



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 23–05)

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 actions related to a ballot access challenge taken by an election official. The Complainant alleges that the City of Milwaukee Election Commission (Respondent), erred by dismissing her challenge to Phil Chavez’s (Candidate) candidacy ahead of the April 4, 2023, Spring Election.

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 dismissed her ballot access challenge against the Candidate.

Summary of Complaint, Response, and Reply

The Complainant alleges that the Respondent improperly dismissed her ballot access challenge against Phil Chavez’s candidacy 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 she “provided the Milwaukee Election Commission and the Board of Election Commissioners an affidavit on January 6, 2023 under penalty of perjury that pursuant to the ‘purported’ City of Milwaukee charter 3-34(b) stating in no uncertain terms ‘A

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municipal court judge “shall” be an “attorney” “licensed” to practice law in Wisconsin, Phil Chavez failed to comply with these specific ‘legal’ requirements.”

- That her challenge was substantially compliant and is entitled to a presumption of validity.
- That “the filing officer failed to use the evidence I supplied in the complaint and looked outside of the four corners of the complaint” and that “the filing officer relied on uncertified conjecture.”
- That her complaint was dismissed on the grounds of being improperly sworn but that it was properly sworn.
- That the Candidate “did not dispute, refute nor deny any allegation that I made in my sworn verified complaint.”
- That she “provided evidence that ‘attorney’ and ‘lawyer’ did not mean the same thing.
- That “the State Bar of Wisconsin is not a government agency that has legal nor lawful authority to issue ‘licenses’ as ‘defined’ by clearly established law” and that a “‘State of Wisconsin’ membership bar card is not a license.”
- That the “only government agency with legislative authority defined as a ‘licensing bureau’ is the Wisconsin Department of Safety and Professional Services, located in Madison, Wisconsin” and that that “licensing bureau” did not have a record of Phil Chavez having a license.
- That the Respondent used a lower burden of proof for the Complainant’s challenge against the Candidate than for the Candidate’s against the Complainant.
- 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 the State of Wisconsin.
- That the Respondent reviewed an insufficient response from the Candidate that did not refute the challenge.

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 dismissed the Complainant’s ballot access challenge against the Candidate. The response alleges:

- That on January 6, 2023, the Complainant “filed a timely verified complaint to challenge the nomination papers of Candidate Phil Chavez for the Office of Municipal Court Judge, Branch 3 in the City of Milwaukee.”
- That “rather than dismiss the Challenge on any procedural basis, the MEC decided the Challenge on its merits” and that “Chavez’s Response to the Challenge raised only procedural defects on which the MEC did not rule.”
- That the “sole basis for the Challenge is that Chavez is not currently licensed to practice law in the State of Wisconsin as required by § 3-34-2-b, of the Milwaukee City Charter, which provides: ‘Eligibility. A municipal court judge shall be an attorney licensed to practice law in Wisconsin.’”
- That after receiving the challenge, the Executive Director investigated whether “Chavez was an attorney licensed to practice law in Wisconsin” and “determined that Chavez graduated from the University of Wisconsin-Madison Law School and was listed as a

member in good standing with the Wisconsin State Bar on the Wisconsin State Bar Website” and then “recommended to the MEC that Griffin’s challenge be rejected.”

- That “[a]t the January 9, 2023 hearing of the MEC, the MEC voted unanimously to reject Griffin’s challenge.”
- That “[c]ontrary to her Complaint EL 23-02, here Griffin apparently concedes that candidates for Branch 3 of the Milwaukee Municipal Court must in fact be attorneys licensed to practice in the State of Wisconsin. Instead, she argues that it is the WDSPS that is responsible for licensing attorneys in the state.”
- That “it is clear that Chavez was admitted to practice in Wisconsin via the diploma privilege and is a member of the State Bar in good standing.”

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 minutes attached to the response were incorrect.
- That “The interpretation of use of a nongovernmental union’s website for ‘license verification’ reference to a print out non certified paper for a ‘synopsis’ of SCR rules and a copy of a non-promulgated ‘synopsis’ of a municipality’s internal policy pursuant to an administrative charter is inconsistent with state and federal election laws including rulemaking authority in violation of the State Administrative Procedure Act.”
- That “[i]n addition to the myriads of legal reasons the unpromulgated city internal policy is void ab initio is because the City of Milwaukee has no power nor rule making authority whatsoever to ‘license’ candidates for public office, no power nor rule making authority whatsoever to ‘license’ public officials, and absolutely no power nor rule making authority whatsoever to ‘license’ ‘state officers’” and that “[t]he unpromulgated internal policy charter is invalid” under the Wisconsin and Federal Constitutions.

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 dismissed the ballot access challenge against the Candidate.

A document attached to the Complaint shows that on January 6, the Complainant filed a challenge against Phil Chavez's candidacy for municipal judge on the basis of § 3-34-2(b) of the Milwaukee Charter stating that "ONLY . . . the Wisconsin Department of Safety and Professional Services" has "license issuing authority," and that "[t]o date the Wisconsin Department of Safety and Professional Services, located in Madison, Wisconsin, has NO record of issuing a 'license' to 'practice law' to Municipal Court Candidate Phil Chavez." The challenge also alleged that "[n]either the Wisconsin Supreme Court nor the Wisconsin State Bar have legislative delegation of authority to issue 'licenses'" and that the "State Bar is not a government agency but a 'union,' akin to a 'labor union' to collect fees from its members." The Challenge alleged that the Candidate has no record of taking a bar exam and that he "is simply in 'good standing' with his union fee membership to the Wisconsin State Bar. Because the State of Wisconsin provides a diploma privilege and does not administer the bar exam, it cannot bestow upon a *lawyer* 'attorney' rights."

A document provided with the Response shows that the Complainant's challenge was heard at the same time as the Candidate's challenge to the Complainant's candidacy and that Wisconsin Supreme Court Rules 10.01 and 40.02 were reviewed along with the Executive Director's conclusion that "Per the State Bar of Wisconsin, Phil Chavez is a licensed attorney in good standing." Another document shows that the Complainant's challenge against the Candidate was unanimously dismissed.

The audio recording of the January 9 meeting provided with the Reply shows that the Complainant's challenge, Griffin v. Chavez, was presented to the City of Milwaukee Election Commission at the same time as the Candidate's challenge against the Complainant, Chavez v. Griffin. 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.

As the Complainant points out, Griffin v. Chavez was not discussed in detail after the Executive Director's presentation of both challenges, and the majority of the subsequent questions and discussion concerned Chavez v. Griffin, and particularly the Complainant's own status as an attorney. 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 Election Commission because of the challenges.

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 on 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 rights under federal law. 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 dismissed the Complainant's ballot access challenge against the Candidate.

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 himself was not qualified for the office and that the Respondent should refuse to place his name on the ballot for City of Milwaukee Municipal Judge, Branch 3. The Wisconsin Elections Commission finds that City of Milwaukee Election Commission did not abuse its discretion in finding that the Complainant failed to meet her burden.

This complaint appears at points both to argue that § 3-34-2(b) of the Milwaukee Charter applies and should prevent the Candidate from appearing on the ballot, and also that it is invalid. In any case, 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 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 consulted extrinsic evidence (as allowed by Wis. Admin. Code § EL 2.07(1)) and found that the Candidate was a licensed attorney in good standing in Wisconsin, the Commission will not overturn the Respondent’s determination that the Complainant’s burden for a successful challenge—i.e., showing that the Candidate was not and could not become an attorney licensed to practice law in Wisconsin before taking office, if reelected—was not met.

The Wisconsin Elections Commission has no authority to call into question the status of the State Bar or the Supreme Court Rules creating the State Bar and requiring membership. (SCR 10.01(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.”). The Executive Director showed the City of Milwaukee Election Commissioners that Phil Chavez is a licensed attorney in good standing with the Wisconsin State Bar, which was a sufficient basis to dismiss the 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 dismissing the Complainant’s ballot access challenge against the Candidate.

Right to Appeal – Circuit Court

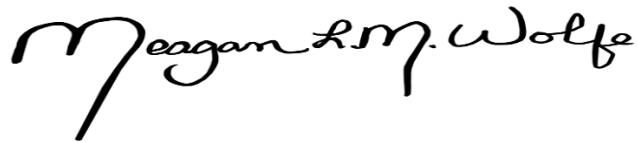
This letter constitutes the Commission’s resolution of this complaint. Wis. Stat. § 5.06(2). Pursuant to Wis. Stat. § 5.06(8), any aggrieved party may appeal this decision to circuit court no later than 30 days after the issuance of this decision.

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

March 3, 2023

Page 6

Sincerely,

A handwritten signature in black ink that reads "Megan L.M. Wolfe". The signature is written in a cursive style with a large, looped 'M' at the beginning.

Meagan Wolfe

Wisconsin Elections Commission Administrator

cc: Commission Members