Republican judge leads Wisconsin vote after new ballots are found by political ally

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The Republican incumbent in Wisconsin's Supreme Court race, David Prosser, established a commanding lead after a Republican election official in heavily Republican Waukesha County "found" 14,000 previously uncounted votes late Thursday. The night before, Democratic challenger JoAnne Kloppenburg had declared victory after establishing a lead of 204 votes.

The missing ballot discovery by County Clerk Kathy Nickolaus, which was vouched for by a Democratic county commissioner, would give Prosser a margin of victory of 7,582 votes, obviating the need for a recount. Nickolaus attributed the missed votes to human error and the mis-entry of ballots for the wealthy Milwaukee suburb of Brookfield in a database on her personal computer. Brookfield added 10,859 votes to Prosser's tally and only 3,456 to that of Kloppenburg.

Normally, judicial elections in the US are unnoticed affairs in which incumbents are practically assured victory. But this contest was heavily promoted by trade union officials and their allies as the means of defeating Governor Scott Walker's recently passed anti-worker law, which strips public workers of collective bargaining rights, imposes massive concessions, and bans strikes. The Wisconsin Supreme Court is likely soon to make a ruling on the constitutionality of the law and the legislatively dubious way in which it was passed, which saw the Republican-controlled state Senate flout open meeting rules.

The law is currently in limbo, after a Dane County judge ruled last month that it could not be enforced until the court rules on whether or not it was passed legally. On Thursday, Walker appealed to the state Supreme Court to override the county judge's stay on the law.

It cannot be ruled out that the discovery of uncounted votes benefiting Prosser represents another election stolen by Republican officials. The precedent was set in the 2000 presidential election, in which Republican officials in Florida suppressed Democratic votes in order to give the state's decisive electoral votes to George W. Bush, who had lost the national popular vote to Democrat Al Gore. The fraud was sanctioned and consummated by the US Supreme Court, which voted 5 to 4 to halt a vote recount ordered by the Florida Supreme Court.

In the 2004 presidential election that returned Bush to office there were substantive and serious indications of manipulation of voting and vote-counting by Republican officials in the decisive state of Ohio.

Nickolaus, the Waukesha County clerk who announced discovery of the missing ballots, worked for many years in a state Republican caucus as a data analyst and computer expert. In 2002, a criminal investigation was launched into the group, but Nickolaus was given immunity. She has also been criticized in her role as county clerk for failing to share computer passwords and lacking oversight and transparency in her operations.

Wisconsin's Government Accountability Board, which oversees the state's elections, has said it will review the Waukesha County tally. Director Kevin Kennedy said errors are normal but "we just don't see them of this magnitude."

At this point, no official winner has been declared. Kloppenburg has retained attorney Marc Elias of the law firm Perkins Coie, who successfully represented Minnesota Democrats Senator Al Franken and Governor Mark Dayton in recounts in 2008 and 2010, respectively. Prosser has hired Ben Ginsberg, attorney to Bush in the 2000 Florida recount.

The latest turn of events in the judicial election

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underscores the dead-end of the perspective promoted by the unions and their left-liberal allies of channeling working class opposition to Walker's attacks behind the Democratic Party. The unions opposed calls for a general strike and closed down strikes and mass protests in favor of electoral campaigns—first the judicial election and then efforts to recall Republican state senators.

The focus on the Supreme Court election and recall drives was from the beginning a diversion, whose main purpose was to demobilize the working class. The unions insisted from the outset that they would not oppose Walker's demands for sweeping cuts in public workers' wages and benefits and sought to offer up these concessions in return for Walker dropping provisions that threaten the unions' income flow—including an end to the dues checkoff and yearly elections for union certification.

The Democrats, for their part, made clear that they supported cuts in wages and benefits and attacks on health care, education and other social services.

Absent the mass industrial mobilization and independent political organization of the working class, the ruling elite will impose by any means—legal or illegal—measures to further impoverish working people and criminalize all forms of collective working class resistance.

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