

STATE OF WISCONSIN
JUDICIAL COMMISSION



Suite 700, Tenney Building
110 East Main Street
Madison, Wisconsin 53703-3328

Jeremiah C. Van Hecke
Executive Director

Phone: (608) 266-7637
Fax: (608) 266-8647

May 31, 2023

CONFIDENTIAL

Cory Tomczyk
146223 Beaver Road
Mosinee, WI 54455

Dear Mr. Tomczyk:

At its recent meeting, the Judicial Commission reviewed the request for investigation that you submitted to the Commission regarding statements made by Milwaukee County Circuit Court Judge Janet Protasiewicz during her 2023 judicial campaign.¹

The Commission's examination of this matter has resulted in a determination that there is no evidence of misconduct within the jurisdiction of the Commission to warrant further action or consideration by the Commission.²

Accordingly, the matter is now closed and Commission proceedings relating to it remain strictly confidential, pursuant to state law.

¹ Commissioners Brash and Ziewacz did not participate in this decision.

² In reviewing this matter, the Commission carefully considered: (1) the relevant Code provisions (including Supreme Court 60.06(3)(a) and Supreme Court Rule 60.06(3)(c), which, in whole or in part, are aspirational and, therefore, cannot form the basis of discipline, based upon their plain language) (*See* Preamble to Code); (2) the specific language used in the statements made by the judge and/or her campaign; and (3) the relevant case law, including Republican Party of Minnesota v. White, 536 U.S. 765, 788 (2002) (which held that a restriction on an announcement by a candidate for judicial office of his or her personal views on disputed legal and political issues during a campaign violates the First Amendment), Duwe v. Alexander, 490 F. Supp. 2d 968, 976 (W.D. Wis. 2007) (which outlines the distinction between a promise, pledge or commitment in a campaign and an announcement of personal views), and In re Gableman, 325 Wis.2d 631, 784 N.W.2d 631 (2010) (Prosser Opinion) and In re Gableman, 325 Wis.2d 579, 784 N.W.2d 605 (2010) (Abrahamson Opinion) (in which the Judicial Conduct Panel and a plurality of the justices held that, although the statements made by the judicial official about his campaign opponent were misleading and implied that past representation of a criminal defendant made that opponent less qualified, the judicial official did not clearly make any factual misrepresentations, and, thus, the statements could not form the basis for discipline).

Thank you for sharing your concerns with the Commission.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Van Hecke". The signature is fluid and cursive, with a large initial "J" and a stylized "V".

Jeremiah C. Van Hecke
Executive Director