliance and will be recommended for ballot placement at this point in time.’”
- That the Respondent on January 9 was “in receipt of my VERIFIED Challenge response” including questions about proper venue and jurisdiction and also that “the Milwaukee board of Election Commissioners did not have before them a challenge to Claire Woodall’s [sic] decision to recommend me for ballot placement.”
- That the City of Milwaukee does not have the authority to “conduct and or dictate the eligibility of Municipal Judges” and that the Complainant was “under no obligation” to comply with “Milwaukee Charter Paragraph 3-34.”
- That no one “provided proof nor evidence that I could not perform Milwaukee Charter Paragraph 3-34 IF a Municipal Judge is in fact a ‘City Officer’” and that the Charter does not contain language about ineligibility to hold office or a date by which one must meet requirements, and that the requirements are not found in the Wisconsin Constitution or Statutes.
- Finally, the Complainant alleges that “I have met all conditions precedent and am qualified and eligible to be a Municipal Judge for Brach 3 if elected.”

Additional documents provided with the complaint will be examined below in the Commission Findings section.

The Response alleges that the City of Milwaukee Election Commission properly denied ballot access to the Complainant on the basis of a challenge to her ballot access. The response alleges:

- That on January 6, 2023, Phil Chavez filed a challenge against Ieshuh Griffin alleging that she was not licensed to practice law in Wisconsin, and thus did not meet the requirement of § 3-34-2-b of the Milwaukee Charter that “[a] municipal court judge shall be an attorney licensed to practice law in Wisconsin.” The Challenge cited Wis. Stat. § 8.30(1)(c) stating that a candidate may be denied ballot access if “[t]he 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.”
- That after receiving the challenge, the Respondent investigated whether the Complainant “was or could become an attorney licensed to practice law in Wisconsin prior to May 1, 2023” and determined, after reviewing Supreme Court Rules 10.01 (“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.”) and 40.02, that the Complainant was not a member of the Wisconsin State Bar and not a licensed attorney in Wisconsin.

- That during the Jan. 9, 2023, meeting of the Election Commission, the Complainant, under oath, “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” and that the Election Commission, “voted unanimously to remove Griffin from the ballot.”
- That the Communications from the Respondent on January 5 merely communicated that the Complainant’s signatures on her nomination papers were deemed sufficient, and that no signatures were later questioned.

Additional documents provided with the response will be examined below in the Commission findings section.

The Reply reaffirms the arguments made in the complaint and expands upon them. The Reply alleges:

- That the Response did not address jurisdiction and venue issues raised in the complaint.
- That the minutes attached to the response were incorrect.
- That the Milwaukee Charter cannot add qualification requirements to candidates for municipal offices if those requirements are not found in the federal or state constitutions or in state law, and that any such requirement within the Charter would also violate due process and equal protection principles and the Voting Rights Act by applying only to Milwaukee.
- That, given the email from the Respondent stating that “all other filing requirements had been met,” the Complainant had already qualified for ballot access at that moment and that “[a] candidate’s name cannot be removed from the ballot once the candidate qualifies for nomination, the respondents as trained election officials are aware of this mandatory law.”
- That the Complainant stated during the Jan. 9 hearing that she was “an attorney” and that she did not “deny or allege that she would not qualify to meet the purported language of the charter IF need be.”
- That the Complainant did not receive a written explanation of why her name was removed from the ballot.
- That the Executive Director was not only the “filing officer for the complaint, she was the investigator, ‘expert witness’ and advocate, also personally participating in the closed door decision making and acted as an advocate for the complainant Chavez. Due process as such, was violated.”
- That the closed session portion of the Jan. 9 meeting was not properly noticed.
- That “[t]he appellant does not have to be a member of the State Bar of Wisconsin to be ‘an attorney’ that “[t]he prerequisites to obtaining a ‘license’ to practice law in Wisconsin IF it were to be an ‘election related ballot placement’ prerequisite were, have been, and already are met and exceeded by the appellant as the audio of the appellant’s affirmation under oath confirmed” that “[t]he municipality’s un promulgated charter is preempted by state and federal law, and is void on its face” and that “[s]tate law as well as the State of Wisconsin Constitution has not ever indicated nor inferred that a

qualification of municipal state judgeship public office was, is or has been conditioned on obtaining any form of license.”

The audio file provided with the Reply will be discussed below in the Commission Findings section.

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 by Ieshuh Griffin’s 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.

Commission Findings

The Commission will first examine some of the material provided in support of the filings before addressing the merits of whether the Respondent improperly denied ballot access to the Complainant.

A document attached to the complaint shows that on Jan. 5, 2023, the Respondent emailed the Complainant and explained that the Complainant’s nomination papers were “reviewed and deemed sufficient,” that 1,555 of 1,705 signatures were validated, and that the Complainant had “completed all other filing requirements.” A later email from the Respondent states that the Complainant was “in full compliance and will be recommended for ballot placement at this point in time” while also informing the Complainant of the date and time of the ballot access meeting of the City of Milwaukee Election Commission.

Another document attached to the Complaint shows that on January 6, Phil Chavez filed a challenge against the Complainant’s candidacy for municipal judge on the basis of § 3-34-2(b) of the Milwaukee Charter stating that she was not “a member of the State Bar of Wisconsin and thus is not an attorney licensed to practice law in the State of Wisconsin.” The Challenge cites Wis. Stat. § 8.30(1)(c) and alleges that, because the Complainant is not a member of the State Bar, she is “ineligible for ballot placement for City of Milwaukee Municipal Court Judge, Branch 3.” The Complainant’s response to the challenge broadly alleges that a person does not need to be a member of the State Bar of Wisconsin in order to be an attorney in this state and that the Milwaukee Charter cannot supersede state law.

A document provided with the Response shows that the Complainant was unanimously removed from the ballot on Jan. 9 because she “would not be able to meet the qualifications to hold office by May 1, 2023, if elected.”

The audio recording of the January 9 meeting provided with the Reply shows the presentation of the challenge to the Complainant's candidacy, Chavez v. Griffin, being heard by the City of Milwaukee Election Commission. The challenge was heard at the same time as the Complainant's challenge against candidate Chavez. The audio includes a discussion about the Milwaukee Charter requirement that a municipal judge be an attorney licensed to practice law in Wisconsin and how a person may become licensed to practice law in Wisconsin under the Supreme Court Rules.

The audio shows that checking the qualifications of candidates who turn in nomination papers is not part of the facial review of nomination materials, and that the issue was only presented to the Respondent because of the challenge from Candidate Chavez alleging that the Complainant was not a licensed attorney and could not become one by the time she would take office, if elected. In responding orally to the Respondent's consideration of the challenge, the Complainant alleges that there is no state law requiring a municipal judge to be licensed to practice law in Wisconsin. The Complainant was put under oath and answered questions from the Election Commissioners. The Complainant stated that she was in full compliance with the nomination requirements, and she said "I am an attorney in every sense of the word. Attorney has many definitions," mentioning also that there are waivers to practice law and that a state bar is a union. The audio ends as the Respondent moves into closed session.

The Wisconsin Elections Commission does not have the authority to address several issues that were raised in the Complaint and Reply, including issuing a decision concerning the validity of the Milwaukee Charter, Wisconsin's Supreme Court Rules, or the State Bar. The Commission also cannot issue a decision concerning the Complainant's right to due process and equal protection under the Federal Constitution. The Commission's role in this complaint is to determine whether the Complainant has shown probable cause that the Respondent abused its discretion and improperly denied ballot access to the Complainant when applying Wis. Stat. § 8.30 and Wis. Admin. Code Chapter EL 2.

The Complainant's argument that she had already been granted ballot access by the Executive Director's email on January 5 is incorrect. The email says only that the Complainant "will be recommended for ballot placement at this point in time." In context, it is clear that the Executive Director processes filings and conducts a facial review of all nomination papers, as required by Wis. Admin. Code § 2.05(3), and that the Complainant's nomination papers were facially valid. The word recommended communicates that the Executive Director makes recommendations based on this facial review but that it is the City of Milwaukee Election Commission that makes the final ballot access decisions.

To the extent these terms are applicable, and to the extent the Wisconsin Elections Commission can make findings on jurisdiction and venue related to the challenge, it finds that as the filing officer for the Complainant's nomination papers and declaration of candidacy, the City of Milwaukee Election Commission properly received, held a hearing, and issued a decision on the challenge. Local filing officers are able to hear ballot access challenges against candidates under Wis. Admin. Code § EL 2.07, and § EL 2.07(2)(b) allows, but does not require, holding a hearing.

Wis. Admin. Code § EL 2.07(3)(a) explains that "[t]he burden is on the challenger to establish any insufficiency. If the challenger establishes that the information on the nomination paper is

insufficient, the burden is on the challenged candidate to establish its sufficiency.” In this case, the challenge alleged that the candidate herself was not qualified for the office and thus, under Wis. Stat. § 8.30(1)(c), the Respondent could refuse to place her name on the ballot. The Wisconsin Elections Commission finds that City of Milwaukee Election Commission did not abuse its discretion in finding that the challenger met his burden and that the Complainant did not meet hers.

When the January 6 challenge to the Complainant’s nomination was received, it appears clear from the record that the Executive Director processed the filings, consulted extrinsic sources as allowed by Wis. Admin. Code § EL 2.07(1), and presented her findings to the City of Milwaukee Election Commissioners during the January 9 meeting. It does not appear that the Executive Director made an explicit recommendation during the presentation, and simply presented her conclusion that “there is no record of Ieshuh Griffin being a licensed attorney.”

The challenge alleged that the Complainant is “not a member of the State Bar of Wisconsin and thus not an attorney licensed to practice law in the State of Wisconsin” thus failing the requirement contained in Milwaukee Charter § 3-34-2(b) that a “Municipal Court Judge shall be an attorney licensed to practice law in Wisconsin.” Again, the Wisconsin Elections Commission cannot take issue with the validity of the Milwaukee Charter, and it accepts the decision of the City of Milwaukee Elections Commission that § 3-34-2(b) applies to Municipal Court Judges in the City. The language of that section is clear on its face.

Given the allegation in the challenge, and the presentation from the Executive Director who found no evidence that the Complainant was a licensed attorney, the Commission will not overturn the Respondent’s determination that the burden of showing that the Complainant “could not qualify for the office sought within the time allowed by law because of age, residence, or other impediment,” was met. Wis. Stat. § 8.30(1)(c).

However, the Complainant correctly observed that under this statute and the Charter, the time allowed by law would be the date of taking office as a municipal judge rather than as a candidate for the office. Thus, the Complainant could have overcome her subsequent burden by showing that, while not currently a licensed attorney in Wisconsin, which under Supreme Court Rule 10.01 necessarily involves State Bar membership, she could become one within the next few months before she would take office, if elected. The record in this complaint shows that the City of Milwaukee Election Commissioners asked the Complainant if there was any way she could become a licensed attorney in that time.

The Complainant’s answers did not provide any reason to believe that she could become a licensed attorney in Wisconsin, other than stating, under oath, that she is “an attorney in every sense of the word. Attorney has many definitions.” The Complainant may believe that she is an attorney under some definition, but she did not give any indication that she qualifies or could qualify as an “attorney *licensed to practice law in Wisconsin*” (emphasis added) under the Wisconsin Supreme Court Rules cited in the compliant materials. The Commission will not overturn the City of Milwaukee Election Commission’s decision to deny ballot access under Wis. Stat. § 8.30 on the basis of this challenge.

Commission Decision

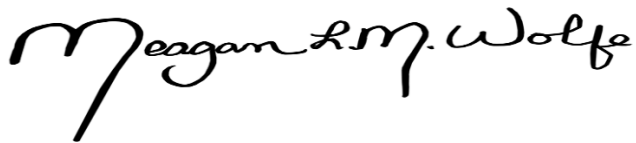
Based upon the above review and analysis, the Commission does not find probable cause to believe that a violation of law or abuse of discretion has occurred with regard to the Respondent denying ballot access to the Complainant on the basis of a challenge.

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 have questions about this letter or the Commission's decision, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Meagan H.M. Wolfe". The signature is written in a cursive style with a large, stylized initial "M".

Meagan Wolfe

Wisconsin Elections Commission Administrator

cc: Commission Members