

FILED
11-04-2022
George L. Christenson
Clerk of Circuit Court
2022CF004307
Honorable Laura Crivello-
36
Branch 36

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

STATE OF WISCONSIN

Plaintiff,

DA Case No.: 2022ML024807

Court Case No.:

vs.

CRIMINAL COMPLAINT

ZAPATA, KIMBERLY D
4917 WEST VAN BECK AVENUE
MILWAUKEE, WI 53220
DOB: 02/26/1977

Defendant(s).

For Official Use

THE BELOW NAMED COMPLAINANT BEING DULY SWORN, ON INFORMATION AND BELIEF STATES THAT:

Count 1: MISCONDUCT IN PUBLIC OFFICE (ACT IN EXCESS OF LAWFUL AUTHORITY)

The above-named defendant on or about Tuesday, October 25, 2022, at 4917 West Van Beck Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, in her capacity as a public employee, did an act which she knew was in excess of her lawful authority, contrary to sec. 946.12(2), 939.50(3)(i) Wis. Stats.

Upon conviction for this offense, a Class I Felony, the defendant may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than three (3) years and six (6) months, or both.

Count 2: FALSE STATEMENT TO OBTAIN/VOTE ABSENTEE BALLOT

The above-named defendant on or about Tuesday, October 25, 2022, at 4917 West Van Beck Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, did falsely make a statement for the purpose of obtaining an absentee ballot under Wis. Stats. Sections 6.85 to 6.87, contrary to sec. 12.13(3)(i), 12.60(1)(b) Wis. Stats.

Upon conviction for this offense, a Misdemeanor, the defendant may be fined not more than \$1,000, or imprisoned not more than 6 months or both.

Count 3: FALSE STATEMENT TO OBTAIN/VOTE ABSENTEE BALLOT

The above-named defendant on or about Tuesday, October 25, 2022, at 4917 West Van Beck Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, did falsely make a statement for the purpose of obtaining an absentee ballot under Wis. Stats. Sections 6.85 to 6.87, contrary to sec. 12.13(3)(i), 12.60(1)(b) Wis. Stats.

Upon conviction for this offense, a Misdemeanor, the defendant may be fined not more than \$1,000, or imprisoned not more than 6 months or both.

Count 4: FALSE STATEMENT TO OBTAIN/VOTE ABSENTEE BALLOT

The above-named defendant on or about Tuesday, October 25, 2022, at 4917 West Van Beck Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, did falsely make a statement for the purpose of

obtaining an absentee ballot under Wis. Stats. Sections 6.85 to 6.87, contrary to sec. 12.13(3)(i), 12.60(1)(b) Wis. Stats.

Upon conviction for this offense, a Misdemeanor, the defendant may be fined not more than \$1,000, or imprisoned not more than 6 months or both.

Probable Cause:

I am an Investigator with the Milwaukee County District Attorney's Office. I base this complaint upon my own investigation, as well as the statements of citizen witnesses and statements by the defendant against her penal interest. My investigation revealed the following information:

OVERVIEW

On October 28, 2022, JB received three absentee ballots at her address in Menomonee Falls, WI. The ballots were issued in the names of Holly Brandtjen, Holly Jones, and Holly Adams. None of those individuals ever resided at JB's address. In fact, none of these individuals exist. The ballots were mailed by municipal clerks in Menomonee Falls, Shorewood, and South Milwaukee. All three ballots were classified as military absentee ballots. All three ballots were requested via the MyVote website. JB reported these ballots to the Waukesha County Sheriff's Office. As investigation thus ensued.

The investigation revealed that the defendant, Kimberly Zapata, was the Deputy Director of the City of Milwaukee Election Commission. Zapata created three fictitious names and used them to apply for three military absentee ballots. She applied for those ballots using the false names and falsely representing they were military voters. She then used her governmental access to the WisVote database to obtain the address of JB and have the absentee ballots sent to JB. All of this behavior was in excess of her authority.

BACKGROUND ON ABSENTEE BALLOTS AND MILITARY ELECTORS

The MyVote website (myvote.wi.gov) is a site administered by the Wisconsin Elections Commission. Its purpose is to provide voters' a source of information about when and where to vote, what's on the ballot, and absentee voting and voter registration. Through the MyVote site, an individual, amongst other things, is able to register to vote and request an absentee ballot be mailed to them. In addition, the site has a portion that allows Military electors to request absentee ballots.

To receive an absentee ballot, an elector who is registered to vote may make a written application to the municipal clerk. WIS. STAT. § 6.86(1). Proof of identification is required in certain circumstances. However, military electors statutorily follow different procedures in relation to voting. Under Wisconsin Statute Section 6.22(1)(b), a military elector, amongst other classifications, means a member of the uniformed service. Special provisions apply to military electors. Military electors, with some exceptions, vote in the ward for the address of their residence prior to becoming a military elector. WIS. STAT. § 6.22(2)(a). Such electors are not required to register as a prerequisite to voting in an election. WIS. STAT. § 6.22(3). They need not such proof of identification or residence in requesting an absentee ballot. WIS. STAT. §§ 6.34(2), 6.86(1)(ac), and 6.87(4)(b)1. As such, a military elector is able to request an absentee ballot via the MyVote site and have that mailed ballot to their residence.

INVESTIGATION

As part of this investigation, information and records were gathered from the City of Milwaukee Election Commission, as well as the Wisconsin Election Commission (WEC). Interviews were also conducted with Claire Woodall-Vogg, the Executive Director of the City of Milwaukee Election Commission, and the municipal clerks in South Milwaukee, Shorewood, and Menomonee Falls. That investigation revealed the following:

Woodall-Vogg stated that Zapata was employed by the City of Milwaukee as Deputy Director of the Election Commission. She stated that on Monday, October 31, 2022, she sent Zapata an article regarding an unknown individual fraudulently applying for military absentee ballots and having them sent to JB. Zapata denied knowing about that. Woodall-Vogg also sent Zapata another message, this time containing a statement that was put out by JB regarding how easy it was to receive military ballots. Zapata responded, "She has a point." On the afternoon of November 1, 2022, Zapata approached Woodall-Vogg at work. At that time, Zapata admitted to Woodall-Vogg that she had created three fraudulent voters and used that fraudulent information to send three ballots to JB. Zapata told Woodall-Vogg that she made up the identifies of the voters and sent them to show how easy it is to commit fraud in this manner.

Woodall-Vogg further informed the DA's Office that the three military absentee ballot requests were submitted via the MyVote website. By accessing voter information, Woodall-Vogg was able to determine they were each submitted on October 25, 2022. They were submitted at 5:51 AM, 5:56 AM, and 5:59 AM. The three requests contained the purported name, address, and date of birth of the voter, but contained no proof of identification or residency. All were listed as military voters.

In addition, investigators obtained information from the Deputy Administrator of the WEC, Robert Kehoe. He reported that the voter records for Holly Brandtjen, Holly Jones, and Holly Adams were all created at approximately the same time on October 25, 2022. The individual who created the records for each name certified that they were a military voter. All three voter records had the same birthday entered and all three ballots were requested by the same IP address within a 20 minute window.

Further, investigators spoke with the municipal clerks in South Milwaukee, Shorewood, and Menomonee Falls. When a voter requests an absentee ballot through the MyVote website, a notification is sent to the municipal clerk. For a military absentee ballot, no further identification verification is required. As such, the clerk is required to process the request and issue an absentee ballot within 24 hours. This means that the submission of the military absentee request automatically results in the issuance of a ballot.

INTERVIEW WITH ZAPATA

As part of this investigation, I conducted an interview with Zapata. This was an out of custody interview and Zapata was represented by counsel at the interview. In that interview, she stated that she was the Deputy Director of the City of Milwaukee Election Commission. She had held that position since approximately June or July of 2022. Prior to that, Zapata worked in different areas of the elections commission since 2016, outside of a 10 month period in or about 2017.

As Deputy Director, Zapata's duties included supervising registration and all aspects of absentee ballots. She ran all the early voting sites and ran the central count facility on election day. She stated she was knowledgeable about absentee ballots and that part of her job was maintaining the integrity of absentee ballots. This includes making sure things are done the correct way within the voting system.

During that interview, Zapata stated that she went to the MyVote website and fabricated three individuals who did not exist. She used those fabricated names to have military voter absentee requests sent to the municipal clerks in Shorewood, South Milwaukee, and Menomonee Falls. She then had the absentee ballots sent to JB. Zapata did this because she wanted to make a point that there is fraud in existence. She stated that it is not the conspiracy theories out there, but she wanted to bring the actual true fraud out. Zapata stated that she felt overwhelmed due to the threats of violence the Election Commission was receiving, in addition to the constant daily harassment and accusations of lying and hiding things. She stated she wanted the truth to come out so that they could focus on the actual problems.

Zapata stated that she accessed the MyVote site on October 25, 2022, at approximately 5:30 AM, to create the false individuals. She submitted all three applications on the same date at approximately the same time. She accessed the site from her residence of 4917 West Van Beck Avenue, in the City and County of Milwaukee, using her City-issued laptop for all of the applications. She reported that she used the names Holly Adams, Holly Jones, and Holly Brandtjen, all with the same date of birth and the same last four of the social security number. She used randomly chosen addresses in Shorewood, South Milwaukee, and Menominee Falls to use as the residences. She had the ballots sent to JB in an attempt to redirect JB's focus away from outrageous conspiracy theories and to something that is actually real. Zapata reported that she had the ballots sent to JB's address. She located her address from WisVote, the State voter registration database that is administrated by the WEC and is only available to the municipality employees. To access the WisVote database, an individual must use a government-issued device. A username and password must first be entered; then a PIN is entered. Following entry of the PIN, a thumb drive is put into the computer. The user is then prompted to place their thumb on a scanner for additional verification before the WisVote page will open. Employees are only authorized to use WisVote for official election work. Zapata's use of WisVote to obtain JB's address was thus a violation of her duty and in excess of her lawful authority.

In her interview, Zapata admitted that the information for each of the three ballot applications was false. She stated that the purpose of making these statements was to have ballots be issued. She admitted that she knew a ballot could only be issued in the name of a real person and that entering this false information would be in excess of her authority as an election worker. She admitted she knew she did not have the authority to enter false names. Zapata admitted that she was attempting to highlight flaws within the absentee system. She stated that attempting to highlight the flaws within the system is an attempt to maintain election integrity, which is part of her job.

CONCLUSION

As Deputy Director of the City Elections Commission, Zapata was a public employee. She maintained a position of trust and responsibility within the City. In her capacity as such an employee, her job included protecting the integrity of the electoral process. It also included supervising the absentee balloting process. By submitting false military absentee ballot requests, Zapata did an act that was in excess of her lawful authority and that she was forbidden by law from doing. By submitting these absentee ballot requests, Zapata was falsely asserting that she was the individual listed on the ballot requests. These false statements were made for the purpose of obtaining absentee ballots and in fact resulted in the issuance of such ballots.

The information above does not exhaust all knowledge regarding this fraudulent scheme.

****End of Complaint****

Electronic Filing Notice:

This case was electronically filed with the Milwaukee County Clerk of Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases. Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$ 20.00 fee to register as an electronic party. If you are not represented by an attorney and would like to register an electronic party, you will need to contact the Clerk of Circuit Court office at 414-278-4120. Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Criminal Complaint prepared by Matthew Richard Westphal.

Subscribed and sworn to before me on 11/03/22

Electronically Signed By:

Electronically Signed By:

Thomas Meverden

Matthew Richard Westphal

Complainant

Assistant District Attorney

State Bar #: 1071292