

No. 20-3448

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

WILLIAM FEEHAN,
Plaintiff – Appellant,

v.

WISCONSIN ELECTIONS COMMISSION, *et al.*,
Defendants – Appellees.

Appeal from the United States District Court
for the Eastern District of Wisconsin, Milwaukee Division
Civil Action No. 2:20-cv-01774
Hon. Pamela Pepper

JOINT MOTION OF DEFENDANTS-APPELLEES TO DISMISS APPEAL AS MOOT

Defendants-Appellees Wisconsin Elections Commission, Commissioners Ann S. Jacobs, Mark L. Thomsen, Marge Bostelmann, Julie M. Glancey, Dean Knudson, Robert F. Spindell, Jr., and Governor Tony Evers jointly move this Court to dismiss Plaintiff-Appellant’s appeal with prejudice as moot.

“A case becomes moot—and therefore no longer a ‘Case’ or ‘Controversy’ for purposes of Article III—‘when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.’” *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013) (quoting *Murphy v. Hunt*, 455 U.S. 478, 481 (1982) (per curiam)). “If an intervening circumstance deprives the plaintiff of a ‘personal stake in the outcome of the lawsuit,’ at any point during litigation, the action can no longer proceed and must be dismissed as moot.” *Wright v. Calumet City, Ill.*, 848 F.3d 814, 816 (7th Cir. 2017) (quoting *Campbell-Ewald Co. v. Gomez*, 577 U.S. 153, 160-61 (2016)). When

the court cannot grant any effective relief, a case must be dismissed as moot. *E.g., Calderon v. Moore*, 518 U.S. 149, 150 (1996).

Intervening events since the filing of the Complaint have rendered this case moot. On January 6, 2021, Congress met and certified the results of the Electoral College in favor of Joe Biden by a tally of 306 to 232. On January 20, 2021, Joe Biden was sworn in as President of the United States. Even if this pending appeal were successful, this Court could not effectively order any of the relief sought, including having the Governor certify Donald Trump as the winner of Wisconsin's 2020 presidential election, because the Electoral College results have already been certified and counted by Congress, and a new President has been sworn in.

Accordingly, Defendants-Appellees the Wisconsin Elections Commission, Commissioners Ann S. Jacobs, Mark L. Thomsen, Marge Bostelmann, Julie M. Glancey, Dean Knudson, Robert F. Spindell, Jr., and Governor Tony Evers jointly respectfully request that the Court dismiss the appeal as moot.

Dated: January 25, 2021.

Respectfully submitted,

/s/ Jeffrey A. Mandell

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