

Anti-abortion Republican defeated in contest for seat on Wisconsin state supreme court

Patrick Martin
5 April 2023

A judge backed by the Democratic Party who supports abortion rights won the contest for an open seat on the Wisconsin Supreme Court Tuesday, in an election that likely ensures that the state's highest court will uphold a legal challenge against the state's 1849 law banning abortion.

The 174-year-old law, long rendered irrelevant by the 1973 *Roe v. Wade* decision, was reactivated by the US Supreme Court's decision last year in *Dobbs vs. Mississippi*, which struck down *Roe* and allowed states to outlaw abortion.

Milwaukee County Circuit Judge Janet Protasiewicz, 60, defeated former Justice Dan Kelly, an ultra-right Republican who had worked for right-to-life groups and had the support of the main national anti-abortion groups. Kelly was appointed to a seat on the high court in 2016 by then Governor Scott Walker, but he was defeated in the 2020 election.

The election shifts the balance on the state supreme court from 4-3 conservative to 4-3 moderate liberal. All four in the new majority support abortion rights, and the election contest was essentially a referendum on abortion rights.

The vote follows referendum victories for abortion rights measures in Michigan and Kansas, which demonstrated the clear public support for this basic democratic right of women, and the growing hostility to the religious bigotry which is the basis of the so-called "right-to-life" groups.

Protasiewicz was favored to win—and held a large financial advantage—after receiving 47 percent of the vote in a February primary with four candidates on the ballot. Kelly finished second in the first round, more than 20 points behind, narrowly edging out another Republican.

Protasiewicz won Tuesday by a far larger margin than

most Democratic candidates in Wisconsin, where statewide election contests have been narrowly decided. In 2022, Democratic Governor Tony Evers was reelected by a margin of 90,000 votes. In the same election, Republican Senator Ron Johnson retained his seat by less than 27,000 votes. President Joe Biden won 14 of Wisconsin's 72 counties in 2020, carrying the state by 20,000 votes. Protasiewicz won 27 counties and defeated Kelly by 203,000 votes, with a percentage margin of 55-45.

Protasiewicz won by huge margins in Dane County, which includes the state capital Madison and the University of Wisconsin, as well as in Milwaukee County, the state's largest population center. Kelly failed to gain the usual large Republican margins in Waukesha County in the Milwaukee suburbs, and lost several small industrial cities, including Racine and Green Bay, that were won by Republicans in 2020 and 2022.

The shift in the court majority will also strengthen the position of the Democratic Party ahead of the 2024 elections, since the four Democratic-backed judges are likely to oppose any effort to have the state legislature void the decision of the voters and appoint a Republican slate of nominees for the Electoral College.

Kelly had advised the Republican effort to appoint fake electors in 2020 who would have cast their votes for Trump, even though he lost the state by 20,000 votes.

Wisconsin was the only state in 2020 where the state supreme court agreed to hear a legal challenge from the Trump campaign to the election results. But the justices turned down the challenge, with one Republican joining the three Democrats in a 4-3 ruling.

Besides abortions and elections, the state supreme court has upheld ultra-right policies on workers' rights

and gerrymandering. The high court upheld the actions of Republican Governor Scott Walker and the state legislature in 2011, when they enacted a law stripping public employee unions of most bargaining rights. They also repeatedly upheld one of the most extreme partisan gerrymanders in the country: even though the state is divided 50-50 in terms of voting patterns, the Republican Party holds six out of eight congressional seats, and two-thirds majorities in both houses of the state legislature.

The election set a new record for the influx of campaign funds into judicial contests, which are nominally non-partisan. Total spending by the two candidates and their supporters came to \$45 million, more than three times the previously most expensive state supreme court contest, according to figures published by the Brennan Center for Justice. The group said that spending on the Wisconsin race alone was more than the spending for all state court races combined in 2018.

Protasiewicz received the lion's share of the funding, with \$9 million from the state Democratic Party and millions more from abortion rights groups. Billionaire Richard Uihlein spent \$6 million on Kelly's campaign.



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact