

FILED
03-25-2024
CIRCUIT COURT
DANE COUNTY, WI
2024CV000890
Honorable Rhonda L.
Lanford
Branch 16

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

In the Matter of the

RECALL OF ROBIN J. VOS.

Case No.

**PETITION FOR EXTENSION OF TIME
PURUSANT TO WIS. STAT. § 9.10(3)(b)**

NOW COMES Petitioner Recall Vos, by its attorney the Law Office of Kevin M. Scott LLC, by Kevin M. Scott, and as for a Petition for an extension of time pursuant to Wis. Stat. § 9.10(3)(b) states as follows—

1. Recall Vos is a recall campaign committee registered with the State of Wisconsin—ID # 0600037. A true and correct copy of Recall Vos’s CF-1 filed with the State is attached as **Exhibit A**.

2. On March 10, 2024, Recall Vos submitted a Petition to the Wisconsin Elections Commission pursuant to Wis. Stat. § 9.10 to recall Robin J. Vos from his position as Assemblyman for Wisconsin Assembly District 63.

3. Pursuant to Wis. Stat. 9.10(3)(b) Vos then had ten days from that date to submit a written challenge to the petition “specifying any alleged insufficiency.”

4. Vos submitted a written document entitled “Representative Robin Vos’ Verified Challenge to the Recall Petition” on March 21, 2024 (the “Challenge”).

5. A true and correct copy of the Challenge is attached as **Exhibit B**.

6. Pursuant to Wis. Stat. § 9.10(3)(b) Recall Vos then has five days to submit a “written rebuttal to the challenge.” Such time would elapse on March 26, 2024.

7. On December 22, 2023 the Wisconsin Supreme Court issued a decision in the matter *Rebecca Clarke v. Wisconsin Elections Commission*, Appeal No. 23AP1399.

8. In that Decision the Court invalidated the state legislative maps that were in place, and enjoined WEC from using the maps “in any future election.”

9. On February 19, 2024 Governor Evers signed into law Wisconsin Act 94, which created new legislative maps for the state.

10. Act 94 states that it first applies as follows—

SECTION 2. Initial applicability.

(1) This act first applies, with respect to regular elections, to offices filled at the 2024 general election.

(2) This act first applies, with respect to special or recall elections, to offices filled or contested concurrently with the 2024 general election.

11. On March 15, 2024 WEC filed a motion with the Wisconsin Supreme Court (the “Motion”) in the *Clarke* matter asking for clarification—

...whether this Court’s opinion and order enjoins the Commission from using district maps in effect prior to the enactment of Act 94 for any recall or special election that must be conducted before the 2024 general election.

(Motion, ¶ 12)

12. A true and correct copy of the Motion is attached as **Exhibit C**.

13. Party responses to the Motion were due on March 21, 2024.

14. On March 21, 2024 Governor Evers filed a response (the “Response”) stating in part—

Here, the Court’s December 22 opinion and order and Act 94 leave no clear maps in place for interim recall and special elections. *Clarke*, 2023 WI 79, ¶ 3; 2023 Wis. Act 94, § 2. Governor Evers therefore asks the Court to allow the parties until March 28, 2024, to file a stipulation for court approval regarding which maps should apply to special and recall elections before the 2024 general election.

(Response, p.4)

15. Governor Evers indicated that all parties either took no position on his request or were in agreement. (Response, p. 2)

16. A true and correct copy of the Response is attached as **Exhibit D**.

17. The Wisconsin Supreme Court has not issued a ruling on the Motion and has not indicated whether it will wait until March 28, 2024 to do so.

18. In the Challenge, Vos asserts that “Because the Wisconsin Supreme Court Has Enjoined Any Election From Occurring in the Old 63rd Assembly District, the Recall Was Improperly Initiated and Cannot Proceed” and that “No Recall Election Can Proceed in the New 33rd Assembly District Because the Recall Petitions Never Referenced this District and the District Did Not Exist When The Recall Was Initiated.” (Challenge, pp. 10, 13 et seq.)

19. Wis. Stat. § 9.10(3)(b). provides that within 31 days, WEC must “determine by careful examination whether the petition on its face is sufficient.” Part of the analysis being what legislative district map to apply to the signatures presented in the Petition. (Motion, ¶ 10)

20. As of right now Recall Vos is not certain what map is going to be applied by WEC, as directed by the Wisconsin Supreme Court, to determine whether the Petition is sufficient, and is unable to rebut any challenges to signatures made by Vos in the Challenge, or address the legal arguments found therein.

21. Wis. Stat. § 9.10(3)(b) provides that “[u]pon showing of good cause, the circuit court for the county in which the petition is offered for filing may grant an extension of any of the time periods provided in this paragraph.”

22. Recall Vos believes there is good cause for an extension of time until five days after the Wisconsin Supreme Court either issues a decision clarifying the holding in *Clarke v. WEC*, or the parties in that matter are able to reach a stipulated resolution adopted in a final Order of the Court.

WHEREFORE, Recall Vos respectfully requests that the Court grant an extension of time pursuant to Wis. Stat. §9.10(3)(b) of five days until after the Wisconsin Supreme Court enters a final Order clarifying its December 22, 2023 Decision as to what legislative districts will be used for recall and/or special elections prior to the initial effective date of Act 94.

Dated this 25th day of March, 2024.

ATTORNEYS FOR RECALL VOS

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