

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TIMOTHY CAREY, MARTHA
CHAMBERS, SCOTT
LUBER, and MICHAEL
REECE,

Plaintiffs,

v.

Case No. 22-CV-402

WISCONSIN ELECTIONS
COMMISSION and
MEAGAN WOLFE,

Defendants.

DECLARATION OF STEVEN C. KILPATRICK

STEVEN C. KILPATRICK, declares as follows under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I work as an Assistant Attorney General at the Wisconsin Department of Justice. In that capacity, I am one of the attorneys representing the defendants in the above-captioned case.

2. I make this declaration in support of Defendants' Response to Plaintiffs' Proposed Statement or Record Facts filed in support of their Motion for Preliminary Injunction and Emergency Relief.

3. On August 4, 2022, staff of Defendant Wisconsin Elections Commission issued a memorandum to local election officials in the state of Wisconsin entitled “Absentee Ballot Return Considerations for Wisconsin Clerks and Municipal Attorneys.” This memorandum appears on the Commission’s website: <https://elections.wi.gov/memo/absentee-ballot-return-considerations-wisconsin-clerks-and-municipal-attorneys> (last visited Aug. 11, 2022). A true and correct copy of this memorandum is attached as Exhibit A.

4. As in my capacity as an Assistant Attorney General, I was one of the attorneys representing the Wisconsin Elections Commission in the state court case, *Teigen v. Wisconsin Elections Commission*, No. 2022AP0091 (Wis. Sup. Ct.). The Commission filed an opening brief with the supreme court, a true and correct copy of which is attached as Exhibit B.

5. It was the litigation position of the Commission in *Teigen* that Wis. Stat. § 6.87(4)(b)1. permits a family member of, or another person acting on behalf of, an elector to place the elector’s completed absentee ballot in the mail. (See Ex. B., Argument, sec. I.A.)

6. It was also the litigation position of the Commission in *Teigen* that if the supreme court were to interpret Wis. Stat. § 6.87(4)(b)1. to not permit a disabled elector to have another person mail or return his or her absentee ballot to the clerk, it would conflict with 52 U.S.C. § 1508, which states, in part, that “[a]ny voter who requires assistance to vote by reason of . . . disability

. . . may be given assistance by a person of the voter's choice." (See Ex. B., Argument, sec. I.A.)

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 12, 2022

/s/Steven C. Kilpatrick
STEVEN C. KILPATRICK

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