

GOP legislative leaders seek ‘binding guidance’ on how lower courts handle requests for stay of ruling

Posted on Tuesday, Aug 17, 2021

GOP legislative leaders don't just want the state Supreme Court to rule they had the authority to hire attorneys to represent them in anticipation of a redistricting suit even before one was filed.

They also want “definitive, binding guidance” from the justices on how lower courts should treat requests for a stay of a ruling, pending appeal.

A Dane County judge in late April ruled lawmakers didn't have the power to hire attorneys for a lawsuit that hadn't yet been filed. He struck down the contracts and then refused May 10 to place the order on hold while the merits of his ruling were appealed. The 3rd District Court of Appeals on June 23 also rejected a request from GOP lawmakers to issue a stay while they appealed the merits of the ruling.

Then on July 15, the state Supreme Court issued the stay and agreed to hear arguments in the case.

>> WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. [Get the app or access via desktop.](#)

In a filing yesterday, attorneys for GOP legislative leaders argued the Legislature suffered irreparable harm in the more than two months between the contracts being struck down by a Dane County judge and the state Supreme Court putting them back in place. The filing also cited two rulings by Dane County judges stemming from challenges to the lame-duck laws that Republicans approved in December 2018. In those cases, the circuit court judges also declined to put their rulings on hold while the merits of the case were appealed.

In yesterday's filing, the GOP attorneys asked for a published decision that makes

“clear that circuit courts and the Court of Appeals should rule promptly on motions for a stay pending appeal, generally granting expedited treatment to such motions, so that a party that ultimately receives that stay will not have suffered unnecessary weeks or months of irreparable harm in the interim.”

What’s more, the GOP attorneys want the justices to provide guidance when litigants may go straight to the Supreme Court to seek a stay when a lower court delays a ruling on such a motion.

A half-dozen Dem voters have filed a federal redistricting lawsuit. A spokeswoman for Assembly Speaker Robin Vos, R-Rochester, said GOP lawmakers don’t plan to ask for a motion to dismiss the suit in light of that filing. She didn’t immediately have details why.

Read the brief [here](#).