

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
Green Bay Division

DAWN McCOLE
and
JEANETTE MERTEN
Plaintiffs,

v.

Case No.: 24-CV-1348

MEAGAN WOLFE
Defendant.

AMENDED COMPLAINT

COMES NOW the plaintiffs, Dawn McCole and Jeanette Merten, by counsel, and for their Amended Complaint against the defendant the Meagan Wolfe (“Wolfe” or “Defendant”), aver the following:

Introduction

1. This is an action to enjoin Wolfe from continuing to allow the WEC from using its online voter registration system to allow voters to register to vote, and request absentee ballots, due to inadequate cybersecurity measures that jeopardize the integrity of the electoral process and the personal data of Wisconsin voters.

Jurisdiction and Venue

2. This Court has jurisdiction over this action pursuant to [28 U.S.C. § 1331](#), as this case arises under the Constitution and laws of the United States. Additionally, this action is brought under a federal statute, 42 USC § 1983, which prohibits a person acting under color of state law from violating a right secured by the United States Constitution. Plaintiffs allege the defendant Meagan Wolfe, acting in her individual capacity under color of state law, as

Administrator of the Wisconsin Elections Commission (“WEC”), violated the 14th Amendment rights of Plaintiffs, which guarantees them due process and equal protection rights under the law.

3. Venue is proper in this district pursuant to [28 U.S.C. § 1391](#) because a substantial part of the events or omissions giving rise to the claim occurred within this district; and because the plaintiffs reside within the Eastern District of Wisconsin.

Parties

4. Plaintiff, Dawn McCole, is a resident of Brown County, Wisconsin; an elector; and a Wisconsin registered voter residing within the Eastern District of the State of Wisconsin. Plaintiff Dawn McCole’s voter registration is maintained within the My Vote website system, rendering it vulnerable to the cybersecurity concerns enumerated below.
5. Plaintiff Jeanette Merten is a municipal election clerk for the Town of Oshkosh, Winnebago County, and she resides at 1076 Cozy Lane, Oshkosh, WI 54901; she is also a Wisconsin elector and registered voter. Plaintiff Jeanette Merten’s voter registration is also maintained within the My Vote website system, rendering it vulnerable to the cybersecurity concerns enumerated below.
6. Defendant Megan Wolfe is being sued by the plaintiffs in her individual capacity, acting under color of state law. Wolfe serves as the Administrator of the WEC, a Wisconsin governmental commission¹ responsible for the administration of elections within Wisconsin. The State of Wisconsin created the WEC legislatively, establishing the WEC as the Wisconsin governmental body empowered to administrate and oversee elections within the state of Wisconsin. Importantly, the Wisconsin state statutes which created the

¹ The WEC is tantamount to a state agency or quasi-agency.

WEC did not authorize the WEC to create the My Vote online portal to permit voters (electors) to request absentee ballots online using My Vote. As Administrator of the WEC, Defendant Wolfe acted and continues to act under color of state law by allowing the My Vote website to continue to be used despite known and serious cybersecurity inadequacies. Wolfe is also the Chief Election Officer for Wisconsin, established by Wisconsin statute 5.05(3)(g). According to her Bio on the WEC official website, “Meagan [Wolfe] previously served as WEC’s Deputy Administrator and IT Director, managing the teams that develop and maintain the statewide voter registration system, election security, and all other IT applications of the Commission”, which would include the My Vote website at issue in this case. As such, there can be no reasonable question about her knowledge of the cybersecurity inadequacies of the My Vote website.

7. According to its website, the WEC “was established in 2016 by the Wisconsin Legislature to carry out a wide range of functions related to statewide elections administration”. This lawsuit seeks to enjoin Wolfe from continuing to allow the WEC to use the My Vote portal as a means for Wisconsin citizens to register to vote or request absentee mail-in ballots due to established cybersecurity vulnerabilities.

Factual Background

8. The WEC, via Wolfe, has implemented an online voter registration website and absentee ballot request portal (<https://myvote.wi.gov/en-us/>) (“My Vote” or “the My Vote portal”), ostensibly to facilitate the registration of voters, and fulfill their requests for absentee mail-in ballots, among other things. More specifically, the WEC through Wolfe created and maintains My Vote, but there are grossly inadequate cybersecurity safeguards built-into the website. Indeed, given the cybersecurity inadequacies, any person in the world can

access My Vote and request an absentee ballot be mailed to any address in the world merely by inputting a registered Wisconsin voter's name, and inputting his or her birthdate into My Vote. The My Vote portal does not allow voters to create accounts with user-names and passwords to protect themselves against third parties requesting absentee ballots in their names. Indeed, Wisconsin has already acknowledged the same in their indictment of Harry Wait for using the personally identifying information of two Wisconsin voters (without their authorization) to commit election fraud—illegally requesting and obtaining absentee mail-in ballots in their names². To be sure, the My Vote portal lacks adequate cybersecurity measures to protect against unauthorized access, data breaches, and other cybersecurity threats.

9. The Harry Wait indictment includes the following important information, all of which was accomplished using the My Vote portal:
 - a. Counts 1 and 3, “UNAUTHORIZED USE OF AN INDIVIDUAL’S PERSONAL IDENTIFYING INFORMATION”, for Individual #1 (Count 1) and for Individual #2 (Count 3), for misuse of a person’s “personal identifying information” in order to commit election fraud.
 - b. Counts 2 and 4, “ELECTION FRAUD” because the defendant did “intentionally make a false statement” in requesting an absentee ballot for Individual 1 (Count 2) and Individual 2 (Count 4).
 - c. Page 3 of the Harry Wait criminal indictment states, “Wait admitted that he had requested absentee ballots for Individual 1 and Individual 2 on the myvote.wi.gov

² Exhibit 1, attached. Remarkably, the indictment notes Harry Wait has admitted to the criminal allegations set forth within the indictment, so although Wait has not pled guilty or been convicted, he admitted to the facts recited and relied upon therein.

website to be sent to his address” and “also admitted to requesting additional absentee ballots for others”. The special agent investigating these facts stated in the indictment: “I obtained information and records from the WEC. These records, which include audit history logs and web server logs, were provided to me by the WEC elections security lead. I learned that WEC discovered eight possibly fraudulent absentee ballot requests made through the My Vote Wisconsin system”. The defendant Wait also stated the ballots “were worth \$10.00 to \$80.00 per ballot.”³ Wait admitted he was able to order absentee ballots online in other people’s names, “all without providing a photo ID. or identifying myself”.⁴ Remarkably, Wait stated he wanted to be charged for these crimes to unearth the cybersecurity vulnerabilities present in the My Vote portal, but had Wait not admitted what he did publicly, he likely would not have been caught.

10. My Vote is currently being used to register voters to vote in upcoming elections, and would allow people to request absentee ballots to be cast in future elections. Plaintiffs contend the My Vote portal should be enjoined until the system and website can be redesigned and redeveloped, or retooled, and tested for cybersecurity vulnerabilities of the kind illustrated within the Harry Wait indictment. The inadequate cybersecurity safeguards present within the My Vote website pose significant risks to the integrity of the electoral process and the personal data of Wisconsin voters.

11. Because My Vote not only can be used to register voters (electors) fraudulently, but can also be used to obtain absentee ballots fraudulently, Plaintiffs and other lawful voters and

³ Indictment, Page 12, Paragraph g.

⁴ Indictment, Page 14 (last paragraph).

electors are subject to being irreparably harmed and disenfranchised by people and/or entities using My Vote for such untoward purposes, voting illegally via absentee ballots mailed to addresses not associated with lawfully registered voters, diminishing the weight of lawfully cast votes. Moreover, the vulnerabilities of the My Vote portal may exceed the examples established within the Harry Wait indictment.

12. Upon information and belief, accessing the My Vote portal via a Virtual Private Network (“VPN”) may allow election fraud broader than that committed by defendant Harry Wait, including changing a registered voter's personally identifying information, voter history or address. A VPN is a service that creates a secure, encrypted connection between a device and the internet, enabling the following: (1) encrypting the user’s IP address; (2) allowing the user to mask or change his or her location, allowing access to content that might be restricted geographically; and (3) masking the user’s online activities from their internet service provider (ISP) and other third parties; etc. Indeed, a person could login into the My Vote portal, change the voter registration address for Plaintiffs Dawn McCole or Jeannette Merten, and request absentee ballots in their names, and have the absentee ballots mailed to addresses where neither of them reside. Accordingly, Wolfe should be enjoined from keeping the My Vote portal available to the public until these cybersecurity concerns can be ameliorated.

Legal Claims & Request for Injunctive Relief: 42 USC 1983

13. All allegations are realleged.
14. The inadequate security measures of the My Vote portal violate the constitutional rights of Wisconsin voters and electors under the Fourteenth Amendment, which guarantees due process and equal protection under the law, including the plaintiffs in this case.

15. The defendant Meagan Wolfe was acting under the color of state law at all times relevant.
16. The defendant Meagan Wolfe's actions have deprived the plaintiffs of a right secured by the United States Constitution; that is, their rights to vote, and have their votes counted and weighted fairly.
17. The defendant Meagan Wolfe knows about the ongoing cybersecurity inadequacies of the My Vote website, including the Harry Wait case cited above, and has not taken any meaningful action to address them. Accordingly, Wolfe's failures to address these cybersecurity inadequacies must be deemed willful, meaning the defendant has acted and continues to act with the intent to undermine the electoral process and impair the right of lawfully registered Wisconsin voters to cast lawful votes, including the plaintiffs in this case; and ensure votes are not being cast unlawfully.
18. There is a direct causal link between the defendant's actions and the deprivation of the plaintiffs' constitutional rights, as alleged above.
19. Wolfe's failure to direct the WEC to implement adequate cybersecurity measures constitutes a breach of her duty to ensure the integrity and security of the electoral process. As Administrator of the WEC and Wisconsin's Chief Election Officer, Wolfe's failures to ensure the integrity and security of the electoral process in Wisconsin deprive Plaintiffs of their constitutional due process rights under the 14th Amendment of the United States Constitution.
20. Plaintiffs seek a preliminary and permanent injunction enjoining Wolfe from allowing the WEC to use the My Vote portal until it has been redesigned and redeveloped, or retooled, and tested to ensure adequate cybersecurity measures have been implemented.

21. Additionally, Plaintiffs request the Court order Wolfe to direct the WEC to conduct a comprehensive security audit of the My Vote portal and voter registration system to identify preexisting election fraud, and implement all necessary security and cybersecurity measures to protect against unauthorized access and data breaches; unlawful voter registrations; and third parties requesting absentee ballots in the names of Wisconsin registered voters, and having those absentee ballots mailed to wherever the untoward third party requests.

WHEREFORE, Plaintiffs Dawn McCole and Jeanette Merten, by counsel, respectfully request this Court:

- (1) Issue a preliminary and permanent injunction enjoining Wolfe from allowing the WEC to use its current online voter registration system and the My Vote website <https://myvote.wi.gov/en-us/> until it has been redesigned and redeveloped, or retooled, and tested to ensure adequate cybersecurity measures have been implemented;
- (2) Order Wolfe to direct the WEC to conduct a comprehensive security audit of the My Vote online voter registration system and implement all necessary cybersecurity recommendations; and
- (3) Award Plaintiffs reasonable attorney fees.

DAWN MCCOLE

JEANETTE MERTEN

By Counsel

Electronically signed by: Wendy A. Patrickus

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CERTIFICATE OF SERVICE

I HEREBY certify this pleading has been filed using the Clerk's ECF Filing System on this 16th day of January 2025, and will automatically be transmitted and served electronically on counsel for the defendant as set forth below.

_____/s/____

Wendy A Patrickus (SBN 1013728)

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