

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 27, 2010

A. John Voelker
Acting 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. 2009AP2211-CR

Cir. Ct. No. 2006CF6287

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

TYRONE DAVIS SMITH,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
JEFFREY A. CONEN, Judge. *Affirmed.*

Before Curley, P.J., Fine and Brennan, JJ.

¶1 PER CURIAM. Tyrone Davis Smith appeals an order denying his motion to amend his judgment of conviction to reflect what he characterizes as his “spiritual and cultural” name, Abdulla-Wakeel-Nassir. We affirm.

¶2 Smith contends that his name has been changed under the common law.¹ Wisconsin common law recognizes name changes made “through consistent and continuous use, as long as the change is not effected for a fraudulent purpose.” *State v. Hansford*, 219 Wis. 2d 226, 246-47, 580 N.W.2d 171 (1998). Although Smith contends he has consistently and continuously used his new name, he concedes that he did not use the new name while criminal proceedings were pending in the circuit court, even though he alleges that his name was changed prior to criminal charges being brought, and he did not use the name in at least six cases filed in this court over the last two years. In a case directly on point, *State v. Smith*, 2009 WI App 104, ¶11, 320 Wis. 2d 563, 770 N.W.2d 779, we held that a defendant who failed to raise the issue of a name change during the pendency of criminal proceedings had not shown adequate evidence that he met the requirement of “consistent and continuous use” necessary for a name change to be recognized under common law. Here, too, we conclude that Smith has not shown that he is entitled to a name change under the common law because he has not shown consistent and continuous use of the name Abdulla-Wakeel-Nassir.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5. (2007-08).

¹ Although Smith refers to the name-change statute, WIS. STAT. § 786.36 (2007-08), in his appellant’s brief, his argument is based solely on the common law; Smith did not petition for name change under the statute.

