



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

Web Site: www.wicourts.gov

September 10, 2020

To:

Colin T. Roth
Steven C. Kilpatrick
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Andrew T. Phillips
Matthew Jeffrey Thome
Jacob J. Curtis
von Briesen & Roper, S.C.
411 E. Wisconsin Ave., Ste. 1000
Milwaukee, WI 53202

Jeffrey A. Mandell
Douglas M. Poland
Rachel E. Snyder
Richard Manthe
Stafford Rosenbaum LLP
P.O. Box 1784
Madison, WI 53701-1784

You are hereby notified that the Court has entered the following order:

No. 2020AP1488-OA Hawkins v. Wisconsin Elections Commission

Petitioners, Howie Hawkins and Angela Walker, the Green Party's candidates for President and Vice President of the United States, have filed a petition for leave to commence an original action pursuant to Wis. Stat. § (Rule) 809.70 and a motion for temporary injunctive relief. They ask this court to order that their names be placed on Wisconsin's 2020 fall general election ballot. Responses have been received from respondent Allen Arntsen and from respondents Wisconsin Elections Commission (Commission), Ann Jacobs, Mark Thomsen, Marge Bostelmann, Julie Glancey, Dean Knudson, and Robert Spindell. The response filed on behalf of the Commission and the individual Commissioners was supported by an affidavit from Meagan Wolfe, the Commission's administrator. The Wolfe affidavit implies that some absentee ballots have already been mailed by municipal clerks, but Ms. Wolfe does not aver that she has any personal knowledge as to whether absentee ballots have, in fact, been mailed. Petitioners filed a letter replying to the responses, accompanied by a supplemental affidavit. The respondents filed a motion to strike the letter reply and supplemental affidavit.

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In order for this court to properly consider the filings before it to decide whether to grant the petition for leave to commence an original action and whether to grant a temporary injunction, we conclude that the respondent Commission should be required to provide the court definite factual information about whether and when absentee ballots have, in fact, been printed, requested, and mailed. We therefore will order the Commission to obtain information from the municipal clerks in this state regarding who has requested an absentee ballot (for those municipalities who have mailed out absentee ballots), whether any absentee ballots have been mailed, to whom they have been mailed, when they were mailed, and to what address they have been mailed. We also will order that the Wisconsin Elections Commission obtain from the county clerks in this state information regarding when and who requested the ballots to be printed, including a specific date and time. The Wisconsin Elections Commission will be required to provide this information to the court by 5:00 p.m. today. While the court is receiving and considering this information, to maintain the status quo the Commission should advise the municipal clerks that they should not mail any absentee ballots until this court has issued an order regarding the petition and motion. Accordingly,

IT IS ORDERED that the Wisconsin Elections Commission shall obtain the information set forth below from the municipal clerks of this state regarding absentee ballots for the November 3, 2020 general election and shall provide this information in a readable and understandable format to this court no later than 5:00 p.m. today. If any municipal clerk has mailed any such absentee ballots as of 12:00 p.m. today, the Wisconsin Elections Commission shall obtain specific information from each such municipal clerk regarding which electors have requested absentee ballots. For each absentee ballot that has been mailed as of 12:00 p.m. today, the Wisconsin Elections Commission shall also obtain the following specific information: (1) to which elector and address the absentee ballot was mailed, and (2) when the absentee ballot was mailed. The Wisconsin Elections Commission shall submit this information to the court in pdf format attached to one or more emails sent to clerk@wicourts.gov. In the event that any municipal clerk is unable to provide this requested information to the Wisconsin Elections Commission so that the Wisconsin Elections Commission can provide the information to this court by 5:00 p.m. today, the Wisconsin Elections Commission shall advise the court which information it was unable to obtain from which municipal clerks and why it was unable to obtain the information; and

IT IS FURTHER ORDERED that the Wisconsin Elections Commission shall obtain specific information from the county clerks in this state regarding when and who requested that ballots for the November 3, 2020 general election be printed, including the specific date and time of the request, and shall provide this information in a readable and understandable format to this court no later than 5:00 p.m. today in the same manner as set forth in the preceding paragraph; and

IT IS FURTHER ORDERED that the Wisconsin Elections Commission shall advise all municipal clerks in this state that they should not mail any absentee ballots until this court has issued a further order stating that absentee ballots may be mailed out or granting relief regarding the contents of the ballots for the November 3, 2020 general election.

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ANN WALSH BRADLEY, J. (*dissenting*). Given the breadth of the information requested and the minimal time allotted to obtain it, I fear that the majority of this court is asking the impossible of our approximately 1,850 municipal clerks throughout the state.

I am authorized to state that Justices REBECCA FRANK DALLET and JILL J. KAROFKY join this dissent.

Sheila T. Reiff
Clerk of Supreme Court