

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

October 26, 2000

Cornelia G. Clark  
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 WIS. STAT. § 808.10 and RULE 809.62.

**No. 00-0196**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**COUNTY OF JEFFERSON,**

**PLAINTIFF-RESPONDENT,**

**V.**

**MICHAEL V. HENDRICKS,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment of the circuit court for Jefferson County:  
JOHN M. ULLSVIK, Judge. *Affirmed.*

¶1 ROGGENSACK, J.<sup>1</sup> Michael Hendricks appeals his conviction for speeding. He claims that the circuit court violated his right to counsel by denying

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(c) (1997-98). Additionally, all references to the Wisconsin Statutes are to the 1997-98 version unless otherwise noted.

his motion to adjourn his trial to secure counsel and entering a default judgment against him. Because Hendricks did not provide us with a transcript of the hearing and because Hendricks had no right to counsel in a prosecution for violating a traffic regulation, we affirm the decision of the circuit court.

## BACKGROUND

¶2 On October 17, 1999, Michael Hendricks was cited for driving at a speed of 104 miles per hour in a sixty-five miles-per-hour zone. Hendricks pled not guilty, and a trial date was set for December 11, 1999. On December 9, Hendricks faxed to the court a motion to adjourn the trial because he could not afford to pay trial counsel. On the day of the trial, Hendricks did not appear or communicate with the court. The circuit court denied the motion and entered a default judgment. *See* WIS. STAT. §345.37(1)(b). Hendricks appeals.

## DISCUSSION

### **Standard of Review.**

¶3 The decision to grant a continuance is a discretionary decision of the circuit court. *See State v. White*, 53 Wis. 2d 549, 554, 193 N.W.2d 36, 39 (1972). When we review a discretionary decision, we examine the record to determine whether the circuit court logically interpreted the facts, applied the proper legal standard, and used a demonstrated rational process to reach a conclusion that a rational judge could reach. *See State v. Wanta*, 224 Wis. 2d 679, 689, 592 N.W.2d 645, 651 (Ct. App. 1999).

**Motion to Adjourn.**

¶4 Hendricks argues that the circuit court erroneously exercised its discretion in denying his motion to adjourn and granting default judgment against him because his right to counsel was violated. We disagree.

¶5 Hendricks has not provided us with a transcript of the December 11, 1999 hearing. Our review is limited to the record before us. Without a transcript, we assume that the record supports every fact essential to sustain the circuit court's exercise of discretion. *See Duhamel v. Duhamel*, 154 Wis. 2d 258, 269, 453 N.W.2d 149, 153 (Ct. App. 1989). Therefore, we assume that the record supports the circuit court's discretionary decision to deny Hendricks's motion to adjourn.

¶6 Even if the record were complete, however, Hendricks's appeal presents insufficient grounds to overturn the circuit court's discretionary decision. Only those accused of a crime have a constitutional right to counsel. *See* U.S. CONST. amend. VI; WIS. CONST. art. I, § 7. Violation of a traffic regulation is not a crime as long as the penalty for violation is only a forfeiture. *See* WIS. STAT. §§ 345.20, 939.12; *State v. White*, 97 Wis. 2d 193, 201, 295 N.W.2d 346, 350 (1980). Hendricks has been charged with and convicted of speeding in violation of WIS. STAT. § 346.57(4)(gm). The penalty for such a violation is a civil forfeiture. *See* WIS. STAT. § 346.60(2)(b). Because Hendricks was not accused of a crime, he had no right to counsel. Therefore, we conclude that the circuit court did not erroneously exercise its discretion in denying Hendricks's motion to adjourn.

## CONCLUSION

¶7 Because Hendricks did not provide us with a transcript of the hearing and because he had no right to counsel in a prosecution for violating a traffic regulation, we affirm the decision of the circuit court.

*By the Court.*—Judgment affirmed.

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

