FILED
10-13-2026
CIRCUIT COURT
DANE COUNTY, WI
2026CV001463

BY THE COURT:

DATE SIGNED: October 13, 2026

Electronically signed by Judge Everett D. Mitchell
Circuit Court Judge

STATE OF WISCONSIN **CIRCUIT COURT BRANCH 4** **DANE COUNTY**

DANE COUNTY BOARD OF CANVASSERS
and SCOTT MCDONELL, Dane County Clerk,

Petitioners,

v.

WISCONSIN ELECTIONS COMMISSION,

Respondent.

Case No. 2026CV1455

Petition for Judicial Review
Wis. Stat. § 5.06(8)

MARGARET HONIG and ROBERT HONIG,

Plaintiffs,

v.

WISCONSIN ELECTIONS COMMISSION, et al.,

Defendants,

and

JOHNSON and POST,

Intervenors.

Case No. 2026CV1463

(Administratively consolidated)

DECISION AND ORDER GRANTING PLAINTIFFS' MOTION FOR JUDGMENT ON THE PLEADINGS AND GRANTING THE DANE COUNTY BOARD OF CANVASSERS' PETITION FOR JUDICIAL REVIEW

On April 7, 2026, Wisconsin held its Spring Election. Twenty-three absentee voters in the City of Madison, including Plaintiffs Margaret and Robert Honig, completed their absentee ballots and returned them to the Madison City Clerk's Office. The ballots had been in the custody of the Clerk's Office since Monday, April 6, 2026. On Election Day, a courier left the Clerk's Office at approximately 6:30 p.m. to deliver absentee ballots to the polling places. The courier delivered the twenty-three ballots to four polling places between 8:05 p.m. and 8:31 p.m., after the polls closed at 8:00 p.m. Election inspectors counted the ballots. The Madison Municipal Board of Canvassers and the Dane County Board of Canvassers voted to include them in the canvass.

On April 30, 2026, the Wisconsin Elections Commission found that the ballots "appear to have been timely returned by the voters, and the error in timely delivering them to the polling places was solely due to actions of the clerk's authorized representatives." (Dkt. 9, Exh. A at 26.) The Commission concluded that Wis. Stat. §§ 6.87(6) and 6.84(2) required that the ballots not be counted. It ordered the local boards of canvassers to subtract the votes from the returns, and it directed the Madison and Dane County election officials to apply the same interpretation in future elections.

The question presented is whether the Wisconsin Constitution permits the ballot of a qualified elector to be rejected where the elector complied with every statutory requirement and the ballot was delivered late solely because of the conduct of election officials. For the reasons that follow, the Court grants the Plaintiffs' Motion for Judgment on the Pleadings in Case No. 2026CV1463, grants the Dane County Board of Canvassers' Petition for Judicial Review in Case No. 2026CV1455, and reverses the Commission's April 30, 2026 Decision and Order to the extent described below.

I. RULING

Having considered the pleadings, the briefs of all parties, the stipulated record, and the arguments of counsel at the hearing held September 30, 2026, the Court rules as follows:

1. The Commission's request to stay these proceedings pending the Wisconsin Supreme Court's decision in *Democratic National Committee v. Boehm*, No. 2024AP2484, is **DENIED**.

2. The Plaintiffs' Motion for Judgment on the Pleadings in Case No. 2026CV1463 is **GRANTED**. There are no disputed issues of material fact, and the Plaintiffs are entitled to judgment as a matter of law on their claim for declaratory and injunctive relief.
3. The Court declares that Article III, Section 1 of the Wisconsin Constitution forbids the application of Wis. Stat. §§ 6.87(6) and 6.84(2) to reject, subtract, or exclude from the certified results the ballot of a qualified elector who properly completed an absentee ballot and returned it to the municipal clerk in time for delivery to the polling place by 8:00 p.m. on Election Day, where the ballot was not delivered by that hour solely because of the act or omission of the municipal clerk or another election official. To the extent those statutes would require that result, they are unconstitutional as applied to that category of voters.
4. The Court further declares that the Commission's April 30, 2026 Decision and Order in Investigation No. 2026-0001 was an unconstitutional invasion of the Plaintiffs' right to vote.
5. The Petition for Judicial Review filed by the Dane County Board of Canvassers and the Dane County Clerk in Case No. 2026CV1455 is **GRANTED**. The Board of Canvassers did not act contrary to law or abuse its discretion when it voted to affirm the inclusion of the twenty-three absentee ballots in the canvass. The Commission's contrary determination is **REVERSED**, and PART ONE of the Commission's Order, which directs the Board and the County Clerk to apply the Commission's interpretation of § 6.87(6) in all future elections, is **VACATED**. The Dane County Board of Canvassers and the Dane County Clerk are not bound to follow the Commission's interpretation or direction concerning absentee ballots that were timely returned by the voter but delivered late to the polling place solely through the fault of election officials.
6. The Commission is enjoined from enforcing, further disseminating, or acting in accordance with the interpretation of law set out in its April 30, 2026 Decision and Order insofar as that interpretation conflicts with this Decision, and is directed to notify all municipal and county clerks of this Decision as set out in Part VIII below.

II. PROCEDURAL HISTORY

On May 6, 2026, the Dane County Board of Canvassers and Dane County Clerk Scott McDonell (together, "the County") filed a petition under Wis. Stat. § 5.06(8) seeking review of the Commission's April 30, 2026 Decision and Order. (2026CV1455, Dkt. 2.) The same day, Plaintiffs Margaret and Robert Honig, two of the twenty-three affected voters, filed this action seeking a writ of mandamus and a declaratory judgment with injunctive relief. (Dkt. 9.) The Honigs moved for emergent relief so that their

votes would be included in the state canvass, which the Commission's Chairperson was required to complete by May 15, 2026. Wis. Stat. § 7.70(3)(a); (Dkt. 10).

The Court heard the emergency motion on May 14, 2026, and that evening signed an order granting emergent relief. (Dkt. 35.) At that hearing the Court observed that "voters who comply with every element that is required for them to vote, especially absentee vote, and then not being allowed to have their votes count is contrary to what good law in Wisconsin has been, which is to ensure that every vote [counts]." (Dkt. 37 at 39:24 to 40:04.) The effect of the order was to restore the twenty-three ballots that had been subtracted from the returns. The order resolved PARTS TWO and THREE of the Commission's Order, which were specific to the April 7, 2026 Spring Election. It did not resolve PART ONE, which operates prospectively, or the remaining claims for declaratory relief.

The Commission answered the Honigs' complaint on June 22, 2026. (Dkt. 46.) On June 8, 2026, the two cases were administratively consolidated before this Branch. (Dkt. 41.) Consolidation was for purposes of hearing only; the cases remain separate actions, and the Court has directed that Case No. 2026CV1455 remain open on CCAP so that the record in each case is preserved. The parties stipulated that "[t]here are no disputed issues of fact, and the parties agree that the legal issues can be determined by the court." (Dkt. 44 at 1.)

The Honigs moved for judgment on the pleadings, and the County filed its brief in support of its petition, on August 4, 2026. (Dkts. 49, 50.) The Commission filed a consolidated response on September 4, 2026. (Dkt. 62.) Proposed Intervenors filed a response directed to the Honig case only. (Dkt. 61.) The Honigs replied on September 14, 2026. (Dkt. 64.) At the hearing on September 30, 2026, the Court granted the unopposed motion to intervene in Case No. 2026CV1463, heard argument from all parties, and took the matter under advisement. (Dkt. 72.)

III. AGREED FACTS

The material facts are admitted in the pleadings, set out in the Commission's own Decision, or stipulated. The Court relies on the following.

A. The Absentee Ballot Process in the City of Madison

1. The City of Madison counts absentee ballots at the polling places rather than through a central count under Wis. Stat. § 7.52. Absentee ballots returned to the municipal clerk before Election Day are held by the clerk in sealed carrier envelopes and are delivered by the clerk to the voter's polling place on Election Day for counting. Wis. Stat. § 6.88(1) to (3); (Dkt. 9, ¶¶ 16 to 19; Dkt. 50 at 4 n.1).

2. The timely delivery of absentee ballots from the clerk's office to the polling places is the obligation of the municipal clerk, not the voter. (Dkt. 9, ¶ 30; Dkt. 49 at 6.)

B. The April 7, 2026 Spring Election

3. Margaret and Robert Honig are United States citizens and qualified, registered Wisconsin electors residing in Madison. (Dkt. 9, ¶¶ 7 to 8; Dkt. 46, ¶ 7.)
4. The Honigs properly requested, completed, and returned their absentee ballots for the April 7, 2026 Spring Election. The Commission admits that the Honigs "validly cast absentee ballots" in that election. (Dkt. 9, ¶¶ 1, 22; Dkt. 46, ¶ 1.)
5. The Honigs' ballots, together with those of twenty-one other Madison absentee voters, had been in the custody of the Madison City Clerk's Office since Monday, April 6, 2026, the day before the election. (Dkt. 9, Exh. A at 26; Dkt. 50 at 2.)
6. On Election Day, those ballots were part of a larger batch sent from the Clerk's Office to individual polling places. The courier left at about 6:30 p.m. Because of a longer than usual delivery time, the courier reached the last four polling places after the polls closed, delivering the twenty-three ballots between 8:05 p.m. and 8:31 p.m. (Dkt. 50 at 2, quoting the City Clerk's April 13, 2026 memorandum; Dkt. 49 at 6 to 7.)
7. The voters had no control over whether or how the Clerk's Office delivered their ballots to the polling places by 8:00 p.m. (Dkt. 9, ¶ 31; Dkt. 46, ¶ 12.) Nothing in the record suggests fraud, solicitation, undue influence, or any irregularity in the ballots themselves.
8. Acting on the advice of the Madison City Attorney, the chief inspectors marked each late arriving ballot and counted it with the other ballots. (Dkt. 50 at 2.)

C. The Commission's Initial Guidance and the Local Canvasses

9. On April 9, 2026, City Attorney Michael Haas asked the Commission for guidance. The Commission's Administrator responded by email, quoted § 6.87(6), and advised that the City inform the Municipal and County Boards of Canvassers of the situation "so they can decide, within their statutory discretion, if the ballots should be included in the official, certified canvass statement totals." (Dkt. 50 at 3.)
10. On April 10, 2026, the Madison Municipal Board of Canvassers voted unanimously to include the twenty-three ballots in the certification count. (Dkt. 50 at 3; Dkt. 9, Exh. A at 21.)
11. On April 13, 2026, the Dane County Board of Canvassers met to canvass the Spring Election. The City Clerk appeared and described the circumstances of the late delivery. The Board received legal advice that § 6.87(6) did not prohibit counting the ballots and that the failure

of election officials to perform their duties should not deprive electors of the constitutional right to vote. The Board voted 2 to 1 to affirm the decision of the Municipal Board of Canvassers, and the County certified results that included the twenty-three ballots. (Dkt. 50 at 3; Dkt. 9, ¶ 27.)

D. The Commission's April 30, 2026 Decision and Order

12. On April 30, 2026, the Commission, on its own motion under Wis. Stat. § 5.06(4), opened an investigation into the City Clerk, the County Clerk, and both Boards of Canvassers, completed that investigation the same day, and decided the matter summarily under § 5.06(6). The vote was 5 to 1. (Dkt. 9, ¶¶ 28, 32 and Exh. A at 20, 24.)
13. In its Decision, the Commission found that the ballots "appear to have been timely returned by the voters, and the error in timely delivering them to the polling places was solely due to actions of the clerk's authorized representatives." It acknowledged that "[i]t may be a compelling argument" that the voters should not have their ballots rejected for the Clerk's failure, but concluded that it "cannot ignore a clear statute," and that both Boards of Canvassers abused their discretion by including the ballots. (Dkt. 9, Exh. A at 26.)
14. The Commission's Order has three parts. PART ONE directs the City Clerk, the County Clerk, and both Boards to conform their conduct to the Commission's interpretation of § 6.87(6) and restrains them "from taking any action inconsistent with this interpretation of the law in future elections." PART TWO ordered the County Board to reconvene and return the results to the Municipal Board. PART THREE ordered the Municipal Board to reconvene and subtract the votes cast on the twenty-three ballots from the federal, state, local, and school board returns. (Dkt. 9, Exh. A at 21 to 22.)
15. The Commission's Decision did not analyze whether its application of the statutes was consistent with the Wisconsin Constitution. (Dkt. 62 at 6, 19.)

E. The Aftermath

16. The local boards reconvened and complied with the Commission's Order. (Dkt. 9, ¶ 34; Dkt. 46, ¶ 15.)
17. By letter dated May 1, 2026, the City Clerk's Office informed each of the Honigs that the Commission had ordered their ballots rejected. The letter stated that each had submitted the ballot "on time and properly" and that the ballot was being rejected "because of an error outside your control." (Dkt. 9, ¶ 35; Dkt. 46, ¶ 15.)

18. This Court's May 14, 2026 order restored the twenty-three ballots before the state canvass was certified. (Dkt. 35.) PART ONE of the Commission's Order remains in effect and governs the Dane County Board of Canvassers and the Dane County Clerk in the November 3, 2026 general election and every election thereafter. (Dkt. 72 at 18:10 to 18:22.)

IV. STANDARDS OF REVIEW

A. Judgment on the Pleadings (Case No. 2026CV1463)

A motion for judgment on the pleadings under Wis. Stat. § 802.06(3) "is essentially a summary judgment decision without affidavits and other supporting documents." *Southport Commons, LLC v. Wis. Dep't of Transp.*, 2021 WI 52, ¶ 18, 397 Wis. 2d 362, 960 N.W.2d 17. The Court first asks whether the complaint states a claim, and then examines the responsive pleadings to determine whether any material fact is disputed. *Wagner v. Allen Media Broad.*, 2024 WI App 9, ¶ 17, 410 Wis. 2d 666, 3 N.W.3d 758. If a claim is stated and no genuine issue of material fact exists, the Court may enter judgment as a matter of law. *Schuster v. Altenberg*, 144 Wis. 2d 223, 228, 424 N.W.2d 159 (1988).

B. Judicial Review of a Commission Order (Case No. 2026CV1455)

On an appeal under Wis. Stat. § 5.06(8), the Court may not hold a de novo proceeding on findings of fact the Commission made or could have made. The Court summarily decides contested issues of law and may affirm, reverse, or modify the Commission's determination, giving due weight to the Commission's experience, technical competence, and specialized knowledge. Wis. Stat. § 5.06(9). The questions presented here are questions of law. Whether a statute may constitutionally be applied in a given circumstance is a question on which the Commission, by its own account, did not and could not rule (Dkt. 62 at 19), and on which the Court owes no deference. See Wis. Stat. § 227.57(11).

C. The Constitutional Challenge

Statutes are presumed constitutional, and the party challenging a statute bears a heavy burden. The Honigs and the County bring what the parties have described as a categorical challenge: a claim that the statutes cannot be constitutionally enforced in any application within a defined category of cases. *Kaul v. Wis. State Legislature*, 2025 WI 23, ¶ 15, 416 Wis. 2d 322, 21 N.W.3d 513. The County also argues, more narrowly, that the statutes are unconstitutional as applied to the facts of this case. *State v. Roundtree*, 2021 WI 1, ¶ 18, 395 Wis. 2d 94, 952 N.W.2d 765. The Court addresses both and concludes that the challengers have carried their burden under either framework.

V. THRESHOLD ISSUES

A. The Request for a Stay Is Denied

The Commission asks the Court to stay this case until the Wisconsin Supreme Court decides *Democratic National Committee v. Boehm*, No. 2024AP2484, in which the Supreme Court granted review in late September 2026. (Dkt. 62 at 9 to 10; Dkt. 72 at 33:13 to 33:20.) The request is denied for three reasons.

First, *Boehm* concerns a different statute and a different question. As the Commission acknowledged at the hearing, the issue in *Boehm* is whether a circuit court may extend polling hours for in-person voting under Wis. Stat. § 6.96. (Dkt. 72 at 33:18 to 33:20, 72:19 to 72:23.) It does not involve absentee voting, the delivery of absentee ballots by a municipal clerk, or the constitutional principle at issue here. The court of appeals' description of § 6.87(6) in that case, *Boehm*, 2026 WI App 44, ¶ 48, states what the Legislature wrote; it does not decide whether the Constitution permits the statute to be applied to disenfranchise a voter for an election official's error. That question is presented here and nowhere else.

Second, the Commission's hope that *Boehm* will confirm a circuit court's equitable power to excuse late deliveries is no substitute for a ruling on the rights of voters. An equitable petition that a municipality may or may not file, on Election Night, is not a constitutional guarantee. Nor did the Commission offer that path to Madison or Dane County in April. It told them to exercise their statutory discretion, and then found that they had abused it. (Dkt. 50 at 3; Dkt. 72 at 65:11 to 66:2.)

Third, delay carries real cost. PART ONE of the Commission's Order binds the County's election officials in the November 3, 2026 general election. The clerks and canvassers of this county are entitled to know, before that election, what the law requires of them. The parties agree that *Boehm* cannot be decided before then. (Dkt. 72 at 59:16 to 59:20, 64:2 to 64:5.)

B. The Honigs' Action Is Properly Before the Court

The Commission argues that a petition under § 5.06(8) is the exclusive method of reviewing its decisions, and that the Court should treat the Honigs' complaint as such a petition. (Dkt. 62 at 8.) The argument does not defeat the Honigs' claim. Section 5.06(8) permits an appeal only by an "election official or complainant" aggrieved by a Commission order. The Honigs are neither. The Commission opened this investigation on its own motion, so there was no complainant, and the Honigs are voters, not officials. A remedy that is unavailable to a party cannot be that party's exclusive remedy. See *Teigen v. Wis. Elections Comm'n*, 2022 WI 64, ¶¶ 47 to 49, 403 Wis. 2d 607, 976 N.W.2d 519 (lead opinion), *overruled on other grounds by Priorities USA v. Wis. Elections Comm'n*, 2024 WI 32, 412 Wis. 2d 594, 8 N.W.3d 429. Indeed, the Commission itself has taken the position, in another case before this court, that voters need not file

an administrative complaint where the Commission commenced an investigation on its own motion and its final decision concluded that investigation. (Dkt. 47 at 8.) In any event, the Honigs filed within thirty days of the Commission's decision, and the Commission concedes the Court may treat their action as a timely petition for review. (Dkt. 62 at 8.) The result is the same under either label.

The Commission also suggests that the Honigs did not serve the Legislature as Wis. Stat. § 806.04(11) requires. (Dkt. 62 at 8 n.4.) The record shows otherwise. The Attorney General and the required legislative leaders were served. (Dkt. 16.)

C. The Controversy Is Live and Ripe

The Intervenors argue that the Honigs received all the relief they need in May, and that nothing remains to decide. (Dkt. 61 at 15 to 17; Dkt. 72 at 54:4 to 54:19.) The Court disagrees. The May 14 order was emergent relief directed to the Spring Election. It did not adjudicate the Honigs' claim for declaratory relief, and it did not touch PART ONE of the Commission's Order. The Commission continues to maintain, in this litigation, that it may and must disregard ballots in the Honigs' circumstances. (Dkt. 62.) The Honigs are Madison voters who will vote again. The parties are adverse, the Honigs' interest in having their votes counted is legally protectable, and the facts are fully developed and stipulated. The four requirements of justiciability are met. *Putnam v. Time Warner Cable of Se. Wis., Ltd. P'ship*, 2002 WI 108, ¶¶ 41, 44, 255 Wis. 2d 447, 649 N.W.2d 626.

D. The Purcell Principle Does Not Counsel Delay

The Commission invokes *Purcell v. Gonzalez*, 549 U.S. 1 (2006), and urges the Court not to change election rules shortly before an election. (Dkt. 72 at 47:17 to 47:21.) *Purcell* is a doctrine of federal equitable restraint addressed to federal courts asked to alter state election procedures. This is a state court construing the State's own Constitution. More fundamentally, this Decision changes nothing that any voter must do. Every deadline that applies to voters remains in force. The Decision returns the County's election officials to the position they occupied, at the Commission's own invitation, before April 30: free to count ballots that voters returned on time and that the government delivered late. (Dkt. 72 at 75:19 to 76:9.) It is the Commission's prospective Order, not this Decision, that altered the rules after the fact.

VI. RELEVANT LAW

A. The Constitutional Right to Vote in Wisconsin

The right to vote in Wisconsin is conferred by the Constitution. Article III, Section 1 declares who is a qualified elector, and the Supreme Court has long held that the Constitution "vests every person having certain qualifications at the time of any election with the right of suffrage at such election." *Wood*,

38 Wis. at 86. The right is protected not only by Article III but also by the Declaration of Rights and the equality guarantees of Article I. *State ex rel. McGrael v. Phelps*, 144 Wis. 1, 14 to 15, 128 N.W. 1041 (1910); *Milwaukee Branch of NAACP v. Walker*, 2014 WI 98, ¶ 62 n.14, 357 Wis. 2d 469, 851 N.W.2d 262. Because the right is express in our Constitution, its protection in Wisconsin is broader than under the federal Constitution, which contains no express grant of the franchise. *Id.*

The Legislature may regulate the exercise of the franchise. It may say "how, when and where" a ballot shall be cast. *State ex rel. Frederick v. Zimmerman*, 254 Wis. 600, 613 to 14, 37 N.W.2d 473 (1949). Reasonable regulations "strengthen and make effective the constitutional guaranties instead of impairing or destroying them." *State ex rel. Runge v. Anderson*, 100 Wis. 523, 533 to 34, 76 N.W. 482 (1898). But regulations of the elective franchise must be reasonable, *Phelps*, 144 Wis. at 35, and "election laws must not destroy or impair the right to vote." *League of Women Voters of Wis. Educ. Network, Inc. v. Walker*, 2014 WI 97, ¶ 50, 357 Wis. 2d 360, 851 N.W.2d 302. The right "may not under our Constitution and laws be destroyed or even unreasonably restricted." *State ex rel. Barber v. Circuit Court for Marathon Cnty.*, 178 Wis. 468, 473, 190 N.W. 563 (1922).

The right includes the right to have a ballot counted. "[N]ot to count his vote for no fault of his own would deprive him of his constitutional right to vote." *Ollmann v. Kowalewski*, 238 Wis. 574, 578, 300 N.W. 183 (1941).

B. The Statutes at Issue

Section 6.87(6) provides:

> The ballot shall be returned so it is delivered to the polling place no later than 8 p.m. on election day. Except in municipalities where absentee ballots are canvassed under s. 7.52, if the municipal clerk receives an absentee ballot on election day, the clerk shall secure the ballot and cause the ballot to be delivered to the polling place serving the elector's residence before 8 p.m. Any ballot not mailed or delivered as provided in this subsection may not be counted.

Section 6.84(2), enacted in 1985, provides:

> Notwithstanding s. 5.01 (1), with respect to matters relating to the absentee ballot process, ss. 6.86, 6.87 (3) to (7) and 9.01 (1) (b) 2. and 4. shall be construed as mandatory. Ballots cast in contravention of the procedures specified in those provisions may not be counted. Ballots

> counted in contravention of the procedures specified in those provisions may not be included in the certified result of any election.

Section 6.84(1) declares that "voting is a constitutional right, the vigorous exercise of which should be strongly encouraged," while describing absentee voting as a privilege that "must be carefully regulated to prevent the potential for fraud or abuse," overzealous solicitation, undue influence, "or other similar abuses." Section 5.01(1), whose rule of liberal construction § 6.84(2) displaces for the listed provisions, directs that election statutes be construed to give effect to the will of the electors notwithstanding informality or failure to fully comply with some of their provisions.

Section 6.88 governs ballots received before Election Day. The clerk must hold them in sealed carrier envelopes and deliver them to the polling place for counting on Election Day. Wis. Stat. § 6.88(1) to (3). Municipalities that canvass absentee ballots centrally under § 7.52 count every absentee ballot "received by the municipal clerk by 8 p.m. on election day," and the clerk's delivery deadline in § 6.87(6) does not apply to them. Wis. Stat. §§ 6.87(6), 7.52(1)(a).

C. One Hundred and Fifty Years of Precedent: Official Error Cannot Disenfranchise the Faultless Voter

The principle that governs these cases was first stated by the Wisconsin Supreme Court in 1875. The Court has applied it in the decisions that follow.

In *Wood*, election officials failed to prepare the registry of voters as the statute required, and a statute in force at the time declared that no vote "shall be received" unless the voter's name appeared on the registry. The Court refused to let the officials' failure fall on the voters. It reasoned that "it would be a strange attempt to protect the elective franchise and preserve the purity of elections, to put it in the power of inspectors of election, by careless accident or corrupt design, to disfranchise constitutional voters," and held that the voters' "constitutional right cannot be baffled by latent official failure or defect." *Wood*, 38 Wis. at 87 to 89. Holding the voters disenfranchised "without notice or fault" would, the Court said, be "a fraud on the constitution." *Id.* at 89.

Five years later, in *Dells v. Kennedy*, 49 Wis. 555, 6 N.W. 246 (1880), the Court held void a registry statute that would have disenfranchised a qualified elector "without his default or negligence," explaining that regulations which "make his right to vote depend upon a condition which he is unable to perform" are "destructive of his constitutional right." *Id.* at 558.

In *State ex rel. Dithmar v. Bunnell*, 131 Wis. 198, 206, 110 N.W. 177 (1907), the Court adopted the rule that it "can conceive of no principle which permits the disfranchisement of innocent voters for the mistake, or even the willful misconduct, of election officers." In *Phelps*, 144 Wis. at 43 to 44, it held that

voters who are "guilty of no negligence or breach of duty" may not have their right to vote "limited on account of the negligence or default of others."

In *State ex rel. Symmonds v. Barnett*, 182 Wis. 114, 195 N.W. 707 (1923), the principle was applied directly to absentee voters. A statute declared that an absentee ballot not endorsed by the clerk "shall be void, not counted, and be treated and preserved as a defective ballot." The clerks failed to endorse the ballots. The Court counted them anyway, restating the "general rule" that "a voter is not to be deprived of his constitutional right of suffrage through the failure of election officers to perform their duty, where the elector himself is not delinquent in the duty which the law imposes upon him." *Id.* at 127. To apply the statute as written "would be to disfranchise a qualified voter through the negligence of the election officers." *Id.* at 132. The Court reaffirmed that rule in *State ex rel. Graves v. Wiegand*, 212 Wis. 286, 294, 249 N.W. 537 (1933), and applied it again to an absentee ballot in *In re Burke*, 229 Wis. 545, 555, 282 N.W. 598 (1938).

Ollmann is the clearest statement of the rule as it applies to a statute that expressly commands that ballots not be counted. There, too, the statute declared that a ballot lacking a clerk's signature shall be "void, not counted." The Court unanimously held that "[a]ny statute that purported to authorize refusal to count ballots cast under the instant circumstance would be unconstitutional." 238 Wis. at 578. It explained that "[a] statute purporting so to operate would be void, rather than the ballots," and that "if construing it as mandatory will make it unconstitutional, it must be held to be directory only in order to save the statute." *Id.*

The Court applied the same principle to absentee ballots in *Schmidt v. City of West Bend Board of Canvassers*, 18 Wis. 2d 316, 324, 118 N.W.2d 154 (1962), where voters relied on the procedures of the city clerk's staff; in *Petition of Anderson*, 12 Wis. 2d 530, 535 to 36, 107 N.W.2d 496 (1961); and in *Lanser v. Koconis*, 62 Wis. 2d 86, 93, 214 N.W.2d 425 (1974), where the Court declined "to disenfranchise these voters who acted in conformance with the statutory requirements." The court of appeals followed *Lanser* in *In re Hayden*, 105 Wis. 2d 468, 482, 313 N.W.2d 869 (Ct. App. 1981), holding that voters "should not be disenfranchised through no fault of their own because of technical mistakes committed by election officials."

The principle did not end in 1985. In *Roth v. LaFarge School District Board of Canvassers*, 2004 WI 6, 268 Wis. 2d 335, 677 N.W.2d 599, the Supreme Court surveyed *Wood*, *Symmonds*, and *Ollmann* and reaffirmed that "voters should not be deprived of their constitutional right to vote simply because election officials have failed to perform their duties." *Id.*, ¶ 21; see also *id.*, ¶ 23. And in *Trump v. Biden*, 2020 WI 91, ¶ 27, 394 Wis. 2d 629, 951 N.W.2d 568, the Court refused to strike ballots where doing so "would

disenfranchise voters who did nothing wrong when they dropped off their ballot where their local election officials told them they could."

This Court is bound by these decisions. A circuit court may not disregard the language of the Wisconsin Supreme Court. *Zarder v. Humana Ins. Co.*, 2010 WI 35, ¶ 58, 324 Wis. 2d 325, 782 N.W.2d 682.

VII. APPLICATION OF THE LAW TO THE FACTS

A. The Voters Did Everything the Law Asked of Them; the Failure Was the Government's

The starting point is not in dispute. The Honigs and the twenty-one other affected voters did everything the Legislature required. They requested their ballots, marked them, had them witnessed, and returned them to the municipal clerk. They did so before Election Day. The Commission admits the Honigs validly cast their ballots. (Dkt. 46, ¶ 1.) The Commission found that the error "was solely due to actions of the clerk's authorized representatives." (Dkt. 9, Exh. A at 26.) At the April 30 meeting, a Commissioner who voted with the majority described what happened as "an epic failure to transport ballots" and said plainly that "the fault does not lie with the voters." The Chair agreed that, as to the statute's requirement that the ballot be returned so it can be delivered by 8:00 p.m., "[t]he voter definitely did that." (Dkt. 64 at 8.) The City Clerk wrote to the Honigs that they had submitted their ballots "on time and properly" and apologized for an error "outside your control." (Dkt. 46, ¶ 15.)

Nor is this a case about a voter who waited until the last minute, about a ballot lost in the mail, or about a friend or family member who failed to drop a ballot off. The Commission's brief speaks repeatedly of "third parties." (Dkt. 62 at 29, 33 to 36.) There were none here. The voters returned their ballots to the municipal clerk, and the clerk's office delivered them late. The only actors whose conduct caused the late delivery were election officials and the courier they engaged to perform a statutory duty that belongs to the municipal clerk. Wis. Stat. §§ 6.87(6), 6.88(3).

B. The Statutory Text Does Not Clearly Command Disenfranchisement, but the Court Assumes the Commission's Reading

The County argues that § 6.87(6) can be read so that it does not reach these ballots at all. Its arguments have force. The second sentence of § 6.87(6), which imposes the clerk's delivery deadline, speaks only to ballots the clerk receives "on election day." It says nothing about ballots, like these, that the clerk received before Election Day and that are governed by § 6.88. (Dkt. 50 at 11 to 12.) The third sentence pairs "mailed or delivered," which naturally describes the two ways a voter returns a ballot, suggesting that the sentence is directed at the voter's performance, not the clerk's. (*Id.*) And the operative phrase in both § 6.87(6) and § 6.84(2) is that such ballots "may not be counted," language the Court noted at the hearing is not the same as "shall not be counted." (Dkt. 72 at 29:14 to 32:11.)

The County's reading also avoids a result that is difficult to attribute to any rational legislative purpose. Under the Commission's reading, a Milwaukee voter whose ballot reaches the clerk at 7:59 p.m. on Election Day is counted, because Milwaukee canvasses centrally under § 7.52, while a Madison voter whose ballot reached the clerk a full day early is not, because a courier was late. (See Dkt. 72 at 46:16 to 46:19.) And under the Commission's reading, nothing in the statute would distinguish a courier's delay from a clerk who deliberately withholds a box of ballots to influence an election. (Dkt. 72 at 20:1 to 20:12.) Statutes are read "reasonably, to avoid absurd or unreasonable results." *State ex rel. Kalal v. Circuit Court for Dane Cnty.*, 2004 WI 58, ¶ 46, 271 Wis. 2d 633, 681 N.W.2d 110. And where one reading of a statute would render it unconstitutional and another would save it, the court adopts the saving construction. *Ollmann*, 238 Wis. at 578.

The Commission responds that the phrase "as provided in this subsection" ties the third sentence to the clerk's delivery described in the second, and that § 6.84(2) forecloses any directory reading. (Dkt. 62 at 13 to 18.) The court of appeals, in describing § 6.87(6) in *Boehm*, read the statute the Commission's way: "even if the clerk, through no fault of the elector, fails to deliver the elector's vote to the elector's polling place before 8:00 p.m. on election day, the ballot 'may not be counted.'" *Boehm*, 2026 WI App 44, ¶ 48. *Boehm* did not involve absentee ballots, and the County characterizes that passage as dicta. (Dkt. 50 at 12 n.3.) The Court need not resolve that dispute. Even accepting the Commission's reading of the statutory text in full, the outcome of these cases is the same, because the question that decides them is not what the Legislature wrote, but whether the Constitution permits it to be enforced against these voters. As the Honigs put it, *Boehm* "merely confirms that which Plaintiffs freely admit." (Dkt. 64 at 19.) The Court therefore proceeds on the assumption that §§ 6.87(6) and 6.84(2), read literally, direct that the twenty-three ballots not be counted.

C. So Applied, Sections 6.87(6) and 6.84(2) Violate the Wisconsin Constitution

1. The controlling precedent forbids disenfranchising these voters.

The cases set out in Part VI.C state a constitutional rule, and they apply it to statutes that, in their own terms, commanded that ballots not be counted. The statute in *Wood* said no vote "shall be received." The statutes in *Symmonds* and *Ollmann* said the ballot "shall be void, not counted." Each was what our law calls a mandatory statute, because each declared noncompliance fatal. See *State ex rel. Ahlgrimm v. State Elections Bd.*, 82 Wis. 2d 585, 594, 263 N.W.2d 152 (1978). In each, the noncompliance was the fault of election officials, not the voter. And in each, the Supreme Court held that the Constitution prevailed over the statute and the ballots must be counted.

These cases are materially indistinguishable from this one. A statute declares that ballots not delivered on time may not be counted. Election officials, not voters, failed to deliver them on time. The voters were not delinquent in any duty the law imposed on them. Under *Symmonds*, *Ollmann*, and *Roth*, the statute cannot be applied to deprive them of their votes. "A statute purporting so to operate would be void, rather than the ballots." *Ollmann*, 238 Wis. at 578.

2. The Commission's "notice" distinction does not survive scrutiny.

The Commission argues that the older cases turned on the voters' lack of notice: the voters in *Wood* and *Symmonds* had no way to know of the officials' failures and no opportunity to protect themselves, whereas an absentee voter today knows that § 6.87(6) exists and can choose to vote in person or carry her ballot to the polling place herself. (Dkt. 62 at 30 to 33.)

The Court accepts that notice mattered in *Wood*. It does not accept that the Honigs had any. The distinction *Wood* drew was between voters who could see a defect before voting, such as the absence of their names from a registry list, and voters who could not. *Wood*, 38 Wis. at 85, 89. The Honigs could see no defect. There was none to see when they returned their ballots, because the clerk's failure did not occur until after 8:00 p.m. on Election Day, when the polls had closed and no voter could do anything about it. (Dkt. 64 at 14.) They learned of it only weeks later, by letter. (Dkt. 46, ¶ 15.) That is precisely the "latent official failure or defect" that *Wood* held cannot baffle the constitutional right. 38 Wis. at 89.

What the Commission describes as notice is only the existence of the statute. But *Wood* considered and rejected that kind of constructive notice. The registry law there was public, and voters were authorized to examine and correct the registers, yet the Court held that official failure "of which the voters have no notice in fact" could not disenfranchise them. *Id.* at 85, 87. Knowledge that the law imposes a duty on the clerk is not notice that the clerk will fail to perform it. When the Court asked counsel for the Commission whether most voters would assume that a correctly completed ballot, timely given to the clerk, could be rejected because the clerk did not deliver it by 8:00 p.m., the answer was that voters are presumed to know the law. (Dkt. 72 at 45:20 to 46:6.) A presumption of legal knowledge does not supply the notice in fact that *Wood* requires.

3. Section 6.84(2) does not change the constitutional analysis.

The Commission's Decision reasoned that *Lanser*, *Hayden*, and every other case predating 1985 had been superseded when the Legislature enacted § 6.84(2) and declared § 6.87(6) mandatory. (Dkt. 9, Exh. A at 25.) That reasoning misunderstands what those cases held. *Symmonds* and *Ollmann* did not count the ballots because the statutes before them were directory. They counted the ballots even though the statutes were mandatory on their face, because the Constitution would not permit them to be

enforced against faultless voters. *Ollmann* said so expressly: the statute must be held directory "if construing it as mandatory will make it unconstitutional." 238 Wis. at 578. The deadline in § 6.87(6) itself has carried express "may not be counted" language since at least the 1960s. (Dkt. 49 at 20.) Section 6.84(2) added a rule of construction. It did not, and could not, add to the Legislature's constitutional authority.

The constitution prevails over legislative acts to the contrary, and an ordinary act of the Legislature "cannot be given effect if to do so would contravene a substantive provision in the constitution." *State v. Cole*, 2003 WI 112, ¶ 14, 264 Wis. 2d 520, 665 N.W.2d 328 (quoting *Schmeling v. Phelps*, 212 Wis. 2d 898, 908 to 09, 569 N.W.2d 784 (Ct. App. 1997)). The Legislature may tell a court to read a statute as mandatory. It may not, by doing so, authorize what the Constitution forbids. Nor does § 6.84(2)'s displacement of the liberal construction rule in § 5.01(1) matter here. The protection the Honigs invoke does not come from § 5.01(1). It comes from Article III. And the Supreme Court reaffirmed the constitutional rule in *Roth* nearly two decades after § 6.84(2) was enacted.

Section 6.84(1)'s description of absentee voting as a "privilege" does not alter this conclusion. The Legislature has chosen to make absentee voting available to every qualified elector, and it may regulate how that option is exercised. But once a voter has complied with every regulation the Legislature has imposed, the ballot she has cast is a vote, and her right to have it counted is the constitutional right to vote itself. The Commission has said exactly this to another branch of this court: "Once an elector has complied with the statutory process, whether absentee or in-person, she has a constitutional right to have her vote counted." (Dkt. 47 at 4.) The Court agrees. Moreover, the purposes the Legislature identified in § 6.84(1) are preventing fraud, abuse, overzealous solicitation, and undue influence. None is implicated by a courier's late arrival with ballots that had been sealed in the clerk's custody since the day before the election.

4. The result is the same under the Anderson/Burdick framework.

The Commission contends that the proper test is the balancing framework of *Anderson v. Celebrezze*, 460 U.S. 780 (1983), and *Burdick v. Takushi*, 504 U.S. 428 (1992), as the Wisconsin Supreme Court applied it to the voter identification law in *Milwaukee Branch of NAACP*, 2014 WI 98, ¶¶ 22, 40. Under that framework, a regulation that imposes a severe burden on the right to vote is subject to strict scrutiny, while a lesser burden is upheld if it serves important regulatory interests. The Commission argues that the 8:00 p.m. deadline imposes no severe burden because voters may vote in person or deliver their own ballots, and that it is therefore subject only to rational basis review. (Dkt. 62 at 21 to 29.)

The Court is not persuaded that this framework, developed to evaluate the burdens that election regulations place on voters' efforts to vote, displaces the Supreme Court's specific and repeated holdings about official error. But the Court reaches the same result applying it.

First, the "character and magnitude of the asserted injury" here is not a burden on the act of voting. *Milwaukee Branch of NAACP*, 2014 WI 98, ¶ 39. It is the total nullification of a vote already cast. The voter identification law in *Milwaukee Branch of NAACP* imposed costs in time and inconvenience on voters seeking to obtain identification. The statutes here, as the Commission applies them, impose no cost the voter can pay. They cancel the vote outright, after the fact, for a reason the voter could neither cause nor prevent. Disenfranchisement of a voter who has complied with every statutory requirement is a severe burden. (Dkt. 72 at 26:3 to 26:8.)

Second, the cases the Commission relies on concern a different question. *McDonald v. Board of Election Commissioners*, 394 U.S. 802 (1969), and *Tully v. Okeson*, 977 F.3d 608 (7th Cir. 2020), concerned whether a state must extend absentee voting to particular classes of voters. *Alliance for Retired Americans v. Secretary of State*, 240 A.3d 45 (Me. 2020), and *League of Women Voters of Michigan v. Secretary of State*, 959 N.W.2d 1 (Mich. 2020), upheld deadlines by which voters must get their ballots to the clerk. None considered whether a voter who met every deadline may be disenfranchised because the government, having received her ballot, failed to process it on time. (Dkt. 64 at 9 to 11.) The Honigs do not challenge any deadline that applies to voters. They concede that voters must return their ballots on time. (Dkt. 72 at 11:7 to 11:13.) They did.

Third, the "calculated risk" theory does not fit the facts or the law of Wisconsin. The Commission argues that a voter who entrusts her ballot to the clerk accepts the risk that the clerk will fail. (Dkt. 72 at 42:7 to 42:15.) But the clerk is not an optional intermediary the voter chose over others. The clerk is the government office to which the Legislature directs absentee ballots to be returned, and the official the Legislature charges with delivering them. Wis. Stat. §§ 6.87(4), 6.87(6), 6.88. A voter who follows the statutory path does not assume the risk that the State will not perform its own part of that path. And the Wisconsin Supreme Court has never treated a voter's ability to vote in person as a reason to disregard official error affecting an absentee ballot. Every absentee voter in *Symmonds* and *Burke* could, in theory, have gone to the polls instead. The Court counted their ballots anyway. *Symmonds*, 182 Wis. at 127, 132; *Burke*, 229 Wis. at 555. Not every absentee voter, moreover, can go to the polls. Voters who are ill, disabled, serving in the military, or away from home rely on the absentee process precisely because they cannot. (Dkt. 64 at 13 n.4.)

Fourth, because the burden is severe, the State must show that the application of the statute to this category of voters is narrowly drawn to serve a compelling interest. It cannot. The Commission identifies the State's interests as orderly administration, finality, sufficient time to count ballots and resolve challenges, and public confidence in the integrity of elections. (Dkt. 62 at 29; Dkt. 72 at 47:11 to 47:16.) These are important interests. But none of them is served by discarding ballots that were sealed in the clerk's custody before the election, delivered within thirty-one minutes of the polls closing, counted on Election Night, and included in both the municipal and county canvasses. The statutory canvass process, which runs through municipal and county boards of canvassers and culminates in the Commission Chair's certification, exists precisely to identify and resolve irregularities before results become final. Wis. Stat. §§ 7.53, 7.60, 7.70. Counting these ballots did not delay any canvass or any certification. The Commission has not shown how rejecting these ballots would advance public confidence in elections. The State's interest in finality is fully served by a rule that ballots must be identified within the canvass process. Rejecting ballots that were identified and counted within the canvass does not advance that interest.

5. The categorical challenge is satisfied.

The Commission and the Intervenors argue that the challengers must show the statutes are unconstitutional in every application within the proposed category, and that the category is too broad and too ill defined to permit that showing. They raise hypotheticals: mixed fault, ballots lost by the postal service, ballots delivered by a friend, ballots discovered weeks or years after an election. (Dkt. 62 at 20 to 21, 36 to 37; Dkt. 72 at 51:12 to 52:12.)

The Court agrees that the category must be defined with care, and it has defined it with care. The category the Court addresses consists of qualified electors who (a) completed their absentee ballots in compliance with every statutory requirement, (b) returned them to the municipal clerk in time for delivery to the polling place by 8:00 p.m. on Election Day, and (c) whose ballots were not so delivered solely because of the act or omission of the municipal clerk or another election official. That is the category the Honigs actually ask the Court to address: their requested declaration is limited to disenfranchisement "solely due to errors by election officials." (Dkt. 64 at 19; Dkt. 72 at 56:25 to 57:9.) It excludes, by its terms, every hypothetical the Commission and the Intervenors raise. A voter who contributed to the delay is not faultless. The postal service, a partner, or a friend is not an election official. A ballot that arrives at the clerk's office too late to be delivered by 8:00 p.m. was not timely returned.

Within that category, every application of the statutes as the Commission reads them produces the same result: a qualified elector who was "not delinquent in the duty which the law imposes upon him" loses his vote "through the failure of election officers to perform their duty." *Symmonds*, 182 Wis. at 127.

There is no application within the category in which that result is constitutional, and neither the Commission nor the Intervenors has identified one. (Dkt. 64 at 4 to 5.) The challengers have therefore met their burden under *Kaul*. And because the twenty-three voters here fall squarely within the category, the statutes are equally unconstitutional as applied to them.

D. The Dane County Board of Canvassers Acted Lawfully, and PART ONE of the Commission's Order Must Be Vacated

The Commission determined that the Dane County Board of Canvassers abused its discretion, in violation of § 5.06(1), when it voted to include the twenty-three ballots. (Dkt. 9, Exh. A at 26.) That determination cannot stand.

A board of canvassers does not abuse its discretion by following binding decisions of the Wisconsin Supreme Court. The Board was advised, correctly, that under *Roth*, *Ollmann*, and *Symmonds* the failure of election officials to perform their duties cannot deprive electors of their constitutional right to vote. (Dkt. 50 at 3.) The Commission argues that neither it nor a board of canvassers has the power to declare a statute unconstitutional. (Dkt. 62 at 19 to 20.) That is true as far as it goes, but it is beside the point. The Board did not declare anything unconstitutional. It applied the Supreme Court's construction of the Constitution, and the Supreme Court's instruction that a statute that would otherwise disenfranchise faultless voters "must be held to be directory only in order to save the statute." *Ollmann*, 238 Wis. at 578. The Commission itself insisted, on the very same day, that the City of Mequon's clerk had no discretion to ignore a binding appellate decision. (Dkt. 62 at 5 to 6.) Binding Supreme Court precedent on the right to vote is entitled to no less respect.

The Board's decision was also made at the Commission's own invitation. Two days after the election, the Commission's Administrator advised the City to bring the matter to the Boards of Canvassers "so they can decide, within their statutory discretion, if the ballots should be included." (Dkt. 50 at 3.) The Board did exactly that. Having told the Board that the question was within its discretion, the Commission cannot fairly declare that the Board abused that discretion by answering the question in a manner consistent with the Supreme Court's decisions.

Finally, because the Commission's interpretation of § 6.87(6), as applied to voters within the category described above, would require the Board to violate the constitutional rights of the voters it serves, PART ONE of the Commission's Order, which commands the Board to follow that interpretation "in future elections," cannot be enforced. The Board is not required to follow the Commission's advice and direction to reject ballots in these circumstances. The Board remains bound by every statutory requirement that is consistent with this Decision.

E. The Limits of This Decision

Because the Commission and the Intervenors have expressed concern about the reach of this ruling, the Court states plainly what it does not decide.

1. This Decision does not eliminate or extend any deadline that applies to voters. An absentee ballot must still be returned so that it can be delivered to the polling place by 8:00 p.m. on Election Day. A voter who misses that deadline is not within the category addressed here.
2. This Decision does not require election officials to count a ballot whose late delivery is attributable in any part to the voter, or to any person other than an election official.
3. This Decision does not require the reopening of a canvass that has been completed and certified. The question of what remedy is available to a voter whose ballot is discovered only after certification is not before the Court. (Dkt. 72 at 58:14 to 59:4, 70:19 to 71:10.) Here, the error was known on Election Night, and the ballots were counted and included in the municipal and county canvasses in the ordinary course.
4. This Decision does not limit the authority of any court to grant equitable relief in an emergency affecting the conduct of an election, a question now before the Supreme Court in *Boehm*.

The holding of this Decision is limited to the category described above. Where a qualified elector has complied with every statutory requirement, and the ballot was in the custody of the municipal clerk in time for delivery to the polling place, the failure of election officials to deliver it by 8:00 p.m. is not a lawful ground for rejecting the ballot.

VIII. ORDER

For the reasons stated above, **IT IS HEREBY ORDERED**:

1. The Wisconsin Elections Commission's request to stay these consolidated proceedings pending the decision of the Wisconsin Supreme Court in *Democratic National Committee v. Boehm*, No. 2024AP2484, is **DENIED**.
2. In Case No. 2026CV1463, the Plaintiffs' Motion for Judgment on the Pleadings is **GRANTED** on the Plaintiffs' Second Claim for Relief.
3. The Court **DECLARES** that, under Article III, Section 1 of the Wisconsin Constitution, Wis. Stat. §§ 6.87(6) and 6.84(2) may not be interpreted or applied to reject, decline to count, subtract from the returns, or exclude from the certified results of any election the ballot of a qualified elector who completed an absentee ballot in compliance with the statutory requirements and returned it to the municipal clerk in time for delivery to the polling place by 8:00 p.m. on

Election Day, where the ballot was not delivered to the polling place by that time solely because of the act or omission of the municipal clerk or another election official. To the extent those statutes would require that result, they are unconstitutional as applied to such electors.

4. The Court further **DECLARES** that the Wisconsin Elections Commission's April 30, 2026 Decision and Order in Investigation No. 2026-0001 was an unconstitutional invasion of the Plaintiffs' right to vote.
5. In Case No. 2026CV1455, the Petition for Judicial Review of the Dane County Board of Canvassers and the Dane County Clerk is **GRANTED**. The Commission's determination that the Dane County Board of Canvassers and the Dane County Clerk acted contrary to law or abused their discretion is **REVERSED**. PART ONE of the Commission's April 30, 2026 Order is **VACATED**. The Dane County Board of Canvassers and the Dane County Clerk are not bound by, and shall not be required to follow, the Commission's interpretation of Wis. Stat. § 6.87(6) as applied to ballots within the category described in Paragraph 3.
6. The Wisconsin Elections Commission, its Commissioners, and its Administrator are **ENJOINED** from enforcing, further disseminating, or taking any action in accordance with the interpretation of law set out in the April 30, 2026 Decision and Order, to the extent that interpretation is inconsistent with the declarations in Paragraphs 3 and 4.
7. Within five (5) business days of the date of this Decision and Order, the Wisconsin Elections Commission shall distribute to all municipal and county clerks in Wisconsin written notice of this Decision and Order, including a copy of it, and shall file proof of that distribution with the Court.
8. The Clerk of Circuit Court shall maintain Case No. 2026CV1455 as an open and separate case on CCAP, and shall file a copy of this Decision and Order in each case.

This is a final order for purposes of appeal in each consolidated case.

Dated this ____ day of October, 2026.

BY THE COURT:

_____

Hon. Everett D. Mitchell
Circuit Court Judge, Branch 4
Dane County, Wisconsin