

Appeals court denies request to put two Milwaukee County exec candidates back on the ballot

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The 1st District Court of Appeals denied a request today to put two Milwaukee County executive candidates back on the ballot.

The state Elections Commission ruled Glendale Mayor Bryan Kennedy and former state Sen. Jim Sullivan were short of the signatures needed to qualify for the ballot, because they used paid electors who had circulated nomination papers for another candidate first. State law says circulators can only collect signatures for one candidate in a race, and a Milwaukee County judge on Friday agreed with the commission's ruling.

In their filings with the appeals court, the pair noted they didn't know the paid circulators they used had gathered signatures for anyone else in the race.

They also questioned if signatures collected for a second candidate in a race must be thrown out of if the infraction falls within the Legislature's directive that "the 'will of the electors' shall prevail over a 'failure to fully comply' with Wisconsin's election laws."

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But the state DOJ argued in a filing the appeal should be denied, because the Elections Commission and the circuit court "applied the express terms of the statute in question" and that granting a review would disrupt election procedures.

The three-judge panel sided with the DOJ, saying in a filing that "we are persuaded that the petitioners wholly fail to show a substantial likelihood of success on the merits."

Ballots were to be printed today.

County Board Chair Theo Lipscomb, who's also running for county exec, filed the complaint that led to the two being pushed off the ballot.

"This was a clear cut violation of law and that now has been affirmed by the State Elections Board, a Milwaukee County Judge and the First District Court of Appeals," said attorney Mike Maistelman, who is representing Lipscomb in the case. "This issue is now settled, and it's time to move forward and print the ballots.

Kennedy and Sullivan didn't immediately return phone calls seeking comment. An attorney for the pair was unavailable to immediately comment.

See the ruling:

<https://www.wispolitics.com/wp-content/uploads/2020/01/200127-Sullivan-Kennedy-ruling.pdf>

See Kennedy and Sullivan filings:

<https://www.wispolitics.com/wp-content/uploads/2020/01/200126Motion.pdf>

<https://www.wispolitics.com/wp-content/uploads/2020/01/200126Petition.pdf>

See the DOJ response:

<https://www.wispolitics.com/wp-content/uploads/2020/01/200127-Sullivan-Kennedy-DOJ-filing.pdf>