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SUPREME COURT

IN THE SUPREME COURT OF WISCONSIN

No. _____

DAVID STRANGE, INDIVIDUALLY AND AS DEPUTY OPERATIONS DIRECTOR - WISCONSIN FOR THE DEMOCRATIC NATIONAL COMMITTEE,

Petitioner,

v.

WISCONSIN ELECTIONS COMMISSION (WEC); MEAGAN WOLFE, IN HER OFFICIAL CAPACITY AS ADMINISTRATOR OF WEC; DON MILLIS, ROBERT SPINDELL, JR., MARGE BOSTELMANN, ANN JACOBS, MARK THOMSEN, AND CARRIE RIEPL, IN THEIR OFFICIAL CAPACITY AS COMMISSIONERS OF WEC, AND WISCONSIN GREEN PARTY,

Respondents.

PETITION FOR ORIGINAL ACTION

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INTRODUCTION

The Wisconsin Elections Commission has indicated that the Wisconsin Green Party has attained ballot status to place candidates for the offices of president and vice president of the United States on the ballot in the general election in Wisconsin in November 2024,[1] and the Wisconsin Green Party has publicly announced Jill Stein and Butch Ware as its candidates for president and vice president, respectively.

But the Wisconsin Green Party failed to comply with Wisconsin's election statutes governing presidential electors, and Wisconsin law therefore bars any Wisconsin Green Party candidate from appearing on the ballot for president in the November 5, 2024 election. In particular, and as set forth in this Petition for Original Action and the Memorandum in Support, the Wisconsin Green Party is legally foreclosed under Wisconsin law from nominating any presidential electors, and therefore cannot field candidates for president and vice president who are eligible to appear on the ballot in Wisconsin in November.[2]

In Wisconsin, each political party's presidential electors must be selected as set forth in Wisconsin Statutes section 8.18. That statute provides that certain expressly identified members of each political party seeking to run a candidate in the presidential election "shall meet in the state capitol at 10 a.m. on the first Tuesday in October of each year in which there is a presidential election" to nominate presidential electors for that political party. Wis. Stat. § 8.18(1). The statutorily prescribed members who must meet are: (i) "[c]andidates for the senate and assembly nominated by each political party at the primary"; (ii) "the state officers" of each political party; and (iii) "the holdover state senators of each political party[.]" *Id.*

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[1] *U.S. President (On The Ballot)*, Wisconsin Elections Commission, https://elections.wi.gov/candidates/federal-candidates#4257225834-2909155364 (last accessed Aug. 19, 2024).

[2] This Petition is also supported by the Affidavit of David P. Hollander ("Hollander Aff."), and the Exhibits thereto.

It has long been clear that the Wisconsin Green Party had no affiliated individuals in the latter two categories eligible to nominate presidential electors. Yet the August 13, 2024 primary offered one final opportunity for the Wisconsin Green Party to satisfy the statutory requirements necessary for the Party to identify an affiliated person eligible to nominate a presidential elector. That opportunity was for a Wisconsin Green Party candidate to qualify for placement on the November ballot for a legislative district, which a candidate could have done with as few as 200 write-in votes in a single Assembly district, for example. Wis. Stat. §§ 8.16(2), 8.15(6). But the Wisconsin Green Party failed to nominate any candidates for Wisconsin Senate or Assembly,[3] and no Party candidate garnered a sufficient number of write-in votes to appear as candidate for Wisconsin Senate or Assembly, according to the requirements of Wisconsin Statutes section 8.16(2).

Thus, as of the August 13 primary election, the Wisconsin Green Party conclusively has no candidates for Wisconsin Senate or Assembly in the general election, nor are there currently any Wisconsin Green Party state officeholders or holdover senators. Consequently, no individual will be authorized under Wisconsin Statutes section 8.18 to nominate presidential electors to represent the Wisconsin Green Party when political parties must meet to nominate presidential electors on the first Tuesday of October.

The Commission will meet on August 27, 2024 to "consider and grant ballot access to all candidates for president and vice president of United States."[4] August 27, 2024 is also the deadline by which "the commission shall […] transmit to each county clerk a certified list of all candidates on file in its office for which electors in that county may vote." Wis. Stat. §§ 7.08(2)(a); 10.06(1)(i). Following the Commission's transmission of the certified list of candidates, "[t]he county clerk

[3] *See 2024 Partisan Primary Candidates on Ballot*, Wisconsin Elections Commission, https://elections.wi.gov/media/26866/download (last accessed Aug. 19, 2024).

[4] https://elections.wi.gov/sites/default/files/documents/New%20Challenge%20Procedure%20Memo%20-%20July%201%2C%202024.pdf (last accessed Aug. 19, 2024).

shall prepare copy for the official ballots immediately upon receipt of the certified list of candidates' names from the commission." Wis. Stat. § 7.10(2).

Under the law governing "official ballots," however, the "names of the presidential electors for the candidates supplied under [section] 8.18(2) […] are not listed on the ballot but a vote for the candidates for president and vice president is a vote for them through their named presidential electors." Wis. Stat. § 5.64(1)(em); *see also, e.g.*, Wis. Stat. § 5.10 ("[T]he names of the electors do not appear on the ballot and no reference is made to them, [but] a vote for the president and vice president named on the ballot ***is a vote*** for the electors of the candidates for whom an elector's vote is cast." (emphasis added)).

Because the Wisconsin Green Party has no affiliated individuals who are eligible under Wisconsin law to nominate presidential electors for the Wisconsin Green Party, the Party ***cannot*** as a matter of law field a candidate for president "for which electors in [each] county may vote." Wis. Stat. § 7.08(2)(a).

Petitioner therefore respectfully requests that the Court grant his Petition for Original Action and take jurisdiction of his claims, and enjoin the Commission—on or before August 27, 2024—from certifying the Wisconsin Green Party or its candidates for president and vice president for placement on the November 2024 Wisconsin general election ballot.

STATEMENT OF ISSUES

Wisconsin's statute governing "Nomination of presidential electors" provides that "[c]andidates for the senate and assembly nominated by each political party at the primary, the state officers and the holdover state senators of each political party ***shall meet*** in the state capitol" on Tuesday, October 2, 2024. Wis. Stat. § 8.18(1) (emphasis added). "The purpose of the convention is to nominate one presidential elector from each congressional district and 2 electors from the state at large." *Id.*, § 8.18(2).

Issue 1: Whether the Wisconsin Green Party, having failed to secure any of the individuals authorized in section 8.18 to nominate presidential electors, is barred from selecting presidential electors for the November 2024 general election?

Issue 2: Whether, as a result of the Wisconsin Green Party's failure to lawfully nominate presidential electors, Petitioner is entitled to declaratory and injunctive relief barring the Wisconsin Elections Commission from certifying Wisconsin Green Party's presidential and vice presidential candidates for placement on the ballot for the November 2024 general election?

STATEMENT ON WHY THE COURT SHOULD TAKE JURISICTION

This Court "may hear original actions and proceedings." Wis. Const. art. VII, § 3. Although this Court rarely exercises its original jurisdiction, the Court does so when the "questions presented are of such importance as under the circumstances to call for [a] speedy and authoritative determination by this court in the first instance." *Petition of Heil*, 230 Wis. 428, 284 N.W. 42, 50 (1938).

Indeed, this Court has a long history of taking original jurisdiction over ballot-access disputes. *Lab. & Farm Party v. Elections Bd., State of Wis.*, 117 Wis. 2d 351, 352, 344 N.W.2d 177 (1984) ("Because we conclude that this matter is *publici juris,* it is therefore appropriate for us to exercise our original jurisdiction."); *McCarthy v. Elections Bd.*, 166 Wis. 2d 481, 485, 480 N.W.2d 241 (1992) ("[T]his matter is *publici juris* and we exercise our original jurisdiction[.]"); *Phillips v. Wis. Elections Comm'n*, 2024 WI 8, ¶1, 410 Wis. 2d 386, 2 N.W.3d 254 (*per curiam*) ("[W]e conclude that this matter is *publici juris*, and we exercise our original jurisdiction."). The Court should do so again here, because, like those previous ballots-access disputes, this case contains three hallmarks of an action appropriate for original jurisdiction.

First, the dispute must be resolved quickly, as the Wisconsin Elections Commission ("WEC" or the "Commission") must certify the candidates by August 27, 2024. Wis. Stat. § 10.06(1)(i); *see also Lab. & Farm Party*, 117 Wis. 2d at 354 (noting, *inter alia*, the "shortness of time available before the ballots are to be printed" as the basis for taking original jurisdiction); *Phillips*, 2024 WI 8, ¶12 ("[T]here is a need for the certified list of candidates to be transmitted so that the local election officials can begin the process of preparing, printing, delivering, and mailing absentee ballots by the statutorily required deadlines.").

Second, this is a dispute over the Wisconsin Green Party's ability to field a candidate for president and vice president in each of Wisconsin's seventy-two counties. In all likelihood, over three-million Wisconsinites will cast votes in

November and those ballots either will or will not list the Wisconsin Green Party (WGP) candidates for president and vice president. Thus, this matter is *publici juris*. *See, e.g.*, *Lab. & Farm Party*, 117 Wis. 2d at 354 (citing, *inter alia*, "the statewide importance of the issues raised" as the basis for taking original jurisdiction); *Wisconsin Pro. Police Ass'n, Inc. v. Lightbourn*, 2001 WI 59, ¶4, 243 Wis. 2d 512, 627 N.W.2d 807 ("The supreme court limits its exercise of original jurisdiction to exceptional cases in which a judgment by the court significantly affects the community at large.").

Finally, "[t]he relevant facts in this case are undisputed[.]" *Lab. & Farm Party*, 117 Wis. 2d at 353. The facts supporting this Petition are set forth below.[5] However, the key facts—namely, whether WGP has any public officials listed in Wis. Stat. § 8.18(1)—are also facts that readily ascertainable and not subject to reasonable dispute, and are therefore subject to judicial notice. Wis. Stat. § 902.01(2). This dispute largely turns on the construction of Wisconsin's election statutes, and the "construction of a statute and its application to undisputed facts are questions of law that [this Court] generally review[s] independently." *Cnty. of Dane v. Lab. & Indus. Rev. Comm'n*, 2009 WI 9, ¶14, 315 Wis. 2d 293, 759 N.W.2d 571.

[5] To the extent anything with evidentiary value is required, the facts set forth in this Petition were also set forth in the Verified Complaints filed before WEC. *See* the Affidavit of David P. Hollander in Support of Petition for Original Action ("Hollander Aff."), Exs. A and C.

STATEMENT OF FACTS AND BACKGROUND LAW

I. Relevant Parties.

1. Petitioner David Strange ("Petitioner") is a resident of Wisconsin. Strange serves as the Deputy Operations Director-Wisconsin for the Democratic National Committee.

2. Petitioner brings this Petition individually and in his capacity as Deputy Operations Director – Wisconsin for the Democratic National Committee.

3. Under the Charter and Bylaws of the Democratic Party of the United States, the "Democratic National Committee shall have general responsibility for the affairs of the Democratic Party between National Conventions," including, inter alia, "conducting the Party's Presidential campaign[.]" Article III, § (1)(b).[6]

4. Petitioner is an employee of the Democratic National Committee and is working to elect Kamala Harris and Timothy Walz as President and Vice President of the United States, respectively.

5. Defendant Wisconsin Elections Commission ("Commission" or "WEC") is the agency charged with "the responsibility for the administration of chs. 5 to 10 and 12 [of the Wisconsin statutes] and other laws relating to elections and election campaigns[.]" Wis. Stat. § 5.05(1).

6. Respondent Meagan Wolfe ("Wolfe") is sued in her official capacity as WEC Administrator. She is the chief election officer of the State of Wisconsin. Wis. Stat. § 5.05(3g).

7. Respondents Don Millis, Robert Spindell, Jr., Marge Bostelmann, Ann Jacobs, Mark Thomsen, and Carrie Riepl ("Commissioners" and, with Wolfe, the "WEC Respondents") are sued in their official capacities as WEC Commissioners. WEC's commissioners have key roles in enforcing state election laws. Wis. Stat. § 5.05(2m).

[6] https://democrats.org/wp-content/uploads/2022/09/DNC-Charter-Bylaws-09.10.1022-1.pdf (last accessed Aug. 19, 2024).

8. Respondent Wisconsin Green Party ("WGP") is "a not for profit, non-stock Wisconsin Corporation" that is "part of the international Green movement for grassroots democracy, social and economic justice, nonviolence, and ecology."[7]

9. Respondent Wisconsin Elections Commission ("WEC" or the "Commission") is the agency in charge of administering elections in Wisconsin. The Commission's office, and the place in which it primarily conducts business, is located in Dane County at 201 West Washington Avenue, Second Floor, Madison, Wisconsin, 53703.

II. Timing of this Petition.

10. Petitioner filed this Petition promptly after it became clear that WGP had failed to qualify a single individual to nominate the party's presidential electors.

11. WGP had two opportunities to lawfully nominate a state legislative candidate.

12. Specifically, a WGP candidate for Wisconsin Senate or Assembly could have filed the requisite number of qualifying elector signatures and a declaration of candidacy with the Commission by 5 p.m. on June 1, 2024. Wis. Stat. § 8.15(1).

13. Alternatively, WGP could have supported a write-in candidate for Wisconsin Senate or Assembly at the 2024 partisan primary. Wis. Stat. § 8.16(2).

14. WGP could have secured a candidate for the Wisconsin Senate with as few as 400 signatures, Wisconsin Statutes section 8.15(6)(c), or a candidate for Wisconsin Assembly with as few as 200 signatures, Wisconsin Statutes section 8.15(6)(d).

15. Likewise, WGP could have secured a candidate for the Wisconsin Senate with as few as 400 write-in votes or a candidate for the Wisconsin Assembly

[7] The national Green Party has publicly announced Jill Stein and Butch Ware as its candidates for president and vice president, respectively. *See* https://www.gp.org/greens_nominate_jill_stein_and_running_mate_butch_ware (last accessed Aug. 19, 2024). However, the deadline for parties to certify candidates is not until September 3, 2024. Petitioner will not oppose Stein or Ware's intervention, should they seek to do so.

with as few as 200 write-in votes at the August 13, 2024 primary. Wis. Stat. § 8.16(2).

16. Had WGP done so, its presidential electors could have been selected by WGP's "[c]andidates for the senate and assembly nominated by each political party ***at the primary***." Wis. Stat. § 8.18(1) (emphasis added).

17. Having chosen not to do so, however, WGP is now legally foreclosed under Wisconsin law from nominating any presidential electors.

18. Accordingly, Petitioner could not assert a claim until he knew that WGP would fail to qualify a single state legislative candidate for the ballot. A "claim is not ripe if it rests on contingent future events that may not occur as anticipated, or indeed may not occur at all." *Int. of C. G.*, 2021 WI App 11, ¶29 n.7, 396 Wis. 2d 105, 955 N.W.2d 443, *aff'd,* 2022 WI 60, 403 Wis. 2d 229, 976 N.W.2d 318 (internal quotations omitted). When the resolution of a claim "depends on hypothetical or future facts, [it is] not ripe for adjudication and will not be addressed by this court." *Tammi v. Porsche Cars N. Am., Inc.*, 2009 WI 83, ¶3, 320 Wis. 2d 45, 768 N.W.2d 783 (internal quotations omitted).

III. WEC's Certification of Candidates and the Ballot Printing Process.

19. At a meeting on February 8, 2024, the Commission unanimously decided to "grant approval of ballot status for the Wisconsin Green Party for the 2024 Partisan Primary and General Election[.]"[8]

20. At or shortly after that meeting, "the commission shall […] transmit to each county clerk a certified list of all candidates on file in its office for which electors in that county may vote." Wis. Stat. § 7.08(2)(a).

21. The Commission must certify that list "no later than the deadlines established in s. 10.06," *id.*, meaning that the Commission must certify that list "[a]s

[8] https://elections.wi.gov/sites/default/files/documents/February%208%202024%20Open%20Session%20Minutes%20APPROVED.pdf (last accessed August 19, 2024).

soon as possible after the state canvass, but no later than the 4th Tuesday in August"—*i.e.*, August 27, 2024. Wis. Stat. § 10.06(1)(i).

22. Thereafter, "[t]he county clerk shall prepare copy for the official ballots immediately upon receipt of the certified list of candidates' names from the commission." Wis. Stat. 7.10(2).

23. On September 18, 2024, county clerks (who print ballots) must deliver ballots to local clerks, Wis. Stat. §§ 7.10(1), (3), so that local officials can comply with the September 19th UOCAVA deadline to begin sending ballots. Wis. Stat. §§ 7.10(3), 7.15(1)(c), (cm).

IV. Petitioner's Attempts Before WEC.

24. On August 14, 2024, the day after the primary, Petitioner filed a complaint before the Commission (the "First WEC Complaint"), asserting substantially similar claims as those set forth herein, and seeking substantially similar relief. *See* Hollander Aff., Ex. A.

25. On August 15, 2024, the Commission dismissed the First WEC Complaint without prejudice, finding that the it "states allegations that could lead to a finding of probable cause" but is deficient "because it does not name an election official as a respondent, which is a requirement of Wis. Stat. § 5.06(1)[.]" *See* Hollander Aff., Ex. B.

26. On August 16, 2024, Petitioner filed a second complaint before the Commission (the "Second WEC Complaint"), asserting substantially similar claims as those set forth herein, and seeking substantially similar relief. To remedy the purported deficiency, Petitioner named as respondents the Commission, its Administrator, and its Commissioners. *See* Hollander Aff., Ex. C.

27. On August 16, 2024, the Commission dismissed the Second WEC Complaint, reasoning that "[i]t is the position of the Commission that a complaint against the Commission, against Commissioners in their official capacities, or against Commission staff, including the Administrator, warrants an ethical recusal by the body." *See* Hollander Aff., Ex. D.

V. Background on the Law Governing Presidential Electors.

A. Relevant Federal Law.

28. The United States Constitution provides that the president and vice president are elected by a majority vote of the presidential electors of the 50 states and the District of Columbia. U.S. Const., art. II, § 1, cl. 3.

29. Those presidential electors are appointed pursuant to the laws of each state. *Id.* at cl. 2.

30. Ultimately, each state's Governor "shall issue a certificate of ascertainment of appointment of electors, ***under and in pursuance of the laws of such State*** providing for such appointment and ascertainment enacted prior to election day." 3 U.S.C. § 5 (emphasis added).

B. Relevant Wisconsin Law.

31. In Wisconsin, the slate of presidential electors representing each candidate whose names will appear on the ballot are nominated through specific procedures prior to each presidential election. *See* Wis. Stat. §§ 8.18, 8.185, 8.20.

32. Once the slate of presidential electors representing each candidate has been chosen, although the names of the presidential electors "do not appear on the ballot and no reference is made to them, a vote for the president and vice president named on the ballot is a vote for the electors of the candidates for whom an elector's vote is cast." Wis. Stat. § 5.10. Thus, under Wisconsin's election statutes, "all references to the presidential election, the casting of votes and the canvassing of votes for president, or for president and vice president, mean votes for them through their pledged presidential electors." *Id.*; *see also* Wis. Stat. § 8.25 ("A vote for the president and vice president nominations of any party ***is a vote*** for the electors of the nominees." (emphasis added)).

33. Accordingly, after the election:

> The presidential electors, when convened, shall vote by ballot for that person for president and that person for vice president who are, respectively, the candidates of the political party which nominated them under s. 8.18, the candidates whose names appeared on the

> nomination papers filed under s. 8.20, or the candidate or candidates who filed their names under s. 8.185 (2)[.]

Wis. Stat. § 7.75(2).

VI. WGP's Avenues to Select Presidential Electors.

34. Under Wisconsin Statutes section 7.75(2), the statutes contemplate only three types of presidential electors, who each "shall vote" for certain candidates, depending on the process by which they were elected: (1) presidential electors nominated by a political party under section 8.18; (2) presidential electors supporting an independent candidate under section 8.20; and (3) presidential electors supporting a write-in candidate under section 8.185(2).

35. This Petition addresses each type of presidential elector in turn.

A. Wisconsin Statutes Section 8.18: WGP Failed to Comply With the Political Party Procedure For Selecting Presidential Electors.

36. Political parties in Wisconsin qualify for a party column on the ballot under Wisconsin Statutes section 5.62. *See* Wis. Stat. § 5.02(16m). Once parties qualify for a party column, they must nominate their presidential electors through the processes laid out in Wisconsin Statutes section 8.18.

37. Thus, to secure ballot access for the party's presidential and vice presidential candidates, all political parties, including WGP, must both qualify through Wisconsin Statutes section 5.62 and comply with Wisconsin Statutes section 8.18.

38. Although WGP qualified through Wisconsin Statutes section 5.62, it failed to comply with section 8.18.

1. Compliance Wisconsin Statutes Section 5.62.

39. This Petition involves WGP's attempt to qualify for ballot access through Wisconsin Statutes section 5.62(1)(b).[9]

40. Specifically, a political organization that was listed as "independent" at the last general election and whose candidate for any statewide office in that election received at least 1% of the total votes cast for that office is entitled to a separate column or row on the primary ballot if the organization files a petition with the Commission by 5 p.m. on April 1 of an election year. Wis. Stat. § 5.62(1)(b).

41. In 2022, Sharyl McFarland, a candidate affiliated with WGP, gained ballot access as an independent candidate for Wisconsin Secretary of State. Ms. McFarland received 1.58% of the total statewide vote in the Secretary of State race.[10]

42. Based solely upon the votes cast for Ms. McFarland, WGP petitioned the Commission in 2024 to obtain status as a recognized political party under Wisconsin law.

43. The Commission accepted the petition and granted WGP ballot access status as a political party in the 2024 general election for president and vice president.[11]

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[9] Alternatively, a political organization may submit a petition to the Commission with 10,000 signatures, at least 1,000 of which are from Wisconsin electors residing within each of Wisconsin's eight congressional districts. Such a petition must be filed by 5 p.m. on April 1 of an election year. Wis. Stat. § 5.62(2)(a). At least one other party has used this procedure. *See, e.g.*, Molly Beck and Jessie Opoien, *'No Labels' party has enough signatures for ballot access in Wisconsin*, Milwaukee Journal Sentinel https://www.jsonline.com/story/news/politics/elections/2024/03/28/no-labels-party-says-it-has-enough-signatures-for-wisconsin-ballot/73135485007/ (last accessed Aug. 19, 2024).

[10] *Ballot Status History—Wisconsin Green Party*, GPUS Elections Database, https://www.greenpartyus.org/ballot-status-history/wisconsin/ (last accessed Aug. 19, 2024); Sarah Lehr, *Wisconsin Green Party clears hurdle to appear on ballot in 2024*, Wisconsin Public Radio (Nov. 30, 2022), https://www.wpr.org/politics/wisconsin-green-party-election-ballot-2024 (last accessed Aug. 19, 2024).

[11] *U.S. President (On The Ballot)*, Wisconsin Elections Commission, https://elections.wi.gov/candidates/federal-candidates#4257225834-2909155364 (last accessed Aug. 19, 2024).

44. Upon information and belief, WGP purports to be a recognized political party as a result of the Commission's acceptance of WGP's letter requesting that status.

2. Compliance with Wisconsin Statutes Section 8.18.

45. Wisconsin law dictates how a political party with ballot status selects its presidential electors:

> (1) Candidates for the senate and assembly nominated by each political party at the primary, the state officers and the holdover state senators of each political party shall meet in the state capitol at 10 a.m. on the first Tuesday in October of each year in which there is a presidential election.
>
> (2) The purpose of the convention is to nominate one presidential elector from each congressional district and 2 electors from the state at large. The names of the nominees shall be certified immediately by the chairperson of the state committee of each party to the chairperson of the commission.

Wis. Stat. § 8.18.

46. Pursuant to Wisconsin Statutes section 8.18, the Commission has scheduled a 10:00 a.m. "Presidential Electors Nomination Meeting" on October 1, 2024, at the State Capitol.[12]

47. Only the enumerated party representatives—namely, "[c]andidates for the senate and assembly nominated by each political party at the primary, the state officers and the holdover state senators of each political party"—may select the party's electors. Wis. Stat. § 8.18(1).

[12] *Presidential Elections Nomination Meeting*, Wisconsin Elections Commission, https://elections.wi.gov/event/presidential-electors-nomination-meeting-0 (last accessed Aug. 19, 2024).

48. WGP currently does not have any state officers or holdover Wisconsin senators.[13]

49. WGP also does not have any candidates for Wisconsin Senate or Assembly. It could have done so in two different ways.

50. ***First,*** WGP could have nominated candidates for Wisconsin Senate or Assembly at the 2024 partisan primary.

51. Specifically, a WGP candidate for Wisconsin Senate or Assembly would have been required to file the requisite number of qualifying elector signatures and a declaration of candidacy with the Commission by 5 p.m. on June 1, 2024. Wis. Stat. § 8.15(1).

52. To declare a candidacy, WGP could have secured a candidate for the Wisconsin Senate with as few as 400 signatures, Wisconsin Statutes section 8.15(6)(c), or a candidate for Wisconsin Assembly with as few as 200 signatures, *id.* § 8.15(6)(d).

53. No WGP candidate submitted the requisite number of signatures for any Wisconsin Senate or Assembly seat on or before June 1, 2024.[14]

54. ***Second,*** WGP could have supported a write-in candidate for the Wisconsin Senate or Assembly at the 2024 partisan primary. Wis. Stat. § 8.16(2).

55. To nominate by write in, WGP could have secured a candidate for the Wisconsin Senate with as few as 400 write-in votes or a candidate for the Wisconsin Assembly with as few as 200 write-in votes. Wis. Stat. § 8.16(2).

56. While the canvass of the August 13, 2024 primary will not be completed until August 23, 2024, Wis. Stat. § 7.60(5), it is apparent that WGP did not secure a candidate for Wisconsin Senate or Assembly in the August 13, 2024

[13] The term "state office" is defined in Wis. Stat. § 5.02(23) as "the offices of governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent, justice of the supreme court, court of appeals judge, circuit court judge, state senator, state representative to the assembly and district attorney."

[14] *See 2024 Partisan Primary Candidates on Ballot*, Wisconsin Elections Commission, https://elections.wi.gov/media/26866/download (last accessed Aug. 19, 2024).

primary. *See, e.g.*, Hollander Aff., Ex. A, ¶¶63-67. The Court can also take judicial notice of the individual county clerks' unofficial election results. Wis. Stat. § 901.01(2).[15]

57. Accordingly, WGP has no party representative legally authorized to participate in the Presidential Electors Nomination Meeting on October 1, 2024.

B. Wisconsin Statutes Section 8.20: WGP Failed to Use The Independent Candidate Procedure For Selecting Presidential Electors.

58. WGP could have placed its preferred candidate on the November ballot by using the independent candidate procedure. Wis. Stat. § 8.20.

59. By invoking this procedure, WGP would have been required only to gather 2,000 signatures statewide. Wis. Stat. § 8.20(4).

60. Even through the independent candidate procedure, a WGP candidate could provide "the party or principles each candidate represents, if any, in 5 words or less." Wis. Stat. § 8.20(2)(c).

61. However, the statutory deadline for nomination papers for independent presidential and vice presidential candidates was August 6, 2024. Wis. Stat. § 8.20(8)(am).

62. According to the Commission's public database, Badger Voters, four independent candidates attempted to submit the required number of signatures before the August 6, 2024 deadline.[16]

63. However, no independent candidate supported by WGP filed nomination papers for president and vice president on or before August 6, 2024.

64. Accordingly, WGP did not select presidential electors under the independent candidate procedure.

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[15]Links to each county's reporting data is available on WEC's website. https://elections.wi.gov/wisconsin-county-election-websites (last accessed August 19, 2024).

[16] *See* Badger Voters, Wisconsin Elections Commission, https://badgervoters.wi.gov/Requests/NewRequest (last accessed Aug. 19, 2024).

C. Wisconsin Statutes Section 8.185(2): WGP Could Still Select Electors Through The Write-In Process, But Would Not Appear on the Ballot.

65. A write-in candidate would not select their presidential electors until October 22, 2024. Wis. Stat. § 8.185(2).

66. The write-in procedure under Wisconsin Statutes section 8.185(2) remains available to WGP.

67. However, it is axiomatic that a write-in candidacy does not appear on the ballot. Wis. Stat. § 5.64(1)(g) ("Following under the independent candidates for each office, a space shall be provided for the elector to write in the name of a candidate of his or her choice for that office.").

CLAIMS FOR RELIEF

68. "Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed." Wis. Stat. § 806.04(1). This jurisdiction exists "to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations." Wis. Stat. § 806.04(12). Wisconsin Statutes section 806.04 is "remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered." Wis. Stat. § 806.04(12).

69. Wisconsin Statutes section 8.18 specifically enumerates the political party representatives who must meet to nominate the Presidential Electors representing the party's Presidential and Vice-Presidential candidates and requires that such nominations be made by a recognized political party's state senate and assembly candidates, state officeholders, and holdover state Senators.

70. WGP currently has no senate candidates, no assembly candidates, no state officeholders, and no holdover state senators. In other words, WGP has failed to qualify a single individual to nominate WGP's Presidential Electors.

71. As a recognized political party, WGP has had ample opportunity to satisfy the reasonable and minimal requirements of Wisconsin Statutes section 8.18 by nominating at least one candidate for senate or assembly in the months leading up to, and including, the partisan primary held on August 13, 2024.

72. WGP could have encouraged and supported one or more people to collect sufficient signatures and file nomination papers with declarations of candidacy by June 1, 2024. It did not do so.

73. WGP also could have encouraged and supported one or more people to run as write-in candidates for nomination at the partisan primary. It did not do so.

74. As such, WGP now lacks the requisite representatives to convene at the Capitol on the first Tuesday in October for the purpose of nominating Presidential electors, as Wisconsin Statutes § 8.18 requires. Section 8.18 is the sole mechanism under Wisconsin law to nominate Presidential electors, and WGP has failed to satisfy the minimal requirements to participate. Wisconsin law provides no other means for WGP, or any other political party, to nominate Presidential electors in Wisconsin.

75. Because WGP cannot lawfully nominate Presidential Electors to represent the party's Presidential and Vice-Presidential candidates, those candidates are not qualified to appear on the general election ballot.

76. The Commission has authority to "transmit to each county clerk a certified list" including only those candidates "for which electors in that county may vote." Wis. Stat. § 7.08(2)(a).

77. Under Wisconsin law, however, "the names of the electors do not appear on the ballot and no reference is made to them, [but] a vote for the president and vice president named on the ballot ***is a vote*** for the electors of the candidates for whom an elector's vote is cast." Wis. Stat. § 5.10 (emphasis added).

78. As a result, if the Commission transmits WGP Candidates to county clerks—candidates voters cannot vote for, as they do not exist—the Commission would be acting contrary to the law.

79. Therefore, pursuant to Wisconsin Statutes section 806.04, Petitioner is entitled to a declaration that WGP is legally ineligible to nominate Presidential Electors for the 2024 Presidential election and its nominated candidates for President and Vice-President shall not appear on the 2024 general election ballot.

80. Wisconsin's Uniform Declaratory Judgment Act grants courts the authority to issue relief supplemental to a declaratory judgment "whenever necessary or proper." Wis. Stat. § 806.04. "Injunctive relief may be granted in aid of a declaratory judgment, where necessary or proper to make the judgment effective." *Town of Blooming Grove v. City of Madison*, 275 Wis. 328, 336, 81 N.W.2d 713 (1957); *see also Lewis v. Young*, 162 Wis. 2d 574, 581, 470 N.W.2d 328, 331 (Ct. App. 1991) ("Injunctive relief may be granted in aid of a declaratory judgment.").

81. Petitioner is also entitled to temporary and permanent injunctive relief prohibiting WEC from making exceptions to Wisconsin Statutes section 8.18 and from transmitting WGP's candidates to the county clerks as part of the certified lists.

STATEMENT OF RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests that the Court:

A. Grant this Petition and take jurisdiction over this original action;

B. Declare that the Wisconsin Green Party, by its own actions, lacks the requisite representatives to nominate presidential electors in accordance with Wisconsin Statutes section 8.18 and is, therefore, ineligible to nominate presidential electors and to have its candidates for president and vice president appear on Wisconsin's 2024 general election ballot;

C. Enjoin WEC from making any exceptions to the requirements Wisconsin Statutes section 8.18 and accepting presidential elector nominees from the Wisconsin Green Party;

D. Enjoin WEC from transmitting the Wisconsin Green Party's candidates as part of the certified lists under Wisconsin Statutes section 7.08(2)(a);

E. Grant such other or further relief as this Court deems just, equitable, and proper under the circumstances.

DATED: August 19, 2024. Respectfully submitted,

STAFFORD ROSENBAUM LLP

By: *Electronically signed by David P. Hollander*

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