



Supreme Court of Wisconsin

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FOR IMMEDIATE RELEASE

Wisconsin Supreme Court accepts three new cases

Madison, Wis. (Dec. 14, 2018) – The Wisconsin Supreme Court has voted to accept three new cases, and the Court acted to deny review in a number of other cases. The case numbers, issues presented and counties of origin are listed below. A more detailed synopsis of the granted cases will be released at a later date. 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 cases pending in the Supreme Court can be found [here](#).

2018AP1296-CR

State v. Raytrell K. Fitzgerald

Supreme Court case type: Bypass

Court of Appeals: District I

Circuit Court: Milwaukee County, Judge Dennis R. Cimpl

Long caption: State of Wisconsin, Plaintiff-Respondent, v. Raytrell K. Fitzgerald, Defendant-Appellant

Issues presented:

1. Whether the involuntary medication provisions of Wis. Stat. § 971.14 are unconstitutional because they do not comport with Sell v. United States, 539 U.S. 166 (2003).
2. Whether the circuit court's June 18 Order of Commitment for Involuntary Treatment violated Fitzgerald's constitutional right to substantive and procedural due process.
3. Whether the circuit court erred in ordering that Fitzgerald is entitled to only 45 days of sentence credit for the time he has spent in custody.

2016AP375-CR

State v. Tyrus Lee Cooper

Supreme Court case type: Petition for Review

Court of Appeals: District I

Circuit Court: Milwaukee County, Judge M. Joseph Donald, affirmed

Long caption: State of Wisconsin, Plaintiff-Respondent, v. Tyrus Lee Cooper, Defendant-Appellant-Petitioner

Issue(s) presented:

1. When a defendant's counsel has engaged in serious professional misconduct leading up to the trial date affecting defendant's meaningful participation in his own defense, does that provide a sufficient reason to withdraw a guilty plea prior to sentencing?
2. Did the circuit court erroneously exercise its discretion when it denied defendant's motion to withdraw his plea prior to sentencing without an evidentiary record to support substantial prejudice to the State?
3. In deciding whether Mr. Cooper may withdraw his guilty plea, is the circuit court bound by the Supreme Court's findings and/or conclusions in *In re Disciplinary Proceedings Against Hicks*, 2016 WI 31, 368 Wis. 2d 108, 877 N.W.2d 848, including, but not limited to, language stating that the failure of Mr. Cooper's trial counsel to properly communicate with him prevented him from adequately understanding and participating in his own defense, see *id.*, ¶¶23-28, 39.

2016AP1276-CR

State v. Nelson Garcia, Jr.**Supreme Court case type:** Petition for Review**Court of Appeals:** District 1**Circuit Court:** Milwaukee County, Judge William S. Pocan, affirmed**Long caption:** State of Wisconsin, Plaintiff-Respondent, v. Nelson Garcia, Jr., Defendant-Appellant-Petitioner**Issues presented:**

1. Does the 6th Amendment Right to Counsel attach upon the finding of probable cause and the setting of bail by a court commissioner?
2. Is a line-up that violates the state Department of Justice's model policy and procedure for eye-witness identification, compounded by a failure of viewing witnesses to follow standard instructions given to them, impermissibly suggestive?
3. Can a trial court, at a pre-trial hearing, deem that a criminal defendant has waived his right to self-representation because the court believes the defendant will engage in disruptive behavior in front of the jury? If so, does the defendant have the right to redeem himself?

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:

Ashland

17AP338 - CRNM

State v. Bey**Brown**

18AP1396 - W

Casteel v. Circuit Court for Brown County**Clark**

2017AP1644-1645 - CRNM

State v. Kolpien

Dane

17AP2206

Markovic v. Litscher**Eau Claire**

17AP277 - CRNM

State v. Billiot**Grant**

18AP1232 - W

Tiggs v. Circuit Court for Grant County**Kenosha**

16AP2160 - CR

State v. Culver

17AP528 - CRNM

State v. Kirk

17AP1322 - CR

State v. Young

17AP1705–1710 - CR

State v. Bak-Gogan**Lafayette**

16AP966

County of Lafayette v. Humphrey**Milwaukee**

15AP2312 - CR

State v. Mcalister

15AP2562 - CR

State v. Price

16AP568 - CR

State v. Robertson*Justice Ann Walsh Bradley did not participate.*

17AP797 - CR

State v. Egerson*Justice Rebecca Frank Dallet did not participate.*

17AP805 - CR

State v. Wilks

17AP840 - CR

State v. Tucker*Chief Justice Patience Drake Roggensack did not participate.*

17AP974

State v. Woods

17AP1251 - CR

State v. Lobley*Justice Rebecca Frank Dallet did not participate.*

17AP1254 - CR

State v. Brown-Troop

17AP1433 - CR

State v. Hubbard

17AP1467

Mercedes-Benz USA, LLC v. Hinkley

17AP1562

State v. Wilbourn

17AP1581 State v. Johnson
Justice Rebecca Frank Dallet did not participate.

17AP1600 - CR State v. Walls

17AP1787–1788 State v. K.C.H.

17AP1625 - CR State v. Terry

17AP1905 State v. J.P.

17AP1934–1935 - CR State v. Harmon

17AP2311 - CR State v. Bridges
Justice Annette Kingsland Ziegler did not participate.

17AP2455–2465-CR State v. Leszczynski

18AP208 - CR State v. Burks

Monroe

16AP2145 - CR State v. Lumpkin

18AP322 Monroe County DHS v. B.L.S.

Ozaukee

17AP1401 - CRNM State v. Keller

Racine

17AP427 - CR State v. Robbins

17AP792 - CR State v. Oliver

17AP1738 - CR State v. Swanton

17AP1842 - NM State v. Miller

Rock

18AP1462–1463 - W Phiffer v. McCrory

Sawyer

17AP1310 - CR State v. Buckholtz

Walworth

17AP573 - CR State v. Montour

Waukesha

17AP665 - CR

State v. Korzinek

17AP1103 - CR

State v. Seppi

17AP2349

Key v. Meisner

Winnebago

17AP2477 - CR

State v. Posey

18AP338 - CR

State v. Lux

Justice Shirley S. Abrahamson dissents.