

Court reverses judge who saved Mukwonago Indians name

By [Bruce Vielmetti](#) of the Journal Sentinel
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Residents opposing a state order that Mukwonago High School drop its Indians mascot and nickname have lost one court battle, but they are vowing to appeal.

The state Court of Appeals on Thursday reversed a Waukesha County circuit judge's ruling that state [administrators violated due process](#) in a hearing that resulted in an order that the Mukwonago Area School District stop using Indians as its athletics mascot. A resident of the district had filed a complaint that the mascot promoted discrimination.

But other residents challenged the way the hearing was conducted, and Circuit Judge Donald Hassin Jr. agreed with James Schoolcraft and Craig Vertz that the state's 2010 law, as applied against Mukwonago schools, was unconstitutional because the decision-maker - a Department of Public Instruction employee - had an impermissibly high risk of bias. Hassin's findings were detailed in [a 22-page order](#).

But the [appeals court found](#) that Schoolcraft and Vertz lacked standing to challenge the administrative hearing process because they were never part of it.

It noted that the pair could have tried to become parties to the original hearing, or seek immediate judicial review as a "person aggrieved." Further, because the school district abandoned its own right to proceed, Schoolcraft and Vertz could not derive their own rights from the district.

Samuel C. Hall Jr., a Crivello Carlson attorney representing the two men, said they're not giving up the fight.

"We are disappointed in the court's ruling and believe that all taxpayers should be given their day in court to challenge a law and a process that could cost them thousands of dollars and otherwise impact their community," he said.

"While we plan to file a petition for review with the Wisconsin Supreme Court, we again encourage the Legislature to repeal this law and spare the taxpayers and the courts from unnecessary costs."

The 2010 law allows residents to file complaints against their local school boards over team nicknames and logos perceived as race-based or discriminatory. After hearings conducted by the same official, the DPI has ordered Mukwonago, Berlin, Osseo-Fairchild and Kewaunee to drop American Indian-inspired names.

Residents in Berlin also challenged the order, and a circuit judge granted an injunction blocking the changes pending the outcome of the Mukwonago challenge.

School officials in Mukwonago have said it would cost upward of \$50,000 to change all the logos, uniforms, stationery and signage to comply with the order.

Hall said that there was support in the state Senate to change the law, but that a similar bill stalled in the Assembly.

"The bills were introduced last term," he said. "Hopefully, they will be again."

Links referenced within this article

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