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Supreme Court of Wisconsin

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

No. 2020AP828-OA Fabick v. Palm

The court has before it a petition for leave to commence an original action under Wis. Stat. § (Rule) 809.70 and a motion for injunctive relief filed on behalf of petitioners, Jeré Fabick and Larry Chapman. Generally speaking, the petitioners challenge and seek to enjoin certain provisions in Emergency Order 28, issued by Respondent Andrea Palm on April 16, 2020, as violative of certain of their constitutional rights. Consistent with this court's May 5, 2020 order, the court has received responsive briefing, reply briefing, and amicus briefing regarding the petitioners' requests for this court to assume original jurisdiction and issue injunctive relief.

On May 13, 2020, this court issued a decision in Wisconsin Legislature v. Andrea Palm, 2020AP765-OA, declaring Emergency Order 28 “unlawful, invalid, and unenforceable.”

On May 15, 2020, the petitioners filed a “Notice of Recent Events” with a supplemental appendix. They ask this court to refrain from dismissing this matter, notwithstanding the issuance of our May 13, 2020 decision. On May 18, 2020, the respondents filed a letter response opposing the request.

This matter has become moot. Emergency Order 28 has been invalidated. Respondent Andrea Palm has issued, and then withdrawn, a statement of scope for an emergency rule related to COVID-19. Various local governments have promulgated their own orders and directives related to COVID-19, some of which have now been withdrawn or revised. These intervening events have altered the essential facts upon which the petition was predicated.

Accordingly,

IT IS ORDERED that the petition for leave to commence an original action and accompanying motion for injunctive relief are dismissed as moot.

Sheila T. Reiff
Clerk of Supreme Court