WISCONSIN JUDICIAL COMMISSION
110 East Main Street, Suite 700
Madison, WI 53703
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REQUEST FOR INVESTIGATION

Name: Fletcher B. Thompson
(please type or print)

Address: 839 Robin Hood Hill
Sherwood Forest, MD 21405

Phone: Daytime (410) 849-2775 Evening (410) 849-2775

I have information of possible misconduct or disability on the part of Justices Karofsky and Dallet of the Wisconsin Supreme Court in
(name of judge or court commissioner)

Madison, Dane, Wisconsin.
(city) (county)

STATEMENT OF FACTS

1. When and where did this happen?

   Date(s): 12/12/20 Time: 9am Location: Supreme Court

2. If your information arises out of a court case, please answer these questions:

   a) What is the name and number of the case?

   Case name: Trump v. Biden Case no.: 2020AP2038

   b) What kind of case is it?

   ☐ criminal, ☐ domestic relations, ☐ small claims, ☐ probate,

   ☐ civil, ☐ juvenile, ☐ other (specify): Civil - appeal

c) What is your relationship to the case?

❑ plaintiff/petitioner ❑ defendant/respondent

❑ attorney for _____

❑ witness for _____

☑ other (specify): Observer

d) If you were represented by an attorney in this matter at the time of the conduct of the judge or court commissioner, please identify the attorney:

Name: _____

Address: _____

_____

_____

Phone: ( ) _____

e) Identify any other attorney(s) who represented you or any person involved in the case:

Name of attorney: _____ _____

Addresses: _____ _____

_____ _____

Phone: ( ) _____ ( ) _____

Represented: _____ _____

3. List documents that help support your information that the judge or court commissioner has engaged in misconduct or has a disability, noting which ones you have attached:

Video of oral argument

_____

_____

_____

_____

4. Identify, if you can, any other witnesses to the conduct of the judge or court commissioner:

Name(s): _____ _____

Addresses: _____ _____

_____ _____

Phone: ( ) _____ ( ) _____

5. Specify below the details of what the judge or court commissioner did that you think constitutes misconduct or indicates disability. (Please type or print legibly; attach additional paper if necessary.)

See attached

I UNDERSTAND THAT STATE LAW PROVIDES THAT THE JUDICIAL COMMISSION'S PROCEEDINGS ON THIS REQUEST FOR INVESTIGATION ARE CONFIDENTIAL AND THAT I MAY REQUEST THE COMMISSION NOT TO DISCLOSE MY IDENTITY TO THE JUDGE OR COURT COMMISSIONER PRIOR TO THE FILING OF A PETITION OR FORMAL COMPLAINT WITH THE SUPREME COURT.

☐ I REQUEST THE COMMISSION NOT TO DISCLOSE MY IDENTITY TO THE JUDGE OR COURT COMMISSIONER.

Signature: Fletcher P. Thompson Date: 1/29/21

839 Robin Hood Hill
Sherwood Forest, MD 21405
January 20, 2021

WISCONSIN JUDICIAL COMMISSION
Suite 700
110 East Main Street
Madison, WI 53703

To whom it may concern:

This is a complaint against Justice Jill Karofsky and Justice Rebecca Dallet of the Wisconsin Supreme Court for violation of Wisconsin Supreme Court Rules 60.03 (1) and (2) and SCR 60.04 (1)(b), (d), (e), (hm), and (4) (a) during oral argument of *Trump v. Biden*, case no. 2020AP2038 on December 12, 2020.[1] Almost at the outset of the argument, before petitioner's counsel, James Troupis, Esq., had stated his basic theory of the case, Justice Karofsky made a statement which evidenced both a political bias against petitioner and a racial bias. At the end of the argument, she made another comment which amounted to personal attacks against Mr. Troupis and his client. Justice Dallet demeaned Mr. Troupis in the guise of asking a question and also made an inappropriate accusation of racial prejudice against petitioner and his counsel.

The petition on which the argument was held asked the Court to exclude from Wisconsin's vote totals four categories of votes from Milwaukee County and Dane County: (1) 170,140 absentee ballots cast by voters who were given ballots by the municipal clerks in those counties,

[1] While this complaint is based on the conduct of these justices during an oral argument by James Troupis, Esq., it is entirely my own work. I have no association with President Trump or his campaign and I have never met nor communicated with Mr. Troupis. I intend to email him a copy after I have mailed the complaint to the Commission.

without the voter having first made a written request for the ballot, in violation of Wis. Stat. § 6.86(1)(ar); (2) 5,517 absentee ballots which lacked witness addresses or were allegedly invalid for other reasons and whose deficiencies had been cured by the clerks; (3) 28,395 absentee ballots cast by people who improperly claimed indefinite confinement, Wis. Stat. § 6.86 (2) and ((4); and (4) 17,271 absentee ballots cast at Democracy in the Park functions held in Madison. The petitioner noted that under Wisconsin law absentee voting was a privilege, not a right, and that the statutes governing absentee voting required that voters strictly comply with the procedures, and, if they did not, their votes could not be included in the vote count. The legislature explicitly stated that these procedures were mandatory. The legislature made no provision for substantial compliance or cure by anyone other than the voter. The petitioner's central argument was that the violation of the various election provisions precluded election officials in Milwaukee and Dane counties from including these votes in their reported count.

Petitioner's counsel, James Troupis, Esq., began his argument by stating that the legislative scheme had been violated. Justice Karofsky interrupted him approximately one minute into his argument and made the following statement:

> In your lawsuit, what you have done here is targeted the vote of almost a quarter of a million people, a quarter of a million people, not statewide in Wisconsin, but a quarter of a million people who live only in Dane County and Milwaukee County – two of our 72 counties, two counties that are targeted because of their diverse populations, because they're urban, I presume because they vote Democratic. *This lawsuit, Mr. Troupis, smacks of racism.*
>
> And I do not know how you can come before this Court and possibly ask us for a remedy that is unheard of in American history, a remedy asking us to say to 227,000 of our fellow Wisconsinites, "Your vote doesn't matter. We don't care if you think you followed all the rules." Or to borrow a phrase from Senator Cory Booker in another proceeding that had the effect of eroding the confidence in our democracy, "This is not normal."

> It is not normal for us to be sitting here on a Saturday, less than 48 hours before an election, excuse me, before the Electoral College sits. It is not normal for only two out of 72 counties to be at risk for losing their voice in this election. This case is not about election fraud. It's not about anyone in this state doing anything wrong. This case is about not just seeding, but watering and nurturing doubt about a legitimate an election.
>
> Mr. Troupis, I'm very interested in knowing of one person in Dane County, or one person in Milwaukee County, who engaged in election fraud on November 3, 2020.

Her tone was strident, bordering on angry. It was apparent that she was not seeking information about the rationale for counsel's argument but trying to intimidate him by accusing him of simply wanting votes to be disregarded. The question she asked at the end of her statement did not address the issues raised in petitioner's lawsuit but asked for representations about issues not raised in the lawsuit. Mr. Troupis responded with the simple observation that the remedy he was seeking was prescribed by the legislature.

Later in the argument, a little over 18 minutes into it, Justice Dallet made a similar statement:

> You are alleging to this Court that there were improper procedures taking place. Yet, the only votes that you want to throw out are the votes in the two largest counties, *the two most diverse, non-white, urban counties*, and the two counties that had the most significant votes for Joe Biden.

She elicited from Mr. Troupis that the President had chosen the counties. Mr. Troupis pointed out that the Biden campaign had not elected to name the other counties. She then repeated her accusation, again injecting race into the discussion by stating that the Trump campaign was targeting "non-white" counties.

Mr. Troupis' was response to this second accusation was that the criteria Justice Dallet listed ("diverse, non-white, urban") were not those used to decide upon the campaign's strategy. He said that an additional recount would cost $7 million dollars after $3 million dollars had already been spent on the first. Justice Karofsky interrupted and asked how much money President Trump had raised because of the two-county recount. Before Mr. Troupis had a chance to answer, she again attacked his motives, stating, in contradiction to Mr. Troupis' representations, that "this is about disenfranchising voters in two counties, and only two counties, in the state of Wisconsin."

Approximately 13 minutes into argument, both Justice Dallet and then Justice Karofsky demeaned Mr. Troupis' argument that Wisconsin law required the clerk's office to receive an application for an absentee ballot before it could send one out by sarcastically asking him to find the word "separate" in the statute. It is clear that they both knew that the actual word was not in the statute and that Mr. Troupis' argument was that the process described by the statute necessarily contemplated that the application for the absentee ballot would be a document different from the ballot itself.

At the very end of Mr. Troupis' rebuttal argument, Justice Karofsky again accused Mr Troupis of being motivated by ill will toward the Wisconsin electorate:

> I cannot believe that you are going to come forward and you are going to accuse our fellow Wisconsinites from engaging in fraud in this election. The people of Wisconsin should be thanked for exercising their civic duty, for doing what is asked of them in coming to vote. We should be thanking them. We should be thanking the election workers, and the canvassers, and the local officials who soldiered on through this historic election during the global pandemic. In this state, we accept the will of the voters and they spoke. And for you to come forward today and start throwing out allegations of fraud with zero evidence whatsoever -- What is America? It is not self-governance, I'm sorry, it *is* self-governance. It is not governance from a king. *And what you want, is you want us to overturn this election so that your king can stay in power. And*

> *that is so un-American. And for you to say that anyone is Wisconsin engaged in fraud, for you to perpetuate that fallacy on the people of Wisconsin and the people of the United States of America in what has been called the most significant election of our lifetime, is nothing short of shameful.*

Her tone was louder, more strident, and more emphatic than it was when she made the comment at the beginning of Mr. Troupis' argument. Mr. Troupis responded that America was founded on the rule of law and that we would lose our way as a nation if the rule of law was not followed. His response was emphatic but much calmer in tone than was Justice Karofsky's statement.

In my judgment, Justice Karofsky and Justice Dallet exhibited a lack of courtesy to the litigant and his counsel, a political bias against the petitioner, and racial bias. They violated SCR 60.03 (1) and (2) and SCR 60.04 (1)(b), (d), (e), (hm), and (4) (a).

The sections which are most directly implicated are SCR 60.04 (1)(b), (d), and (e). Subsection (1)(b) requires that a judge shall not be "swayed by partisan interests." Subsection (1)(d) requires judges to be courteous to lawyers and forbids them, by "*attitude, manner, or tone*" from preventing "the fair presentation of the cause." (emphasis added). Subsection (1) (e) provides:

> A judge shall perform judicial duties without bias or prejudice. A judge may not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice based upon race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status, and may not knowingly permit staff, court officials and others subject to the judge's direction and control to do so.

The comment to subsection (1)(e) again emphasizes that body language and facial expressions can give the appearance of bias and that manifestation of bias "brings the judiciary into disrepute." I will discuss the conduct of each justice separately.

Justice Karofsky

A. Justice Karofsky displayed a lack of patience, courtesy and dignity in violation of SCR 60.04(1)(d).

Justice Karofsky clearly violated SCR 60.04 (1)(d), which requires judges to be "patient, dignified and courteous" to litigants and lawyers. She was none of these things. She was there to hear a legal argument, the purpose of which was to aid her and the other justices in rendering an appropriate decision on the issues presented. Even though Mr. Troupis presented an argument based on the wording of Wisconsin election law, Justice Karofsky immediately turned the proceeding into a forum for her to express her contempt for the outcome he sought and ultimately engaged in a personal attack on both the lawyer and his client.

In her initial statement, she accused Mr. Troupis of being motivated by racism, even though there was no mention of race in his argument or in the record before the lower court.[2] This is an ugly, personal accusation, one made entirely on her supposition, with no actual evidence to support it. While she is entitled to disagree with Mr. Troupis' argument, she is not entitled to attack him

[2] If, for the sake of argument, one makes the unwarranted assumption that race is somehow an issue in the proceeding, Mr. Troupis' argument would still be permitted by SCR 60.04(1)(f), which states the Court's prohibition against lawyers engaging in racial bias does not "preclude legitimate advocacy when race . . or other similar factors are issues in the proceeding." Mr. Troupis' argument was based entirely on the application of Wisconsin law and therefore qualifies as legitimate advocacy. Thus, even under Justice Karofsky's baseless interpretation, his argument was explicitly permitted by the rules of the Court.

personally for making it, especially when that accusation is not based on anything Mr. Troupis said.

This conduct shows not only an utter lack of courtesy to the lawyer – conduct prohibited by the rule – but also an utter lack of respect for the dignity of the proceeding, which was being held for the purpose allowing her and the other justices to inform themselves of the basis for the arguments being made by the parties. It is easily inferable that this accusation and the vehement tone with which it was delivered were designed to intimidate Mr. Troupis and thereby prevent "the fair presentation of the cause."

Her remarks at the end of the argument were even worse. She accused Mr. Troupis of being "un-American," a completely personal, self-indulgent statement which did not address any of his legal arguments. She then accused President Trump of behaving like a "king" and Mr. Troupis of wanting him to be a king. In both comments, she once again engaged in a demeaning, personal attack on the litigant and his lawyer. She finished her diatribe by characterizing Mr. Troupis' request for relief as "shameful," a strictly personal opinion completely untethered to the statutes on which Mr. Troupis based his arguments.

If Judge Karofsky had exercised more thought and less passion, she would have realized the irony of her comments. If President Trump really were a king, he would simply ignore the election results, or, more likely, not submit to an election at all. Instead, he was sending his lawyer to persuade Justice Karofsky that the Wisconsin election was not conducted in accordance with the laws of that state. His argument was based entirely on enactments of the Wisconsin legislature and not on his status as a "king."

By engaging in this proceeding, President Trump was affirming America's status as a constitutional republic. He was exercising a right guaranteed to him by the First Amendment of the Constitution – the right to petition the government for redress of grievances. This right is guaranteed to all citizens, including the President. There was nothing un-American about his case; indeed, it was an affirmation, rather than a repudiation, of the American system. Had Justice Karofsky given the situation a moment's consideration, she would have realized that she, not the President, was the one who held the power and that he was *asking* her to exercise it in his favor. This is the opposite of what happens in a monarchy.

B. Justice Karosfsky violated SCR 60.04 (1)(b) and (e) by displaying a political bias against petitioner.

In making these comments, Justice Karofsky displayed more than a lack of courtesy in violation of SCR 60.04 (1)(d) but a political bias (and was, therefore, swayed by "partisan interests") in violation of SCR 60.04 (1) (b) and (e). There was no basis in fact for her accusation that was President Trump seeking to be a king or that the arguments made by his counsel were "un-American." She exhibited a personal animus against the President and his arguments which can in context only be attributed to political differences, not on an interpretation of the law.

The foremost indication of her bias was that her statements were focused entirely on the outcome of the case instead of on Mr. Troupis' argument that election officials in Milwaukee and Dane counties had violated the rules governing the conduct of the election, the predicate to his argument as to the remedy he wanted. Justice Karofsky made no contention in her statements that election officials had not violated the statutes governing their behavior, which should have been the focus of the Court's inquiry. She also did not contend that the statutes at issue did not mandate the result that petitioner sought.

Instead, she criticized Mr. Troupis based on her perception of his motivation for making the argument, something completely irrelevant to the legal issues before her, the only factors which should have dictated her judgment as to the result. Her statements basically said that whether the election was conducted in a manner consistent with legal requirements and the legal consequence of any violation was not important to her. It was only the outcome -- that is, which party would benefit from a judgment in favor of a petitioner -- which was important to her.

She reinforced this conclusion when she accused Mr. Troupis of trying to "disenfranchise" Democratic voters, as though their votes were the only ones that mattered. The possibility that votes for candidates who were not Democrats might also be disqualified was also not a stated concern of hers. The basis for this accusation was that petitioner had sought to disqualify only the votes in Dane and Milwaukee counties and had not sought to disqualify votes cast in other counties in Wisconsin. She ignored the fact that the Democracy in the Park event took place only in Dane County, so the argument as to the legality of that event could not be made with respect to any other jurisdiction. As to the other jurisdictions, the record does not show with any specificity how many jurisdictions besides Milwaukee and Dane counties engaged in the practices challenged by the petitioner. Justice Karofsky also ignored Mr. Troupis' proffer that, if the Court were concerned about disparate treatment, it could order that all jurisdictions apply the same standards that petitioner was requesting be applied to the two jurisdictions involved in the petition.

More fundamentally, Justice Karofsky seems to have cast aside the basic concept of the role of the advocate. Litigants are entitled to seek relief that benefits them. Lawyers representing them are ethically obligated to advocate for their clients' interests to the exclusion of all other interests within the bounds of the Rules of Professional Conduct. Section [2] of the Preamble to the Wisconsin Rules of Professional Conduct for Attorneys ("attorney zealously asserts the *client's*

position" (emphasis added)). They are not advancing their personal beliefs but the arguments which, in their professional judgment, are most beneficial to their clients. There is no exception to this rule -- even for presidential elections. In the Florida recount in 2000, Vice President Gore sought recounts only in the jurisdictions in which he believed he was most likely to find additional votes and argued his court cases based on the conduct of those recounts. The lawyers who made these arguments were acting in accordance with the ethics of the legal profession and I am unaware of any contention that they were not entitled to do so.

Yet, one of the underlying assumptions of Justice Karofsky's statement is that both petitioner and Mr. Troupis were *obligated* to seek to disqualify votes in jurisdictions which might have been favorable to the petitioner, a perversion of the role of the advocate. There is no reason to believe that Justice Karofsky lacks this basic understanding of what lawyers are supposed to do. The inescapable conclusion is that her willingness to launch a personal attack on Mr. Troupis for failing to seek outcomes which might be to his client's disadvantage is based on her political views, and not on her view of the law.

The most repeated display of Justice Karofsky's bias was in her treatment of the issue of voter fraud. She pressed Mr. Troupis several times to identify any voter who had voted improperly – a factual issue entirely irrelevant to the petition Mr. Troupis had filed and proof of which the statutes on which the petition was based did not require. A simple reading of the petition and the statutes would have shown this, as Justice Karofsky undoubtedly knew.

Nonetheless, her basic idea seemed to be that unless petitioner's counsel could identify a specific instance of voter fraud, he was not only precluded from obtaining the relief sought but was to be condemned for even filing the petition. She asked Mr. Troupis several times to identify an instance of actual voter fraud and was not satisfied with Mr. Troupis' basic answer that his

argument was based on the departure from the procedures set out by the legislature and the stated remedies for their violation. At one point, Mr. Troupis explained that it was impossible to identify potentially fraudulent ballots because all the ballots had been commingled so that it could not be determined which ballot came from which voter.

This disagreement reached its head during Mr. Troupis' rebuttal argument, when, in response to one of her requests for an instance of fraud, Mr. Troupis stated that the whole case was about fraud. He explained his answer by saying that the failure of Dane and Milwaukee counties to follow the law created a presumption of fraud.

Justice Karosfsky did not express any disagreement with Mr. Troupis' basic position that because fraudulent ballots could not be identified at this stage, the campaign was reduced to arguing that failure to comply with the statures disqualified the votes, the very remedy prescribed by the legislature. My inference is that the legislature anticipated that situation Mr. Troupis described and decided that actual proof of fraud was an impossible burden for anyone disputing the election results.

Justice Karofsky seems not to have understood either the rationale for the legislative scheme or Mr. Troupis' argument. Although she never responded to Mr. Troupis, she concluded the argument by characterizing his conduct as "shameful" because of his failure to identify fraudulent votes. Her failure to engage Mr. Troupis on his stated rationale and her insistence on holding petitioner to a standard of proof found nowhere in the law are evidence, in my view, of political bias. The most plausible conclusion is that she was wilfully wrong because she did not like the consequences of following the legislative scheme.

Justice Karofsky further manifested her political by bias by making the statement that the election in Wisconsin was "legitimate." She reiterated this claim in a concurring opinion, saying that all 3.2 million Wisconsin voters had "followed the rules that were in place at the time." *Trump v. Biden,* case no. 2020AP2038 (Dallet and Karofsky, JJ., concurring). This statement goes well beyond the position underlying her questioning at oral argument, which was that petitioner was required to prove actual fraud and failed to do it. It is an affirmative, unqualified statement that no fraud had occurred.

To make such a statement, one would need to have personal knowledge of the conduct of all 3.2 million voters who participated in the election, knowledge Justice Karofsky does not have.[3] There is evidence available to the public that fraud occurred, most significantly the spike in votes for Biden from Milwaukee County, in the early morning hours of November 4, after the vote reporting was stopped for several hours. When one considers that the same spikes occurred in Michigan and Georgia also after reporting delays in the early morning, the inference that vote manipulation occurred becomes even stronger. In addition, there are affidavits of poll watchers being excluded, ballots being backdated by the postal service so that they could be counted, and vote harvesting in nursing homes in Wisconsin.

Justice Karofsky is entitled to disbelieve this evidence and is also entitled not to draw the inference that it contaminates the reported results, even if it is believed. However, she should at least respect the right of others to reach a different conclusion.

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[3] If, in theory, she did have such knowledge, she would have been required to recuse herself by SCR 60.04 (4)(a), which provides that a judge "shall" recuse herself if she has "personal knowledge of disputed facts."

It is almost a certainty that in any election there is some misconduct, although normally it is small enough not to affect the outcome. Justice Karofsky's blanket statement defies both the evidence in this election and human experience. Her willingness to make this gratuitous remark while having no basis for any actual belief in its truth and in the face of at least some evidence to the contrary and to compound this error by citing it as a reason for her decision shows that she has a deep emotional investment in the outcome that is not based on the law and evidence before her. This amounts to a bias against the petitioner.

Furthermore, President Trump endorsed her opponent when she was a candidate for the Supreme Court a few months before the arguument was held, which by itself would at least require her to consider recusal, although her lack of restraint makes it unlikely that she did so. I would also point out that former Vice President Biden endorsed Justice Dallet in her race in 2018 and that Justice Dallet endorsed Justice Karofsky in her race in 2020.[4]

C. Justice Karofsky violated SCR 60.04 (1)(e) by displaying a racial bias.

Justice Karofsky's statement that the lawsuit "smacks of racism" also shows a racial bias in violation of SCR 60.04 (1)(e). The race of the voters involved was not mentioned in the petition, not shown in the record, and was completely irrelevant to the issues before the court. As I have stated, the essence of petitioner's argument was that Dane and Milwaukee counties had not

[4] Supreme Court justices are prohibited by SCR 60.06 (2)(b)4 from endorsing candidates for office running as nominees of political parties. Because judicial candidates cannot be members of political parties, Justice Dallet's endorsement appears not to be prohibited, although I would suggest it violates the spirit of the rule, particularly since both judges are viewed as partisans by the political world.

conducted the election as prescribed by Wisconsin law and that the consequence of that conduct, as prescribed by the legislature, was that votes made in violation of the law should not be counted.

The validity of this argument did not depend on the race of the voters involved. It was an argument based on the terms of Wisconsin law which petitioner was entitled to make regardless of the racial identity of the voters whose votes might have been disqualified. *Yet, Justice Karofsky's contention was that, because of the race of the voters she believed would be affected by accepting petitioner's argument, petitioner was therefore precluded from making this argument.* In her evident view, the arguments this litigant was permitted to make and the Court's decision on those arguments were not be dictated by the law but by the Court's perception of the race of the voters who would be disadvantaged if the Court agreed with petitioner.[5] This is an impermissible consideration. Therefore, Justice Karofsky manifested a bias based on race, conduct which is prohibited by SCR 60.04 (1)(e).

It is noteworthy that the majority opinion did not disagree with petitioner's argument that the election in Dane and Milwaukee counties was not conducted in compliance with the law.[6] It

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[5] Justice Karofsky did not specifically mention which race she believed would be disadvantaged and there is no evidence in the record, which contains the facts on which she is to decide the case, on this point. Instead, she used the words "diverse" and "urban" as code words for race. Her reason for doing this is puzzling, but the meaning behind these words became clear in the next sentence, in which she made the accusation that the petition "smacks of racism." *It is difficult to believe that she would have made this accusation if Vice President Biden had made the same argument concerning counties whose voters were not "urban" and "diverse," because these were the only categories of voters for whom she expressed any concern.* The possibility that votes in counties not meeting this description might have been cancelled by illegal votes in Dane and Milwaukee counties, which should have been of equal concern, does not seem to have bothered her. As I state in the main text, her apparent view is that the Court's willingness to accept this argument should be determined by the racial composition of the jurisdiction whose conduct is at issue.

[6] Justice Hagedorn, who wrote the majority opinion, did address petitioner's contentions in his concurring opinion and disagreed with them.

sidestepped the merits by holding that petitioner's claim was barred by laches, a defense which the legislature wrote into the same election code on which petitioner was relying. The application of this rule prevented the result of disqualification of votes about which Justice Karofsky expressed concern. However, instead of directing her attention to the applicability of the doctrine of laches, an issue the Court was required to consider, Justice Karofsky began and ended the Court's questioning by making wholly improper political and racial objections to petitioner's argument.

Justice Dallet

A. Justice Dallet displayed a lack of courtesy and dignity in violation of SCR 60.04(1)(d).

Justice Dallet's sarcastic request of Mr. Troupis to find the word "separate" in the statute governing the issuance of absentee ballots was discourteous and even demeaning. It is evident that she knew the word was not in the statute and was making a sophomoric attempt to humiliate Mr. Troupis by getting him to acknowledge that the statute did not specifically say that the request for an application for an absentee ballot was to be separate from the ballot itself.

The fact the statute does not use the word "separate" does not invalidate the argument. It takes only a simple understanding of the English language to conclude that when a statute which provides that the clerk shall issue the ballot *after* receiving the request for it means, of necessity, that the request for the ballot has to be made on a document different from the ballot itself. In other words, the request must come into existence *before* the clerk mails the absentee ballot. A scheme which makes the events simultaneous violates the sequence described in the statute. Mr. Troupis' argument was logical and easy to follow. It did not deserve the derision which Justice Dallet expressed for it, even if she disagreed with it. In my judgment, she violated SCR 60.04 (1)(e) by displaying a lack of courtesy and SCR 60.04 (1)(d).by trying to create in Mr. Troupis the

belief that his argument was so baseless and was so badly received that he should abandon it, thereby preventing "the fair presentation of the cause."

B. Justice Dallet displayed a political bias in violation of SCR 60.04 (1)(b) and (1)(e).

While Justice Dallet's conduct was less inflammatory than Justice Karofsky's, she also displayed a political bias. The statement quoted on page three of this document, which mentions the votes for Mr. Biden, and the subsequent exchange with Mr. Troupis showed that she disapproved of the political outcome which would result from agreeing with Mr. Troupis' argument rather than on the validity of his argument.

C. *Justice Dallet violated SCR 60.04 (1)(e) by displaying a racial bias.*

On the issue of the race of the voters involved, Justice Dallet was more explicit than Justice Karofsky. She alleged that the jurisdictions in question were the most "non-white" in the state, a fact which, while undoubtedly true, is nowhere in the case record, and which, more importantly, is completely irrelevant to whether those jurisdictions complied with Wisconsin election law. As with Justice Karofsky, Justice Dallet's suggestion that the race of the voters involved should preclude the argument petitioner made or influence the Court's decision shows a racial bias in violation of SCR 60.04 (1)(e).

Conclusion

Justice Dallet's and Justice Karofsky's unvarnished expressions of irrelevant and impermissible political and racial concerns cast doubt upon their willingness to render decisions based on the law. Mr. Troupis filed a petition and made an argument based on the wording of statutes enacted by the Wisconsin legislature, statutes they are sworn to uphold. Instead of addressing his argument, Justices Dallet and Karofsky expressed hostility on multiple occasions

to the fact that the argument was being made in the first place. They have created the impression that the Court's decisions, or at least the votes of some of its members, are based entirely on whether the justices like the outcome, rather than on the dictates of the law. They have harmed the entire Court by behaving as though it as a political body. I request that the Commission take appropriate disciplinary action.

Very truly yours,

Fletcher P. Thompson

P.S. I am a retired lawyer, licensed in both Maryland and the District of Columbia, although I am on inactive status in both jurisdictions. I served as an Assistant Bar Counsel for the Attorney Grievance Commission of Maryland from 2001 to 2011.