

Wisconsin Supreme Court and Court of Appeals Case Access

Ismael R. Ozanne v. Jeff Fitzgerald

Appeal Number 2011AP000613 - LV

CONSOLIDATED - [List of Consolidated Cases](#)
Supreme Court

CASE HISTORY

Status	Court	Filing Date	Anticipated Due Date	Activity
OCCD	SC	07-05-2012		Cites
		822 N.W.2d 67		
		Comment: 818 N.W.2d 850 withdrawn by publisher		
OCCD	SC	07-05-2012		Cites
		342 Wis. 2d 396		
OCCD	SC	07-05-2012		Public Domain Citation
		Comment: PDC No: 2012 WI 82		
OCCD	SC	02-29-2012		Motion for Miscellaneous Relief
		Filed By: Ismael Ozanne		
		Submit Date: 2-29-2012		
		Decision: (O) Other		
		Decision Date: 7-5-2012		
		IT IS ORDERED that the motion to the court for a rehearing in the instant case without Justice Gableman's participation has not received four votes and is, therefore, not granted. Justice Michael J. Gableman did not participate in this decision. Justice David T. Prosser, Justice Patience Drake Roggensack and Justice Annette K. Ziegler write separately. Chief Justice Shirley S. Abrahamson writes separately. Justice Ann Walsh Bradley and Justice N. Patrick Crooks join the writing of Chief Justice Shirley S. Abrahamson.		
		Motion Response		
		Filed By: Maria Lazar		
		Submit Date: 3-12-2012		
		Comment: Motion for Leave to File Supplemental Memorandum of Law Regarding Motion for Recusal of Justice Gableman and for Relief from Judgment & DA's Supplemental Memorandum of Law in Support of His Motion for Recusal by Justice Gableman and his Motion for Relief from Judgment and Affidavit of Ozanne		
OCCD	SC	12-30-2011		Motion for Miscellaneous Relief
		Filed By: Ismael Ozanne		
		Submit Date: 12-30-2011		
		Decision: (O) Other		
		Decision Date: 7-5-2012		
		IT IS ORDERED that the motion to the court for a rehearing in the instant case without Justice		

Gableman's participation has not received four votes and is, therefore, not granted. Justice Michael J. Gableman did not participate in this decision. Justice David T. Prosser, Justice Patience Drake Roggensack and Justice Annette K. Ziegler write separately. Chief Justice Shirley S. Abrahamson writes separately. Justice Ann Walsh Bradley and Justice N. Patrick Crooks join the writing of Chief Justice Shirley S. Abrahamson.

Comment: Motion for Relief from Judgment and DA's Combined Memorandum of Law in Support of his Motion for Recusal by Justice M. Gableman and Motion for Relief from Judgment. - Affidavit of Ozanne

OCCD SC 12-30-2011 Motion for Miscellaneous Relief

Filed By: Ismael Ozanne

Submit Date: 12-30-2011

Decision: (D) Deny

Decision Date: 1-20-2012

ORD that the motion to Justice Michael J. Gableman individually is hereby denied.

Comment: Motion for Recusal of Justice Michael Gableman - Affidavit of Ismael R. Ozanne - DA's Combined Memorandum of Law in Support of his Motion for Recusal by Justice M. Gableman and Motion for Relief from Judgment.

OCCD SC 07-22-2011 Remittitur

Comment: T/J

OCCD SC 06-14-2011 Cites

334 Wis. 2d 70

OCCD SC 06-14-2011 Cites

798 N.W.2d 436

OCCD SC 06-14-2011 [Opinion/Decision](#)

Judge Panel: Abrahamson, Bradley, Crooks, Prosser, Roggensack, Ziegler, Gableman

Opinion: Miscellaneous Order

Decision: Other Pages: 9

Abrahamson, Shirley S. Wrote Concur/Dissent Opinion 19 pages.

Prosser, David T. Jr. Wrote Concurring Opinion 18 pages.

Order Text: ORD that the certification and motions for temporary relief in Case No. 11AP613-LV are denied.

FRO that the petition for original jurisdiction in Case No. 11AP765-W is granted, and all motions to dismiss and for supplemental briefing are denied.

FRO that all orders and judgments of the Dane County Circuit Court in Case No. 11CV1244 are vacated and declared to be void ab initio.

FRO that we have concluded that in enacting the Act, the legislature did not employ a process that violated Article IV, Section 10 of the Wisconsin Constitution, which provides in relevant part: "The doors of each house shall be kept open except when the public welfare shall require secrecy". The doors of the senate and assembly were kept open to the press and members of the public during the enactment of the Act. The doors of the senate parlor, where the joint committee on conference met, were open to the press and members of the public. WisconsinEye broadcast the proceedings live. Access was not denied. There is no constitutional requirement that the legislature provide access to as many members of the public as wish to attend meetings of the legislature or meetings of legislative committees.

Shirley S. Abrahamson, C.J., Ann Walsh Bradley and N. Patrick Crooks, J.J., concur in part and dissent in part from this order.

Ann Walsh Bradley and N. Patrick Crooks, J.J., join concur/dissent writing of C.J. Abrahamson.
Shirley S. Abrahamson, C.J., and Ann Walsh Bradley, J., join concur/dissent writing of N. Patrick Crooks.

OCCD SC	06-14-2011	Public Domain Citation
Comment: PDC No: 2011 WI 43		
OCCD SC	06-14-2011	Consolidated Case
Comment: [2011AP000613, 2011AP000765]		
OCCD SC	06-14-2011	Court Changed to Supreme Court
OCCD CA	06-14-2011	Hold Status
OCCD CA	06-06-2011	Oral Argument
Comment: Kevin St. John for State of Wisconsin and State of Wisconsin ex rel. Michael D. Huebsch; Marie A. Stanto for Dane County Circuit Court, Hon. MaryAnn Sumi presiding, Ismael Ozanne for Dane County District Attorney Ismael Ozanne, Robert J. Jambois for Peter Barca, Lester A. Pines for Mark Miller and Roger Sage for Douglas LaFollette		
OCCD CA	06-02-2011	Court Order
ORD that the oral argument scheduled for June 6, 2011, shall pertain to both Case No. 2011AP765-W and Case No. 2011AP613-LV (L.C. #2011CV1244). FRO the following parties are allotted oral arg. as scheduled, in the following sequence: State of Wisconsin and State of Wisconsin ex rel. Michael D. Huebsch: 50 mins; Dane County Circuit Court, Hon. MaryAnn Sumi, presiding: 15 mins; Dane County District Attorney, Ismael R. Ozanne: 15 mins; Peter Barca: 10 mins; Mark Miller: 10 mins; Douglas LaFollette: 10 mins; and State of Wisconsin and State of Wisconsin ex rel. Michael D. Huebsch: 10 mins rebuttal.FRO the mtn of Dane Co Cir Crt, Hon. MaryAnn Sumi pres., to supp the rec in Case No. 11AP765-W with the findings of fact, conclusions of law, memo decision and judgment of May 26, 2011, entered in State ex rel. Ozanne v. Fitzgerald, Dane Co Cir Crt Case No. 11CV1244, is granted. FRO the above named parties file by 5:00 pm on June 3, 2011, letter memo addressing the effect of the circuit courts May 26, 2011, findings, conclusions, decision and judgment on Case No. 2011AP613-LV (L.C. #2011CV1244) and Case No. 2011AP765-W, including: (1) whether an appeal is an available remedy and to whom; (2) whether the circuit courts May 26, 2011, judgment is final for purposes of appeal; (3) whether this courts exercise of original jurisdiction may include the appellate power to review a circuit court judgment absent the filing of an appeal; (4) whether any of the circuit courts findings of fact are clearly erroneous; and (5) whether any facts beyond those found by the circuit court, material to the determination of the issues in Case No. 2011AP613-LV (L.C. #2011CV1244) and Case No. 2011AP765-W, are in dispute. FRO the parties shall be prepared to address during oa the above issues, as well as this courts jurisdiction, the underlying issues, and the substantive merits in both Case No. 2011AP613-LV (L.C. #2011CV1244) and Case No. 2011AP765-W.		
OCCD SC	04-06-2011	Motion for Miscellaneous Relief
Filed By: Roger Sage Submit Date: 4-6-2011 Decision: (D) Deny Decision Date: 6-14-2011 See SC Order of 6/14/11 Motion Response		

Filed By: Maria Lazar

Submit Date: 4-7-2011

Comment: To withdraw and/or dismiss petition for leave to appeal, motion for temporary relief, and motion for relief pending appeal.

OCCD SC 04-06-2011

Motion for Miscellaneous Relief

Filed By: Roger Sage

Submit Date: 4-6-2011

Decision: (O) Other

Decision Date: 6-14-2011

See SC Order of 6/14/11

Motion Response

Filed By: Maria Lazar

Submit Date: 4-7-2011

Comment: Motion for leave to substitute counsel

OCCD CA 03-29-2011

Motion for Miscellaneous Relief

Filed By: Ismael Ozanne

Submit Date: 3-29-2011

Decision: (N) No Action

Decision Date: 3-29-2011

no action

Comment: To respond to motion for leave to withdraw petition for leave to appeal to withdraw petition for temporary relief and to withdraw motion for relief pending appeal.

OCCD CA 03-28-2011

Motion for Miscellaneous Relief

Filed By: Maria Lazar

Submit Date: 3-28-2011

Decision: (D) Deny

Decision Date: 3-29-2011

ORD that the withdrawal motion is hereby denied.

Comment: Motion for leave to withdraw petition for leave to appeal, to withdraw petition for temporary relief, and to withdraw motion for relief pending appeal

OCCD SC 03-24-2011

Certification Filed

Filed By: Unassigned District 4

Submit Date: 3-24-2011

Decision: (D) Deny

Decision Date: 6-14-2011

ORD denied; See SC Order of 6/14/11

See DEC event filed on 3-24-2011

OCCD CA 03-24-2011

[Opinion/Decision](#)

Judge Panel: Lundsten, Higginbotham, Blanchard

Opinion: Certification

Decision: Certification Filed Pages: 8

Order Text: We certify the following questions: (1) whether striking down a legislative act also known as voiding is an available remedy for a violation of the Open Meetings Law by the legislature or a subunit thereof; and, if so, (2) whether a court has the authority to enjoin the secretary of states publication of an act before it becomes law.

OCCD CA 03-23-2011

Motion to File Amicus/Non-Party Brief

Filed By: Jina Jonen
Submit Date: 3-23-2011
Decision: (N) No Action
Decision Date: 6-14-2011
See SC Order of 6/14/11
Comment: WEAC et al

OCCD CA 03-23-2011

Response

Comment: DA's remaining arguments in response to PLV or Temporary Relief - Rec'd Supplemental Response of Plaintiff-Respondent to Petition for leave to appeal Non-Final Order with appendix. 3/24/11 Rec. Supplemental Response of Plaintiff-Respondent to Petition for leave to appeal (Corrected formatting and punctuation errors; revised table of contents, appendix to supplemental response, new certification to appendix)

OCCD CA 03-22-2011

Response

Comment: DA's memorandum per CTO of 3/21/11 - Partial Response of Plaintiff-Respondent to Petition for Leave to Appeal Non-Final Order

OCCD CA 03-21-2011

Court Order

ORD that, by 4:00 p.m. on Tuesday, March 22, 2011, The District Attorney shall submit a memorandum addressing the argument made on pages 21-23 of La Follette's petition regarding the authority of the judiciary to enjoin the secretary of state from publishing an act. Any remaining arguments the District Attorney wishes to make in response to the petition for leave to appeal and accompanying request for temporary relief shall be filed by Wednesday March 23, at 4:00 p.m.

OCCD CA 03-21-2011

Fee Waived

Comment: State

OCCD CA 03-21-2011

Motion for Stay

Filed By: Maria Lazar
Submit Date: 3-21-2011
Decision: (N) No Action
Decision Date: 6-14-2011
See SC Order of 6/14/11

OCCD CA 03-21-2011

Petition for Leave to Appeal

Filed By: Maria Lazar
Submit Date: 3-23-2011
Decision: (N) No Action
Decision Date: 6-14-2011
See SC Order of 6/14/11
Motion Response
Filed By: Ismael Ozanne
Submit Date: 3-23-2011
Motion Response

Filed By: Ismael Ozanne

Submit Date: 3-23-2011

Comment: Separate Appendix **Additional Response received from Ozanne 3/24/11

OCCD CA

03-18-2011

Non-Final Order of Circuit Court
