

IN THE SUPREME COURT OF WISCONSIN

No. _____

HOWIE HAWKINS and ANGELA WALKER,

Petitioners

v.

WISCONSIN ELECTIONS COMMISSION, ANN S. JACOBS in her official capacity as
Chair of the Wisconsin Elections Commission, MARK L. THOMSEN in his
official capacity as Vice-Chair of the Wisconsin Elections Commission, MARGE
BOSTELMANN in her official capacity as Secretary of the Wisconsin Elections
Commission, JULIE M. GLANCEY in her official capacity as a Commissioner on
the Wisconsin Elections Commission, DEAN KNUDSON in his official capacity
as a Commissioner on the Wisconsin Elections Commission, ROBERT F.
SPINDELL, JR. in his official capacity as a Commissioner on the Wisconsin
Elections Commission, and ALLEN ARNTSEN,

Respondents.

**AFFIDAVIT OF ANDREA MÉRIDA IN SUPPORT OF EMERGENCY
PETITION AND MEMORANDUM TO SUPREME COURT TO TAKE
JURISDICTION OF AN ORIGINAL ACTION, EMERGENCY MOTION FOR A
TEMPORARY INJUNCTION**

STATE OF COLORADO)
)
COUNTY OF DENVER)

I, Andrea Mérida, first being duly sworn on oath, depose and state as follows:

1. I am the campaign manager for the Green Party's candidates for President and Vice President, Howie Hawkins and Angela Walker.

2. On August 7, 2020, the Wisconsin Election Commission's (the "Commission") staff attorney, Mr. Nathan Judnic, sent an email to me, informing me of the challenge. I responded, asking Mr. Judnic "what is the Commission's position on this matter?" Attached hereto as Ex. A is a true and correct copy of the email exchange.

3. Mr. Judnic responded to my email, stating "[t]he Commission will decide the validity of the challenge based on the complaint, any response to the complaint and any testimony the parties and the Commission staff present to the Commission at its meeting to decide challenges." *Id.*

4. I then sought clarification, asking "[t]o be clear, we have an option to EITHER file a written response or appear via Zoom, correct?" *Id.*

5. Mr. Judnic responded to me, advising “[y]ou have the option to do both, and most candidates subject to a challenge exercise both options. They file a sworn written response, and then they appear at the meeting to defend their response and answer any questions the Commission may have. It is not an ‘either or’ situation, *you can choose to do both, one or the other, or none.*” *Id.* (emphasis added).

6. Included with Mr. Judnic’s August 7, 2020 email was a letter from Mr. Judnic regarding challenges to nomination papers. Attached hereto as Ex. B is a true and correct copy of the letter. The letter advised the campaigns “if you wish to contest the challenge to your nomination papers, it is highly recommended that you appear before the WEC at the meeting, either in person or by representation, or both. You may also file a written response to the challenge.” (emphasis in original).

7. The letter attached a memorandum from the Commission to independent candidates, which similarly advised that “the candidate may appear before the Commission and/or by representation and be heard on the challenge,” “[a] challenged candidate may file a verified written response to a challenge,” and “[i]n addition to filing a written response, a challenged

candidate may appear, or by representation, before the Commission to explain why the challenge ought to be rejected.” Attached hereto as Ex. C is a true and correct copy of the memorandum.

8. The memorandum also encouraged the candidates to refer to the Common Nomination Paper Challenges. There, the Commission discussed a situation involving a candidate not specifying a municipality for voting purposes. The memorandum suggested “[c]hallenges to petitions where the candidate has not specified a municipality for voting purposes have been rejected in the past.” *Id.* at 3. It goes on to note “[t]he established policy of the Commission in reviewing nomination papers has been to find substantial compliance with Wis. Stat. §§ 8.10 and 8.15 by presuming the validity of the information listed unless evidence to the contrary is presented.” *Id.*

9. At the August 20, 2020, hearing, I provided the following testimony:

- Wisconsin voters want the Green Party nominees on the ballot. We submitted 680 pages containing 3,966 signatures

of the nearly 6,000 that we actually collected and are willing to submit the excess for review.

- It matters little to a voter who resides in Wisconsin, what the actual address of a vice presidential candidate in South Carolina actually is. A change of address, especially within the same city of Florence, SC, does not speak to the constitutional qualifications of the candidate, which in this case, are clearly met.
- Making the address change an even more absurd reason to not allow the Green Party on the ballot is that in 1980, independent presidential candidate John B. Anderson submitted a Wisconsin petition showing Milton Eisenhower as his vice presidential running mate. Milton Eisenhower was only intended as a stand-in. After the petitioning deadline on August 27, former Wisconsin Governor Patrick Lucey became Anderson's real running mate and Lucey appeared on the Wisconsin ballot. If Wisconsin allows the running mate on the petition to withdraw and be replaced by someone else,

surely it does not matter that a running mate moves down the road in the same city she lives in, in South Carolina.

- Unlike the assertions made public in other cases the Commission is reviewing today, neither the Hawkins/Walker campaign nor the circulators working on our behalf made any attempt to hide Ms. Walker's current address, as is evidenced by the manual changes made to some of the petition forms.
- We feel that we have exercised more than enough due diligence in attempting to rectify the potential issue with the change of address, even though the Elections Commission staff have asserted that listing an address for this presidential ticket is not even required.
- In summary, we have shown through our petitions that Wisconsin voters want the Green Party on the ballot. When the vice presidential nominee moved down the road within Florence, SC we notified the staff and followed their directions. Voters should not be denied the right to vote for the Green Party ticket for following the directions of the

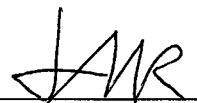
Board of Elections staff. If additional signatures are needed, we have thousands more that the Board can review but we have already shown that voters in Wisconsin want the Green Party on the ballot.

10. Candidate Walker's Declaration of Candidacy was sworn on July 28, 2020 and filed with the Commission on August 4, 2020. Attached hereto as Ex. D is a true and correct copy of the Declaration of Candidacy.

11. The Declaration of Candidacy issue was further addressed in a separate July 29, 2020, email exchange with the Commission's Elections Administration Specialist, Mr. Robert Williams. Attached hereto as Ex. E is a true and correct copy of the exchange.


Andrea Mérida

Subscribed and sworn to before me
this 3rd day of September, 2020.


Notary Public, State of Colorado
My commission expires: 06-18-2024

JOHANN ANTHONY NOGUEZ RAMIREZ Notary Public State of Colorado Notary ID # 20204021166 My Commission Expires 06-18-2024
--



Andrea Merida

Challenge Complaint Filed - Nomination Papers - Wisconsin

Judnic, Nathan - ELECTIONS

Sun, Aug 9, 2020 at 9:15 AM

To: Andrea Merida

Cc: "Wolfe, Meagan - ELECTIONS"

, "Rydecki, Richard H - ELECTIONS"

Andrea,

You have the option to do both, and most candidates subject to a challenge exercise both options. They file a sworn written response, and then they appear at the meeting to defend their response and answer any questions the Commission may have. It is not an "either or" situation, you can choose to do both, one or the other, or none.

Regards,
Nate Judnic

Sent from my iPhone

On Aug 8, 2020, at 10:39 PM, Andrea Merida

· wrote:

To be clear, we have an option to EITHER file a written response or appear via Zoom, correct?

On Sat, Aug 8, 2020 at 1:33 PM Judnic, Nathan - ELECTIONS

· wrote:

Andrea,

The Commission will decide the validity of the challenge based on the complaint, any response to the complaint and any testimony the parties and the Commission staff present to the Commission at its meeting to decide challenges. The letter and memorandum provided should give you the information needed to file a response. If you have any additional questions, please let me know.

Regards,
Nate Judnic

Sent from my iPhone

On Aug 7, 2020, at 7:35 PM, Andrea Merida

wrote:

Mr. Judnic, what is the Commission's position on this matter?

On Fri, Aug 7, 2020, 5:35 PM Judnic, Nathan - ELECTIONS

wrote:

Andrea,

I was given your contact information by David Schwab who told me to send this communication directly to you. This email is inform you that a challenge has been filed to Mr. Hawkins Nomination Papers in his effort to obtain ballot access in Wisconsin as an independent candidate for President. Below is a link to the complaint attachments. They are quite large, so I have provided a link instead of trying to send multiple emails. A copy of the complaint is attached and also at the link. I have included a cover letter and memo that explains the process for responding to the challenge.

Exhibit A

Link to Attachment: https://www.dropbox.com/sh/7qeaggnpux644rw/AACenMpzrxmneXbDQHOGJqf4a/Hawkins?dl=0&subfolder_nav_tracking=1

If you have any questions, please let me know. Please acknowledge receipt of this email, the complaint and attachments.

Regards,

Nathan W. Judnic

Staff Attorney

Wisconsin Elections Commission

[212 East Washington Ave](#), Third Floor

P.O. Box 7984

Madison, WI 53707-7984

--

Andrea Mérida Cuéllar

Campaign Manager

she/her/ella

Hawkins/Walker - Greens for President and Vice President

howiehawkins.us

We want an Ecosocialist Green New Deal!





Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

August 7, 2020

To: Independent Candidates for President/Vice President Subject to a Nomination Paper Challenge for the November 3, 2020 General Election

Re: **Challenge to Your Nomination Papers Filed**

Sent via US Mail or Email

Dear Candidate:

This letter is in regard to a complaint challenging the nomination papers that you have filed with the Wisconsin Elections Commission (WEC). **The challenge to your nomination papers will be heard and decided by the WEC at a yet to be determined virtual meeting in the next couple weeks.**

The WEC's meeting to decide the challenge will be held as a teleconference/videoconference via Zoom Meeting. The WEC intends to hear all challenges filed against independent candidates for President/Vice President at that meeting. Notice of any change will be posted and additional details on how to appear via Zoom Meeting will be provided.

Although you are not required to appear at the Commission's virtual meeting, if you wish to contest the challenge to your nomination papers, it is highly recommended that you appear before the WEC at the meeting, either in person or by representation, or both. You may also file a written response to the challenge. Responses are due by 4:30 p.m., 3 days after the challenge to your nomination papers is filed. The challenge was filed on August 7, 2020, therefore your response is due Monday, August 10 by 4:30 p.m.

Your written response to the complaint should be verified (notarized) and may also be accompanied by affidavits or other documentation supporting your response.

Included with this letter, is a memorandum explaining the procedure for responding to a challenge to nomination papers.

If you wish to respond to the challenge, please read the memorandum that accompanies this letter.

If you have any further questions, please feel free to contact Nathan Judnic at 608-267-0953 (nathan.judnic@wisconsin.gov).

Wisconsin Elections Commissioners

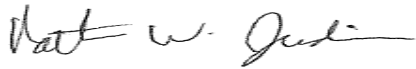
Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

Exhibit B

Sincerely,

WISCONSIN ELECTIONS COMMISSION

A handwritten signature in black ink, appearing to read "Nathan W. Judnic". The signature is fluid and cursive, with the first name "Nathan" being more prominent.

Nathan W. Judnic
Staff Attorney

Enclosure



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

MEMORANDUM

**TO: Candidates Subject to a Nomination Papers Challenge
2020 General Election**

FROM: Nathan W. Judnic, Attorney/Senior Election Specialist

DATE: August 7, 2020

SUBJECT: Response Procedures - Candidates Subject to Nomination Papers Challenge

This memorandum concerns candidates whose nomination papers have been challenged and discusses the procedure to be followed in responding to that challenge before the Wisconsin Elections Commission.

The Commission recommends reviewing the published manual titled “Common Nomination Paper Challenges” prior to responding to a challenge. The manual generally outlines the challenge process, but also includes prior Commission decisions on common challenges. This manual can be found here:

<http://elections.wi.gov/publications/manuals/common-nomination-paper-challenges>

Candidates should familiarize themselves with the requirements of Wisconsin Statutes Chapter 8, the statutory chapter governing nomination papers and nominations. In addition, administrative rules further explain requirements of nomination papers and the challenge procedure, which can be found in the Wisconsin Administrative Code EL §§ 2.05 - 2.07. Wis. Admin. Code EL §§ 2.05 - 2.07 are the rules governing the treatment and sufficiency of nomination papers and challenges to nomination papers.

Wis. Admin. Code EL § 2.05 sets forth the standards for determining whether nomination papers comply with Wis. Stat. Ch. 8 and Wis. Admin. Code EL § 2.07 sets forth the bases for challenges to those nomination papers. Both Wis. Admin. Code EL §§ 2.05 and 2.07 are rules attempting to interpret and clarify statutes; they are not statutes themselves. Because Wis. Admin. Code EL § 2.05(4) provides that “[a]ny information on a nomination paper is entitled to a presumption of validity,” any challenge to that information bears the burden of rebutting that presumption.

All challenges to nomination papers of Independent Candidates for President/Vice President filed with the Wisconsin Elections Commission for the 2020 General Election will be considered and determined by the Commission at a yet to be determined meeting that will occur in the next couple of weeks. The meeting will be held virtually via Zoom.

Wisconsin Elections Commissioners

Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

Exhibit C

Both the challenger and the candidate may appear before the Commission and/or by representation and be heard on the challenge. The challenger and the candidate will each receive 5 minutes for his or her presentation. If you choose to appear before the Commission, additional details on appearing via Zoom Meeting will be provided. **A challenged candidate may respond to a challenge by appearing before the Commission even if the candidate has not filed a verified written response.**

A challenged candidate may file a verified written response to a challenge. Written verified responses are due not later than 4:30 p.m., 3 days after the challenge to your nomination papers is filed pursuant to Wis. Admin. Code EL § 2.07(2)(b). The challenge was filed on August 7, 2020, therefore your written response is due by 4:30 p.m. on Monday, August 10, 2020.

Just as all challenges to nomination papers must be in the form of a verified complaint, a written response to a challenge should also be verified. A verified response is a response that the respondent (or other affiant) swears, under oath, is true based on the personal knowledge or information and belief of the respondent (or other affiant). The oath must be sworn to before a notary or other person authorized to administer oaths. In addition to filing a written response, a challenged candidate may appear, or by representation, before the Commission to explain why the challenge ought to be rejected.

Responses are filed by delivering a copy, or preferably emailing it, to the Wisconsin Elections Commission at its offices at 212 E. Washington Avenue, 3rd Floor, Madison, Wisconsin 53703 (email: elections@wi.gov) and by delivering and/or emailing a copy to the complainant who has challenged your nomination papers. If the response is emailed, please identify it as a challenge response in the subject line of the email. The response must contain a statement that a copy of the response has been served on, mailed, or emailed to the complainant. Due to the short timeframes involved, it is important that candidates provide a copy of their response to the complainant at the same time it is filed with the Commission.

The deadline for challenges to nomination papers that are filed with the WEC is set forth in Wis. Admin. Code EL § 2.07(2)(a), and is 4:30 p.m., Friday, August 7, 2020. New grounds for a challenge which were not raised in an initial complaint and which were raised after 4:30 p.m., August 7, 2020, will not be considered by the Commission.

A written response to a challenge should identify the nomination paper page and line number of the signature that has been challenged and must rebut the reasons for the challenge. *(For instance: the signature on nomination paper Page #2, Line 7, which has been challenged as outside the circulation period was actually obtained on May 30, 2020 – see the attached affidavit of the signatory, Mary Jones.)*

If you have any questions about the Commission's meeting to consider the challenges to nomination papers, please contact Nathan W. Judnic at 608-267-0953 (nathan.judnic@wisconsin.gov). More information about the Commission's meeting to decide challenges will be provided once it is available.

Relevant Resources:

Wis. Stat. Ch. 8: <http://docs.legis.wisconsin.gov/statutes/statutes/8>

Wis. Adm. Code EL Ch. 2: https://docs.legis.wisconsin.gov/code/admin_code/el/2

Common Nomination Paper Challenges Manual:

<http://elections.wi.gov/publications/manuals/common-nomination-paper-challenges>

Declaration of Candidacy

(See instructions for preparation on back)

FOR OFFICE USE ONLY

Is this an amendment?

☐ Yes (if you have already filed a DOC for this election)

☒ No (if this is the first DOC you have filed for this election)

I, Angela Walker, being duly sworn, state that

I am a candidate for the office of Vice President of the United States

Official name of office - Include district, branch or seat number

representing The Green Party of the United States

If partisan election, name of political party or statement of principle - five words or less (Candidates for nonpartisan office may leave blank.)

and I meet or will meet at the time I assume office the applicable age, citizenship, residency and voting qualification requirements, if any, prescribed by the constitutions and laws of the United States and the State of Wisconsin, and that I will otherwise qualify for office, if nominated and elected.

I have not been convicted of a felony in any court within the United States for which I have not been pardoned.¹

My present address, including my municipality of residence for voting purposes is:

House or fire no.	Street Name	Mailing Municipality and State	Zip code	Town of <input type="checkbox"/> Village of <input type="checkbox"/> City of <input checked="" type="checkbox"/>	Municipality of Residence for Voting
		Florence, South Carolina	29506		Florence

My name as I wish it to appear on the official ballot is as follows:

Angela Walker

(Any combination of first name, middle name or initials with surname. A nickname may replace a legal name.)

Angela Walker

(Signature of candidate)

STATE OF South Carolina

County of Florence

(County where oath administered)

ss.

Subscribed and sworn to before me this 28th day of July, 2020.

Tarsha Jackson

(Signature of person authorized to administer oaths)

NOTARY SEAL
REQUIRED, IF OATH
ADMINISTERED BY
NOTARY PUBLIC

Notary Public or ☐ other official

(Official title, if not a notary)

Notary Public: My commission expires 12/01/2025 or ☐ is permanent.

TARSHA JACKSON
Notary Public, State of South Carolina
My Commission Expires 12/1/2025

The information on this form is required by Wis. Stat. § 8.21, Art. XIII, Sec. 3, Wis. Const., and must be filed with the filing officer in order to have a candidate's name placed on the ballot. Wis. Stats. §§ 8.05 (1)(j), 8.10 (5), 8.15 (4)(b), 8.20 (6), 120.06 (6)(b), 887.01.

EL-162 | Rev. 2019-08 | Wisconsin Elections Commission, P.O. Box 7984, Madison, WI 53707-7984
608-266-8005 | web: elections.wi.gov | email: elections@wi.gov

Exhibit D

1996 constitutional amendment bars any candidate convicted of a misdemeanor which violates the public trust from running for or holding a public office. However, the legislature has not defined which misdemeanors violate the public trust. A candidate convicted of any misdemeanor is not barred from running for or holding a public office until the legislature defines which misdemeanors apply.



Andrea Merida

Fwd: RE: Candidate Change of Address WI

2 messages

Mike McCallister

Wed, Jul 29, 2020 at 12:00 PM

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

----- Forwarded Message -----

Subject:RE: Candidate Change of Address WI**Date:**Wed, 29 Jul 2020 16:39:44 +0000**From:**Williams, Robert A - ELECTIONS**To:**Mike McCallister**CC:**Judnic, Nathan - ELECTIONS

Mr. McCallister,

Most importantly, any petitions circulated this week should have the updated address on them. Prior to gathering any signatures, campaign staff can amend the form with the correct address for Ms. Walker. Any nomination paper pages already containing voter signatures should be submitted to WEC without alteration to the candidate information. Once a voter has signed the petition, no candidate information on that page may be changed.

If Ms. Walker has previously filed a declaration of candidacy (EL-162) with the Wisconsin Elections Commission, it can be amended to reflect the address change. Technically speaking, however, federal candidates are not required to list an address on their declaration of candidacy. So, if Ms. Walker chooses to list her address on her declaration of candidacy, she can include the most current one.

Thank you,

Robert Williams
Elections Administration Specialist
Voting Equipment Testing and Certification
Wisconsin Elections Commission
Phone: 608-261-8683
Email: RobertA.Williams@wi.gov

**Exhibit E**

From: Mike McCallister
Sent: Wednesday, July 29, 2020 9:59 AM
To: Williams, Robert A - ELECTIONS
Subject: Re: Candidate Change of Address WI

Mr. Williams,

Thanks for your response. I left you voice mail yesterday, but perhaps it's easier using email.

Here's our story: Green Party volunteers have been collecting signatures for Howie Hawkins and Angela Walker since the circulation period began. On Monday, we learned (from the national campaign) that Ms. Walker's address listed on our petitions was outdated. Our questions are:

- How should Angela Walker file a change of address with the commission?
- What (if anything) should we do with already-collected sheets before submitting them???
- Do we need to treat sheets with signatures collected this week differently?

We want to do things the right way to ensure the signatures we have collected are valid. Please advise as soon as possible.

You can also reach me by phone at

Thank you for your attention.

Sincerely,

Mike McCallister

On 7/28/2020 3:14 PM, Williams, Robert A - ELECTIONS wrote:

Mr. McCallister,

??

To be placed on the ballot for the office of President, independent candidates must submit to the Wisconsin Elections Commission a declaration of candidacy and nomination papers containing the minimum number of signatures required for ballot placement.?? For presidential candidates, the requirement is 2,000-4,000 signatures.?? WEC recommends using form EL-167 for nomination paper signatures as there is an additional requirement that each of the candidate???s electors be listed on the petition pages.??

??

Completed nomination papers and declarations of candidacy must be submitted to WEC on or before August 4, 2020 at 5:00 pm.?? Submissions can be made in person or by mail.??

??

Wisconsin Elections Commission

[212 East Washington Avenue](#), Third Floor

PO Box 7984

Madison, WI 53707

??

<https://elections.wi.gov/forms/elis-15>

??

Please feel free to contact us with any questions.

??

Thank you,

Robert Williams
Elections Administration Specialist
Voting Equipment Testing and Certification
Wisconsin Elections Commission
Phone: 608-261-8683
Email: RobertA.Williams@wi.gov



??

-----Original Message-----

From: Mike McCallister
Sent: Tuesday, July 28, 2020 1:09 PM
To: Williams, Robert A - ELECTIONS
Subject: RE: Candidate Change of Address WI

??

Mr. Williams:

??

I am following up on the question from the Hawkins/Walker presidential campaign about the address change of our vice-presidential candidate, Angela Walker.

??

Is there a direct phone number I can call to speak with you and clarify what needs to be done with our nominating petitions? With just a few days left in the circulating period, we need to know what we need to turn in.

??

Thanks for your help.

??

Sincerely,

??

Mike McCallister

??

for the Wisconsin Green Party Elections Committee

??

8/31/2020

Howie Hawkins 2020 Mail - Fwd: RE: Candidate Change of Address WI

[Redacted text block]

[Redacted text block]

[Quoted text hidden]