

**COURT OF APPEALS
DECISION
DATED AND FILED**

SEPTEMBER 29, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

No. **98-3643**

STATE 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.

**IN COURT OF APPEALS
DISTRICT II**

REUBEN ADAMS,

PLAINTIFF-APPELLANT,

v.

**PHIL MACHT, DIRECTOR,
WISCONSIN RESOURCE CENTER,**

DEFENDANT-RESPONDENT.

APPEAL from an order of the circuit court for Winnebago County:
ROBERT A. HAASE, Judge. *Affirmed in part; reversed in part and cause remanded with directions.*

Before Brown, P.J., Nettesheim and Anderson, JJ.

PER CURIAM. Reuben Adams appeals from the order of the circuit court granting the respondent's motion to dismiss his complaint.¹ Adams argues that the circuit court improperly interpreted the controlling statute. We agree with the circuit court's interpretation of the statute. The circuit court, however, did not address another issue that Adams raised in his complaint. Therefore, we affirm in part and reverse in part.

The facts are not in dispute. Adams is a patient at the Wisconsin Resource Center (WRC). In 1997, WRC issued a policy which prohibited terminated employees of WRC from visiting patients at WRC. The mother of Adams's child is a former employee of WRC. Prior to the date when this policy was issued, she had visited Adams at WRC. Once the policy was instituted, she was no longer allowed to visit him.

Adams, pro se, eventually brought an action in circuit court against the Director of WRC, Phil Macht, challenging the restriction on his visits with the former employee. Macht moved to dismiss the complaint, and while the motion was pending, Adams filed an amended complaint. Adams alleged that the policy violated his rights under § 51.61(1)(t), STATS., and challenged the reasonableness of the policy. The circuit court granted the motion to dismiss. The court found that the statute on which Adams relied required that he be allowed to see visitors each day, but did not say that the institution cannot put restrictions on who may visit. We agree with the circuit court's conclusion on this issue and affirm.

¹ The circuit court decided the motion in a decision dated December 14, 1998, which we construe as an order.

The application of a statute to a particular set of facts is a question of law. *See Horton v. Haddow*, 186 Wis.2d 174, 181, 519 N.W.2d 736, 739 (Ct. App. 1994). We review questions of law independently without deference to the trial court. *See Mastercard v. Town of Newport*, 133 Wis.2d 328, 330-31, 396 N.W.2d 345, 347 (Ct. App. 1986). The statute in this case provides that a patient in the type of institution in which Adams is confined shall be entitled to see visitors each day. *See* § 51.61(1)(t), STATS. We agree with the circuit court that there is nothing in this statute which prohibits the institution from restricting who may visit. Therefore, we affirm that portion of the order which dismissed Adams's complaint on the grounds that the institution's policy violated § 51.61(1)(t).

We will liberally construe a pro se complaint to see if it states any facts which give rise to a cause of action. *See bin-Rilla v. Israel*, 113 Wis.2d 514, 520, 335 N.W.2d 384, 388 (1983). Reviewing Adams's complaint in this manner, we believe that he has raised an additional issue which the circuit court did not address. The circuit court did not address the issue of whether the policy is arbitrary and unreasonable and not based on a legitimate security concern. Therefore, we reverse in part and remand the matter to the circuit court for determination of this issue only.

By the Court.—Order affirmed in part; reversed in part and cause remanded with directions.

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

