

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 25, 2026

Samuel A. Christensen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2025AP7
STATE OF WISCONSIN**

Cir. Ct. No. 2024CV7822

**IN COURT OF APPEALS
DISTRICT I**

DENNIS EUCKE, JUSTIN GAVERY AND JOE NOLAN,

PETITIONERS-APPELLANTS,

V.

CITY OF MILWAUKEE ELECTION COMMISSION,

RESPONDENT-RESPONDENT,

WISCONSIN ELECTIONS COMMISSION,

RESPONDENT.

APPEAL from an order of the circuit court for Milwaukee County:
TIMOTHY M. WITKOWIAK, Judge. *Affirmed.*

Before Donald, C.J., Colón, P.J., and Geenen, J.

Per curiam opinions may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

¶1 PER CURIAM. Three City of Milwaukee residents, Dennis Eucke, Justin Gaverty, and Joe Nolan (collectively “Eucke”), appeal a circuit court order granting the City of Milwaukee Election Commission’s (“MEC”) motion to dismiss. We conclude that the circuit court properly granted the motion to dismiss because Eucke was required—and failed—to file an administrative complaint with the Wisconsin Election Commission (“WEC”) before bringing the action against MEC in the circuit court. Accordingly, we affirm.

BACKGROUND

¶2 On September 30, 2024, Eucke filed a lawsuit against MEC and WEC. The complaint alleged that MEC and WEC failed to comply with various laws related to voter registration. The complaint, however, conceded that Eucke did not file an administrative complaint with WEC prior to initiating the lawsuit.

¶3 MEC moved to dismiss, asserting that Eucke was required to first file an administrative complaint with WEC pursuant to WIS. STAT. § 5.06(1) (2023-24).¹ MEC argued that the failure to file an administrative complaint divested the circuit court of subject matter jurisdiction under § 5.06(2). In response, Eucke argued that § 5.06 only applies to complaints against “individuals,” not a group like MEC.

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

¶4 After hearing arguments from the parties, the circuit court granted the motion to dismiss and dismissed the complaint without prejudice as to MEC. The court directed Eucke to file an administrative complaint, and if necessary, return to the circuit court after the complaint is disposed of. Eucke now appeals.

DISCUSSION

¶5 On appeal, Eucke requests that this court reverse the dismissal and remand the claims against MEC to the circuit court for further proceedings.

¶6 A circuit court’s order granting a defendant’s motion to dismiss is reviewed de novo. *City of Weyauwega v. Wisconsin Cent. Ltd.*, 2018 WI App 65, ¶10, 384 Wis. 2d 382, 919 N.W.2d 609. Questions of a circuit court’s competency to adjudicate a case and statutory interpretation are also reviewed de novo. *City of Eau Claire v. Booth*, 2016 WI 65, ¶6, 370 Wis. 2d 595, 882 N.W.2d 738; *Clean Wis., Inc. v. DNR*, 2021 WI 72, ¶10, 398 Wis. 2d 433, 961 N.W.2d 611.

¶7 “[T]he purpose of statutory interpretation is to determine what the statute means so that it may be given its full, proper, and intended effect.” *State ex rel. Kalal v. Circuit Ct. for Dane Cnty.*, 2004 WI 58, ¶44, 271 Wis. 2d 633, 681 N.W.2d 110. When interpreting a statute, we start with the language of the statute. *Id.*, ¶45. We do not read the text of a statute in isolation, but look at the context in which it is used. *Id.*, ¶46. When looking at context, we read the text “as part of a whole; in relation to the language of surrounding or closely-related statutes; and reasonably, to avoid absurd or unreasonable results.” *Id.*

¶8 Wisconsin’s election laws are codified in Chapters 5 to 12 of the Wisconsin Statutes. Wisconsin has a “highly decentralized” system for election administration. *State ex rel. Zignego v. WEC*, 2021 WI 32, ¶13, 396 Wis. 2d 391,

957 N.W.2d 208. Wisconsin places “significant responsibility” on local election officials. *Id.*, ¶¶13, 15.

¶9 For most municipalities, a municipal clerk is primarily responsible for election administration. *Id.*, ¶15; WIS. STAT. § 5.02(10). In cities with a population over 500,000—which is currently only the City of Milwaukee—all election-related duties that would normally fall to the municipal clerk are assigned to a board of election commissioners. *Zignego*, 396 Wis. 2d 391, ¶¶16-17. The election statutes give the board “[a]ll powers and duties” assigned to the municipal clerk. *Id.*, ¶16 (citation omitted).

¶10 WEC is generally responsible for administering the election statutes and has the power to investigate and prosecute violations of election laws. *Id.*, ¶18. As part of WEC’s authority, WEC is permitted to initiate compliance investigations either on its own motion or after receiving an elector complaint. WIS. STAT. § 5.06(1), (4). In regards to elector complaints, § 5.06(1) provides:

[w]henever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official ... is contrary to law, ... the elector may file a written sworn complaint with [WEC] requesting that the official be required to conform his or her conduct to the law[.]

No person may “commence an action or proceeding to test the validity of any decision, action or failure to act on the part of any election official ... without first filing a complaint ... nor prior to disposition of the complaint by [WEC].” Sec. 5.06(2). Once WEC decides the complaint, an elector may seek a limited judicial review of WEC’s decision. Sec. 5.06(9).

¶11 In this case, Eucke argues that it was unnecessary to file an administrative complaint because MEC, a board of election commissioners, is not

an “election official.” In support, Eucke points to the definition of “election official” found in WIS. STAT. § 5.02(4e), which states that an “[e]lection official” means an individual who is charged with any duties relating to the conduct of an election.” Eucke argues that “individual” means a “human individual” and therefore does not refer to a nonhuman entity or group, such as MEC. According to Eucke, this interpretation is supported by the fact that WIS. STAT. ch. 5 uses pronouns for human individuals, such as “him or her” or “who,” to refer to election officials. *See* WIS. STAT. §§ 5.02(4e), 5.06(1).

¶12 Eucke’s argument, however, overlooks that WIS. STAT. § 5.02 explicitly provides that the listed definition for election official applies “unless the context requires otherwise[.]” Here, as MEC observes, “election official” has a different meaning when used in the context of WIS. STAT. § 5.06. Section 5.06 grants WEC the power to decide whether an election law has been violated. Interpreting “election official” to exclude MEC would divest WEC of its ability to assert compliance authority over elections in Milwaukee. *See Zignego*, 396 Wis. 2d 391, ¶18; sec. 5.06. This would have the absurd effect of depriving City of Milwaukee residents of a statutory right to administrative review afforded to all other Wisconsin citizens and subject them to a different standard of review in the circuit court. *See* WIS. STAT. § 5.06(9) (setting forth a specific standard of review for circuit courts following administrative review). Thus, we conclude that “election official” as utilized in § 5.06 includes MEC and required Eucke to file an administrative complaint with WEC before commencing this action in the circuit court. *Kalal*, 271 Wis. 2d 633, ¶46 (stating that statutory language is interpreted in the context that it is used “to avoid absurd or unreasonable results”).

¶13 Moreover, we are not persuaded that existing case law supports Eucke’s interpretation of election official. Eucke relies on *Teigen v. WEC*, 2022

WI 64, ¶¶46-47, 403 Wis. 2d 607, 976 N.W.2d 519, *overruled on other grounds* by **Priorities USA v. WEC**, 2024 WI 32, ¶5, 412 Wis. 2d 594, 8 N.W.3d 429. However, as Eucke acknowledges, **Teigen** is a plurality decision, not a majority opinion. “It is a general principle of appellate practice that a majority must have agreed on a particular point for it to be considered the opinion of the court.” **State v. King**, 205 Wis. 2d 81, 88-89, 555 N.W.2d 189 (Ct. App. 1996) (citation omitted).

¶14 One of the issues addressed in **Teigen** was whether the plaintiffs needed to file an administrative complaint when the defendant was WEC. **Id.**, 403 Wis. 2d 607, ¶¶11, 33. The lead opinion concluded that it would be “nonsensical to have WEC adjudicate a claim against itself[.]” **Id.**, ¶33. In the lead opinion’s analysis, three justices observed that an election official is an “individual,” not a “person,” which, unlike an “individual,” includes “all partnerships, associations and bodies politic or corporate.” **Id.**, ¶47 & n.22. The justices then went on to reason that WIS. STAT. § 5.06 should not be interpreted to require voters to complain to WEC about itself, because “[n]o [person] is allowed to be a judge in his [or her] own cause[.]” **Id.**, ¶47 (citation omitted).

¶15 Eucke argues that the three justices’ analysis of “election officials” as “individuals” rather than “persons” is supported by a concurring opinion authored by Justice Brian Hagedorn. *See id.*, ¶169 (Hagedorn, J., concurring). However, the cited concurrence does not draw a distinction between “individuals” and “persons” or “groups.” **Id.** Rather, the concurrence simply notes the definition of an election official set forth in WIS. STAT. § 5.02(4e). If Justice Hagedorn had agreed with the lead opinion’s analysis of “individual,” he would have joined that paragraph. Thus, we are not persuaded that Eucke’s interpretation

of “election official” is supported by a majority in **Teigen**. See **King**, 205 Wis. 2d at 88-89.²

¶16 Therefore, for the reasons stated above, we conclude that the circuit court properly granted MEC’s motion to dismiss and we affirm.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

² We note that Eucke also argues that this court should not rely on **State ex rel. Zignego v. WEC**, 2021 WI 32, 396 Wis. 2d 391, 957 N.W.2d 208. In **Zignego**, our supreme court referred to “municipal clerks” and “board of election commissioners” as “election officials.” **Id.**, ¶17. Eucke argues that the court was not using election officials in the “specialized” or “technical” sense. Even if we were to accept Eucke’s argument that we are not bound by **Zignego**, we are still not persuaded by Eucke’s argument that MEC is excluded as an election official.

