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**DISTRICT I**

June 25, 2024

To:

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Circuit Court Judge  
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Electronic Notice

Anna Hodges  
Clerk of Circuit Court  
Milwaukee County Appeals Processing  
Division  
Electronic Notice

Ieshuh Griffin  
P.O. Box 72057  
Milwaukee, WI 53212

You are hereby notified that the Court has entered the following opinion and order:

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2023AP19

Ieshuh Griffin v. City of Milwaukee Elections Commission  
(L.C. # 2022CV4814)

Before Donald, P.J., Geenen and Colón, JJ.

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

Ieshuh Griffin appeals from a circuit court order dismissing her action against the City of Milwaukee Elections Commission (MEC). Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).<sup>1</sup> We affirm.

On January 13, 2022, Griffin filed a complaint with the Wisconsin Elections Commission (WEC), pursuant to WIS. STAT. § 5.06, raising various allegations against the Milwaukee

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

Elections Commission relating to nomination papers she submitted for ballot access to Milwaukee's mayoral election. The WEC issued a written decision on May 2, 2022, stating that it "[did] not find probable cause that the [MEC] failed to abide by the standard nomination paper process." Griffin attempted to seek judicial review of the WEC's decision in the circuit court; however, the circuit court dismissed the action on the grounds that Griffin failed to comply with WIS. STAT. § 801.02(1). Specifically, the circuit court found that Griffin failed to file a summons in the circuit court and failed to serve the WEC with an authenticated summons. This appeal follows.

On appeal, Griffin focuses on what she contends are the constitutional merits of her underlying claims, but does not adequately address the procedural defects at issue. Instead, she simply implies that the circuit court review of the WEC decision did not require a summons because it "was not a lawsuit." We disagree with Griffin's implication that there are no procedural defects at issue in this case.

First, Griffin's complaint was filed pursuant to WIS. STAT. § 5.06(8), which provides in relevant part:

Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order.

The record establishes that Griffin did not seek circuit court review of the WEC's decision within the thirty days prescribed by statute, thus depriving the circuit court of competency. The failure to abide by statutory mandates that are central to the statutory scheme of which they are a part also deprives the circuit court of competency to exercise its subject

matter jurisdiction. *Village of Elm Grove v. Brefka*, 2013 WI 54, ¶18, 348 Wis. 2d 282, 832 N.W.2d 121.

Moreover, the record establishes that Griffin failed to effectuate service on the WEC in order to commence circuit court review of the WEC's decision.

WISCONSIN STAT. § 801.02(5) sets forth three separate procedures a party may use to commence a certiorari action. First, the action may be commenced under subsec. (1) by use of a summons and complaint. Second, the action may be commenced “by service of an appropriate original writ....” *See* § 801.02(5). Third, the petitioner may file a complaint and serve an authenticated copy of the complaint upon the respondent along with an order which may shorten the time for filing a responsive pleading, in lieu of a summons. *See id.*; *Tobler v. Door Cnty.*, 158 Wis. 2d 19, 24-25, 461 N.W.2d 775 (1990). The latter may occur in an emergency situation where the case may be moot before a response would be filed. *See Tobler*, 158 Wis. 2d at 24-25.

Griffin did not properly commence her action within the method set forth in WIS. STAT. § 801.02(1). Griffin simply filed a document titled “Notice of Appeal” in the circuit court. There is no indication that a summons was ever filed or served, authenticated or otherwise. The failure to timely file a summons is a fundamental defect. *See Johnson v. Cintas Corp. No. 2*, 2012 WI 31, ¶28, 339 Wis. 2d 493, 811 N.W.2d 756. When a defect is fundamental, personal jurisdiction does not attach. *American Fam. Mut. Ins. Co. v. Royal Ins. Co. of Am.*, 167 Wis. 2d 524, 533, 481 N.W.2d 629 (1992). “Wisconsin requires strict compliance with its rules of statutory service, even though the consequences may appear to be harsh.” *Mech v. Borowski*, 116 Wis. 2d 683, 686, 342 N.W.2d 759 (Ct. App. 1983). “If the statutory prescriptions are to be meaningful, they must be unbending.” *Id.*

Moreover, Griffin did not properly commence her action by “service of an appropriate original writ.” We note that Griffin’s “Notice of Appeal” did not specifically seek a writ from the circuit court; nonetheless, even if the “Notice of Appeal” *implied a request* for a writ, the circuit court decides whether to issue a writ. *See State ex rel. Skogstad v. Anderson*, 130 Wis. 227, 229, 109 N.W. 981 (1906). A petitioner must obtain a writ from the circuit court and then timely serve it upon the defendant. *DNR v. Walworth Cnty. Bd. of Adjustment*, 170 Wis. 2d 406, 415-19, 489 N.W.2d 631 (Ct. App. 1992). That did not occur here.

The third method of commencing an action is also not at issue here as the record does not establish that any documents were served upon the WEC, let alone an authenticated petition. In any event, Griffin did not serve an order in lieu of a summons.

In sum, Griffin failed to seek circuit court review within the statutory time period, there is no indication that a summons was ever filed in this case, and no indication that Griffin sought circuit court review of the WEC decision within the methods described in WIS. STAT. § 801.02(5).

For all the foregoing reasons,

IT IS ORDERED that the order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FUTHER ORDERED that this summary disposition order will not be published.

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*