



# INSTITUTE FOR REFORMING GOVERNMENT

## LAW AND PRECEDENT SUPPORT DUGAN SUSPENSION

### OVERVIEW

The Wisconsin Supreme Court proactively - promptly - unanimously acted to suspend Judge Hannah Dugan after her federal felony charges. In doing so, the Court followed well-established precedent applying state judicial standards. The message to all other judges statewide is clear: obey the law and do your job while letting ICE do its job.

### WHAT YOU SHOULD KNOW

The Wisconsin Supreme Court did the right thing by proactively suspending Judge Hannah Dugan from continued service on the Milwaukee County Circuit Court while a federal felony charge is pending against her.

The Court dealt with a similar case several years ago. In March 2021, Milwaukee County Circuit Court Judge Brett Blomme was charged by the state with felony possession of child pornography. “On the same day the State filed the criminal complaint, [the Wisconsin Supreme C]ourt issued an order temporarily prohibiting Attorney Blomme from exercising the powers of a circuit court judge and temporarily withholding his judicial salary.” (2022 WI 80).

In another situation several decades before, a judge on the Iron County Circuit Court was facing federal felony charges related to interstate prostitution and lying to a grand jury. The Supreme Court “prohibited Judge Raineri from exercising the powers of a circuit court judge in Wisconsin pending final determination of the proceedings or further order of the court and ordered his judicial salary withheld until further order of the court.” *In re Raineri*, 102 Wis. 2d 418, 419 (1981).

### WHAT COULD HAPPEN

A federal magistrate judge has found probable cause sufficient to issue an arrest warrant for Judge Dugan for the commission of two federal offenses, one of which is a felony. See *United States v. Dugan*, 2:25-mj-00397-SCD (E.D.Wis.). Moreover, the particular facts of these charges relate directly to her performance on the bench as a judge. These are only allegations, and Judge Dugan is entitled to full and fair due process and is innocent until proven guilty. If she pleads guilty to a felony or is found guilty of a felony, then her office as a judge is automatically vacated by operation of law (Wis. Stat. 17.03(5)). Based on the automatic vacation requirement under Chapter 17, impeachment or removal by address would only therefore be warranted (1) prior to a judgment, (2) if Judge Dugan pled down to a misdemeanor, or (3) if she were acquitted by a jury. The Wisconsin Supreme Court would have to take a separate step following a vacation under Chapter 17 concerning her license to practice law.

## LEGAL BACKGROUND

Several important provisions of law support this result, including the Wisconsin Constitution, Article VII, Section 11 (“Each justice or judge shall be subject to reprimand, censure, **suspension**, removal for cause or for disability, by the supreme court pursuant to procedures established by the legislature by law.”) and Wis. Stat. 757.95 (providing for suspension of a judge while a disciplinary complaint is pending).

The Wisconsin Supreme Court has a duty to protect the public when a judge is charged with a felony. The commentary to the American Bar Association’s model rules of judicial conduct explains: “The integrity of the judicial system demands prompt action whenever a judge has been formally charged with a serious crime.”

## ZOOM IN

Attorney General Josh Kaul suggested in a media interview that the Court’s suspension did not reflect any view of the merits of the federal government’s case against Judge Dugan. That is not necessarily so. The American Bar Association model rules of judicial disciplinary enforcement include this caveat in the [comment](#) to rule 15: “Almost all cases in which a judge is charged with a felony will result in an interim suspension; however these rules give the highest court discretion to impose an interim suspension in all cases in order to preserve the independence of the judiciary. If suspension were mandatory, the highest court would be required to suspend a judge even if the court was convinced that the complaint against the judge was filed only for political reasons.” In other words, the Court had the power to decline to suspend Judge Dugan if a majority was convinced that the prosecution was meritless and only a political stunt. That the Court promptly - proactively - unanimously suspended her could indicate at least a view that the federal charges have met the standard of probable cause and were not purely political.

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