

WILL: To argue challenge to drop boxes, ballot harvesting at Wisconsin Supreme Court

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The News: Wisconsin Institute for Law & Liberty (WILL) President and General Counsel, Rick Esenberg, will participate in Wisconsin Supreme Court oral arguments, Wednesday, in [Teigen v. Wisconsin Elections Commission \(WEC\)](#), a case to determine the legal status of absentee ballot drop boxes and ballot harvesting. The lawsuit was filed in June 2021 to provide certainty and clarity on the legal status of absentee ballot drop boxes after the Wisconsin Elections Commission (WEC) issued guidance, contrary to state law, encouraging the adoption of drop boxes in 2020.

- Watch the oral argument on April 13, at 8:30 am on [Wisconsin Eye](#).

Background: WILL [filed a lawsuit](#) on behalf of two Waukesha County voters in June 2021 challenging the legal status of absentee ballot drop boxes after WEC issued unlawful guidance to clerks, in 2020, encouraging the use of absentee ballot drop boxes, and telling voters that others can return their ballot for them. This advice was contrary to state law. Voting is a constitutional right, but [state law](#) makes clear that, “voting by absentee ballot is a privilege exercised wholly outside the traditional safeguards of the polling place.” There are just two legal ways in Wisconsin to submit an absentee ballot. When voting by absentee ballot, [state law](#) says “[t]he envelope [containing the ballot] shall be mailed by the elector, or delivered in person, to the municipal clerk issuing the ballot or ballots.” An October 2021 Legislative Audit Bureau (LAB) [report](#) on election administration confirmed there is no authorization for absentee ballot drop boxes in state law. On January 13, Waukesha County Circuit Court Judge Michael Bohren issued a summary judgment decision that held that WEC’s guidance on absentee ballot drop boxes violates state law. Judge Bohren further stated the guidance should have

been adopted through the rulemaking process in Chapter 227. Judge Bohren made clear that state law provides just two legal methods to cast an absentee ballot: through the mail or in-person at a clerk's office.

This decision was appealed to the Court of Appeals where a stay was issued on January 24. WILL filed an [emergency motion to bypass](#) and emergency petition to vacate a stay to the Wisconsin Supreme Court on January 26. A decision is expected in June or July.

Read More:

- [Teigen v. WEC Complaint](#), June 28, 2021
- [Teigen v. WEC Case Page](#)

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