

Senate Democratic Committee: Calls on Republican Sen. Tomczyk to resign following lawsuit appeal

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WSAW: [Senate Democratic Committee calls on Republican Sen. Cory Tomczyk to resign following lawsuit appeal](#)

August 17, 2023 | *Emily Davies*

WAUSAU, Wis. (WSAW) – The Senate Democratic Committee calls for Dist. 29 Sen. Cory Tomczyk to resign after he filed an appeal Thursday of a judge’s dismissal ruling in his lawsuit against a Wausau news outlet.

The committee sent a press release Thursday, citing a [New York Times article](#) stating:

In light of Senator Tomczyk’s horrific, bullying comments made towards a child coupled with him attempting to stifle reporting on the incident, leading to their potential closure, the Wisconsin State Senate Democratic Committee (SSDC) is calling on Senator Cory Tomczyk to resign.

“Senator Tomczyk’s behavior is disqualifying and completely unbecoming of a legislator,” said Andrew Whitley, Executive Director of the SSDC. “A time when public discourse is at an all-time low, Wisconsinites should look towards their representatives as a model for how to conduct themselves. Senator Tomczyk’s ‘model’ is to attack a (sic) 13 year-old boy, calling him a horrific homophobic slur, and when called out on it he sued the outlet that reported on it to the point where they might have to close their doors. Anybody with an ounce of self-respect, regard for the constituents

that they represent, and the office they hold would resign. But given how Senator Tomczyk has conducted himself, we're not holding our breath."Senate Democratic Committee

Neither the senator's office nor his attorney commented on the committee's request to resign, but denies the using the racial slur at the referenced meeting.

Sen. Tomczyk [filed a defamation lawsuit](#) against the Wausau Pilot and Review in Nov. 2021 before he was elected to the Senate. He is now appealing the judge's summary ruling, which dismissed the case.

Marathon County "Community for All" resolution debate

In 2021, the Wausau Pilot and Review published articles following the [Marathon County Board's Executive Committee meeting](#) that was debating the "Community for All" resolution. In those [articles](#), it mentions an incident where it is asserted that Mosinee-resident, Tomczyk, who spoke in opposition to the resolution, called a 13-year-old boy a derogatory LGBTQ+ slur.

The lawsuit lays out the Wausau Pilot and Review's reporting process, but Sen. Tomczyk denies saying the word at that meeting. In the summary judgment, the judge sided with the news outlet's assertion that, for several reasons, Sen. Tomczyk was considered a public figure at the time, even before he was elected to the state legislature. This means Sen. Tomczyk has a higher bar to prove defamation than a "limited-purpose" public figure or non-public figure. That bar is that he would have to prove that the journalists published with "actual malice" compared to "negligence."

The judge [dismissed the case](#) ruling that Sen. Tomczyk did not meet his burden of proof and noted that even if he was not considered a public figure, he did not prove "negligence" either.

Sen. Tomczyk's lawyer, Matthew Fernholz, sent a statement in response the the judge's dismissal and their appeal:

Mr. Tomczyk categorically denies ever using a slur at the August 12, 2021 Marathon County Board Meeting. The Wausau Pilot did not follow its own stated journalistic practices before attributing the derogatory word to Mr.

Tomczyk, as the author of the article never spoke with a single witness who verified the quote. The three individuals who were mentioned as giving sworn statements in The New York Times article did not emerge until after the lawsuit was filed, and were not sources for the article.

We believe the circuit court erred in granting Wausau Pilot's motion for summary judgment. The circuit court did not address the merits of our claims or make a decision as to whether Mr. Tomczyk used a slur. Rather, the court held that Mr. Tomczyk was a "public figure" in August 2021 when the articles were published, and therefore he had to prove his claims by a heightened "actual malice" standard. We believe this decision was incorrect, which is why we filed the now-pending appeal.

Mr. Tomczyk looks forward to clearing his good name at trial. Att. Matthew Fernholz, Cramer Multhauf

Shereen Siewert, the owner and editor of the Wausau Pilot and Review also provided a statement in response to Sen. Tomczyk's appeal:

It's frustrating that local journalists working to keep local communities informed are faced with such risks, without legal protections that exist in other states. The hundreds of thousands of dollars spent on legal fees in this case would have been better used to pay for local news reporting, which is so crucial to our democracy. We are incredibly grateful for the outpouring of support we've seen in our (sic) Go Fund Me defense campaign and in the hundreds of emails and phone calls that have poured in from people across the globe. Shereen Siewert, Wausau Pilot and Review Owner, Editor