

WISCONSIN ELECTIONS COMMISSION

VAN WANGGAARD,

Complainant

No. EL 22-30

v.

TARA COOLIDGE, and CORY MASON, in their official capacities

Respondents.

**SWORN RESPONSE BY COMPLAINANT VAN WANGGAARD TO RESPONDENTS'
TARA COOLIDGE AND CORY MASON VERIFIED RESPONSE**

Complainant Van Wanggaard (spelled with two G's for Respondent's information) hereby acknowledges that he filed a complaint with the Wisconsin Elections Commission (WEC) against said Respondents setting forth violations of Wisconsin election laws, including knowingly providing false information to City of Racine residents concerning the process for legally completing and returning an absentee ballot as well as knowingly and admittedly accepting absentee ballots from persons that were not the absentee voter themselves. The Respondents, via their esteemed legal counsel, essentially admitted to as much by arguing that their actions were legally authorized, "thumbing their noses" at WEC and the Wisconsin Supreme Court.

Respondents attempt to obfuscate their proverbial "hands being caught in the cookie jar" by making specious legal arguments and resorting to reliance on tangential Federal election laws. Fortunately, for all parties involved, and as requested by Respondents to "separat[e] out the chaff",

Complainant need not respond in detail to Respondents arguments/response for the reason set forth below.

Per Wis. Admin. Code El Chapter 20 as well as correspondence from WEC Staff Attorney, Jim Witecha [See attached Exhibit 1], Respondents had until April 25, 2022 to submit a Verified Response to the Complaint. However, as documented and sworn to in their Verified Response, Respondents submitted their response on April 26th; hence, ipso facto, Respondents failed to timely submit their response and, as such, said Verified Response cannot be accepted by WEC in response to the original complaint.

Based on this fatal legal error, Complainant's allegations stand uncontested by Respondents and thus should be accepted by WEC on their face as true and legally accurate. Additionally, and as if not more important than Respondent's untimely response, is the fact that Respondent, Cory Mason, did not bother (or care) to respond to the Complaint at all. The mere inclusion of a single paragraph "Argument" [See Argument I in Respondents' Verified Response] by counsel by no means, legal or otherwise, constitutes a response by said Respondent. Thus, even if WEC were to somehow legally allow the response to be entered into the record, said response should only be deemed as a response submitted by Tara Coolidge. To be clear, Respondent Mason did not respond to the Complaint.

Notwithstanding the fatal legal errors set forth above, should WEC accept Respondent Coolidge's untimely Verified Response, the response still fails and Complainant's allegations should be confirmed and penalties imposed on Respondents for the following reasons:

Argument I – Cory Mason is not a Proper Respondent

Complainant agrees that the Respondent Mason is not specifically defined as an election official under Wis. Stat. §5.02(4e).

However, the statute defines “election official” as “an individual charged with *ANY* duties relating to the conduct of an election.” (emphasis added). Mayor Mason has repeatedly engaged in activities related to the conduct of an election. To wit, in 2020, Mayor Cory Mason personally signed an agreement with the Center for Tech and Civic Life (CTCL) in which the City of Racine agreed to receive \$942,100 to assist with administration of the 2020 election.¹ In addition, Mason spearheaded an effort to obtain and utilize funding for a first of its kind “Mobile Voting Precinct” in 2021. Again, the requirement of Wis. Stat. §5.02(4e) is “an individual charged with *ANY* duties relating to the conduct of an election.” (emphasis added). A city employee, even the mayor, engaging in such activities is engaging in “duties relating to the conduct of an election.”

Further, Vicky Selkove, Manager of Strategic Initiatives & Community Partnerships for the City of Racine is a direct employee of Mayor Mason. Selkove previously served as Mason’s “Chief of Staff” in the Wisconsin State Assembly. Selkove engaged in efforts, supported by Mayor Mason, to facilitate use of CTCL grants in both Racine and elsewhere in Wisconsin. She specifically asked other cities in Wisconsin, to find steps to “update registered voters’ addresses”, and “register new voters.”²

If facilitating the spending of election grant money in Racine and elsewhere, seeking to update registered voters’ addresses and registering new voters are not “duties relating to the

¹ See Exhibit 1A

² See Exhibit 1B

conduct of an election” then the words of that statute have no meaning. Similarly, if a direct employee of the mayor engaging in such an activity do not constitute actions by the mayor, the entire legal theory of “*respondeat superior*” is null and void.

Argument II – Respondents did not Provide False Information on VoteRacine.org.

Respondent Coolidge’s untimely response to the complaint can be best summarized as “We know the law better than the circuit court and Wisconsin Supreme Court.”

1 – Respondents Analysis of Wis. Stat. §6.87(4)(b)(1) is Irrelevant.

Respondents’ analysis as to the construction and their interpretation of Wisconsin Statute §6.87(4)(b)(1) is irrelevant to this complaint. While respondents are entitled to their opinion about §6.87(4)(b)(1) they do not have the right to substitute their own opinion or interpretation over that of the Wisconsin Supreme Court or the Wisconsin Elections Commission. Complainant therefore will not address the respondent’s disdainful statutory analysis.

2 - The Supreme Court’s Order Applied Statewide

In her dissent in *Teigen*, Justice Ann Walsh Bradley, makes clear that the majority opinion in *Teigen* applied statewide. “... [T]he majority allows the decision of a single court judge to govern elections taking place *ACROSS THE STATE*...” “The municipal clerks and *ALL VOTERS OF THIS STATE* deserve better.” (emphasis added).

If the circuit court’s order in *Teigen* “govern[ed] elections taking place across the state” (ibid.), the order **MUST** apply statewide. There were no statewide elections on the April 2022 ballot. If the Supreme Court order applied to only specific municipalities, or only to Waukesha County, as Respondents apparently suggest, there would be no impact “across the state.” All elections in April 2022 were local. Different rules in different areas of the state would not have

statewide impacts. Yet, Justice Walsh Bradley TWICE wrote that the Supreme Court order impacted voters all over the state. Why would Justice Walsh Bradley twice make a point in her dissent that was incorrect? She would not, and assuming otherwise shows contempt for the Supreme Court and Justice Walsh Bradley specifically.

3 – Respondents Rely on Guidance That Has Been Rescinded by the Wisconsin Elections Commission.

Respondent states in its reply that it finds “the Commission’s guidance...that “[a] family member or another person may also return [an absentee] ballot on behalf of the voter” to be “a reasonable one, which is consistent with a plain-language reading of the statute.”

Respondent ignores the fact that on February 17, 2022, WEC unanimously RESCINDED that guidance. The Wisconsin Elections Commission subsequently “notified Wisconsin’s County and Municipal Clerks that it withdrew the [guidance] memos, and to ignore any other WEC materials contradicting the Court’s Order.”³

Although Complainant has not obtained the notification provided by WEC to county and municipal clerks, he notes that on at least two occasions, March 30, 2022 and April 4, 2022, WEC issued news releases stating pursuant to the Court’s Order:

- “An elector must personally mail or deliver his or her own absentee ballot, except where the law explicitly authorizes an agent to act on an elector’s behalf.”
- “The only lawful methods for casting an absentee ballot pursuant to Wis. Stat. § 6.87(4)(b)1. are for the elector to place the envelope containing the ballot in the mail or for the elector to deliver the ballot in person to the municipal clerk.”

³ WEC News Release “Things to know for the April 5, 2022 Spring Election” 3/30/2022 and WEC News Release “Last Minute Spring Election Reminders” 4/4/2022

- “The use of drop boxes, as described in the Memos, is not permitted under Wisconsin law unless the drop box is staffed by the clerk and located at the office of the clerk or a properly designated alternate site under Wis. Stat. §6.855.”⁴

Rather than follow the legal guidance required by the circuit court, the Supreme Court, and now WEC, Respondent believes that its own interpretation of Wis. Stat. § 6.87(4)(b)(1) controls. If the order of the courts, the rescinded guidance memos of WEC, and WEC instructions to municipal and county clerks and news releases about the handling and acceptance do not control and are free to be ignored by Respondents, there is no point to having statewide laws governing elections.

Therefore, contrary to Respondent’s assertion, the challenged statement on VoteRacine.org is patently false.

Argument III – Complainant has provided no Evidence, nor Made a Specific Allegation, that Respondents Illegally Accepted Ballots.

Whether it was an attempt at irony or just bad lawyering, Respondents’ defense of their own argument here is nothing more than a conclusory statement, the very same type of statement that Respondents allege prove fatal to Complainant’s allegation of Respondents illegally accepting ballots. Further, contrary to Respondents’ claim, Complainants did make specific allegations of Respondents illegally accepting ballots (See Complaint, para. 18 and FN 10) based on information and belief as well as from published news articles. Note the verb usage in the following quote by Respondent Coolidge:

⁴ Ibid.

The City of Racine IS accepting absentee ballots in person from the voter, or an agent, or authorized representative of the voter,” Coolidge said in an email to the Journal-Times. “Those returning absentee ballots in person HAVE BEEN asked to answer if they are the voter or an agent or authorized representative of the voter, if they state no they HAVE BEEN turned away and the ballot WAS not accepted. (emphasis added)⁵

The preceding quote was provided following the filing of this complaint and the day before the election. By using past and present tense, and not future tense, in describing the process for third parties returning ballots, Respondent Coolidge admits that Respondent has already violated the order by the Wisconsin Supreme Court.

Even if Respondent had not admitted accepting absentee ballots in the press, Respondent has still violated Wis. Stat. §5.06(1). By knowingly publishing a statement on VoteRacine.org informing voters that “a ballot can be returned by someone who is not the voter” Respondent has violated Wis. Stat §5.06(1) by “abus[ing] the discretion vested in him or her by law with respect to any such [election administration] matter.”⁶ Knowingly publishing false information is abuse of the discretion vested in Respondent Coolidge with respect to both the conduct of the election and election administration.

CONCLUSION

Respondents failed to respond to Complaint in timely fashion and as such their Verified Response should not be accepted nor even considered by WEC. Second, Respondent Cory Mason,

⁵ Henry Redman, *City of Racine, Sen. Wanggaard at odds over absentee ballot return rules*, WISCONSIN EXAMINER; April 5, 2022

⁶ Wis. Stat. 5.06(1)

failed to file ANY response, albeit directly or via legal counsel; only Respondent Coolidge responded, however, as just noted, her response was late. Respondent's Verified response substitutes its interpretation of Wisconsin law as superior to the circuit court, Wisconsin Supreme Court and WEC, itself an abuse of discretion. Finally, Complaint meets the level of proof required at this stage in the process, sufficiently alleging and documenting violations of Wisconsin Election Laws, to warrant investigation into alleged illegal activities as well as to warrant findings that Respondents did violate state law.

Dated this 11th day of May, 2022.


(Complainant's Signature)

VAN H. WANGGAARD
(Printed Name)

I, **Van Wanggaard**, being first duly sworn on oath state that I personally read the above complaint, and that the above allegations are true based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.

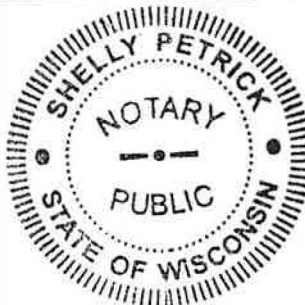

(Complainant's Signature)

STATE OF WISCONSIN.
County of Racine,

This document was signed before me by Van Wanggaard on this 10th day of May, 2022



My commission expires 5-27-23 or is permanent
Notary Public





CENTER FOR
TECH AND
CIVIC LIFE

August 3, 2020

City of Racine

Dear Mayor Mason,

I am pleased to inform you that the Center for Tech and Civic Life ("CTCL") has decided to award a grant to support the work of the City of Racine.

The following is a description of the grant:

AMOUNT OF GRANT: Nine hundred, forty-two thousand, one hundred US dollars (USD \$942,100.00).

PURPOSE: The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of Racine in accordance with the Wisconsin Safe Voting Plan 2020 ("Appendix").

Before we transmit these funds, we ask that you sign this agreement promising to use the grant funds in compliance with United States tax laws. Specifically, by signing this letter you agree to the following:

1. The City of Racine is a U.S., state, or local government unit or political subdivision in the meaning of 26 USC 170(c)(1).

Exhibit A

2. This grant shall be used *only* for the public purpose described above, and for no other purposes.
3. The City of Racine shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing.
4. The City of Racine has produced a plan for safe and secure election administration in 2020, including an assessment of election administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters. This plan is attached to this agreement as an Appendix. The City shall expend the amount of this grant for purposes contained in this plan by December 31, 2020.
5. This grant is intended to support and shall be used solely to fund the activities and purposes described in the plan produced pursuant to paragraph 4.
6. The City of Racine shall produce a report documenting how this grant has been expended in support of the Appendix. This report shall be provided to CTCL by January 31, 2021.
7. The City of Racine shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of Racine ("the Clerk") or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant.
8. CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgment, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.
9. The grant project period of June 15, 2020 through December 31, 2020 represents the dates between which covered costs may be applied to the grant.

CENTER FOR TECH & CIVIC LIFE
HELLO@TECHANDCIVICLIFE.ORG

PAGE 4

Your acceptance of these agreements should be indicated below. Please have an authorized representative of The City of Racine sign below, and return a scanned copy of this letter to us by email at grants@techandcivicliflife.org

On behalf of CTCL, I extend my best wishes in your work.

Sincerely,

Tiana Epps Johnson
Executive Director
Center for Tech and Civic Life

Accepted on behalf of the City of Racine:

SEE ATTACHMENT

By: _____

Title: _____

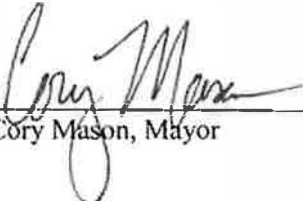
Date: _____

**APPENDIX: Wisconsin Safe Voting Plan 2020 Submitted to the Center for Tech & Civic Life
June 15, 2020**


CENTER FOR TECH & CIVIC LIFE
HELLO@TECHANDCIVICLIFE.ORG

PAGE 3

CITY OF RACINE

By:  8/6/2020
Cory Mason, Mayor Date


ATTEST:

By:  8/6/2020
Tara Coolidge, City Clerk Date

Provisions have been made to pay the liability that will accrue hereunder.

By:  8-6-20
David Brown, Finance Director Date

APPROVED AS TO FORM:

By:  August 6 2020
Scott R. Letteney, City Attorney Date

Woodall-Vogg, Claire

From: Selkove, Vicky <Vicky.Selkove@cityofracine.org>
Sent: Wednesday, June 10, 2020 10:25 PM
To: Albrecht, Neil; Woodall-Vogg, Claire; Coolidge, Tara; Celestine Jeffreys; Witzel-Behl, Maribeth; Michelle Nelson
Subject: one additional question for elections project

All - Thank you all for your prompt response to the numerous questions we've posed about your municipality's upcoming election needs and plans. Your responses have given me so much to work with as I prepare our comprehensive plan. Our national funding partner, the Center for Tech & Civic Life, has one additional question area they'd like answered:

What steps can you take to update registered voters' addresses before November? What steps can you take to register new voters? How much would each cost?

Could you each please email me your response to these questions? (Don't worry about putting your response into your city's google doc, I'll handle that.)

Thank you!
Vicky

Vicky Selkove
Manager, Strategic Initiatives & Community Partnerships
Office of Mayor Cory Mason
City of Racine
Direct: 262-636-9286
Cell: 262-598-6580
vicky.selkove@cityofracine.org

