

Jeff Smith: Disappointment and Opportunity

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Although the Wisconsin Supreme Court decision to lift the Safer at Home Order was disappointing, we have an opportunity to make Wisconsin stronger while we continue to keep ourselves and our loved ones safe.

EAU CLAIRE - Disappointment and opportunity may not always belong in the same sentence, but when addressing conflicts they often work together. We can be disappointed, but we have to consider the opportunity before us to move forward and be better.

This is how I felt about last week's Wisconsin Supreme Court decision to lift the Safer at Home order. Although we're left feeling disappointed, we must consider the opportunities ahead to get through this crisis.

In a previous session, the Legislature passed legislation to give the Secretary of the Department of Health Services (DHS) the authority to respond to a public health emergency. During this pandemic, Republican leaders filed a lawsuit requesting the Wisconsin Supreme Court overturn the Safer at Home order. Ultimately, the court determined the DHS Secretary cannot call for a Safer at Home order without first going through a legislative rule-making process. To put that

into perspective, think about firefighters showing up at your home to extinguish a fire, but they can't start without the city council convening to determine if they can turn on the water.

Oddly, the decision allows our county health officers to introduce an order at the local level, the very law Republicans claim the DHS Secretary cannot use. Many local health departments issued their own Safer at Home orders, but last Friday, Attorney General Josh Kaul warned local health departments that the Supreme Court's ruling may affect local health departments' decisions. Shortly after that, numerous county health departments rescinded or rolled back their orders, leaving Wisconsin even more confused during a crisis.



It's hard to know exactly where to find the best information now that Republicans left us in the lurch during a global pandemic. Seek the guidance of public health experts, like our local health departments, to know what to do and how to do it safely.

It's all the more disappointing to know that all of the sacrifices we've made and the work public health officials have done is now jeopardized without these safeguards in place. Wisconsin was turning the dial under Governor Evers' Badger Bounce Back Plan. Republicans asked the Supreme Court to flip the switch without a plan in place. More people will be sick, economic impacts will be more severe and recovery will take much longer.

The 4 Justices who delivered the majority decision ignored the law. In fact, Justice Brian Hagedorn argued in his dissent that the people of Wisconsin did not empower the court "to step in and impose our wisdom" on "proper governance during this pandemic" adding "they left that to the legislative and executive branches." He went on to state that "today's decision may or may not be good policy, but it is not grounded in the law."



I agree. We are living in an era of conservative justices playing politics and legislating from the bench for the benefit of a few rather than the public interest. COVID-19 hasn't disappeared because lawyers and politicians want the world to return to what they consider to be normal.

The Safer at Home order put us in a good place to keep ourselves and our loved ones safe. Each of us has an opportunity to protect our communities. We know how staying safer at home, practicing social distancing, washing our hands and only traveling when necessary has worked to protect others. Also, wearing a mask protects those around you in case you are carrying the virus without your knowledge.

At a recent roundtable discussion, my colleague, Representative Bob Kulp (R – Stratford), spoke about creating a “better normal.” Throughout this unprecedented time, we’ve experienced disappointment. We’ve realized that we weren’t prepared for the ramifications of a public health crisis. We’ve seen how the lack of investment to support healthcare workers, expand broadband or strengthen our public health infrastructure has affected our response to this pandemic.

This disappointing realization brings new opportunity to draw a fresh perspective and evaluate what it will take to make Wisconsin stronger. I look forward to this opportunity and hope it draws us all closer together to create, not a new normal, but a better normal.

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