

# STATE OF WISCONSIN JUDICIAL COMMISSION



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CONFIDENTIAL & SENT VIA EMAIL

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RE: Honorable Jill J. Karofsky

Dear Attorney Rosenzweig:

The Judicial Commission has now considered the allegations of misconduct made against your client concerning the December 12, 2020 oral arguments in case no. 20 AP 2038.

The Commission understands that Justice Karofsky has waived her right to an informal appearance. The Commission has decided to dismiss this matter with an expression of concern.<sup>i</sup> A dismissal with an expression of concern is defined in JC 1.02(3). It is not discipline.

Judges are required to exhibit patience, dignity and courtesy toward litigants and attorneys, pursuant to SCR 60.04(1)(d). Additionally, judges must act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary, pursuant to SCR 60.03(1).

After carefully considering the video recording of the oral arguments, the justice's response to the Commission's inquiry, the Code of Judicial Conduct, and the law, the Commission has concerns about Justice Karofsky's remarks during the hearing as they relate to: (1) the "application" exchange, and (2) the "king" statement.<sup>ii</sup>

Regardless of the nature of the case being addressed by the court, a judicial official should take special care and remain mindful of their role in proceedings as a neutral and detached magistrate, as opposed to an advocate, and avoid sarcasm when making statements from the bench, given their obligations under SCR 60.04(1)(d).

This matter is now closed, and Commission proceedings upon it remain strictly confidential. Please be aware that the Commission's decision may be reconsidered, if warranted, pursuant to Administrative Code JC 4.09(2).

The Commission appreciates your cooperation during this investigation. If you have any questions, please contact the Commission's Executive Director.

Very truly yours,

  
Yulonda Anderson  
Chair  
Judicial Commission

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<sup>i</sup> Commissioners William W. Brash, III, and Mary Beth Keppel did not participate in this matter.

<sup>ii</sup> The "application" exchange:

ATTORNEY TROUPIS: Well to begin with, the statute provides that the - in 6.86(ar), that in fact, and I'm quoting, the clerk shall not issue a ballot unless he receives a written application. Now, when we deal with in-person voting, if you look at that same sect--

JUSTICE KAROFISKY: Mr. Troupis, I'm going to stop you right there. The form I'm looking at - Do you have a copy of the L122 with you?

ATTORNEY TROUPIS: Yes, I do.

JUSTICE KAROFISKY: Okay. And, up - can you look at the very, very top of it? There's a box at the top.

ATTORNEY TROUPIS: Yes.

JUSTICE KAROFISKY: Okay. What does it say?

ATTORNEY TROUPIS: Well, if you're referring to the official absentee ballot application certification, yes. I could --

JUSTICE KAROFISKY: **Just 'cause you say it super-fast doesn't mean that the word, "application," A-P-P-L-I-C-A-T-I-O-N [spells word] doesn't exist at the top of that form.**

ATTORNEY TROUPIS: I didn't - I apologize if I spoke too quickly. Let's focus for a minute on [...]. (Recording at 00:15:20 – 00:16:25) (Emphasis added).

The "king" statement:

I want to go back to the statement that you made prior to Justice Bradley's question. You said that there was fraud in this election.

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 poll - the election workers, and the canvassers, and the local officials who soldiered on through this historic election during a global pandemic. In this state,

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we accept the will of the voters and they spoke. And for you to come forward today and start just using, throwing out allegations of fraud with zero evidence whatsoever. What - What is America? It is not self-government. 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.** (Recording at 01:33:44 – 01:35:09) (Emphasis added).