



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

January 20, 2022

James Kurtz
N7401 Racetrack Road
Plymouth, WI 53703

**Re: Ballot Access Challenge Appeal (Wis. Stat. § 5.06)
EL 22-04 (James Kurtz v. Lexann Hoogstra, et al.)**

Dear Complainant Kurtz:

I am in receipt of a Wis. Stat. § 5.06 complaint filed with the Wisconsin Elections Commission (“WEC” or “Commission”), received on January 19, 2022, against the Clerk in the Town of Rhine, Lexann Hoogstra, and the Sheboygan County Clerk acting as her “agent.” The administrative rules governing the WEC’s processing of complaints require that I review the complaint and determine within 10 business days whether the complaint is timely, is sufficient as to form, and states probable cause. Wis. Admin. Code § EL 20.04(1). I am writing to inform you that I have determined the complaint is not in proper form and does not state probable cause. The complaint is not properly verified as required by Wis. Admin. Code § EL 20.04, and it raises various state and constitutional claims which are not within the Commission’s statutory authority to enforce. Therefore, I am returning the complaint to you without prejudice pursuant to Wis. Stat. § 5.06 and Wis. Admin. Code § EL 20.04(1) and (2).

Sufficiency as to Probable Cause

The complaint alleges violations that are not within the Commission’s purview. The Wisconsin Elections Commission has authority over the enforcement of Wisconsin Statutes Chapters 5-10, and 12. Your complaint does not state a violation of law that the Commission has the authority to investigate and, therefore, probable cause of a violation of laws under the Commission’s authority is not contained in the complaint.

The complaint also appears to challenge the validity of various felony convictions. This is not within the Commission’s statutory authority to review or enforce either. Convicted felons that have not been pardoned are prohibited from holding public office unless (*see* Wis. Const. art. XIII, § 3). Again, this complaint is being dismissed without prejudice. If you can provide evidence that you have not been convicted of a felony in a court of law, or that the Governor of the State of Wisconsin has pardoned any such crimes, you may resubmit the complaint in proper form and argue that the ballot access decision rendered by local officials was improper. The Commission is not authorized by law to consider whether a felony conviction was proper, as that must be litigated before an appropriate court of appeal. WEC staff can only perform a review to determine whether a candidate’s record contains felony convictions, as was done here.

Wisconsin Elections Commissioners

Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

Sufficiency as to Form

The complaint you submitted was not sufficient as to form. The filed documents are not properly verified as required by Wis. Admin. Code § EL 20.04. Additionally, Wis. Admin. Code § EL 20.03(1) clarifies that, “All complaints, answers and replies shall be in writing and shall be sworn to before a person authorized to administer oaths.” This requires the stamp of a Wisconsin notary public be placed on the documents or a person authorized by statute to administer an oath to you must verify that process in the complaint filing.

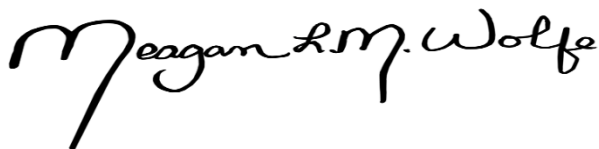
Also, the complaint raises various state and constitutional claims which are not within the Commission’s statutory authority to enforce. The Commission only has the statutory authority to review complaint allegations falling under Wisconsin Statutes Chapters 5-10, and 12, or provisions tethered to Wisconsin election statutes in some way. Many of the allegations found in the complaint raise constitutional questions not applicable to state elections law, and Wisconsin criminal statutes are being challenged in an attempt to prove the invalidity of felony convictions that appear on your record. Those convictions were the basis for the filing officer’s decision not to grant ballot access. The Commission cannot review a person’s status as a convicted felon beyond verification of that felon status and confirming whether the party has received a pardon.

Conclusion

I am returning the complaint, without prejudice pursuant to Wis. Admin. Code § EL 20.04(3), as it is not sufficient as to probable cause or form. As required by that provision, I have specified the defects in the complaint (probable cause – does not raise a claim within the WEC’s authority to review; form – complaint not properly verified, improper claims raised). As to the information which would be appropriate to cure the defect, you must provide evidence that you were not convicted of a felony, or submit proof of pardon for those felonies, and raise claims under the State of Wisconsin’s elections statutes. Since the complaint is improper as to form and probable cause, the complaint has not been accepted as proper by the Commission under its administrative rules.

The Commission now considers this complaint matter closed.

Sincerely,

A handwritten signature in black ink that reads "Meagan R.M. Wolfe". The signature is written in a cursive, flowing style.

Meagan Wolfe
Administrator
Wisconsin Elections Commission

cc: Members, Wisconsin Elections Commission