

STATE OF WISCONSIN
ELECTIONS COMMISSION

ARDIS CERNY,

Complainant,

v.

WISCONSIN ELECTIONS COMMISSION,
MEAGAN WOLFE, DON M. MILLIS,
ROBERT F. SPINDELL, JR., MARGE BOSTELMANN,
ANN S. JACOBS, MARK L. THOMSEN, and CARRIE RIEPL,

Respondents.

VERIFIED COMPLAINT

SUMMARY, PARTIES AND JURISDICTION

1) Complainant alleges that Respondents have failed to perform their federal and state law obligations to implement measures ensuring that registrants included in the statewide voter list are United States citizens and otherwise eligible, all in violation of Complainant's and other citizens' equal rights to cast their votes in federal and state elections uncanceled by illegal ballots cast by non-citizens or other unqualified voters.

2) This Complaint is against Respondents for failure to act with respect to voting qualifications. Respondent Wisconsin Elections Commission (WEC) has jurisdiction pursuant to Wis. Stat. § 5.06(1).¹

3) Complainant is an elector legally qualified and registered to vote, residing in the City of Pewaukee, Wisconsin. Complainant has regularly presented the required identification and voted in past elections for over twenty years and intends to do so again in the primary and general elections in August and November, 2024.

4) Respondents are the independent executive agency and election officials obligated to administer and enforce applicable state and federal election laws. Respondents Wolfe and Commissioners are all election officials. Sec. 5.02(4e).

¹ Hereafter, state statutes are cited only by "Sec." or "§" and section number.

REQUIREMENTS TO CAST LEGAL VOTES

5) There are three basic requirements to cast a legal vote in federal and state elections: qualification, registration, and identification. *League of Women Voters of Wisconsin Educ. Network, Inc. v. Walker*, 2014 WI 97, ¶¶ 3-5, 357 Wis. 2d 360, 365, 851 N.W.2d 302, 305. Those requirements are successive and cumulative – anyone not qualified may not legally register, and anyone not legally registered may not legally present identification and vote.

6) *Qualification*. Only U.S. citizens can be “eligible electors” legally qualified to vote. 18 U.S.C. §§ 611, 911, 1015(f); U.S. Const. amend. XXVII; § 6.02; Wis. Const. art. III § 1.

7) *Registration*. With limited exceptions, all eligible electors must register and be included in the statewide voter list known as “WisVote.”² Sec. 6.27. With limited exceptions, every registration applicant must complete Form EL-131,³ which requires the applicant to provide certain personal information and certify that he or she is a U.S. citizen. Secs. 5.02(16c), 6.33(1), 6.36, Stats. WEC processes applications submitted online. Sec. 6.30(5). Municipal clerks process applications submitted by other methods, mainly by mail or in person. Secs. 6.30(1), 6.30(4), 6.33(5)(a)1., 6.79(2)(a), 6.28(1)(a) and 6.875(1)(bm); Wis. Adm. Code § DHS 94.22(1)(b).

8) *Identification*. To cast a legal ballot, a legally qualified and registered elector must present a valid form of authorized identification matching his or her information in the WisVote list. Secs. 5.02(6m), 5.02(16c), 6.79(2). Authorized forms of identification include a free identification card for voting and a receipt for one, both of which the Division of Motor Vehicles issues only to U.S. citizens. Secs. 5.02(6m)(a)2., 5.02(6m)(d), 343.50(1), 343.50(5)(a)3., 343.165(8).

² <https://elections.wi.gov/clerks/election-topics-z/wisvote>. WisVote is an election management system, which includes the state voter list. The list itself is an aggregation of multiple databases. Selected data from the list is available for purchase. <https://badgervoters.wi.gov/> (“Create a request for voter data from the Wisconsin Voter Registration System (WisVote).” WEC provides a portal for online voter registrations known as “MyVote.” <https://myvote.wi.gov/en-us/Register-To-Vote>.

³ <https://elections.wi.gov/wec-form/voter-registration-application>.

DMV FREE VOTER IDENTIFICATION PROCEDURES DETECT AND PREVENT
FALSE CERTIFICATIONS OF CITIZENSHIP WHILE ASSISTING AND
PAYING COSTS FOR QUALIFIED ELECTORS TO OBTAIN DOCUMENTARY PROOF

9) At a May 16, 2024, joint Wisconsin legislative committee hearing,⁴ Washington County Clerk Ashley Reichert stated municipal clerks would like to have real time resources for verifying citizenship to be sure that they are not registering illegal applicants. Reichert @ 1:22:35.

10) In contrast to Respondents, who do *not* verify citizenship of voter *registration* applicants, the Division of Motor Vehicles *does* verify citizenship of voter *identification* applicants.

11) Department of Transportation Deputy Secretary Kristina Boardman testified that requirements for the *original* ID card⁵ and the free *voting* ID card⁶ are generally the same, and that all applicants must submit Form MV3004⁷ regardless of which card they apply for. Boardman @ 12:25.

12) The *difference* is that an *original* ID applicant need not be a U.S. citizen.⁸ But U.S. citizenship is required to vote, so a free *voter* ID applicant certifies U.S. citizenship on the MV3004 Form:

Box 4. ID for FREE – I certify that I am a U.S. citizen, will be at least 18 years of age by the next election and require a Wisconsin ID for free to vote. YES ___

. . . .

I certify that the information on this application is true under penalty of perjury and I am a resident of Wisconsin

Voter ID applicants must *also* provide *proof* of citizenship,⁹ which a birth certificate satisfies.¹⁰ Boardman @ 13:52.

⁴ The Assembly Committee on Campaigns and Elections and the Senate Committee on Shared Revenue, Elections and Consumer Protection held a joint informational hearing regarding free identification cards for voting issued by the DMV. Video-recording by Wisconsin Eye available at <https://wiseye.org/2024/05/16/joint-assembly-and-senate-committees-on-campaigns-elections-shared-revenue-and-consumer-protection/>. Citations are designated by the speaker's name and "hour:minute:second" pinpoint in the video file.

⁵ <https://wisconsin.gov/Pages/dmv/license-drvs/how-to-apply/id-card.aspx>.

⁶ <https://wisconsin.gov/Pages/dmv/license-drvs/how-to-apply/petition-process.aspx>.

⁷ <https://wisconsin.gov/Documents/formdocs/mv3004.pdf>.

⁸ <https://wisconsin.gov/Pages/dmv/license-drvs/how-to-apply/citizen-leg-pres.aspx>.

⁹ See Wis. Admin. Code § Trans 102.14(1g):

The Department may not issue an identification card without charge for voting purposes to any person who is not a U.S. citizen or is not age 17 or older. The Department may not determine whether a person is otherwise eligible to vote.

¹⁰ <https://wisconsin.gov/Pages/dmv/license-drvs/how-to-apply/petition-process.aspx>.

13) If an applicant does not have a birth certificate or other proof of citizenship, DMV checks the applicant's legal status through the "SAVE" system administered by U.S. Citizenship and Immigration Services.¹¹ If citizenship and the other requirements are confirmed, DMV issues a receipt and mails the ID card later after it is printed. Boardman @ 14:03.

14) But if a free voter ID applicant cannot afford the fees or does not have access to obtain one, the DMV assists the applicants to obtain a birth certificate or other records confirming citizenship through the ID Petition Process (IDPP), which DOT/DMV created by administrative rule in response to a 2014 Wisconsin Supreme Court decision. Boardman @ 15:00.

15) Now codified at §§ 343.165(8)(a) and 343.50(1) and (3), IDPP allows a free voter ID applicant to petition DMV to assist and bear the cost of obtaining a birth certificate or other citizenship documentation. Sec. 343.50(5)(a)3. Boardman @ 16:25.

16) In addition to Form 3004, an IDPP applicant must also submit Form MV3012,¹² which requests information that DMV uses to obtain the applicant's birth records. Once those Forms are submitted, DMV will mail the applicant a receipt that is valid identification for voting. Boardman @ 17:31.

17) DMV then shares the IDPP applicant's information with the Department of Health Services Vital Records office,¹³ which uses the information to obtain the applicant's birth records through the Electronic Verification of Vital Events (EVVE) system.¹⁴ Boardman @ 18:32.

18) Many applications submitted under IDPP are confirmed by DHS within 24 hours. If all other documentation is complete, DMV prints and mails the free voting ID card. Boardman @ 18:51.

¹¹ <https://www.uscis.gov/save/about-save/save-verification-process>; <https://www.dhs.gov/publication/systematic-alien-verification-entitlements-save-program>.

¹² [MV3012 DMV Administrator Petition - Unavailable Documentation \(milwaukee.gov\)](https://www.milwaukee.gov/mv3012).

¹³ <https://www.dhs.wisconsin.gov/vitalrecords/index.htm>

¹⁴ <https://secure.ssa.gov/poms.nsf/lnx/0200302980>

"The Electronic Verification of Vital Events (EVVE) system is the result of collaboration between the Social Security Administration and the National Association for Public Health Statistics and Information Systems (NAPHSIS)."

NAPHSIS is a non-profit organization that facilitates exchange of vital records among agencies in U.S. states and territories <https://www.naphsis.org/about/what-we-do> https://evve.naphsis.us/EVVE_MI/form/login.jsp

19) Sec. 343.50(1)(c) provides the timeline for IDPP. If DMV is unable to obtain an applicant's birth record through EVVE within 30 days, DMV initiates a notice and termination process. If the applicant does not respond timely and complete IDPP within 60 days, the process terminates. Boardman @ 19:15.

20) If the applicant reconnects with DMV, the process begins again. DMV makes reasonable efforts and pays all fees to submit corrected birth information to EVVE, or to obtain "secondary documentation" verifying citizenship if birth records are not available from EVVE. Sec. 343.165(8)(b)3g. Boardman @ 20:30.¹⁵

THE WISVOTE LIST INCLUDES A SUBSTANTIAL NUMBER OF ILLEGAL NON-CITIZEN REGISTRANTS DUE TO RESPONDENTS' REFUSAL TO REQUIRE PROOF OF CITIZENSHIP FROM REGISTRATION APPLICANTS OR VERIFY THEIR CERTIFICATIONS

21) *Registration* applicants certify citizenship on the EL-131 Form the same as *identification* applicants certify citizenship on the MV3004 Form. *Registration* applicants check the first box in Section 1 of the EL-131 Form that "YOU . . . Are a citizen of the United States," and then sign the Certification in Section 9:

I also certify that I am not otherwise disqualified from voting and that all statements on this form are true and correct. If I have provided false information, I may be subject to fine or imprisonment under State and Federal laws.

22) Again, DMV *does* require proof of citizenship and *does* verify *identification* applicant certifications. But for voter *registration* applicants, Respondents do *neither*.

23) In fact, Respondents WEC and Wolfe themselves affirmatively allege that the WisVote list includes individuals who are not "properly registered," Affidavit of Daniel J. Eastman, Exh. A, Response to Request No. 3.

24) Deputy Boardman's testimony regarding false or fraudulent voter *identification* applications submitted to DMV indicates the magnitude of the problem of false or fraudulent *registration* applications submitted to WEC and local clerks.

¹⁵ [MV3012 DMV Administrator Petition - Unavailable Documentation \(milwaukee.gov\)](#). Form 3004 states on page one:

NOTE: If your documents proving U.S. citizenship, name and date of birth, or legal name change are unavailable, and you are applying for an ID card for the first time and it is for voting purposes, you may use the document verification petition process by completing both this application form MV3004 and form [MV3012 DMAAV Administrator Petition - Unavailable Documentation](#).

<file:///M:/FFF/FFF075%20Election%20Integrity/40%20WEC%20HAVA%20Complaint/42%20Exhibits/mv3004.pdf>

25) In the approximate 10-year period between September 15, 2014, and May 31, 2024, DMV has issued 11,018 free voter IDs through the IDPP process. Most of the 8,217 canceled applications were canceled by the applicant. DMV canceled 53 applications due to fraud or ineligibility, or 0.48% of the 11,018 applicants. Twenty-three of those cancellations were documented as fraud and referred to law enforcement. In 9 cases, or about 1 per year, a voting receipt was actually issued before DMV canceled the application. Boardman @ 22:05.¹⁶

26) During the same approximate 10-year period between September 15, 2014, and March 11, 2024, 3,194,786 new registrants were added to the WisVote list. Of those new registrants, 2,097,399 remain listed as active. Affidavit of Brian Kind.¹⁷

27) If the same 0.48 % of those active registrants certified citizenship or other information incorrectly, there would be 10,068 illegally registered voters still active in the WisVote List. That number would be increased by any inactive registrants who resume active status. In that case, 0.48% of 3,194,786 registrants could be a maximum of 15,335 illegally registered voters.

28) However, the percentage of erroneous or fraudulent certifications for *registration* applications is likely significantly higher than for *identification* applications because the *identification* applicants know DMV *will* verify citizenship, and many of the 8,217 self-cancellations were likely prompted by that fact.

29) To the contrary, *registration* applicants know that WEC and municipal clerks will *not* verify citizenship, so as a practical matter, the likelihood of error or fraud is significantly greater for *registration* applications than for *identification* applications.

RESPONDENTS' POWERS AND DUTIES

30) Respondent WEC is an independent administrative executive agency. Sec. 15.61. Among its "Powers and Duties," § 5.05, WEC's "*General Authority*" includes "the responsibility for the administration of chs. 5 to 10 and 12 *and other laws relating to elections* and election campaigns, other than laws relating to campaign financing." Sec. 5.05(1) (emphasis added).

¹⁶ Deputy Boardman gave approximate numbers at the hearing. The numbers cited are exact through May 31, 2024, based on DMV IDPP statistics, available at <https://wisconsindot.gov/Documents/dmv/shared/IDPPmay24.pdf>

¹⁷ March 11, 2024, is the date on which the entire MyVote file was downloaded, which Mr. Kind used to obtain the totals stated.

31) Respondent Wolfe serves as the state's chief election officer. Sec. 5.05(3g). WEC is under her supervision and direction. Sec. 15.61(1)(b)1.

32) Respondent Commissioners are appointed under Wis. Stat. § 15.61(1)(a). As WEC's "head," they are responsible for internal organization and allocation of "duties and functions not assigned by law." Secs. 15.01(8), 15.02(4).

33) Duties "not assigned by law" include duties "incident to the power and duty expressly conferred" by "chs. 5 to 10 and 12 and other laws relating to elections" that WEC has the duty to administer. *Att'y Gen. v. Levitan*, 195 Wis. 561, 219 N.W. 97, 98 (1928).

34) To perform its duties, WEC (including Respondents) has all "those powers which are expressly conferred or which are necessarily implied by the statutes under which it operates." *Kimberly-Clark Corp. v. Pub. Serv. Comm'n of Wisconsin*, 110 Wis. 2d 455, 461-62, 329 N.W.2d 143, 146 (1983).

35) The Chapters WEC administers "shall be construed to give effect to the will of the electors." Sec. 5.01(1) ("CONSTRUCTION OF CHS. 5 TO 12"). The "will of the electors" is that "The person receiving the greatest number of *legal* votes for the office shall be declared elected." Sec. 5.01(3)(a) ("PLURALITY SHALL ELECT") (emphasis added).

36) "In the discharge of its duties," WEC may conduct investigations; bring "civil actions . . . for any violation of chs. 5 to 10 or 12;" and sue for injunctions, writs and any other "legal or equitable relief as may be appropriate to enforce any law regulating the conduct of elections or election campaigns." Secs. 5.05(1)(b), (c), (d).

37) Further, WEC has the explicit *mandatory* duty to investigate and prosecute submission of false or fraudulent voter registration applications. Sec. 5.06(2m) provides:

(2m) ENFORCEMENT.

(a) *The commission shall investigate violations of laws administered by the commission and may prosecute alleged civil violations of those laws, directly or through its agents under this subsection, pursuant to all statutes granting or assigning that authority or responsibility to the commission.*

(Emphasis added.)

38) WEC also has the duty to "Promulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or *implementing the laws regulating the conduct of elections* or election campaigns, other than laws regulating campaign financing, or *ensuring their proper administration.*" Sec. 5.05(1)(f) (emphases added).

39) And while § 5.05(1) states that “Pursuant to such responsibility, the commission *may*” exercise those powers of investigation, litigation, and rulemaking, those powers are mandatory for the purpose of redressing violation of election laws and “ensuring their proper administration” because “the word *may* means *must* or *shall*” where “the public interests or rights are concerned” and “the public or third persons have a claim *de jure* that the power should be exercised.” *Cutler v. Howard*, 9 Wis. 309, 311–12 (1859) (emphases original).

40) Among its *specific* duties, Respondents are obligated to maintain the WisVote list, §§ 5.05(15) and 6.36(1), which consists only of those “electors that are *properly* registered to vote,” § 5.02(17) (emphasis added).

41) The “design and maintenance of the official [WisVote] registration list under s. 6.36” is WEC’s most critical duty because the list is indispensable in ensuring that only “legal votes” are cast at all. Sec. 5.05(15).

42) As a threshold matter, because Wisconsin is exempt from the National Voter Registration Act (NVRA) and its “accept and use” provisions, Respondents have authority to promulgate regulations and procedures requiring all *registration* applicants to provide birth certificates or other “documentary proof of citizenship” (DPOC) as a condition of registration. And even if Wisconsin were *not* exempt from NVRA, Respondents are still authorized to verify applicant’s citizenship using SAVE and EVVE or other “information in their possession.” *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 9, 15, 133 S. Ct. 2247, 2254, 2257 (2013).

43) In 2014, the DMV exercised its authority to promulgate regulations and use the SAVE and EVVE systems to create and implement IDPP, providing a reasonable system to identify and reject non-citizen *identification* applications.

44) Respondents have the same requirements, authority and resources as DMV to identify and reject non-citizen *registration* applications, if not more.¹⁸

¹⁸ Even subsequent to enactment of Wis. Stat. § 227.10(2m), it is difficult to imagine how the legislature could have been more clear in providing *explicit* and *broad* authority to administer Wisconsin’s constitutional and statutory citizenship requirements. *Clean Wisconsin, Inc. v. Wisconsin Dep’t of Nat. Res.*, 2021 WI 72, ¶ 23, 398 Wis. 2d 433, 961 N.W.2d 611, 619.

45) The WisVote list is created and administered in compliance with the Help America Vote Act (HAVA), 52 U.S.C. Ch. 209, §§ 20901– 21145. HAVA requires that Wisconsin,

acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every *legally* registered voter in the State

52 U.S.C. § 21083(1)(A) (emphasis added).

46) To ensure that *registration* applicants in Wisconsin and other states provide truthful information on the EL-131 and comparable state application forms, 52 U.S.C. §21083 specifically requires WEC and DMV to “match information” in their databases:

(5) (B) Requirements for State officials

(i) Sharing information in databases

The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority *to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration.*

(Emphasis added.)

47) Further, HAVA provides only “minimum requirements,” and does not “prevent a State from establishing election technology and administration requirements that are more strict.” 52 U.S.C. § 21084.

48) Even a rudimentary data comparison of driver’s license or original identification card data would disclose non-citizen registrants because the date their legal presence expires is usually different than their birth dates. Secs. 343.20(1m), 343.50(5)(c).

49) But as apparently construed by Respondents, Wisconsin statutes do *not* comply with *and are pre-empted by* HAVA. Contrary to HAVA’s requirement that WEC and DMV share information “required to enable each such official to verify the accuracy of the information provided on *applications for voter registration*,” §§ 5.056 and 85.61 require only that WEC and DMV share information included in the WisVote list under § 6.36(1) and limited information included in the online registration specified by § 6.34(2m) – neither of which include *citizenship information* required by application Form EL-131.¹⁹

¹⁹ Wisconsin statutes provide:

5.056 Matching program with secretary of transportation.

RESPONDENTS' POWERS AND DUTIES TO IMPLEMENT
PROCEDURES AND PROVIDE RESOURCES FOR LOCAL OFFICIALS

50) Respondents share list maintenance duties with municipal clerks. *State ex rel. Zignego v. Wisconsin Elections Comm'n*, 2021 WI 32, ¶ 15, 396 Wis. 2d 391, 400, 957 N.W.2d 208, 212

51) In addition to Respondents' responsibilities maintaining the WisVote list and verifying citizenship certifications in *online* registration applications that *they* receive, Respondents are *also* obligated to provide municipal clerks with guidance and resources to perform the *clerks'* duties maintaining the list and verifying citizenship certifications in the registration applications the *clerks* receive. *Id.*

52) In their own Election Administration Manual, p. 5., Respondents advise clerks that “you are entrusted with the responsibility of ensuring fair, accessible, and transparent elections” and that “*Our job at the Wisconsin Elections Commission (WEC) is to provide you with a range of resources to support you in carrying out your duties.*”²⁰

53) And at Manual p. 43, Respondents state, “A municipal clerk is charged with the responsibility of maintaining records to track voter registration” and that “In order to register to vote, an individual must: 1. Be a U.S. citizen.”

54) Thus, Respondents have the authority and obligation to provide the clerks with the “resources” that they need to “track voter registration” and ensure that every list registrant is “a U.S. citizen.”

55) Sec. 5.05(15) directs that WEC “*shall* require all municipalities to use the list in every

The commission administrator shall enter into the agreement with the secretary of transportation specified under s. 85.61(1) to match *personally identifiable information on the official registration list maintained by the commission under s. 6.36(1) and the information specified in s. 6.34(2m)* with personally identifiable information maintained by the department of transportation.

85.61 Compliance with federal Help America Vote Act.

(1) The secretary of transportation and the administrator of the elections commission shall enter into an agreement to match *personally identifiable information on the official registration list maintained by the commission under s. 6.36(1) and the information specified in s. 6.34* with personally identifiable information in the operating record file database under ch. 34 and vehicle registration records under ch. 341 to the extent required to enable the secretary of transportation and the administrator of the elections commission to verify the accuracy of the information provided for the purpose of voter registration.

(Emphases added.)

²⁰ *State ex rel. Zignego v. Wisconsin Elections Comm'n*, 2021 WI 32, ¶ 15, 396 Wis. 2d 391, 400, 957 N.W.2d 208, 212 (emphasis added, quoting the Manual, p. 5, available at https://elections.wi.gov/sites/default/files/documents/EA%20Manual-February%202024_format%20update.pdf).

election,” and authorizes WEC to “*require any municipality to adhere to procedures established by the commission for proper maintenance of the list.*” And WEC must “Allocate and assign sufficient members of its staff to coordinate their activities with local election officials.” Sec. 7.08(11).

56) Municipal clerks have “charge and supervision of elections *and registration* in the municipality,” and “shall perform . . . *any others* that may be necessary to *properly conduct* elections or *registration.*” Sec. 7.15(1) (emphases added.)²¹

57) In addition to processing registration applications other than those submitted online to WEC, § 6.22(6) also obligates clerks to ensure that “military electors” (subsec. (1)(b)) are “eligible,” likely because non-citizens are authorized to serve in the military²² and military electors are exempt from registration under subsec. (3), so are not required to complete a citizenship affirmation at all.²³

58) Specifically, subsec. (6) requires that “Each municipal clerk *shall* keep an up-to-date list of all *eligible* military electors who reside in the municipality in the format prescribed by the commission. . . . The list *shall* be kept current through *all possible means,*” and clerks “shall exercise *reasonable care* to avoid duplication of names or *listing anyone who is not eligible to vote.*” *Id.* (emphases added). Sec. § 6.325 also authorizes clerks to verify citizenship of naturalized citizens.

59) But contrary to §§ 6.22(6) and 6.325, clerks cannot exercise *any* “care” or use *any* “possible means” to make the WisVote list “accessible” and “transparent” or avoid registering “anyone who is not *eligible*” because Respondents do not access the SAVE and EVVE systems already used by the DMV or provide clerks any other alternative resources to conduct citizenship verifications or assist applicants without means or access to obtain the necessary documentation.

60) As County Clerk Reichert testified, municipal clerks *want* to fulfill their obligations and would like to have resources to conduct real-time citizenship verification so that they do not ille-

²¹ WEC and clerks administer the List through an online system known as “WisVote” created in 2015. Robert Kehoe, Commission Technology Director, *Testimony before Assembly Committee on Campaigns and Elections, Feb. 16, 2022*, @ :16:45, available at <https://wiseye.org/2022/02/16/assembly-committee-on-campaigns-and-elections-26/00>. See also, Wis. Elections Comm’n, *History of WisVote*, available at: <https://elections.wi.gov/history-wisvote>, and Wis. Elections Comm’n, *WISVOTE*, available at <https://elections.wi.gov/clerks/election-topics-z/wisvote>.

²² 8 U.S.C. § 1440.

²³ Interestingly, the exemption of military voters originated with the Military Suffrage Act enacted during the Civil War in 1862. See. *State ex rel. Chandler v. Main*, 16 Wis. 398, 400 (1863). Wis. Stats. § 6.27 references two other exemptions under Wis. Stats. §§ 6.15 and 6.18 for “new residents” and “former residents” voting in presidential elections. Those sections both require the exempted elector to swear to citizenship.

gally register non-citizens, but Respondents have failed and defaulted on their obligations to provide those resources.

COMPLAINANTS' RIGHTS AND RESPONDENTS' VIOLATIONS

61) Besides defaulting in performance of their statutory duties, Respondents also violate Complainant's state and federal equal rights to cast *legal* votes uncanceled by *illegal* ballots cast by non-citizen or otherwise ineligible voters.

62) In 1965, the Wisconsin Supreme Court confirmed that the "right to vote" in Wisconsin elections "must be on the one man-one vote principle" established in a trilogy of Supreme Court decisions voiding Jim Crow abuses that imposed disproportionate representation and diluted the votes of black citizens. *State ex rel. Sonneborn v. Sylvester*, 26 Wis. 2d 43, 53, 55, 132 N.W.2d 249, 254, 255 (1965).²⁴

63) The one man-one vote axiom that forbids *disproportionate* votes forbids *illegal* with even greater force. A disproportionate ballot merely *dilutes* a qualified elector's legal vote. But an *illegal* ballot *cancel*s a qualified elector's legal vote *entirely*.

64) "[P]opular governments" are "instituted by the *citizens* for *their* liberty and protection," and government's "powers and functions" must be "*exercised only by them and through their agency*." *State ex rel. Off v. Smith*, 14 Wis. 497, 499 (1861) (emphases added).

65) Accordingly, under Wisconsin's constitution and laws, there are no greater "public interests or rights" than the interests and rights of Complainant and other citizens to demand that *only* citizens vote in their elections, and they have every right to demand that Respondents' "power and functions" be "exercised" to "implement[] the laws" prohibiting registration and voting by non-citizens and "ensur[e] their proper administration." *State ex rel. Wettengel v. Zimmerman*, 249 Wis. 237, 242, 24 N.W.2d 504, 506 (1946). ("Every *citizen* owes allegiance to both [state and federal] governments and . . . must be obedient to the laws of each. *In return he is entitled to demand protection from each within its own jurisdiction*. (Emphases added.))

²⁴ Following *Baker v. Carr*, 369 U.S. 186, 82 S. Ct. 691, 705 (1962); *Gray v. Sanders*, 372 U.S. 368, 380, 83 S. Ct. 801, 808 (1963); *Wesberry v. Sanders*, 376 U.S. 1, 84 S. Ct. 526 (1964).

66) However, even though Respondents themselves affirmatively allege that the WisVote list includes electors who are not “properly registered,” *supra*, Affidavit of Daniel J. Eastman, Respondents have failed and refused to investigate such admitted “violation[s] of chs. 5 to 10 or 12;” have failed to bring suit seeking redress for such violations; have failed to seek injunctions or writs or orders enjoining such violations; have failed to “promulgate rules” establishing requirements and procedures to prevent continuing violations in the future; and have failed to issue and “require any municipality to adhere to procedures established by the commission for proper maintenance of the list” that would enable local elections officials to perform their duties as *Zignego* requires. Sec. 5.05(15).

WHEREFORE, Complainant demands that Respondents immediately:

- 1) Investigate the violation of chs. 5 to 10 and 12 and other laws by the inclusion of non-citizens or other unqualified registrants in the WisVote list;
- 2) Bring suit seeking redress for such violations;
- 3) Bring suit seeking injunctions, writs or orders prohibiting such violations in the future;
- 4) Promulgate rules requiring that applicants for voter registration produce birth certificates or other documentary proof of citizenship as a requirement for legal registration;
- 5) Issue and require municipalities to adhere to procedures established by the commission for proper maintenance of the WisVote list to include only U.S. citizens; and
- 6) Provide municipal clerks and other local elections officials guidance and resources to perform their duties.

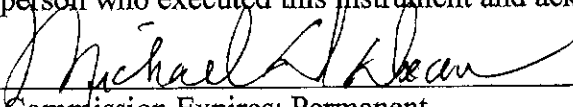
Dated July 27, 2024.



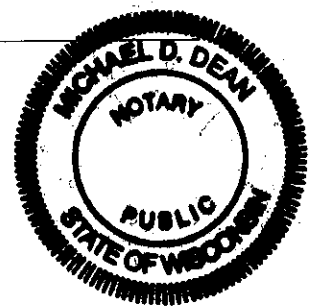
Ardis Cerny

State of Wisconsin)
)
County of Waukesha)

Personally came before me on July 27, 2024, the above named Ardis Cerny, known to me to be the person who executed this instrument and acknowledged the same.



My Commission Expires: Permanent



COUNSEL FOR COMPLAINANT

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STATE OF WISCONSIN
ELECTIONS COMMISSION

Ardis Cerny,

Complainant,

v.

WISCONSIN ELECTIONS COMMISSION,
MEAGAN WOLFE, DON M. MILLIS,
ROBERT F. SPINDELL, JR., MARGE BOSTELMANN,
ANN S. JACOBS, MARK L. THOMSEN, and CARRIE RIEPL,

Respondents.

VERIFICATION OF ARDIS CERNY

Ardis Cerny states under oath that she has read the foregoing Complaint and that the allegations are based on information and belief which she believes to be true to the best of her knowledge.

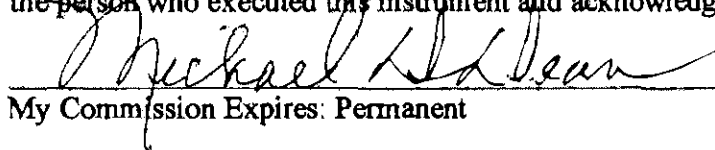
Date: July 27, 2024



Ardis Cerny

State of Wisconsin)
County of Waukesha)

(Personally came before me on July 27, 2024, the above named Ardis Cerny, known to me to be the person who executed this instrument and acknowledged the same.


My Commission Expires: Permanent

