



Supreme Court of Wisconsin

DIRECTOR OF STATE COURTS

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Hon. Randy R. Koschnick
Director of State Courts

16 East State Capitol
Telephone 608-266-6828
Fax 608-267-0980

Tom Sheehan
Public Information Officer

CONTACT:
Tom Sheehan
Public Information Officer
(608) 261-6640

FOR IMMEDIATE RELEASE

Wisconsin Supreme Court accepts seven new cases

Madison, Wis. (Dec. 17, 2020) – The Wisconsin Supreme Court has voted to accept seven new cases, and the Court acted to deny review in a number of other cases. The case numbers, counties of origin and the issues presented in granted cases are listed below. More information about pending appellate cases can be found on the Wisconsin Supreme Court and Court of Appeals Access [website](#). Published Court of Appeals opinions can be found [here](#), and the status of pending Supreme Court cases can be found [here](#).

2019AP1404-CR

State v. Burch

Supreme Court case type: Certification

Court of Appeals: District III

Circuit Court: Brown County, Judge John Zakowski

Long caption: State of Wisconsin, Plaintiff-Respondent, v. George Steven Burch, Defendant-Appellant

Issues presented:

1. Would a reasonable person consider the scope of consent to search a cell phone to be limited by the person's discussion with law enforcement, or would a reasonable person properly consider a subsequent discussion about police extracting "the information" from the cell phone as showing the person had consented to police searching the phone in its entirety?
2. May a reasonable person consider the broad scope of the consent form signed by Burch despite the officer's initial request to review only the text messages on the phone?
3. After police downloaded information from the cell phone, what portion of Burch's data could it lawfully retain?
4. If the police department was permitted to retain some or all of the downloaded material, how long could it do so?
5. Did the status of the original investigation that produced the download affect the ability of police to lawfully retain the downloaded material?

6. Did the police have any obligation to return the downloaded material to Burch, and if so, when?

2019AP1272-CR

State v. Lickes

Supreme Court case type: Petition for Review

Court of Appeals: District IV

Circuit Court: Green County, Judge James R. Beer, reversed

Long caption: State of Wisconsin, Plaintiff-Appellant, v. Jordan Alexander Lickes, Defendant-Respondent-Petitioner

Issues presented:

1. Does the expungement statute's requirement that a probationer have "satisfied the conditions of probation" also mean that the probationer must perfectly comply at all times with each and every rule of probation set by the probation agent?
2. When a circuit court chooses to hold a hearing and exercise discretion to determine whether a probationer who violated a rule set by his agent has nevertheless "satisfied the conditions of probation" so as to qualify for expungement, should the appellate court review the circuit court's decision for an erroneous exercise of discretion?
3. When a circuit court makes factual findings concerning whether a probationer violated a condition of probation rendering him ineligible for expungement, must the appellate court uphold the finding in the absence of clear error?

2019AP2073

Fond du Lac County v. S.N.W.

Supreme Court case type: Petition for Review

Court of Appeals: District II

Circuit Court: Fond du Lac County, Judge Dale L. English, affirmed

Long caption: In the matter of the mental commitment of S.N.W.: Fond du Lac County, Petitioner-Respondent, v. S.N.W., Respondent-Appellant-Petitioner

Issues presented:

1. Did the circuit court lack competency to proceed with the final hearing due to the 48-hour rule violation?
2. If the circuit court retained competency, did it err in admitting the tardy report and its author's testimony?
3. Was the evidence presented at S.N.W.'s final hearing sufficient to prove him dangerous?
4. Is this appeal moot?

2019AP1983-CR

State v. Beyer

Supreme Court case type: Certification

Court of Appeals: District IV

Circuit Court: Dane County, Judge William E. Hanrahan

Long caption: State of Wisconsin, Plaintiff-Respondent, v. Jacob Richard Beyer, Defendant-Appellant.

Issue presented:

Whether the guilty-plea-waiver rule applies when a defendant pleads not guilty to an offense, but stipulates to the inculpatory facts supporting each element of the offense, and explicitly agrees to a finding of guilt at a hearing before the circuit court at which no witness testifies.

2019AP1200

Schwab v. Schwab

Supreme Court case type: Petition for Review

Court of Appeals: District I

Circuit Court: Milwaukee County, Judge Michael J. Dwyer, reversed

Long caption: In re the marriage of: Kathy Schwab, n/k/a Siech, Petitioner-Respondent-Petitioner v. Paul Schwab, Respondent-Appellant

Issues presented:

Does Wis. Stat. § 893.40 deprive the circuit court of its inherent and statutory contempt power under Wis. Stat. ch. 785 when one party brings a contempt action to enforce a vested property right, which was not obtainable until after 20 years from the entry of the judgment?

2020AP1718-OA

Fabick v. Evers¹ (argued Nov. 16, 2020)

Supreme Court case type: Petition for Original Action

Court of Appeals: District IV

Long caption: Jere Fabick, Petitioner, v. Tony Evers, in his Official Capacity as the Governor of Wisconsin, Respondent

Issues presented:

Whether Governor Tony Evers violated Wis. Stat. § 323.10 when he issued multiple and successive executive orders declaring a state of emergency beyond 60 days in response to the COVID-19 pandemic.

2020AP1742

Tavern League v. Palm (argued Dec. 17, 2020)

Supreme Court case type: Petition for Review

Court of Appeals: District III

Long caption: Tavern League of Wisconsin, Inc., Sawyer County Tavern League, Inc. and Flambeau Forest Inn LLC, Plaintiffs v. Andrea Palm and Wisconsin Department of Health Services, Defendants-Respondents-Petitioners, Julia Lyons, Defendant-Respondent, THE MIX UP, INC (D/B/A, MIKI JO'S MIX UP), Liz Sieben,

¹ Petition for leave to commence an original action granted on 10/28/20.

Pro-Life Wisconsin Education Task Force, Inc., Pro-Life Wisconsin, Inc. and Dan Miller,
Intervenors-Plaintiffs-Appellants.

Issues presented:

Did the court of appeals err in concluding that Emergency Order 3 is invalid
because it was not promulgated as a rule pursuant to Wis. Stat. ch. 227?

Review denied: The Supreme Court denied review in the following cases. As the state's law-developing court, the Supreme Court exercises its discretion to select for review only those cases that fit certain [statutory criteria](#) (see Wis. Stat. § 809.62). Except where indicated, these cases came to the Court via petition for review by the party who lost in the lower court:

Brown

19AP1532-CR

State v. Lecker

Calumet

19AP486-CR

State v. Crawford

Columbia

19AP708-CR

State v. Blanchard

Dane

19AP629

Jama v. Gonzalez

Justice Ann Walsh Bradley and Justice Rebecca Frank Dallet dissent. Justice Jill J. Karofsky did not participate.

20AP160-CR

State v. Engen

Justice Jill J. Karofsky did not participate.

Iron

19AP280-CR

State v. Lussier

Kenosha

18AP1746-CR

State v. McNair

Lincoln

18AP152

State v. Boruch

Justice Ann Walsh Bradley did not participate.

Marathon

19AP197

J.W. v. R.B.

Milwaukee

16AP752-CRNM

State v. Williams

18AP2155-2156-CR

State v. Nicolai

19AP36-37-CR	<u>State v. Lathon</u>
19AP126-CR	<u>State v. Foster</u>
19AP157-CR	<u>State v. Jew</u>
19AP504	<u>State v. Shipp</u>
19AP1014-CR	<u>State v. Rivera-Diaz</u>
19AP1056	<u>State v. Anderson</u>
19AP1292-CR	<u>State v. Cantrell</u>
19AP1770-CR	<u>State v. Taylor</u>
19AP2049-CRNM	<u>State v. Myles</u>
20AP302-W	<u>Brown v. Hepp</u>
20AP962	<u>State v. K.A.B.</u>
20AP1109	<u>State v. D.Q.</u>
 <u>Monroe</u>	
18AP2269-CR	<u>State v. Dieter</u>
19AP802-CR	<u>State v. Nichols</u>
 <u>Outagamie</u>	
17AP1607-CRNM	<u>State v. Ducksworth</u>
20AP1761-OA	<u>O’Bright v. Lynch</u>
<i>Chief Justice Patience Drake Roggensack concurs. Justice Ann Walsh Bradley, Justice Rebecca Frank Dallet, and Justice Jill J. Karofsky dissent.</i>	
 <u>Ozaukee</u>	
18AP2427-CR	<u>State v. Harper</u>
19AP1144-CR	<u>State v. Levanduski</u>
 <u>Polk</u>	
20AP1749-OA	<u>Lindoo v. Evers</u>
 <u>Rock</u>	
19AP738-CR	<u>State v. Hardaway</u>
20AP93	<u>Rock County v. R.J.</u>

Sauk

19AP1366

Fabian v. Fabian

Washington

19AP968-CR

State v. McGee

Waukesha

19AP293

State v. Stephens

Winnebago

19AP1621

Galston v. Castonia