



## OFFICE OF THE CLERK

**Supreme Court of Wisconsin**

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January 11, 2022

**To:**

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

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No. 2022AP50-W

State ex rel. Robin Vos v. Circuit Court for Dane County,

L.C.# 2021CV2521

A “Petition For Supervisory Writ of Prohibition Pursuant to Wis. Stat. § 809.71,” and a “Motion For Emergency Temporary Relief Pending Appeal,” along with a supporting memorandum and appendix, having been filed on behalf of petitioner Robin Vos in his official capacity as the Wisconsin State Assembly Speaker;

IT IS ORDERED that the petition is denied, ex parte, and the motion is denied as moot.

BRIAN HAGEDORN, J. (*concurring*). This is a petition for supervisory writ. It is not an appeal of a lower court ruling. Rather, it is an extraordinary petition we grant only in the rarest of

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cases. State ex rel. CityDeck Landing LLC v. Cir. Ct. for Brown Cnty., 2019 WI 15, ¶29, 385 Wis. 2d 516, 922 N.W.2d 832.

Petitions for supervisory writ filed in this court are governed by Wis. Stat. § (Rule) 809.71 (2019-20), which requires in part: “A person seeking a supervisory writ from the supreme court shall first file a petition for a supervisory writ in the court of appeals under s. 809.51 unless it is impractical to seek the writ in the court of appeals.” In addition,

a party seeking the issuance of a supervisory writ must establish four factors: (1) a circuit court had a plain duty and either acted or intends to act in violation of that duty; (2) an appeal is an inadequate remedy; (3) grave hardship or irreparable harm will result; and (4) the party requested relief promptly and speedily.

CityDeck Landing, 385 Wis. 2d 516, ¶30 (quotation marks and quoted source omitted). This petition comes nowhere close to meeting these legal standards. Following the law here means the petition must be denied.

The dissent wishes to improve upon the obviously deficient petition and offers other reasons to afford the petitioner relief. Perhaps these new arguments have merit. But “[w]e do not step out of our neutral role to develop or construct arguments for parties; it is up to them to make their case.” Serv. Emps. Int’l Union, Loc. 1 v. Vos, 2020 WI 67, ¶24, 393 Wis. 2d 38, 946 N.W.2d 35. Our task is to decide disputes based on the claims raised by the parties, not picking sides and not preferring any particular outcome. The rule of law compels no less.

ANNETTE KINGSLAND ZIEGLER, C.J., PATIENCE DRAKE ROGGENSACK and REBECCA GRASSL BRADLEY, J.J. (*dissenting*). The majority denies all relief without consideration of the constitution, caselaw, or basic principles of attorney-client privilege. The majority cites zero support in the law for its decision that a sitting legislator and his attorney can be deposed. They ignore Article IV, Section 15 of the Wisconsin Constitution and basic principles of attorney-client privilege. Under Article IV, Section 15, members of the legislature shall not “be subject to any civil process, during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.” We dissent because we would stay the depositions and consider these weighty issues.

The circuit court seemingly limited the information that was to be sought and stated that the deposition could not be a “fishing expedition.” The circuit court was trying to limit the scope of the deposition, but it did not consider fundamental constitutional principles and basic rules of attorney-client privilege because they were not raised to it. If now, objections are made to deposing Speaker Robin Vos and his attorney, Steven Fawcett, the circuit court will have the opportunity to weigh and consider these important questions.

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Sheila T. Reiff  
Clerk of Supreme Court

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