

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 20, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 98-1856-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE EX REL. MARY GILLIES,

PETITIONER-RESPONDENT,

V.

**MILWAUKEE COUNTY AND MILWAUKEE COUNTY
PERSONNEL REVIEW BOARD,**

RESPONDENTS-APPELLANTS.

APPEAL from an order of the circuit court for Milwaukee County:
JACQUELINE D. SCHELLINGER, Judge. *Reversed and cause remanded with
directions.*

Before Fine, Schudson and Curley, JJ.

PER CURIAM. Milwaukee County and the Milwaukee County
Personnel Review Board appeal from that part of a circuit court order awarding

Mary D. Gillies “damages incurred as a result of her termination.”¹ Because the circuit court exceeded its authority when it entered the order for damages subject to this appeal, we reverse the circuit court’s order and remand the cause with directions.

This case grew out of Gillies’s discharge by the Board from the County’s classified service as a registered nurse at Milwaukee County John L. Doyne Hospital. Gillies challenged her discharge before the Board. The Board upheld Gillies’s discharge. Gillies then filed a petition for writ of *certiorari* in the circuit court seeking review of the Board’s action. The petition claimed that the Board’s decision was contrary to law, arbitrary and oppressive, and unsupported by substantial evidence. The circuit court affirmed the Board’s discharge of Gillies and quashed the writ of *certiorari*. Gillies filed an appeal in this court. Because the Board failed to attempt to refute a number of arguments raised in Gillies’s brief-in-chief, this court concluded that these arguments were conceded by the Board. Accordingly, we reversed the trial court’s order.²

Upon remittitur, the circuit court requested the parties to submit draft orders conforming to this court’s opinion. The circuit court adopted Gillies’s proposed order over the objections of the Board and the County. The Board and the County now appeal, challenging that part of the circuit court’s order awarding unspecified damages to Gillies.

¹ This is an expedited appeal under RULE 809.17, STATS.

² *State ex rel. Gillies v. Milwaukee County Personnel Review Board*, No. 96-3467, unpublished slip op. (Wis. Ct. App. January 27, 1998).

Where, as here, “there are no statutory provisions for judicial review, the action of a board or commission may be reviewed by way of certiorari.” *State ex rel. Johnson v. Cady*, 50 Wis.2d 540, 549-50, 185 N.W.2d 306, 311 (1971) (footnote omitted). Under traditional standards of common law *certiorari* review, judicial review is limited to ““(1) [w]hether the [b]oard kept within its jurisdiction; (2) whether it acted according to law; (3) whether its action was arbitrary, oppressive or unreasonable and represented its will and not its judgment; and (4) whether the evidence was such that it might reasonably make the order or determination in question.”” *State ex rel. Brookside Poultry Farms, Inc. v. Jefferson Board of Adjustment*, 131 Wis.2d 101, 119-20, 388 N.W.2d 593, 600 (1986) (citation omitted). In view of these limitations on judicial review, it follows that the courts may not award damages on *certiorari*. See *Coleman v. Percy*, 86 Wis.2d 336, 341, 272 N.W.2d 118, 121 (Ct. App. 1978).

Applying these principles to the order of the circuit court upon remittitur, this court concludes that the circuit court committed an error of law and exceeded its authority when it awarded unspecified damages to Gillies in the context of her common law *certiorari* action.³ It follows that that part of the order granting unspecified damages is reversed and the matter is remanded for the entry of an order consistent with this opinion.

By the Court.—Order reversed and cause remanded with directions.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.

³ Because our decision on this point disposes of the appeal, we decline to address the other challenges to the circuit court’s order raised by the Board and the County. See *Gross v. Hoffman*, 227 Wis. 296, 300, 277 N.W. 663, 665 (1938) (if decision on one point disposes of appeal, appellate court need not decide other issues).

