

IN THE
Supreme Court of the United States

JILL SWENSON, *et al.*,

Applicants,

v.

WISCONSIN STATE LEGISLATURE, *et al.*,

Respondents.

SYLVIA GEAR, *et al.*,

Applicants,

v.

WISCONSIN STATE LEGISLATURE, *et al.*,

Respondents.

DEMOCRATIC NATIONAL COMMITTEE, *et al.*,

Applicants,

v.

WISCONSIN STATE LEGISLATURE, *et al.*,

Respondents.

**ON APPLICATION TO VACATE STAY DIRECTED TO THE HONORABLE BRETT M.
KAVANAUGH, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES
AND CIRCUIT JUSTICE FOR THE SEVENTH CIRCUIT**

**RESPONSE OF RESPONDENTS IN SUPPORT
OF APPLICATIONS TO VACATE STAY**

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PARTIES TO THE PROCEEDING AND RELATED PROCEEDINGS

Respondents in support of the three emergency applications described below are Chrystal Edwards, Terron Edwards, John Jacobson, Kileigh Hannah, Kristopher Rowe, Katie Rowe, Jean Ackerman, William Laske, Jan Graveline, Todd Graveline, Angela West, Douglas West, and all others similarly situated (collectively “Respondents”). Respondents were plaintiffs in the district court and appellees in the court of appeals in case number 3:20-cv-00340 (W.D. Wis. April 13, 2020). The district court consolidated the Respondents’ lawsuit with three others for purposes of adjudicating the injunction at issue. The plaintiffs in each of those other cases have filed an emergency application in this Court to vacate the stay of the injunction entered by the court of appeals. These three consolidated cases, known as the DNC Lawsuit, Swenson Lawsuit, and Gear Lawsuit, are identified in subpart (2) below.

1. Respondents’ lawsuit included the following defendants in the district court: Marge Bostelmann, Julie M. Glancey, Ann S. Jacobs, Dean Knudson, Robert F. Spindell, Jr., Mark L. Thomsen, the individual members of the Wisconsin Elections Commission, and the Wisconsin Commission itself (collectively the “WEC Defendants”). None of the WEC Defendants have appealed the district court’s injunction.

Defendants in the litigation below also included Robin Vos, in his official capacity as Speaker of the Wisconsin State Assembly, Scott Fitzgerald, in his official capacity as Majority Leader of the Wisconsin State Senate; the Wisconsin State Assembly, and the Wisconsin State Senate. The district court dismissed the claims

against Speaker Vos and Majority Leader Fitzgerald; Respondents did not appeal that decision. The Wisconsin Legislature is an appellant in the court of appeals in all four cases. It pursued an appeal from the district court's injunction, but the court of appeals denied its motion to stay the injunction because of a lack of standing. The panel then reversed itself after receiving an answer to a certified question from the Wisconsin Supreme Court. On October 8, 2020, the court of appeals granted a stay of the district court's injunction that is the subject of the emergency applications that this response supports.

The Republican National Committee ("RNC") and the Republican Party of Wisconsin ("RPW") were intervenor defendants in the district court in Respondents' case. They have pursued their own appeal from the district court's injunction, but the court of appeals denied their motion to stay the injunction because of a lack of standing. The court of appeals further dismissed their appeal on standing grounds on October 13, 2020 but has permitted the RNC and RPW to file arguments as amici curiae.

2. Because the district court had consolidated the four cases for purposes of hearing the preliminary injunction, it entered a single injunction order applicable in the consolidated cases on September 21, 2020. (2020 WL 5627186) (W.D. Wis. Sept. 21, 2020). The plaintiff groups from the consolidated cases identified below have each filed in this Court an emergency application to vacate the October 8, 2020 stay of the court of appeals. Those cases include:

Democratic National Committee, et al. v. Bostelmann, et al., No. 3:20-cv-249 (W.D. Wis. Mar. 18, 2020) ("the DNC Lawsuit"). Plaintiffs in that case are the

Democratic National Committee and the Democratic Party of Wisconsin. Defendants in that case are the WEC Defendants and Meagan Wolfe, in her official capacity as the Administrator of the Wisconsin Elections Commission. The Wisconsin Legislature, the Republican National Committee, and the Republican Party of Wisconsin were intervenors in the DNC Lawsuit;

Gear, et al. v. Dean Knudson, et al., No. 3:20-cv-278 (W.D. Wis. Mar. 26, 2020) (the “Gear Lawsuit”). Plaintiffs in that case are Sylvia Gear, Malekah K. Kakami, Patricia Ginter, Claire Whelan, Wisconsin Alliance for Retired Americans, League of Women Voters in Wisconsin, Bonibet Bahr Olsan, Sehila Jowsik, Katherine Kohlbec, Diane Fergot, Gary Fergot and Greg Jozwik. Defendants and Intervenors in the Gear Lawsuit are the same as in the DNC Lawsuit; and

Swenson v. Bostelmann, No. 3:20-cv-459 (W.D. Wis. May 18, 2020) (the “Swenson Lawsuit”). Plaintiffs in that case are Jill Swenson, Melody McCurtis, Maria Nelson, Black Leaders Organizing for Communities and Disability Rights Wisconsin. Defendants and Intervenors in the Swenson Lawsuit are the same as the DNC lawsuit.

The related proceedings below are:

1. *Democratic National Committee, et al. v. Bostelmann, et al.*, Nos. 20-2835 & 20-2844 (7th Cir.) – Order entered October 8, 2020, 2020 WL 5951359 (Wis. Oct. 8, 2020);
2. *Democratic National Committee, et al. v. Bostelmann, et al.*, No. 2020AP1634-CQ (Wis.) – Order entered October 6, 2020 2020 WL 5906141 (Wis. Oct. 6, 2020);
3. *Democratic National Committee, et al. v. Bostelmann, et al.*, No. 3:20-cv-249 (W.D. Wis.) – Order entered September 21, 2020;
4. *Gear, et al. v. Dean Knudson, et al.*, No. 3:20-cv-278 (W.D. Wis.) – Order entered September 21, 2020;
5. *Swenson v. Bostelmann*, No. 3:20-cv-459 (W.D. Wis.) – Order entered September 21, 2020; and
6. *Edwards v. Vos et al.*, No. 3:20-cv-340 (W.D. Wis.) – Order entered September 21, 2020.

STATEMENT PURSUANT TO SUPREME COURT RULE 29.6

Pursuant to Supreme Court Rule 29.6, respondents in support Chrystal Edwards, Terron Edwards, John Jacobson, Kileigh Hannah, Kristopher Rowe, Katie Rowe, Jean Ackerman, William Laske, Jan Graveline, Todd Graveline, Angela West, Douglas West, and all others similarly situated are individuals with no parent companies and no publicly held companies with a 10% or greater ownership interest in them.

**TO: THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE JUSTICE
OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT
JUSTICE FOR THE SEVENTH CIRCUIT:**

Pursuant to Rules 22 and 23 of the Rules of this Court, respondents in support Chrystal Edwards, Terron Edwards, John Jacobson, Kileigh Hannah, Kristopher Rowe, Katie Rowe, Jean Ackerman, William Laske, Jan Graveline, Todd Graveline, Angela West, Douglas West, and all others similarly situated (collectively “Respondents”), plaintiffs-appellees in the courts below, respectfully file this statement in response to the previously filed applications by the Swenson, Gear and DNC plaintiff-appellees for an order vacating the stay issued on October 8, 2020, by a panel of the United States Court of Appeals for the Seventh Circuit, and joining in the requests for relief sought in those applications. The Seventh Circuit’s order stayed a preliminary injunction issued on September 21, 2020, *DNC v. Bostelmann*, 2020 WL 5627186 (W.D. Wis. Sept. 21, 2020).

In support of their request, the Respondents hereby file this statement in support and adopt and incorporate the reasons and arguments set forth in the following separately filed applications that support vacating the stay:

1. The Application of Jill Swenson, et al., to Vacate the Seventh Circuit’s Stay of the Order Issued by the United States District Court for the Western District of Wisconsin, previously filed in this Court on October 13, 2020 as 20A-64.

2. The Application of Sylvia Gear et al. to Vacate the Seventh Circuit’s Stay of the Order Issued by the United States District Court for the Western District of Wisconsin, previously filed in this Court on October 13, 2020 as 20A-65.

3. The Application of the Democratic National Committee and the Democratic Party of Wisconsin to Vacate the Seventh Circuit's Stay of the Order Issued by the United States District Court for the Western District of Wisconsin, previously filed by this Court on October 14, 2020 as 20A-66.

For the reasons set forth in each of the above applications, which apply equally to the Respondents, we respectfully request that the October 8, 2020 stay of the district court's preliminary injunction be vacated.

Dated this 14th day of October 2020.

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