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In Unprecedented Legal Contortion, State Supreme Court Strikes Down Safer at Home

Majority changes law to reach their preferred political result

MADISON – Yesterday the Wisconsin Supreme Court gutted the Department of Health Service’s order to extend Safer at Home to protect the health and life of Wisconsinites from the COVID-19 pandemic that has inflicted over 10,900 Wisconsinites and killed 421 people. On a 4-3 vote, the majority of Justices abandoned any pretense of abiding by the rule of law or applying long-accepted judicial standards of review in this outlier decision that is at odds with courts from many other states that have considered legal challenges to similar orders.

Rep. Chris Taylor issued the following statement in response:

“To the great detriment of the people of Wisconsin, the state Supreme Court has demonstrated by the action and opinions of the majority that it isn’t a court of law, but a rubber stamp extension of the majority party in the state Legislature. Instead of protecting the independence and integrity of our highest court, the majority members have rendered it a fringe outlier more concerned with pontificating about their constitutional philosophies than addressing the actual issues brought before them in a well-reasoned and deliberate manner.

“In order to nullify the Safer at Home order, the majority on the Supreme Court engaged in unprecedented legal contortions to invalidate the plain language of a clear, unambiguous state statute that confers broad powers on the state health department to manage communicable diseases. This is the quintessential action of a truly activist court.

“It is unbelievable that Republican legislators didn’t try to change a statute they no longer liked given their long history of aggressive, unprecedented legislative feats. With this action, they essentially sued themselves and asked the Supreme Court to nullify a statute the legislature itself passed. Unfortunately for the people of this state, this court willingly complied, becoming accessories to the power grabs of Representative Vos and Senator Fitzgerald instead of providing a needed check. Those who control both the legislative and judicial branches are willing to risk the life and health of countless Wisconsinites in their refusal to do the jobs the people elected them and needed them to do. This decision is a short term victory for them and a long-term tragedy for everyone else, especially for those who are most vulnerable to the devastating effects of COVID-19.

“This reckless decision strongly reaffirms the urgent need to restore integrity, independence and fairness to both the state Supreme Court and the state Legislature.”

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