

STATE OF WISCONSIN

CIRCUIT COURT

WAUKESHA COUNTY

STATE OF WISCONSIN EX REL. ARDIS CERNY,

Petitioner,

vs.

Case No.

WISCONSIN ELECTIONS COMMISSION,

Case Code: 30952

MARGE BOSTELMANN, ANN S. JACOBS,

DON M. MILLIS, CARRIE RIEPL,

ROBERT F. SPINDELL, JR., MARK L. THOMSEN,

in their official capacities as Commissioners,

MEAGAN WOLFE, in her official capacity as

Administrator of the Wisconsin Elections Commission

WISCONSIN DEPARTMENT OF TRANSPORTATION,

and

CRAIG THOMPSON, in his official capacity as

Secretary of the Wisconsin Department of Transportation,

Respondents.

**PETITION FOR WRIT OF MANDAMUS
AND DECLARATION CONSTRUING STATUTES**

NOW COMES Petitioner Ardis Cerny, by her attorneys Michael D Dean LLC, by Michael D Dean and the Law Office of Kevin M. Scott LLC, by Kevin M. Scott, and petitions for a Writ Mandamus and Declaratory Judgment as follows.

I. PARTIES.

1) Petitioner Ardis Cerny is an adult resident of the City of Pewaukee in the State of Wisconsin. She is an eligible elector who is legally qualified and registered to vote in Wisconsin state and federal elections, has previously voted in numerous state and federal elections, and intends to do so in the future. She asserts that Respondents are in default of their duties under law in violation of her voting rights and the rights of other eligible electors who are legally qualified and registered and vote in Wisconsin state and federal elections. She is also a Wisconsin taxpayer, and asserts

that Respondents are expending state tax money in an unlawful manner in relation to the administration of elections in this state in violation of her voting rights and the voting rights of other eligible electors who are legally qualified and registered and vote in state and federal elections.

2) Respondent Wisconsin Elections Commission (“WEC”) is an independent agency. Wis. Stats. § 15.61.¹ Among other duties, WEC compiles and maintains the WisVote statewide voter list² (“WisVote List”) pursuant to § 6.36(1), which Wisconsin’s municipal clerks are required to utilize in conducting state and federal elections. Sec. 5.05(15).

3) Respondents Marge Bostelmann, Ann S. Jacobs, Don M. Millis, Carrie Riepl, Robert F. Spindell, Jr., and Mark L. Thomsen are WEC’s commissioners (the “Commissioners”). The Commissioners are WEC’s “Head.” Sec. § 15.01(8).

4) Respondent Meagan Wolfe serves as WEC’s administrator and the chief elections officer of the State of Wisconsin. Sec. 5.05(3g).

5) Respondent Wisconsin Department of Transportation (“DOT”) is a department of Wisconsin state government. Sec. 15.46. The Division of Motor Vehicles (“DMV”) is a division of DOT, and acts and matters alleged in relation to DMV are those of and attributable to DOT. *E.g.*, § 343.165(8)(b)2.

6) Respondent Craig Thompson is DOT’s secretary. Sec. 15.05.

II. INTRODUCTION.

A. REQUIREMENTS FOR WRIT OF MANDAMUS AND DECLARATORY JUDGMENT.

7) Petitioner seeks a writ of mandamus, which requires showing “(1) a clear legal right; (2) a plain and positive duty; (3) substantial damages or injury should the relief not be granted, and

¹ Hereafter, Wisconsin statutes are referenced only as “Sec.” or “§”.

² <https://elections.wi.gov/clerks/election-topics-z/wisvote>. Technically, WisVote is an election management system. The “List” is an aggregation of records from multiple databases.

(4) no other adequate remedy at law.” *State ex rel. S.M.O.*, 110 Wis.2d 447, 449, 329 N.W.2d 275 (Ct. App. 1982).

8) Section III of this Petition addresses elements (1), (3) and (4) together because they are integrally related. Petitioner and other legally qualified and registered eligible Wisconsin electors have rights to cast their votes in free and transparent elections without cancellation by unlawful ballots cast by non-citizens or other unqualified voters. As with all fundamental rights, deprivation of those rights is irreparable injury *per se*. *Elrod v. Burns*, 427 U.S. 347, 373, 96 S. Ct. 2673, 2690 (1976).

9) The writ Petitioner seeks on behalf of herself and in the public interest is essential to prevent irreparable harm because a loss of rights cannot be compensated by money damages, and Respondents are officials and governmental agencies with the exclusive authority, management and control of the means necessary to verify citizenship of registrants included in the WisVote List and permitted to vote. *See American Mut. Liability Ins. Co. v. Fisher*, 58 Wis.2d 299, 305, 206 N.W.2d 152 (1973).

10) Sections IV and V of this Petition address element (2). Section IV alleges that Respondents Thompson and DOT, through DMV, already have established processes and resources to obtain and verify citizenship or other legal status of applicants for drivers’ licenses or identification cards for the purpose of voting.

11) Section V alleges that WEC and DOT are failing various plain and positive duties that would verify citizenship of applicants registering to vote, including the duty to match DOT’s citizenship information against registrant information in the WisVote List necessary to verify the accuracy of the citizenship information included in registration applications provided either by current applicants or prior applicants already registered and included in the WisVote List.

12) Section VI states claims for a writ of mandamus and declaratory judgment.

B. RESPONDENTS' DUTIES TO VERIFY ACCURACY OF CITIZENSHIP INFORMATION PROVIDED BY APPLICANTS FOR THE PURPOSE OF VOTER REGISTRATION.

13) Qualification, registration, and identification ("ID") are the three basic requirements to cast a legal vote in Wisconsin federal and state elections.

- a) *Qualification.* Only U.S. citizens can be "eligible elector[s]" legally qualified to register, present identification, and vote. U.S. Const. amend. XXVII; 18 U.S.C. §§ 611, 911, 1015(f); § 6.02 Stats.; Wis. Const. art. III § 1.
- b) *Registration.* Generally, eligible electors seeking to lawfully vote must register using WEC Form EL-131 processed by municipal clerks, or an online form processed by WEC through its "MyVote" portal.³ Secs. 6.27; 6.30(1), (4), (5).

Both forms require a registration applicant to provide personal information including a certification that she is a U.S. citizen, which WEC uses to register and create a record for her in the WisVote List. Secs. 5.02(16c); 6.33(1), (5)(a)1.; 6.36(1). A copy of Form EL-131 and screen shots of the online form are attached as Exhibits A and B.

- c) *Identification.* To cast a lawful vote, a legally qualified and registered elector must also present a valid form of authorized ID matching her record information in the List. Secs. 5.02(6m), 5.02(16c), 6.79(2). Authorized forms of ID include a free ID card and a receipt for one, which DMV issues only to U.S. citizens. Secs. 5.02(6m)(a)2., 5.02(6m)(d), 343.50(1), 343.50(5)(a)3., 343.165(8).

DMV has established the ID Petition Process ("IDPP") ensuring that each ID card applicant is provided due process, including assistance and payment of fees by DMV to obtain a birth certificate or other documentary proof of citizenship ("DPOC") if it is unavailable or if she lacks ability to pay the fees required to obtain it. Secs. 343.165(8)(a) and 343.50(1), (3); Wis. Admin. Code Trans §§ 102.15(2)(bm), 102.15(5m)⁴

14) WEC has the plain and positive duty to administer "chs. 5 to 10 and 12 and other laws relating to elections." Sec. 5.05(1).

15) Among "other laws" WEC administers is § 85.61(1). As discussed *infra* § V.C.1., that section requires Respondents Wolfe and Thompson, on behalf of WEC and DOT, to execute and perform an agreement

³ <https://myvote.wi.gov/en-us/Register-To-Vote>

⁴ Citations to Wis. Admin. Code Department of Transportation Chapter hereafter designated as "Trans."

- a) “*to match personally identifiable information*” contained in the WisVote List administered by WEC and specified in § 6.34(2m) (name, birth date, and driver’s license or ID card number)
- b) “*with personally identifiable information*” in the “operating record file database” and “vehicle registration records” administered by DOT
- c) “*to the extent required* to enable the secretary of transportation [Respondent Thompson] and the administrator of the elections commission [Respondent Wolfe] *to verify the accuracy of the information provided for the purpose of voter registration.*”

16) Citizenship is “personally identifiable information.” *Luft v. Evers*, 963 F.3d 665, 675 (7th Cir. 2020).

17) WEC and DOT must therefore match citizenship information contained in DOT records against WEC registrant records in the WisVote List to verify that the citizenship certifications provided by registration applicants in their EL-131 and online forms are accurate.

18) If DOT records verify that a citizenship certification provided in a registration form is accurate, the applicant must be registered and included in the WisVote List.

19) But if DOT records verify that a citizenship certification is *not* accurate, the applicant is not an “eligible elector,” and her application must be rejected. *E.g.*, § 6.32(2).

20) And if DOT records verify that a citizenship certification by a registrant already included in the List was *not* accurate, that registrant’s record must be de-activated or removed from the List altogether. *E.g.*, § 6.03(3) (person disqualified by reason of adjudicated incompetency “may be denied the right to register to vote”); § 6.32(4) (name entered on registration list only if clerk or commission has “no reliable information to indicate that the proposed elector is not qualified”); § 6.33(1) (registration form designed to determine “whether the elector is disqualified on any other ground from voting”); 52 U.S.C. 21083(a)(2), (4) (federal legislation contemplates “removal” from the list).

C. RESPONDENTS' FAILURES TO VERIFY ACCURACY OF CITIZENSHIP INFORMATION PROVIDED BY REGISTRATION APPLICANTS AND TO PERFORM OTHER DUTIES.

21) As alleged herein including *infra* § V., Respondents are failing clear and positive duties to administer, comply with, and enforce applicable law to ensure that only “eligible electors” – legally qualified U.S. citizens – are registered to vote, included in the WisVote List, and permitted to vote in Wisconsin federal and state elections.

22) On May 16, 2024, the Assembly Committee on Campaigns and Elections and the Senate Committee on Shared Revenue, Elections and Consumer Protection held a joint hearing at which DOT Deputy Secretary Kristine Boardman testified regarding free identification cards issued by DMV for the purpose of voting.⁵

23) By letter to Respondents Wolfe and Thompson dated May 31, 2024, Committee Chairmen Knodl and Krug requested that WEC and DOT share citizenship information held by DOT to provide an additional layer of integrity to Wisconsin’s election system. A copy of Chairmen Knodl and Krug’s letter is attached as Exhibit C.

24) By memorandum dated June 4, 2024, Wisconsin Legislative Council Staff Attorney Katie Bender-Olson provided the Senate Committee with information “whether state or federal law prevents the Wisconsin Department of Transportation (DOT) from sharing citizenship information in its Department of Motor Vehicles (DMV) databases with the Wisconsin Elections Commission (WEC) for determining whether individuals listed within the statewide voter registration list are U.S. citizens.” A copy of the Legislative Council memorandum is attached as Exhibit D.

25) By letter to Respondents Thompson and Wolfe dated June 27, 2024, Committee Chairmen Knodl and Krug requested DOT’s list of permanent non-citizen Wisconsin residents who had

⁵ Video-recording by Wisconsin Eye available at <https://wiseye.org/2024/05/16/joint-assembly-and-senate-committees-on-campaigns-elections-shared-revenue-and-consumer-protection/>. Citations are designated by the speaker’s name and “hour:minute:second” pinpoint in the video file.

obtained a driver's license or ID card pursuant to § 13.45(7). A copy of Chairmen Knodl and Krug's letter is attached as Exhibit E.

26) By letter dated July 16, 2024, Secretary Thompson denied the chairmen's May 31 request that DOT and WEC share information, stating that DOT does not have authorization. In response to the chairmen's June 27 request for a "list" of non-citizen permanent residents pursuant to § 13.45(7), Secretary Thompson stated that DOT does not have such a "list," that DOT is subject to the federal Driver Privacy and Protection Act (DPPA) restricting disclosure of such information, and that "Requesters authorized under the DPPA may submit an MV2896 to request driver records for certain permitted uses." A copy of Secretary Thompson's letter is attached as Exhibit F.

27) On July 29, 2024, Petitioner filed a complaint with WEC alleging that WEC Respondents are failing to comply with their duties to verify citizenship of voter registration applicants. A copy of Petitioner's Complaint and supporting verifications is attached as Exhibit G. Petitioner incorporates by reference her allegations contained in Exhibit G.

28) By letter dated August 8, 2024, WEC attorney Angela Sharpe replied to Petitioner's counsel, advising that WEC will not consider Petitioner's Complaint. A copy of Attorney Sharpe's letter is attached as Exhibit H.

29) Petitioner now seeks a writ and declaration mandating that Respondents perform their plain and positive duties as follows and as more fully set forth herein and in Petitioner's causes of action, § VI., and Petitioner's Prayer for Relief.

III. A WRIT IS ESSENTIAL TO PREVENT IRREPARABLE HARM CAUSED BY RESPONDENTS' FAILURE TO PERFORM THEIR DUTIES TO PREVENT ILLEGAL REGISTRATION AND VOTING BY NON-CITIZENS THAT VIOLATE AND CANCEL THE RIGHTS AND VOTES OF PETITIONER AND OTHER LEGALLY QUALIFIED AND REGISTERED ELECTORS WHO VOTE.

30) Under federal and state law, non-citizens who register to vote or cast ballots illegally are subject to criminal penalties. A legally qualified “elector” must also be a U.S. citizen under the Wisconsin constitution and statutes. U.S. Const. art. I § 2 cl. 1 and amend. XVII; 18 U.S.C. §§ 611, 911; 18 U.S.C. § 1015(f); Wis. Const. art. III § 1.; § 6.02(1).

31) For a democratic government, there are no greater public interests or individual rights than ensuring that only those lawfully entitled to register and vote may do so.

32) Thus, the laws administered by WEC “shall be construed to give effect to the *will of the electors*,” which is that the “person receiving the greatest number of *legal* votes for the office shall be declared elected.” Secs. 5.01(1), (3)(a) (emphases added).

33) When construed and applied to accomplish that controlling purpose, the

rules and regulations under which [the franchise] may be exercised . . . tend to certainty and stability in government and render it possible to *guard against corrupt and unlawful means being employed to thwart the will of those lawfully entitled to determine governmental policies*. Their aim is to protect *lawful* government, not to needlessly harass or disfranchise any one.

League of Women Voters of Wisconsin Educ. Network, Inc. v. Walker, 2014 WI 97, ¶ 20, 357 Wis.

2d 360, 373, 851 N.W.2d 302, 309 (citations omitted, brackets by the court, emphases added).

34) It is axiomatic that the “will of the electors” is determined *only* by accurately tabulating lawful votes cast by legally qualified electors.

35) The Supreme Court’s “one man-one vote” means that lawful votes must be protected against “impairment result[ing] from *dilution by a false tally*,” *Baker v. Carr*, 369 U.S. 186, 208, 82 S. Ct. 691, 705 (1962), that they must “be protected from the *diluting effect of illegal ballots*,” *Gray v. Sanders* 372 U.S. 368, 380, 83 S. Ct. 801, 808 (1963), and qualified voters casting them

must not be “*deprived of the full benefit* of their right to vote” by “vote-diluting discrimination.” *Wesberry v. Sanders*, 376 U.S. 1, 2-3, 8, 84 S. Ct. 526, 527, 530 (1964). (All emphases added.)

36) Following suit, the Wisconsin Supreme Court ruled in *State ex rel. Sonneborn v. Sylvester* that the state constitution likewise requires “the one man-one vote principle.” 26 Wis. 2d 43, 53, 55, 132 N.W.2d 249, 254, 255 (1965).

37) Voting rights of legally qualified electors are protected under the 1st and 14th Amendments. *United States v. Classic*, 313 U.S. 299, 310, 61 S. Ct. 1031, 1035 (1941); *United States v. Olinger*, 759 F.2d 1293, 1302–03 (7th Cir. 1985).

38) The loss of such rights “for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. at 373, 96 S. Ct. at 2690.

39) The one man-one vote axiom applies with greatest force protecting voting rights of lawfully qualified electors from violation by illegal ballots. As *Baker*, *Gray* and *Wesbury* teach, even a *legal* vote violates that axiom if it is *disproportionate* and merely *dilutes* another legal vote. But an *illegal* ballot cast by a non-citizen registrant whom Respondents allow to be included in the WisVote List cancels another legal vote *entirely*.

40) Because Respondents are governmental agencies with exclusive authority, management and control of the processes, data and resources necessary to verify citizenship of those included in the WisVote List and permitted to vote, Petitioner has no other remedy at law than a writ directing them to perform their duty to do so.

IV. RESPONDENT DOT IS PERFORMING ITS DUTY TO PROTECT CITIZENS’ SUFFRAGE RIGHTS BY VERIFYING CITIZENSHIP OF APPLICANTS FOR IDENTIFICATION CARDS USED FOR VOTING.

41) The DOT Division of Motor Vehicles is responsible for issuing and administering statutes and regulations governing driver’s licenses and state ID cards. Wis. Stats. Ch. 343, Subchs. II and

V.; Wis. Admin. Code Trans Ch. 102.

42) DOT performs that duty through DMV, which is currently performing its duty to determine the citizenship or other legal status of all applicants for drivers' licenses and ID cards to ensure that non-citizens do not illegally obtain restricted license endorsements or ID cards for voting. Sec. 343.14; Trans § 102.15(2)(bm), (3m).

43) DMV's administration of the IDPP process to obtain an ID card for voting establishes that verification of a license or ID applicant's citizenship is essential to protect voting rights of Petitioner and other qualified electors, and that citizenship information gathered by DMV from license and identification applicant certifications would be effective to verify registration applicant certifications gather by WEC and municipal clerks if Respondents were compelled by mandamus to perform their duties to match WEC and DOT information "to the extent required . . . to verify the accuracy of the information provided for the purpose of voter registration."

44) In contrast to WEC Respondents, who do *not* verify citizenship of voter *registration* applicants, DMV *does* verify citizenship of voter *identification* applicants.

45) At a May 16, 2024, joint Wisconsin legislative committee hearing,⁶ Washington County Clerk Ashley Reichert testified that municipal clerks would like to have resources available for real time verification of voter registration applicants' citizenship to ensure that they (the clerks) are not unlawfully registering non-citizens to vote. Reichert @ 1:22:35.

46) (WEC and DOT already maintain a system verifying proof of residence "on an *instant* basis." Sec. 6.34(4).)

⁶ The Assembly Committee on Campaigns and Elections and the Senate Committee on Shared Revenue, Elections and Consumer Protection held a joint informational hearing regarding free identification cards for voting issued by the DMV. Video-recording by Wisconsin Eye available at <https://wiseye.org/2024/05/16/joint-assembly-and-senate-committees-on-campaigns-elections-shared-revenue-and-consumer-protection/>. Citations are designated by the speaker's name and "hour:minute:second" pinpoint in the video file.

47) DOT Deputy Secretary Kristina Boardman testified that all applicants for either an *original* ID card or a free *voting* ID card must submit Form MV3004.⁷ That Form includes a U.S. citizenship certification, which a voter ID card applicant must complete and submit to obtain the card. Boardman @ 13:52.

48) Voter ID applicants must also provide DPOC, which a birth certificate satisfies. If an applicant does not have a birth certificate or other DPOC, DMV checks the applicant's legal status through the "SAVE" system administered by U.S. Citizenship and Immigration Services. If citizenship and other requirements are confirmed, DMV issues a receipt and mails the ID card later after it is printed. Boardman @ 14:03.

49) To ensure that no eligible elector is deprived of the right to vote, DOT created IDPP by administrative rule in 2014. It is now codified at §§ 343.165(8)(a) and 343.50(1), (3), (5)(a)3.

50) IDPP can be requested by any ID applicant who does not have a birth certificate or other DPOC available or cannot pay the fees to obtain it. DMV then assists the applicant and pays the fees to obtain the DPOC or other satisfactory documentation. Boardman @ 15:00, 16:25.

51) In addition to Form 3004, an IDPP applicant must also submit Form MV3012,⁸ which requests information that DMV uses to obtain the applicant's birth records. Once the 3004 and 3012 Forms are submitted, DMV mails the applicant a receipt that is valid ID for voting. Boardman @ 17:31.

52) DMV then shares the applicant's information with the Wisconsin Department of Health Services (DHS) Vital Records office, which uses the information to obtain the applicant's birth records through the Electronic Verification of Vital Events (EVVE) system. Boardman @ 18:32.

⁷ <https://wisconsindot.gov/Documents/formdocs/mv3004.pdf>.

⁸ [MV3012 DMV Administrator Petition - Unavailable Documentation \(milwaukee.gov\)](#).

53) Many IDPP applications are confirmed by DHS within 24 hours. If all other documentation is complete, DMV prints and mails the free voting ID card. Boardman @ 18:51.

54) But if DMV is unable to obtain an applicant's birth record through EVVE within 30 days, DMV initiates a notice and termination process. If the applicant does not respond timely and complete IDPP within 60 days, the process terminates. Sec. 343.50(1)(c). Boardman @ 19:15.

55) If the applicant reconnects with DMV, the process begins again, and DMV makes reasonable effort and pays all fees to submit corrected birth information to EVVE or to obtain "secondary documentation" verifying citizenship if EVVE does not have birth records available. Sec. 343.165(8)(b)3g. Boardman @ 20:30.

56) DOT's IDPP process has been effective preventing non-citizens from obtaining voter ID cards. In the approximate 10-year period between September 15, 2014, and May 31, 2024, DMV has issued 11,018 free voter IDs through that process. Most of the 8,217 canceled applications were canceled by the applicant. DMV canceled 53 applications due to fraud or ineligibility, or 0.48% of the 11,018 applicants. Twenty-three of those cancellations were documented as fraud and referred to law enforcement. In 9 cases, or about 1 per year, a voting receipt was actually issued before DMV canceled the application. Boardman @ 22:05.

V. RESPONDENTS ARE FAILING THEIR CLEAR AND POSITIVE DUTIES TO PROTECT PETITIONER'S AND CITIZENS' SUFFRAGE RIGHTS.

A. "POSITIVE AND PLAIN" DUTIES SUBJECT TO MANDAMUS.

57) A ministerial duty subject to mandamus is "a duty to act in a particular way" that does not require exercise of "discretion." *Lodl v. Progressive Northern Ins. Co.*, 2002 WI 71, ¶ 44, 253 Wis. 2d 323, 646 N.W.2d 314 (2002).

58) However, no discretion is required if an official has received "*all of the information and all of the documents that the law can reasonably require. . .*" *Walter Laev, Inc. v. Karns*, 40 Wis.

2d 114, 120, 161 N.W.2d 227, 230 (1968).

59) Further, in addition to compelling “performance of a ministerial duty when the obligation to perform such an act is plainly defined,” mandamus may also be “employed to compel action . . . in matters involving judgment or discretion, but not to direct the exercise of discretion in a particular way nor to direct the retraction or the reversal of action already taken in the exercise of either.” *Flynn v. Shultz*, 748 F.2d 1186, 1194 (7th Cir. 1984).

60) For example, where WEC has a plain duty to investigate an election law violation or conduct a hearing, mandamus will not lie to control exactly *how* WEC conducts the investigation or hearing, but WEC cannot simply refuse to conduct them entirely.

B. WEC IS FAILING ITS DUTY TO VERIFY THE CITIZENSHIP CERTIFICATION OF EACH VOTER REGISTRATION APPLICANT BEFORE ADDING HER TO THE WISVOTE LIST AS A LEGALLY QUALIFIED ELECTOR.

1. The Number of Non-Qualified Registrants Illegally Included in the WisVote List Is Substantial.

61) Respondents WEC and Wolfe themselves affirmatively allege that the WisVote List includes individuals who are not “properly registered.” Exhibit G, Affidavit of Daniel J. Eastman.

62) Deputy Boardman testified that DOT commenced IDPP in September, 2014. Boardman @ 22:05. During the same approximate 10-year period between September 15, 2014, and March 11, 2024, 3,194,786 new *registration* applicants have been added to the WisVote List. Of those new registrants, 2,097,399 remain listed as active. Exhibit G, Affidavit of Brian Kind

63) If those active *registration* applicants provided false or fraudulent citizenship certifications at the same 0.48 % rate that *identification* applicants did during the same period, there would be 10,068 illegally registered active voters in the WisVote List.

64) Again, DMV requires driver’s license and *identification* card applicants to present proof

of citizenship or legal status, and verifies the citizenship certification for each. But for voter *registration* applicants, Respondents do neither.

65) Consequently, the frequency of false or fraudulent citizenship certifications provided by *registration* applicants is likely significantly higher than 0.48%. *Identification* applicants know DMV *will* require them to provide or obtain DPOC and *will* verify their citizenship certifications, and many of the 8,217 self-cancellations were likely prompted by discovering that fact.

66) But *registration* applicants know that WEC and municipal clerks will *never* verify citizenship, so there is virtually no meaningful consequence or disincentive for anyone falsely certifying U.S. citizenship in order to register and vote.

2. WEC Has the Ministerial Duty to Verify Citizenship Information Provided in Voter Registration Applications, Reject Non-Citizen Applications, and De-activate the WisVote Record of Any Non-Citizen or Remove It Altogether.

67) IDPP is a ministerial process and satisfies constitutional norms. It was created after 11 years of litigation in five state and federal cases, and is conclusive as to what “information” and “documents” DMV can “reasonably” require an applicant or DMV to provide or obtain to verify citizenship. Boardman @ 12:15.

68) It is DMV’s obligatory, ministerial duty to approve a voter ID application when DMV receives documents and information required by IDPP, and to reject the application when it does not receive them.

69) Likewise, it is *WEC*’s obligatory, ministerial duty to approve or reject a voter *registration* application when the exchange of information with DOT under § 85.61(1) confirms that DMV has received the same documents and information either directly or from DOT verifying the accuracy of the citizenship certification and other information provided by the *registration* applicant “for the purpose of voter registration.”

70) WEC has no discretion whether to include non-U.S. citizens in the WisVote List because

the List may include only those “electors that are *properly* registered to vote.” Sec. 5.02(17) (emphasis added). WEC and DOT need do nothing more than include citizenship information in the DOT information that WEC matches against the information provided by applicants “for the purpose of voter registration.”

3. WEC takes no Steps to Verify Citizenship of Applicants, even though a System is available and utilized by the Department of Motor Vehicles that can do so.

71) Contrary to its ministerial duty, WEC does not verify citizenship at all, and has created a system by which non-U.S. citizens are added to the WisVote List.

72) WEC has promulgated EL 3.03, which allows an applicant to register who does not complete the EL-131 citizenship certification, but only signs a statement that she meets or will meet elector qualifications at the time of the next election.

73) Further, in contrast to DMV Form 3004, which requires an actual certification of *fact* under penalty of perjury that the citizenship and other information a license or ID applicant provides is true, WEC’s EL-131 does *not* require an actual certification of fact under penalty of law that the applicant is a U.S. citizen.

74) Rather, EL-131 requests only that a registration applicant check a box that she is citizen, then sign a certification that “to the best of my knowledge” she is qualified to vote and that “I *may* be subject to fine or imprisonment” for providing false information.

75) Similarly, upon information and belief, WEC’s online MyVote registration form also does not require an actual attestation of fact under penalty of perjury that the applicant is a “qualified elector,” and includes only the certification that “to the best of my knowledge” she is qualified and that “I *may* be subject to fine or imprisonment” for providing false information. Sec 633(1) (“electronic forms shall contain the same information as nonelectronic forms”).

76) Also in contrast to DOT, WEC Respondents have established no procedures or requirements whatever to require an applicant to present “documentary proof of citizenship” as a condition of registration, which WEC clearly has authority to do because Wisconsin is exempt from the National Voter Registration Act (“NVRA”) and its “accept and use” provisions. *Arizona v. Inter Tribal Council of Arizona, Inc.* (“ITCA”), 570 U.S. 1, 9, 15, 133 S. Ct. 2247, 2254, 2257 (2013).

77) Even if Wisconsin were *not* exempt from NVRA, Respondents are still authorized to verify applicant’s citizenship using DOT information and any other “information in their [Respondents’] possession.” *Id.*

78) Consequently, WEC includes registration applicants in the WisVote List without any attestation of fact under penalty of perjury and without any verification of any kind that they are, in fact, U.S. citizens. Municipal clerks must necessarily do the same because they are dependent on procedures, guidance and resources from WEC that WEC refuses to provide.

C. WEC AND DOT ARE FAILING THEIR DUTY TO MATCH INFORMATION “TO VERIFY THE ACCURACY OF THE INFORMATION PROVIDED FOR THE PURPOSE OF VOTER REGISTRATION.”

1. Wis. Stats. § 85.61(1) Requires Respondents Wolfe and Thompson to Match “Personally Identifiable Information” in Their Databases “To Verify the Accuracy of the Information Provided for the Purpose of Voter Registration.”

79) The WisVote List was authorized by 2003 WIS ACT 265, enacted to implement the Help America Vote Act of 2002 (“HAVA”), P.L. 107-252, 116 Stat. 1666, now codified as amended at 52 U.S.C. Ch. 209, §§ 20901– 21145.

80) The WisVote List was created to comport with HAVA Section 303, which requires that

each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains *the name and registration information of every legally registered voter in the State* .

...

52 U.S.C. § 21083(a)(1)(A) (emphasis added.)

81) 52 U.S.C. § 21083(a)(5)(B)(i) requires that

The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official *to verify the accuracy of the information provided on applications for voter registration*.

(Empasis added.)

82) In conformity with those requirements, § 85.61(1) requires the accuracy of *any* information submitted for voter registration, not just information “on applications”:

The secretary of transportation and the administrator of the elections commission *shall* enter into an agreement to match personally identifiable information on the official registration list maintained by the commission under s. 6.36 (1) and the information specified in s. 6.34 (2m) with personally identifiable information in the operating record file database under ch. 343 and vehicle registration records under ch. 341 *to the extent required to enable the secretary of transportation and the administrator of the elections commission to verify the accuracy of the information provided for the purpose of voter registration*.

(Emphases added.)

83) Consistent with § 21083(a)(5)(B)(i)’s requirement to match “information in the database of the motor vehicle authority,” § 5.056 requires WEC to match “personally identifiable information maintained by the department of transportation” *generally, without* § 85.61(1)’s limitation to “information in the operating record file database under ch. 343 and vehicle registration records under ch. 341”:

5.056 Matching program with secretary of transportation. The commission administrator shall enter into the agreement with the secretary of transportation specified under s. 85.61 (1) *to match personally identifiable information on the official registration list* maintained by the commission under s. 6.36 (1) and the information specified in s. 6.34 (2m) *with personally identifiable information maintained by the department of transportation*.

(Emphases added.)

2. Citizenship Is “Personally Identifiable Information” Contained in DOT Operating Record Files.

84) DOT is responsible for issuing and administering driver’s licenses and state ID cards to legally qualified applicants. Stats. Ch. 343, Subchs. II and V.

85) DOT requires each applicant for a license or ID card to submit “valid documentary proof that the individual is a citizen or national of the United States or an alien lawfully admitted,” and retains those documents and citizenship information in the applicant’s record file. Sec. 343.14(2)(es); Trans §102.15(2)(bm), (3m).

86) DOT “*verifies*” the information and documents, then “capture[s] a digital image of each document,” and the “[i]mages captured” are “maintained, in electronic storage and in a transferable format, in the applicant’s file or record.” Secs. 343, 105, 343.23.

87) As alleged above, Respondents Wolfe and Thompson are obligated to enter into and perform an agreement requiring *citizenship and legal status* information be included in the “personally identifiable information” they match under §§ 85.61(1) and 5.056.

88) Again, citizenship is “personally identifiable information,” *Luft*, 963 F.3d at 675, and §§ 85.61(1) and 5.056 therefore require WEC and DOT to match citizenship information in DOT records against registrant records in the WisVote List “to the extent required . . . to verify the accuracy” of the citizenship certifications provided by applicants in their EL-131 and online forms “for the purpose of voter registration.”

3. Respondents Have Failed to Require Proof of Citizenship and Match Information Verifying.

89) Even a rudimentary analysis and match of DOT’s driver’s license or identification card data would disclose most non-citizen registrants in the WisVote List because a non-citizen’s license or ID card has both a birth date and an expiration date, which is almost always different than the birth date because the license or card expires the same date the non-citizen’s legal presence in the United States expires. Secs. 343.20(1m), 343.50(5)(c).

90) Matching DOT information would identify essentially all other non-citizen applicants as

well because online registration through MyVote is restricted to applicants holding a driver's license or ID card, and other applicants using the EL-131 to register by mail or in person must provide a driver's license number or the last four social security number digits, which are also contained in DOT records. Secs. 6.30(5), 6.33(1)(a)5., 343.165(1)(c), 343.14(1)(bm).

91) But Respondents apply §§ 85.61(1) and 5.056 to require matching *only* information included in the WisVote List under § 6.36(1) and the limited information included in the online registration specified by § 6.34(2m) – *neither* of which include *citizenship information*.

92) Respondents completely ignore § 85.61(1)'s requirement to also match “personally identifiable information” collected and maintained by DOT in its “operating record file database under ch. 343 and vehicle registration records under ch. 341” that would “enable the secretary of transportation and the administrator of the elections commission to *verify the accuracy of the information provided for the purpose of voter registration*.”

93) Such construction is in clear violation of § 85.61(1), and would be pre-empted by 52 U.S.C. § 21083(a)(5)(B)(i) in any event.

94) Secretary Thompson's reference to DPPA's disclosure restrictions in his July 16 letter is baseless. DPPA is codified at 18 U.S.C. §§ 2721-25. Sec. 2721(a) prohibits DMV from disclosing any “highly restricted” or other “personal information” to “any person or entity.”

95) But Secretary Thompson's letter ignores § 2725(2), which states that the term “‘person’ . . . does not include a State or agency thereof.” *See, e.g., Pub. Int. Legal Found. v. Boockvar*, 431 F. Supp. 3d 553, 562 (M.D. Pa. 2019),

96) Further, § 2721(b) “Permissible Uses” provides that “Personal information . . . may be disclosed . . . (1) For use by any government agency . . . in carrying out its functions”

97) In 2012, WEC's predecessor, the Government Accountability Board (“GAB”), published

a study titled “Final Report of the SAVE Fact-Finding Team” discussing GAB’s possible use of the SAVE program for citizenship verification the same as DMV uses it. A copy of the Final Report is attached as Exhibit I.

98) The Report explains SAVE program requires DOT and other users to input an ID applicant’s Alien Verification Number (“AVN”), which is another type of personal information.

99) The study discusses whether DPPA prohibits DOT from disclosing AVNs for use by GAB, and notes that DOT’s own general counsel “initially agreed” that the AVN could be disclosed and advised that GAB could submit the same MV2896 Information Request referenced by Secretary Thompson:

The Driver’s Privacy Protection Act and the REAL ID Act also contain confidentiality restrictions applicable to the Wisconsin DOT’s release of personally identifiable information, particularly the AVN, which is necessary for the G.A.B. to conduct any search in the SAVE Program. *While an AVN is within the definition of “personal information” under the Driver’s Privacy Protection Act and normally is not discloseable by DOT, there is an exception that permits disclosure for use by a government agency in carrying out its functions. 18 U.S.C. Secs. 2721(a)(1) and (b)(1); 2725(4).* General Counsel for DOT has initially agreed with this interpretation of the Federal Acts. Upon submission of a completed Vehicle/Driver Information Request (MV2896) to DOT in which the G.A.B. requests access to the DOT data for the “purpose of the government agency to carry out its functions,” a final determination would be made.

(Emphases added.)

100) The Report study also discusses legislation and budget appropriations necessary for GAB itself to access the SAVE system directly, but no legislation or appropriation is necessary for WEC and DOT to include citizenship information DOT already has with the other “personally identifiable information” that WEC and DOT match “to the extent necessary . . . to *verify the accuracy of the information provided for the purpose of voter registration.*”

D. WEC IS FAILING ITS DUTY TO INVESTIGATE VIOLATIONS OF AND ENFORCE “LAWS ADMINISTERED BY THE COMMISSION” THAT PROHIBIT NON-U.S. CITIZENS OR OTHER UNQUALIFIED PERSONS FROM REGISTERING TO VOTE AND BEING INCLUDED IN THE STATE VOTER WISVOTE LIST.

101) Sec. 5.05(1) grants WEC “General authority . . . for the administration of chs. 5 to 10 and 12 and other laws relating to elections” and, “Pursuant to such responsibility, the commission *may*” exercise various powers provided in subsecs. (1)(b)-(f). *Supra* § V.B.

102) However, in contrast to the *permissive* term “may” in § 5.05(1), the directive regarding WEC’s enforcement responsibility is *mandatory*: “ENFORCEMENT. *The commission shall investigate violations of laws administered by the commission* and may prosecute alleged civil violations of those laws” in § 5.06(2m)(a) (emphasis added.)

103) Again, WEC itself has admitted illegal registrants are included in the WisVote List. Exhibit G, Affidavit of Daniel J. Eastman. And even assuming the incidence of unlawful *registration* applications (where applicants know WEC will *not* verify citizenship) is no greater than that of unlawful *identification* applications (where applicants know DOT *will* verify citizenship), the number of registrants unlawfully included in the WisVote List in the last 10 years is still staggering – in excess of 10,000. *Supra* § V.B.1.

104) Sec. 5.05(1) also provides that WEC “may” exercise its powers of investigation pursuant to subsec. (1)(b) “in the discharge of its duties,” but “the word *may* means *must* or *shall*” because “the public interests or rights are concerned” and “the public or third persons have a claim *de jure* that the power should be exercised.” *Cutler v. Howard*, 9 Wis. 309, 311–12 (1859) . *Supra*, § V.A.

105) Petitioner does not claim that WEC is obligated to abandon discretion in conducting the investigation, nor does Petitioner seek to “direct the exercise of discretion in a particular way.” *Flynn*, 748 F.2d at 1194.

106) Petitioner asserts only that WEC Respondents are obligated to conduct a reasonable investigation of registrants unlawfully added to the WisVote list because they have available “all of the information and all of the documents that the law can reasonably require.” *Karns*, 40 Wis. 2d at 120,

107) Notwithstanding the clear authority and mandate to do so, WEC Respondents have failed and refused to enforce and investigate violations of the laws it administers.

E. WEC IS FAILING ITS DUTY TO BRING SUIT TO REMEDY VIOLATIONS OF STATUTES REQUIRING U.S. CITIZENSHIP AND PREVENT SUCH VIOLATIONS IN THE FUTURE.

108) WEC is authorized to bring “civil actions . . . for any violation of chs. 5 to 10 or 12” and to sue for injunctions, writs and any other “legal or equitable relief as may be appropriate to *enforce* any law regulating the conduct of elections or election campaigns.” Secs. 5.05(1) (c) and (d).

109) WEC therefore has the duty to conduct legal actions ancillary to the performance of its other duties to enforce the laws it administers. Specific litigation can not be compelled by mandamus at this time because WEC Respondents have failed and refused to investigate violations of law at all that such litigation would address.

110) The Court need not mandate *how* WEC Respondents conduct legal proceedings, but a declaration that they cannot ignore their duty to conduct “appropriate” litigation incident or ancillary to performance of their duties to enforce citizenship requirements and investigate violations is appropriate to preclude piecemeal litigation forcing them to do so if an investigation or other enforcement proceeding discloses actionable violations. *Flynn*, 748 F.2d at 1194. *Supra* § V.A.

F. WEC IS FAILING ITS DUTY TO PROMULGATE RULES ENSURING THAT ONLY CITIZEN ARE INCLUDED IN THE STATE VOTER REGISTRATION LIST.

111) WEC has the duty to “Promulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or *implementing the laws regulating the conduct of elections . . . or ensuring their proper administration.*” Sec. 5.05(1)(f) (emphasis added).

112) DOT's promulgation of rules implementing IDPP process verifying *identification* applicants' citizenship is conclusive that WEC Respondents have "all of the information and all of the documents that the law can reasonably require" to promulgate rules implementing an equivalent process verifying *registration* applicants' citizenship. *Karns*, 40 Wis. 2d at 120. *Supra* §§ V.A. and V.B.2.

113) Again, because of Wisconsin's NVRA exemption, WEC Respondents have authority the same as DOT to promulgate rules requiring that applicants provide birth certificates or other DPOC and verify citizenship certifications. *ITCA*, 570 U.S. at 15, 133 S. Ct. at 2254.

114) Also the same as DOT's IDPP, WEC has authority to avoid unconstitutional burdens on voting rights of registration applicants by promulgating rules like IDPP to assist those whose birth certificate or other DPOC is unavailable and pay the fees to obtain it if they cannot afford them.

115) And even if Wisconsin were *not* exempt from NVRA, Respondents would still have authority to promulgate rules using SAVE, EVVE, DOT's records, and any other "information in their possession." *Id.*

116) But WEC Respondents have taken no steps whatever to promulgate rules addressing violations by non-citizen or other registrants they admit are unlawfully included in the WisVote List.

G. WEC IS FAILING ITS DUTY TO ISSUE PROCEDURES AND PROVIDE RESOURCES ENABLING MUNICIPAL CLERKS TO INCLUDE ONLY U.S. CITIZENS IN THE WISVOTE LIST.

117) Municipal clerks have "charge and supervision of elections *and registration* in the municipality," and "shall perform . . . *any others* that may be necessary to *properly conduct* elections or *registration*." Sec. 7.15(1) (emphases added.)

118) "[W] henever a municipal clerk receives a *valid* registration or *valid* change of a name or address . . . the municipal clerk . . . shall promptly enter electronically on the [WisVote] list maintained by the commission under s. 6.36 (1) the information required under that subsection." Sec.

6.33(5)(a)1. (Emphases added.)

119) Although § 5.05(15) makes WEC responsible for “design and maintenance” of the List, clerks share that responsibility with WEC when they enter registration and change information in the List. *State ex rel. Zignego v. Wisconsin Elections Comm’n*, 2021 WI 32, ¶ 15, 396 Wis. 2d 391, 400, 957 N.W.2d 208, 212.

120) In particular, under § 6.32(4), WEC and clerks are responsible for updating the List with new and changed registrations – WEC with registration information received online, clerks with information received by mail or in person. Sec. 6.30(1), (4), (5).

121) Clerks also use the List to compile election day poll lists of active voters in their jurisdictions, § 6.45, and add records of election-day registrants to the List within 30 days following the election. Sec. 6.275.

122) Sec. 5.05(15) directs that WEC “shall require all municipalities to use the list in every election” and authorizes WEC to “require any municipality to adhere to *procedures established by the commission for proper maintenance of the list.*” (Emphases added.)

123) With WEC’s authority comes the obligation to provide the guidance and resources necessary for the clerks to perform their duties.

124) WEC is required to “Allocate and assign sufficient members of its staff to coordinate their activities with local election officials.” Sec. 7.08(11).

125) In their own Election Administration Manual, p. 5., WEC Respondents advise clerks that “you are entrusted with the responsibility of ensuring fair, accessible, and transparent elections” and that “*Our job at the Wisconsin Elections Commission (WEC) is to provide you with a range of*

*resources to support you in carrying out your duties.”*⁹

126) And at p. 43, the Manual states, “A municipal clerk is charged with the responsibility of maintaining records to track voter registration” and “In order to register to vote, an individual must: 1. Be a U.S. citizen.”

127) But WEC has made no effort whatever to establish “procedures” or provide “resources” enabling clerks to comply with their § 6.33(5)(a)1. obligations to accept and upload only *valid* registrations and *valid* changes of a name or address.

128) As County Clerk Reichert testified, clerks *want* to fulfill their obligations and would like to have resources from WEC to conduct real-time citizenship verification to avoid unlawfully registering non-citizen voters. But without those resources a clerk cannot possibly know whether she is uploading a valid registration or change of a current registrant’s List record.

129) Sec. 6.22(6) is a glaring instance of WEC’s default making it impossible for clerks to perform their duties. That section obligates clerks to ensure that “military electors” are “eligible” because non-citizens are authorized to serve in the military¹⁰ and military electors are exempt and are not required to complete a citizenship certification at all because they are exempt from registration under subsec. (3).

130) Specifically, subsec. (6) requires that “Each municipal clerk *shall* keep an up-to-date list of all *eligible* military electors who reside in the municipality,” that the list “*shall* be kept current through *all possible means*,” and that clerks “*shall exercise reasonable care* to avoid duplication of names or *listing anyone who is not eligible to vote*.” (Emphases added).

131) Another instance is § 6.325, which authorizes clerks to verify citizenship of naturalized

⁹ *Zignego*, ¶ 15, 396 Wis. 2d at 400, 957 N.W.2d at 212 (emphasis added, quoting the Manual, p. 5, available at https://elections.wi.gov/sites/default/files/documents/EA%20Manual-February%202024_format%20update.pdf).

¹⁰ 8 U.S.C. § 1440.

citizens.

132) But WEC's default forces clerks to violate their express duties under §§ 6.22(6) and 6.325 because clerks cannot exercise *any* "care" or use *any* "possible means" to avoid registering "any-one who is not *eligible*" because WEC does not provide any means for them to verify whether military service personnel are citizens or those claiming to be naturalized citizens are, in fact, citizens.

H. RESPONDENTS ARE FAILING THEIR DUTY TO EXPEND PUBLIC FUNDS IN COMPLIANCE WITH THE LAWS THEY ADMINISTER.

133) In sum, Respondents are expending significant amounts of state tax moneys to maintain the state's registration list in a manner that is contrary to law as detailed in the above allegations.

VI. CAUSES OF ACTION

**FIRST CAUSE OF ACTION:
REQUEST FOR WRIT OF MANDAMUS**

134) Petitioner incorporates all foregoing paragraphs by reference.

135) Wis. Stat. § 801.02(5) provides that an action for a writ of mandamus may be commenced

by filing a complaint demanding and specifying the remedy, if service of an authenticated copy of the complaint and of an order signed by the judge of the court in which the complaint is filed is made upon the Respondent under this chapter within the time period specified in the order. The order may specify a time period shorter than that allowed by s. 802.06 for filing an answer or other responsive pleading.

136) As time is of the essence in this matter, pursuant to Wis. Stat. §§ 783.01 and 801.02(5), the Petitioners request that the Court sign the accompanying order directing that

- a) Authenticated copies of this Petition and the Order specified by Wis. Stat. § 801.02(5) be served upon WEC by August 23, 2024; and that
- b) The return date for the writ be set five business days after service of authenticated copies of the Petition and Order.

**SECOND CAUSE OF ACTION:
DECLARATION CONSTRUING
52 U.S.C. § 21083(a)(5)(B)(i) AND WIS. STATS. § 85.61(1)**

137) Petitioner incorporates all foregoing paragraphs by reference.

138) Wis. Stat. § 806.04(2) provides:

POWER TO CONSTRUE, ETC. Any person interested under a deed, will, written contract or other writings constituting a contract, *or whose rights, status or other legal relations are affected by a statute*, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder. No party shall be denied the right to have declared the validity of any statute or municipal ordinance by virtue of the fact that the party holds a license or permit under such statutes or ordinances.

(Emphasis added.)

139) An actual existing and bona fide controversy exists between the Petitioner and Respondents regarding construction of § 85.61(1).

140) As its caption provides, § 85.61 was enacted to implement and conform to HAVA requirements, 52 U.S.C. § 21083(a)(5)(B)(i): “85.61 Compliance with federal Help America Vote Act.”

141) Respondents have construed and applied §§ 85.61(1) and 5.056 to require matching *only* information included in the WisVote List under § 6.36(1) and the limited information included in the online registration specified by § 6.34(2m), but they completely ignore § 85.61(1)’s requirement to *also* match “personally identifiable information” collected and maintained by DOT in its “operating record file database under ch. 343 and vehicle registration records under ch. 341” that would “enable the secretary of transportation and the administrator of the elections commission to *verify the accuracy of the information provided for the purpose of voter registration.*”

142) Correctly construed and applied *in pari materia* with 52 U.S.C. § 21083(a)(5)(B)(i), § 85.61(1) requires that WEC and DOT include DOT citizenship information in the information they match. Such construction is required by the plain language of the statutes, and avoids federal pre-

emption of § 85.61(1) as Respondents currently construe and apply it.

143) Petitioner therefore demands judgment that § 85.61(1) requires Respondents to include citizenship information collected and maintained by DOT with the other “personally identifiable information” WEC and DOT match “to the extent required to enable the secretary of transportation and the administrator of the elections commission to verify the accuracy of the information provided for the purpose of voter registration.”

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that a Writ of Mandamus and declaratory judgment be issued and entered against the Respondents as follows.

1) WEC shall administer chs. 5 to 10 and 12 and other laws relating to elections to ensure that only U.S. citizens legally qualified to vote are registered and have a corresponding record included in the WisVote List.

2) On behalf of Respondents WEC and DOT, Respondents Wolfe and Thompson shall enter into and perform an agreement (i) requiring that *citizenship and legal status* information maintained by DOT shall be included in the personally identifiable information that WEC and DOT match to the extent necessary to verify the accuracy of the citizenship certifications provided by the applicants for the purpose of voter registration, (ii) further requiring that if a certification by an applicant or existing registrant is *not* accurate, WEC shall reject the applicant’s registration form or de-activate the registrant’s WisVote record or remove it from the List altogether as the case may be. Secs. 85.61(1) and 5.056.

3) For any such applicant or registrant whose applicant is rejected or List record de-activated or removed, WEC shall establish procedures such as those provided by DOT in IDPP to ensure due process opportunity to establish citizenship and have her record be included or restored in the

WisVote List. Sec. 5.05(15).

4) WEC shall investigate the violation of chs. 5 to 10 and 12 and other laws by registration and inclusion of non-U.S. citizens or other unqualified registrants in the WisVote List, subsecs. 5.05(1)(b), (2m)(a)., and if the investigation(s) disclose(s) non-citizens included in the WisVote List, WEC shall bring suit or take other appropriate action seeking redress for such violations, removing records of such unlaw registrants from the List, and preventing such violations in the future. Secs. 5.05(1)(c) and (d).

5) WEC shall promulgate rules requiring that applicants for voter registration submit proof of citizenship as a requirement for voter registration, and further providing assistance to qualified applicants unable to submit that proof such that the voting rights of those applications are not impaired. Sec. 5.05(1)(f).

6) WEC shall issue and require municipalities to adhere to procedures established by the WEC for proper maintenance of the WisVote List to include only U.S. citizens. Sec. 5.05(15).

7) WEC shall provide municipal clerks and other local elections officials guidance and resources to perform their duties to ensure that only U.S. citizens legally qualified to vote are registered and included in the WisVote List. Secs. 5.05(15); 7.15(1).

8) It is adjudged and declared that Wis. Stats. § 85.61(1) and § 5.056 shall be construed and applied as the plain text requires and consistent with 52 U.S.C. § 21083(a)(5)(B)(i) to require that Respondents include citizenship and legal status information maintained by Respondent Department of Transportation Division of Motor Vehicles in the personally identifiable information that Respondents match to the extent required to enable Respondents to verify the accuracy of the information provided in voter registration applications or otherwise for the purpose of voter registration.

9) WEC Respondents shall reject and refuse to enter or create, or delete and remove entirely as the case may be, all information or records of any person not a citizen of the United States currently existing in or in the future submitted to the WisVote list maintained under Wis. Stats. § 6.36(1), and WEC Respondents shall not include and such information or records in any voter list or list of registered electors provided to municipal clerks or other officials.

Dated August 16, 2024.

ATTORNEYS FOR PETITIONER

By:

*Electronically signed by
Michael D. Dean*

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Michael D Dean LLC
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By:


*Electronically signed by
Kevin M. Scott*

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VERIFICATION OF ARDIS CERNY

Ardis Cerny states under oath that she has read the foregoing Complaint and that the allegations of fact are true to the best of her knowledge based upon personal knowledge or upon reasonable information and belief.

Date: August 16, 2024

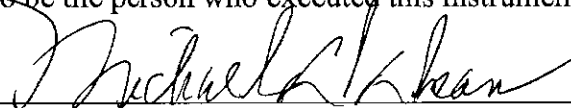


Ardis Cerny

State of Wisconsin)

County of Waukesha)

Personally came before me on August 16, 2024, the above named Ardis Cerny, known to me to be the person who executed this instrument and acknowledged the same.



My Commission Expires: Permanent

