

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

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STATE OF WISCONSIN,

*Plaintiff,*

*v.*

Case No. 2024 CF 1295

JAMES TROUPIS,

*Defendant.*

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**JAMES TROUPIS'S THIRD MOTION TO DISMISS  
(COURT LACKS COMPETENCY)**

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James Troupis, by counsel, files this third motion to dismiss under Wis. Stat. § 971.31; Article I, §§ 7 and 8 of the Wisconsin Constitution; the Fifth and Fourteenth Amendments to the United States Constitution; and those cases, statutes, and other authorities cited herein. This Motion attacks the Court's competency and argues that the State's failure to act upon a referral by the Wisconsin Elections Commission means that this prosecution cannot proceed. Because of the nature of this attack, this motion must be heard before an initial appearance takes places. As set out more fully in the brief in support of the motion, here are the essential facts and legal principles that entitle Troupis to relief.

Troupis represented President Trump during the 2020 recount in Wisconsin. Every action he took in relation to the recount (and that is now alleged to be criminal) falls under Chapters 5-12 of the Wisconsin Statutes. The second line of Chapter 5 provides: "the

general provisions of chs 5 to 12 *apply to all elections.*"<sup>1</sup> It's clear from the criminal complaint that this case involves *all* election-related activity – after all, the first paragraph of the complaint provides the operative (and allegedly forged) document is: "Certificate of the Votes of the 2020 Electors from Wisconsin."<sup>2</sup> And if any of Troupis's actions were criminal they'd be under Chapter 12 for election fraud. Chapter 12, after all, covers all election-related crimes, including Wis. Stat. § 12.13(3)(e), which also criminalizes "caus[ing] to be prepared an official ballot with intent to change the result of the election as to any candidate or referendum" and that "[n]o person may...forge or falsely make the official endorsement on a ballot."<sup>3</sup> Those crimes, the legislature has made clear, are covered by Wis. Stat. § 12.60, which provides: "Prosecutions under this chapter shall be conducted in accordance with § 11.1401(2)."<sup>4</sup> And that provision, in relevant part, provides that "only after the commission has determined probable cause, all prosecutions under this section shall be conducted by the district attorney for the county where the defendant resides."<sup>5</sup>

Moreover, the Attorney General's authority is limited by statute, and the Legislature has not authorized the Attorney General to prosecute any criminal offense arising out of election-related conduct. The authority to prosecute election-related offense was removed by the Legislature when it amended the law to prevent a political

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<sup>1</sup> Wis. Stat. § 5.01(2) (emphasis added).

<sup>2</sup> R.2 at 2.

<sup>3</sup> Wis. Stat. § 12.13 (3)(k).

<sup>4</sup> Wis. Stat. § 12.60(4).

<sup>5</sup> Wis. Stat. § 11.1401(2).

prosecution “unsupported in either reason or law.”<sup>6</sup> This prosecution has taken place without a referral from the Commission and it was initiated by the Attorney General and not the local District Attorney. Because those protections are essential aspects of the statutory procedure, the State’s failure to comply with them robs this Court of its competence to go forward with the case. A full brief on every aspect of this motion is filed separately.

**WHEREFORE**, James Troupis respectfully requests that this Court dismiss the criminal complaint for lack of competence.

Respectfully submitted this 2nd day of December 2024.

JAMES TROUPIS, *Defendant*

*Electronically signed by Joseph A. Bugni*

Joseph A. Bugni

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<sup>6</sup> *State ex rel. Two Unnamed Petitioners v. Peterson*, 2015 WI 85, ¶ 11, 363 Wis. 2d 1, 866 N.W.2d 165.