



Wisconsin Elections Commission

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February 4, 2022

Jay Stone
10501 82nd St.
Pleasant Prairie, WI 53158

Re: In the Matter of: Jay Stone v. Meagan Wolfe (Case No.: EL 21-39)

Dear Mr. Stone:

This letter is in response to the verified complaint you submitted on October 4, 2021, against Meagan Wolfe with the Wisconsin Elections Commission (“Commission”). The complaint challenges Ms. Wolfe’s decision to dismiss and return the complaint you filed on August 28, 2020 (Case No.: EL 20-18) under her authority set forth in Wis. Admin. Code § EL 20.04(1) and (2).

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 your complaint against Ms. Wolfe.

The Commission’s role in resolving verified complaints filed under Wis. Stat. § 5.06, which challenge the decisions or actions of an election official, is to determine whether the official acted contrary to applicable election laws or abused their discretion in administering applicable election laws.

Commission Findings

August 28, 2020, Decision. Ms. Wolfe exercised her authority under Wis. Admin. Code § EL 20.04(1) and (2) and properly dismissed the complaint you filed on August 28, 2020.

The administrative rules governing the WEC’s processing of complaints require that the Administrator 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).

Wis. Stat. § 5.06(1) states:

Commissioners

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

Administrator
Meagan Wolfe

Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act with respect to any matter concerning nominations, qualifications of candidates, voting qualifications, including residence, ward division and numbering, recall, ballot preparation, election administration or conduct of elections is contrary to law, or the official has abused the discretion vested in him or her by law with respect to any such matter, the elector may file a written sworn complaint with the commission requesting that the official be required to conform his or her conduct to the law, be restrained from taking any action inconsistent with the law or be required to correct any action or decision inconsistent with the law or any abuse of the discretion vested in him or her by law. The complaint 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. The complaint may be accompanied by relevant supporting documents. The commission may conduct a hearing on the matter in the manner prescribed for treatment of contested cases under ch. 227 if it believes such action to be appropriate.

Your August 28, 2020, complaint was filed against Green Bay Mayor Eric Genrich, Kenosha Mayor John M. Antaramian, Madison Mayor Satya Rhodes-Conway, Milwaukee Mayor Tom Barrett, Racine Mayor Cory Mason, Green Bay Clerk Kris Teske, the Kenosha Acting City Clerk, Madison Clerk Maribeth Witzel-Behl, Milwaukee Election Commissioners Stephanie D. Findley, Chair Carmen C. Cabrera, Jess Ripp and Racine Clerk Tara Coolidge. Your complaint indicates that your address is 10501 82nd Street, Pleasant Prairie, WI, 53158, which according to GIS mapping in the Commission's WisVote System, is in the Village of Pleasant Prairie.

You are not an elector of a jurisdiction or district served by any of the election officials you named in your complaint. The municipal clerks in Green Bay, Kenosha, Racine and Madison, or the members of the City of Milwaukee Election Commission are not election officials that serve you, as you are an elector in the Village of Pleasant Prairie. The Mayors of Green Bay, Kenosha, Racine, Madison, and Milwaukee are not election officials.

Ms. Wolfe properly dismissed your complaint and returned it to you, as you were not a proper complainant as is required under Wis. Stat. § 5.06(1) for the Commission to accept your complaint. Additionally, your complaint did not cite to alleged violations of Wisconsin election laws that the Commission has jurisdiction to review. Because of that fact, Ms. Wolfe's decision letter stated that your complaint did not state probable cause. Finally, Ms. Wolfe's decision letter pointed out that you could not cure your complaint as to form, as you are not an elector of a municipality served by the clerks of Green Bay, Madison, Milwaukee, Kenosha, or Racine. As to probable cause, the complaint could be cured if it alleged violations of election laws that the Commission has authority to administer. The issue, however, is that your complaint could not survive the form deficiency, as you are not a proper complainant.

October 4, 2021, Complaint. Your Section 5.06 complaint filed on October 4, 2021, challenged the dismissal of a Section 5.06 complaint you filed on August 28, 2020. While the statute is not perfectly clear in situations where a complaint has been dismissed by the Commission out of hand for failure to be in proper form, state probable cause or timeliness, Wis. Stat. § 5.06(8) does state that any complainant "who is aggrieved by an order issued under sub. (6) may appeal the

decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order.” The decision letter issued by Ms. Wolfe that dismissed your August 28, 2020, complaint was a final decision of the Commission. The Commission returned the complaint to you and provided the reasoning for that decision. If you believed you were aggrieved by that decision, you may have had recourse to challenge that decision of the Commission in circuit court.

Your October 4, 2021, complaint was also filed over 12 months after you received the decision letter from Ms. Wolfe. Wis. Stat. § 5.06(3) states that complaints filed under this section “shall be filed promptly so as not to prejudice the rights of any other party.” While the Commission need not make a finding as to whether this complaint was timely filed, waiting more than 12 months to file a complaint is inconsistent with the concept of “prompt.”

Conclusion

Ms. Wolfe exercised her authority under Wis. Admin. Code § EL 20.04(1) and (2) and properly dismissed the complaint of Jay Stone, filed on August 28, 2020. Mr. Stone’s October 4, 2021, complaint, arguing that Ms. Wolfe violated election law or abused her discretion in administering an election law is therefore, dismissed.^{1 2}

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.

¹ As Administrator Wolfe was the subject of this complaint, she did not participate in the drafting, review or approval of this decision letter issued by the Commission.

² Complainant argues that Commission staff should be required to recuse themselves from drafting a decision for the Commission to consider in this matter due to conflicts of interest. Commission staff assessed the complaint and argument and determined that because the draft decision would be consistent with previous decisions with similar facts (complainant not an elector served by the election officials named, probable cause of Wisconsin election law violations not stated), no subjective determinations/findings were going to be included in the decision. See EL 20-20 Guse v. City of Madison, et al. (complaint returned to complainant because she was an elector of West Bend and the complaint was filed against officials in the City of Madison and the complaint alleged a violation of the federal Hatch Act which is not within the Commission’s statutory authority to enforce); EL 21-07 Denison v. Shaw (complaint returned to complainant because it alleged a violation of federal law that is not a law administered or enforced by the Commission); EL 21-12 Barrett v. Kollmansberger (complaint returned because complainant was an elector of Waukesha and the complaint was filed against the clerk in the City of Wauwatosa). This decision is wholly consistent with these three recent examples of the Commission Administrator returning a complaint when it is not in proper form and does not state probable cause. Additionally, the Commission has established procedures to provide feedback to staff members drafting decisions in Section 5.06 matters and have the authority to call for a special meeting to discuss a decision before it is issued.

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

Sincerely,

WISCONSIN ELECTIONS COMMISSION

/s/

Ann Jacobs
Chair

cc: Commission Members
Meagan Wolfe, WEC Administrator