

Supreme Court allows unmanned drop boxes to be used in Feb. 15 primary

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A split state Supreme Court late today decided to allow unmanned absentee ballot drop boxes to be used in the Feb. 15 primary.

But it also agreed to take over a case that will decide whether they should be allowed moving forward.

The court was unanimous in agreeing to bypass the 4th District Court of Appeals in the case and decide if a Waukesha County judge appropriately ruled that state law bars the use of unmanned drop boxes. That decision also barred ballot harvesting, as Judge Michael Bohren found that voters can only return the absentee ballots themselves or through the mail.

The court split 4-3 in deciding to leave in place the 4th District Court of Appeals' stay of Bohren's ruling.

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Justice Brian Hagedorn joined the court's three liberals in ruling that barring the use of drop boxes so close to the election would likely cause confusion among voters. The potential harms weighed against lifting the stay, and the majority found Bohren had inappropriately decided to keep his decision in place while it was appealed.

"As a general rule, this court should not muddy the waters during an ongoing election," Hagedorn wrote in a concurring opinion.

But conservatives Rebecca Bradley, Pat Roggensack and Annette Zielger argued Bohren had properly considered the factors in deciding against staying his Jan. 13

ruling barring the use of unmanned drop boxes. The three also argued it was the 4th District that had erred because it issued the stay without even seeing the transcript of the hearing in which Bohren decided to keep his order in place to properly evaluate his reasoning.

Bradley also took a shot at Hagedorn for “astonishingly” finding it was too close to the election to undo the appeals court’s mistake.

“In Wisconsin, there is always an impending election,” Bradley wrote. “Under the logic of his concurrence, (the Wisconsin Elections Commission) may declare the rules as it wishes, the court of appeals may disregard the law when it wishes, and the majority will do nothing in response.”

See the [order](#).