

2007 WI APP 258

**COURT OF APPEALS OF WISCONSIN
PUBLISHED OPINION**

Case No.: 2006AP2168-CR

†Petition for Review Filed

Complete Title of Case:

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

RICHARD A. WEIDMAN,

DEFENDANT-APPELLANT.†

Opinion Filed: November 21, 2007
Submitted on Briefs: October 11, 2007
Oral Argument:

JUDGES: Brown, C.J., Nettesheim and Snyder, JJ.
Concurred:
Dissented:

Appellant
ATTORNEYS: On behalf of the defendant-appellant, the cause was submitted on the
briefs of *Richard A. Weidman*, pro se.

Respondent
ATTORNEYS: On behalf of the plaintiff-respondent, the cause was submitted on the
brief of *Jonathan J. Kinkel*, assistant attorney general, and *J.B. Van
Hollen*, attorney general.

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 21, 2007

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. 2006AP2168-CR

Cir. Ct. No. 2004CF178

STATE OF WISCONSIN

IN COURT OF APPEALS

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

RICHARD A. WEIDMAN,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Washington County:
ANNETTE K. ZIEGLER, Judge. *Affirmed.*

Before Brown, C.J., Nettesheim and Snyder, JJ.

¶1 SNYDER, J. Richard A. Weidman appeals pro se from an order denying his motion for postconviction relief. On appeal, Weidman challenges the

circuit court's subject matter jurisdiction and asserts that the Wisconsin Statutes are not the official laws of Wisconsin. We reject Weidman's argument and affirm the order of the circuit court.

¶2 On June 11, 2004, the State charged Weidman with cocaine possession with intent to deliver. Weidman was convicted and sentenced accordingly. He subsequently moved to vacate the judgment of conviction and to dismiss the charge for lack of subject matter jurisdiction. The circuit court denied his motion and Weidman appeals.

¶3 By cobbling a variety of snippets taken out of context from authorities both binding and not binding on this court together with broad generalities about government apparently all his own, Weidman assembles an argument purporting to prove that the "Circuit Court did in fact lack subject matter jurisdiction over the appellant in the said case that is on appeal." We cannot agree.

¶4 In *State v. Olexa*, 136 Wis. 2d 475, 479, 402 N.W.2d 733 (Ct. App. 1987), this court made clear that a court has subject matter jurisdiction if it has the power to hear the kind of action brought. Circuit courts in Wisconsin are courts of general jurisdiction and have original subject matter jurisdiction over civil and criminal matters not excepted in the constitution or prohibited by law. *Id.* Weidman was charged with violating WIS. STAT. § 961.41(1m)(cm)4 (2005-06).¹ As we understand Weidman's argument, he does not appear to challenge that

¹ All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

statute in particular, but rather he challenges any statute, like the one in question, that does not include its own enacting clause. However, on that point, Weidman cites to no authority that binds this court.

¶5 Weidman does cite to WIS. CONST. art. IV, § 17(1), which provides that “[t]he style of all laws of the state shall be ‘The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:’.” From that, Weidman extrapolates that “Wisconsin Statutes are not the official laws of Wisconsin.” Crucially, however, Weidman’s argument fails to distinguish between laws and statutes. The Laws of Wisconsin are governed by WIS. STAT. § 35.15, whereas the Wisconsin Statutes are governed by WIS. STAT. § 35.18. Further, as the Preface to the Wisconsin Statutes and Annotations sets forth at page iii, “[a]ccording to Legislative Joint Rule 53(1), when an act, or part of an act, creates a statute section number, that action indicates a legislative intent to make the section a part of the Wisconsin Statutes.” Hence, because the legislature can intend that only a part of an act creates a statute, we are unconvinced that each statute must contain all the constituent parts of an act, namely, the enabling clause.

¶6 We conclude, therefore, that Weidman has failed to establish that the Wisconsin Statutes must include the enacting clause for each particular statute. We therefore reject Weidman’s subject matter jurisdiction argument. Holding as we do, we need not address Weidman’s correlative argument that the circuit court erred for failing to countenance it.

By the Court.—Order affirmed.

