



Supreme Court of Wisconsin

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FOR IMMEDIATE RELEASE

Wisconsin Supreme Court accepts seven new cases

Madison, Wis. (May 7, 2021) – 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](#).

2019AP2205

Loren Imhoff Homebuilder v. Taylor

Supreme Court case type: Petition for Review

Court of Appeals: District IV

Circuit Court: Dane County, Judge Frank D. Remington, reversed and remanded

Long caption: Loren Imhoff Homebuilder, Inc., Petitioner-Appellant, v. Lisa Taylor and Luis Cuevas, Respondents-Respondents-Petitioners

Issues presented:

1. Did Petitioners sufficiently assert an objection to the arbitrator on a single arbitrator panel sleeping through major portions of the arbitration hearing by objecting to such sleeping multiple times between the close of evidence and the issuance of the arbitration decision and award?
2. Whether the doctrine of forfeiture applies in arbitration proceedings and, if so, whether it should be applied in this case?

Justice Jill J. Karofsky did not participate.

2019AP1317

State v. Van Linn

Supreme Court case type: Petition for Review

Court of Appeals: District III

Circuit Court: Oconto County, Judge Michael T. Judge, affirmed

Long caption: State of Wisconsin, Plaintiff-Respondent, v. Daniel J. Van Linn, Defendant-Appellant-Petitioner

Issue presented: After Daniel Van Linn was arrested on suspicion of drunk driving, a sheriff's deputy ordered his blood drawn for testing. This draw was illegal, and the circuit court excluded its fruit. After the suppression decision, the prosecutor applied for a subpoena to the hospital where Mr. Van Linn had been treated; the application included the results of the first, suppressed blood test. The court issued the subpoena and the hospital turned over evidence including the results of the blood alcohol test it had conducted. Was the State's decision to seek this subpoena the fruit of its earlier, unlawful search, such that its results should have been suppressed?

2018AP2205

State v. C.G.

Supreme Court case type: Petition for Review

Court of Appeals: District III

Circuit Court: Shawano County, William F. Kussel, Jr., affirmed

Long caption: In the interest of C. G., a person under the age of 18: State of Wisconsin, Petitioner-Respondent v. C. G., Respondent-Appellant-Petitioner

Issues presented:

1. Does Wis. Stat. § 301.45, the statute governing juvenile sex offender registration unconstitutionally infringe on Ella's¹ First Amendment right to freedom of speech by preventing her from legally changing her name to reflect her gender identity?
2. Does requiring Ella to register under Wis. Stat. § 301.45 amount to cruel and unusual punishment in violation of the Eighth Amendment?

2020AP520

Friendly Village Nursing v. DWD

Supreme Court case type: Petition for Review

Court of Appeals: District III

Circuit Court: Oneida County, Judge Michael H. Bloom, affirmed

Long caption: Friendly Village Nursing and Rehab, LLC and Friendly Village Healthcare Center, Plaintiffs-Appellants-Petitioners, v. State of Wisconsin Department of Workforce Development and State of Wisconsin Labor and Industry Review Commission, Defendants-Respondents, v. Rhinelander Healthcare Operator 150, LLC, Defendant

Issues presented:

1. Whether the Labor and Industry Review Commission ("the Commission") reasonably concluded that Friendly Village's filing of an application for unemployment account successorship was both untimely and not permitted due to excusable neglect.
2. Whether the Commission should have considered the interests of justice in determining whether Friendly Village's application was untimely as a result of excusable neglect.

¹ Ella is a pseudonym pursuant to Wis. Stat. § 809.19(1)(g). Ella is a transgender female and, therefore, will be referred to using female pronouns.

2020AP940

Brown County v. Brown County Taxpayers Association

Supreme Court case type: Certification

Court of Appeals: District III

Circuit Court: Brown County, Judge John Zakowski

Long caption: Brown County, Plaintiff-Respondent, v. Brown County Taxpayers Association and Frank Bennett, Defendants-Third-Party Plaintiffs-Appellants v. Peter Barca, Secretary, Wisconsin Department of Revenue, Third-Party Defendant-Respondent

Issue presented: Does the sales and use tax Brown County enacted in 2017 and implemented as part of its 2018 budget process “directly reduce the property tax levy,” as required by WIS. STAT. § 77.70 (2015-16),² if the proceeds are designated to fund new capital projects that collectively would otherwise exceed the levy limits established by WIS. STAT. § 66.0602, but the County could otherwise fund the projects by borrowing?

2020AP202

Oros v. Divine Savior Healthcare

Supreme Court case type: Petition for Review

Court of Appeals: District IV

Circuit Court: Columbia County, Judge W. Andrew Voight, reversed

Long caption: Kim M. Andruss, Plaintiff-Appellant, Thomas E. Price M.D., Secretary, Department of Health & Human Services, Involuntary-Plaintiff, Estate of Anne Oros, Plaintiff, v. Divine Savior Healthcare Inc. d/b/a Tivoli at Divine Savior Healthcare, Defendant-Respondent-Petitioner, ProAssurance Casualty Company, Defendant, Dean Health Plan Inc., Intervenor

Issues presented:

1. Is a lawsuit against Divine Savior Healthcare Inc., a defined Wisconsin Chapter 655 provider and its affiliate healthcare providers subject to Chapter 655?
2. Is Tivoli AL, a Community Based Residential Facility (CBRF) that is a d/b/a of Divine Savior Healthcare, Inc., an affiliate entity “whose operations are combined as a single entity with a hospital” pursuant to Chapter 655.002, such that Defendant Divine Savior Healthcare, Inc. is entitled to the protections of Wisconsin Chapter 655?

2020AP1058-CR

State v. Clark

Supreme Court case type: Bypass

Court of Appeals: District III

Circuit Court: Ashland County, Judge John P. Anderson

Long caption: State of Wisconsin, Plaintiff-Appellant-Petitioner, v. Teresa L. Clark, Defendant-Respondent

² All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted. This was the version of the statutes in effect at the time Brown County passed the sales and use tax ordinance at issue. WISCONSIN STAT. § 77.70 was amended in 2017, but those amendments became effective after the ordinance was passed, and the parties do not argue the amendments to this or any other statutes are material except as they pertain to legislative acquiescence in the longstanding interpretation of § 77.70 as authorizing Brown County’s actions.

Issues presented:

1. Does the burden shift to the State when a defendant collaterally attacking a prior conviction does not point to evidence that *shows* that the circuit court failed to inform her of the right to counsel but merely *alleges* that the court failed to do so?
2. Did Clark prove that her right to counsel was violated in her prior cases?

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:

2018AP2038	<u>State v. Addison</u>
2018AP2284	<u>State v. Fischer</u>
2018AP2385-CR	<u>State v. Wheeler</u>
2019AP378	<u>US Bank v. Tellock</u> (Justice Rebecca Frank Dallet did not participate)
2019AP760-CR	<u>State v. Jurgenson</u>
2019AP834	<u>Bach v. LIRC</u>
2019AP849-CR	<u>State v. Beltran</u>
2019AP1202	<u>Jarrett v. Simpson</u>
2019AP1209-CR	<u>State v. Triebold</u>
2019AP1212-CR	<u>State v. Maclin-Dyson</u>
2019AP1213-CR	
2019AP1244-CR	<u>State v. Taylor</u>
2019AP1567	<u>Vilas County DHS v. N.J.P.</u>
2019AP1659-CR	<u>State v. Linder</u>
2019AP1873	<u>Estate of Zhu v. Hodgson</u>
2019AP2032	<u>Linsmeyer v. Linsmeyer</u>
2019AP2067	<u>Gartner Properties, LLC v. Hudson Business Park, LLC</u>
2020AP100-CR	<u>State v. Gramza</u>
2020AP218	<u>Kennedy v. Gander</u>

2020AP310-CR	<u>State v. Snyder</u>
2020AP442	<u>State v. Vega</u>
2020AP526-CR	<u>State v. Brown</u>
2020AP1351	<u>Winnebago Co. v. D.D.A.</u>
2020AP1409-CRNM	<u>State v. McDonald</u>
2019AP1040-CR	<u>State v. Hamann</u>
2019AP1216	<u>State v. Scott</u>
2019AP2115-CR	<u>State v. Jordan</u>
2019AP2316-CR	<u>State v. Howard</u>
2018AP15	<u>State v. Wolfe</u>
2019AP560-CR	<u>State v. Garcia</u> (Justice Rebecca Frank Dallet did not participate)
2019AP632-CR	<u>State v. Scott</u>
2019AP2019-CR	<u>State v. Arvelo-Nieves</u> (Justice Rebecca Frank Dallet did not participate)
2020AP144-CR	<u>State v. Tucker</u>
2020AP214-CR	<u>State v. Broadway</u>
2020AP322-CR	<u>State v. Kundilovski</u>
2020AP349-CR	<u>State v. Birk</u>
2020AP1534-W	<u>Isom v. Kiefer</u>
2021AP181-W	<u>Ingram v. Waldschmidt</u>
2019AP287-CRNM	<u>State v. Voss</u>
2019AP1551-CRNM	<u>State v. Jones</u>