



OFFICE OF THE CLERK

**Supreme Court of Wisconsin**

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WI 53701-1688

TELEPHONE (608) 266-1880

FACSIMILE (608) 267-0640

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April 29, 2020

**To:**

Hon. Paul V. Malloy  
Circuit Court Judge  
Ozaukee County Circuit Court  
1201 S. Spring St.  
Port Washington, WI 53074-0994

Marylou Mueller  
Clerk of Circuit Court  
Ozaukee County Circuit Court  
1201 S. Spring St.  
Port Washington, WI 53074-0994

Richard M. Esenberg  
Anthony LoCoco  
Lucas Thomas Vebber  
Wisconsin Institute for Law & Liberty  
330 East Kilbourn Avenue, Suite 725  
Milwaukee, WI 53202-3141

Karla Z. Keckhaver  
Steven C. Kilpatrick  
Colin Thomas Roth  
Assistant Attorneys General  
P.O. Box 7857  
Madison, WI 53707-7857

\*Address list continued on page 2.

You are hereby notified of the following order:

Nos. 2019AP2397  
2020AP112

Zignego v. Wisconsin Elections Commission L.C. #19CV449

Before Daniel Kelly, J.

On April 15, 2020, I issued an order allowing any party the opportunity to state its position regarding my participation in or recusal from considering the pending petition for review and, potentially, the merits of these consolidated appeals, before I would make a final decision on my participation or recusal. In response to the April 15, 2020 order, the plaintiffs-respondents filed a letter that discussed principles relating to recusal but did not take a position regarding my participation in the consideration of the pending petition for review and, potentially, the merits of these consolidated appeals. No response was received from the defendants-appellants or from any other person or entity.

This case was previously before this court on a petition to bypass the court of appeals filed in December 2019 by the plaintiffs-respondents. The resolution of that petition (and the merits of the case had it been granted) could have affected the 2020 spring primary and general elections. I

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recused myself from considering that petition for bypass because I was a candidate in those elections.

After this court denied the petition for bypass, the court of appeals rendered a final decision in these consolidated appeals on February 28, 2020. The plaintiffs-respondents subsequently filed a petition for review, and the defendants-appellants responded in due course. The court has not yet rendered a decision on the petition for review.

The 2020 spring general election is now complete, so it appears the reason for my prior recusal from considering the petition for bypass no longer obtains. Moreover, no party has objected to my participation in considering the pending petition for review or the merits of this matter if the petition for review is granted. Finally, I note that I, like every other justice on this court, have an affirmative duty to hear every case in which there is no ethical bar to my participation. See Supreme Court Rule 60.04(1)(a) (“A judge shall hear and decide matters assigned to the judge, except those in which recusal is required under sub. (4) or disqualification is required under section 757.19 of the statutes and except when judge substitution is requested and granted.”). Having fully considered the matter, I have concluded that, in light of the fact that this case cannot now affect any election in which I would be a candidate while the case is being decided, there is no ethical bar to my participation in the consideration of the petition for review or the merits of the case if the petition for review is granted. Accordingly,

Justice Daniel Kelly will participate in the remainder of this matter going forward, including the consideration of the petition for review and, potentially, the merits of the matter if the petition for review is granted.

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Sheila T. Reiff  
Clerk of Supreme Court

Address list continued:

Jeffrey M. Harris  
Cameron T. Norris  
Consovoy McCarthy PLLC  
1600 Wilson Blvd., Ste. 700  
Arlington, VA 22209

Jeffrey A. Mandell  
Kurt Simatic  
Stafford Rosenbaum LLP  
P.O. Box 1784  
Madison, WI 53701-1784

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Stacie H. Rosenzweig  
Halling & Cayo, S.C.  
320 E. Buffalo St., Ste. 700  
Milwaukee, WI 53202

Kevin M. St. John  
Bell Giftos St. John LLC  
5325 Wall St., Ste. 2200  
Madison, WI 53718-7980