

Gableman won't recuse himself from high-profile disputed cases

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Wisconsin Supreme Court Justice Michael Gableman said Friday he won't recuse himself from three cases, including an attempt to reopen last year's decision that allowed Gov. Scott Walker's contentious collective bargaining law to take effect.

Attorneys in those cases had asked Gableman to remove himself because other parties in the cases were represented by a law firm that defended Gableman against an ethics allegation without billing him.

In his written orders, Gableman cited state Supreme Court decisions that said justices could recuse themselves only when they felt they wouldn't act fairly and impartially or when it might appear that they couldn't do so.

He also cited U.S. Chief Justice John Roberts' recent report that said justices on the nation's highest court should not withdraw from cases because of "partisan demands, public clamor or considerations of personal popularity or notoriety."

Gableman did not go into the merits of the allegations against him or explain why he did not believe there was an appearance of a conflict of interest.

The justice has been under fire since the Milwaukee Journal Sentinel first reported last month that he accepted free legal services from prominent Wisconsin law firm Michael, Best & Friedrich but still presided over cases in which they were representing clients.

Gableman hired the law firm to represent him for two years in an ethics case that arose out of a campaign ad he ran during his successful 2008 run for the court. The Supreme Court split 3-3 on whether Gableman violated the state's judicial ethics code in the case.

The law firm disclosed last month that under its agreement with Gableman, he wasn't required to pay his legal fees unless he prevailed in the ethics case and the state claims board then agreed to pay the bills.

Since the Supreme Court deadlocked on whether he did anything wrong, Gableman couldn't seek reimbursement by the claims board and the firm was not paid.

Of the other two cases that Gableman said he would not recuse himself, one involves the siting of a large heifer facility in Rock County and the other is over whether to use old or new legislative maps for likely recall elections of state senators.

The Milwaukee Journal Sentinel reported that the full court will now have to decide whether to force Gableman from the cases. The court ruled 4-3 last year that justices do not have the power to remove one another from cases.

The Wisconsin judicial ethics code states that judges cannot accept gifts from those who are likely to appear before them. It also says judges must recuse themselves from cases in which a reasonable person might question their ability to be impartial.

Based on those rules, Dane County District Attorney Ismael Ozanne asked the state Supreme Court to reopen the case on collective bargaining and to decide it anew without Gableman's participation. Michael, Best & Friedrich attorney Eric McLeod represented Gableman in his ethics case without charging him attorneys fees — and then went on to work for Walker's administration on the collective bargaining case.

Gableman was in the 4-3 majority that decided the case in favor of Walker's administration.

