

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 25, 2010

David R. Schanker
Clerk of Court of Appeals

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 WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2009AP2654

Cir. Ct. No. 2008CV560

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

VILLAGE OF WEST SALEM,

PLAINTIFF-RESPONDENT,

V.

MATTHEW J. LOW,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for La Crosse County:
SCOTT L. HORNE, Judge. *Affirmed.*

¶1 VERGERONT, J.¹ Matthew Low filed a motion in Coulee Region Municipal Court, La Crosse County, for an order vacating the judgment of

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) and (3) (2007-08). All references to the Wisconsin Statutes are to the 2007-08 version unless otherwise noted.

conviction entered in 2003 by the La Crosse County Circuit Court for operating while intoxicated (OWI) in violation of WIS. STAT. § 346.63(1)(a). Low appealed the denial of his motion to the circuit court. The circuit court concluded that the municipal court does not have jurisdiction and, in the alternative, affirmed the municipal court's denial of the motion on the merits. Low appeals and we affirm because we conclude the circuit court correctly ruled the municipal court does not have jurisdiction to consider Low's motion.

¶2 The facts relevant to the issue of jurisdiction are not disputed. The three citations issued Low in 2003 by the Village of West Salem police were prosecuted in La Crosse County Circuit Court because at the time there was no municipal court for the Village. Low, represented by counsel, entered a guilty plea to the OWI citation and the other two citations were dismissed.

¶3 After Low was charged with a second offense OWI in January 2007, he filed a motion to vacate the 2003 judgment. According to his accompanying affidavit and the affidavits of his father and his current counsel, he entered that plea as a seventeen year old based on the inadequate information and advice provided by his attorney. Low asserted that the prior judgment will increase the penalty on the new OWI charge and this is unfair because he entered his plea as the result of inadequate representation.

¶4 By the time Low filed this motion in November 2007, the Coulee Region Municipal Court had been established as a consolidated municipal court that included the Village. Low filed his motion in the municipal court. After

briefing and, apparently, a hearing at which the attorneys presented argument,² the municipal court issued a written decision stating, “The Court finds that the factual assertions set forth by the Defendant are credible. However, the Court does not find that they warrant a new trial as requested.” Although the parties had briefed the issue of the municipal court’s jurisdiction, the municipal court did not address it.

¶5 Low appealed to the circuit court pursuant to WIS. STAT. § 800.14. The circuit court addressed the jurisdictional issue and decided the municipal court does not have jurisdiction. The court reasoned that La Crosse County Circuit Court properly took jurisdiction when the action was filed because that court was authorized under Chapter 778 to adjudicate forfeiture actions when there was no municipal court.³ The circuit court concluded that the establishment of a municipal court did not divest La Crosse County Circuit Court of the jurisdiction to hear motions in that same action and did not transfer that jurisdiction to the municipal court. In the alternative, the circuit court affirmed the municipal court’s denial of the motion on the merits.

¶6 Low contends on appeal that the circuit court erred in deciding the municipal court does not have jurisdiction. He asserts that, once the municipal court was established, it had exclusive jurisdiction over his motion to reopen because WIS. STAT. § 755.045(1) provides:

² From the parties’ briefs, we understand there was no evidentiary hearing but there was a hearing at which the attorneys argued. There is no transcript of that hearing.

³ The circuit court construed the action as one brought by the Village to enforce an ordinance that adopts WIS. STAT. § 346.63(1)(a), rather than to enforce that statute, because an action to enforce a state statute must be brought in the name of the state under § 778.02.

(1) A municipal court has exclusive jurisdiction over an action in which a municipality seeks to impose forfeitures for violations of municipal ordinances of the municipality that operates the court, except as follows:

(a) If the action is transferred under s. 800.04(1) or 800.05(3) to a court of record.

(b) If equitable relief is demanded the plaintiff shall bring the action in a court of record.

(c) Whenever the municipal court of a 1st class city in any county having a population of 500,000 or more is not in session, the circuit court has concurrent jurisdiction to hear municipal court cases.⁴ [Footnote added.]

¶7 The issue of the jurisdiction of the municipal court and of the circuit court involves an interpretation of WIS. STAT. § 755.045(1) in the context of existing case law. This presents a question of law, which we review de novo. *See Village of Menomonee Falls v. Meyer*, 229 Wis. 2d 811, 814, 601 N.W.2d 666 (Ct. App. 1999).

¶8 It is well established that one court does not have the authority to re-open and set aside the judgment of another court. *See, e.g., Salter v. Cook*, 131 Wis. 20, 23, 110 N.W. 823 (1907); *Coon v. Seymour*, 71 Wis. 340, 346, 37 N.W. 243 (1888). Low argues that these and similar cases do not apply because the La Crosse County Circuit Court no longer has jurisdiction over this action because of WIS. STAT. § 755.045(1). However, there is nothing in § 755.045(1) that suggests the legislature intended to divest the circuit court of jurisdiction over the actions properly filed in that court before the new municipal court was established. It is not reasonable to suppose that the legislature intended such a significant

⁴ There appears to be no dispute that none of the exceptions in WIS. STAT. § 755.045(1) apply.

change without directly addressing it. *See State ex rel. Kalal v. Circuit Court for Dane County*, 2004 WI 58, ¶46, 271 Wis. 2d 633, 681 N.W.2d 110 (We interpret statutory language reasonably to avoid absurd or unreasonable results.). The only reasonable construction of § 755.045(1) is that it prescribes jurisdiction over an action in which a municipality seeks to impose forfeitures for violations of a municipal ordinance where that action has not previously been filed in a court that had jurisdiction before the establishment of the municipal court.

¶9 Because we conclude WIS. STAT. § 755.045(1) does not divest the circuit court of jurisdiction in this action, it has the jurisdiction to decide Low's motion to vacate the judgment, and the municipal court does not have the authority to do that. The circuit court correctly affirmed the municipal court's denial of Low's motion even though the municipal court denied the motion on the merits. Our conclusion that the municipal court does not have jurisdiction is dispositive and makes it unnecessary to decide the other issues addressed by the circuit court and the parties.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

