

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 22, 1998

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. 97-3844

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

VILLAGE OF TIGERTON,

PLAINTIFF-RESPONDENT,

v.

**DONALD MINNIECHESKE, JAMES MINNIECHESKE,
JUDITH MINNIECHESKE, SALLY A. MINNIECHESKE,
AND JAMES RAMSDEN,**

DEFENDANTS-APPELLANTS,

**MARK VAN DYKE, RODNEY C. JOHNSON,
JOANN REDMAN, JEREMY ERICKSON,
LEONARD PETH, THOMAS STOCKHEIMER,
JIM McCLELLAN, JACK MINNIECHESKE,
AND ORLANDO RICHARDS,**

DEFENDANTS.

APPEAL from an order of the circuit court for Shawano County:
EARL SCHMIDT, Judge. *Affirmed.*

Before Cane, C.J., Myse, P.J., and Hoover, J.

PER CURIAM. Donald Minniecheske and others (hereinafter “Minniecheske”) appeal a trial court order that denied their § 806.07, STATS., motion to reopen a harassment injunction. The trial court issued the injunction in favor of the Village of Tigerton to restrain Minniecheske from intimidating Village agents, filing lawsuits against the Village, and vandalizing Village real and personal property. Minniecheske’s brief essentially makes four basic arguments: (1) the Village’s police chief committed perjury during the original proceedings and thereby perpetrated fraud upon the court; (2) the trial judge in the original proceedings had a conflict of interest by way of personally holding a lien on the Village’s real estate; (3) the Village had no standing to seek the injunction; and (4) the trial court wrongly enjoined Minniecheske in the original lawsuit from starting further lawsuits against the Village without prior court approval, thereby unlawfully depriving him of access to the courts. The trial court made a discretionary decision on Minniecheske’s § 806.07 motion that we will not overturn absent an erroneous exercise of discretion. *See Breuer v. Town of Addison*, 194 Wis.2d 616, 625, 534 N.W.2d 634, 638 (Ct. App. 1995). We reject Minniecheske’s arguments and therefore affirm the trial court’s postjudgment order.

First, Minniecheske states that the Village’s police chief committed perjury during the original proceedings. Minniecheske may not reopen the case by simply relitigating the police chief’s credibility under the name, “perjury.” Litigants need to show a “plain case” of fraud upon the court. *See Johnson v. Johnson*, 157 Wis.2d 490, 498-99, 460 N.W.2d 166, 169-70 (Ct. App. 1990). Minniecheske has made no such showing; he is simply rearguing the police chief’s credibility. In fact, Minniecheske raised the perjury claim in the original lawsuit.

Consequently, both issue and claim preclusion bar this issue. See *Michelle T. v. Crozier*, 173 Wis.2d 681, 694, n.13, 495 N.W.2d 327, 333 n.13 (1993); *Desotelle v. Continental Cas. Co.*, 136 Wis.2d 13, 21, 400 N.W.2d 524, 527 (Ct. App. 1986). Second, Minniecheske states that the trial judge's lien created a conflict of interest; however, he has offered no proof of a lien and no reason for not raising the issue in his prejudgment recusal requests. Consequently, both claim and issue preclusion also bar this issue. Last, we have already rejected in Minniecheske's prior appeal the core of his last two arguments, his standing and court access issues. See *Village of Tigerton v. Minniecheske*, 211 Wis.2d 775, 565 N.W.2d 586 (Ct. App. 1997). The *Tigerton* decision stands as the law of the case, see *Univest Corp. v. General Split Corp.*, 148 Wis.2d 29, 38-39, 435 N.W.2d 234, 238 (1986), and requires rejection of these claims. In short, none of Minniecheske's claims met the tests of § 806.07.

By the Court.—Order affirmed.

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

