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DISTRICT II

June 10, 2026

To:

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Electronic Notice

Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
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Christopher William Rose
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You are hereby notified that the Court has entered the following opinion and order:

2025AP270-CR State of Wisconsin v. Ramogi Caldwell, Jr. (L.C. #2022CF1093)

Before Gundrum, Grogan, and Lazar, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Ramogi Caldwell, Jr. appeals from a judgment of conviction in which a jury found him guilty of kidnapping, and an order by the trial court denying his postconviction discovery motion on the basis that the new evidence would not change the outcome. Based upon our review of the briefs and Record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).[1] For the following reasons, we affirm.

[1] All references to the Wisconsin Statutes are to the 2023-24 version.

BACKGROUND

Caldwell was charged with forceful abduction of a child/kidnapping, false imprisonment, battery, robbery with use of force party to a crime, and disorderly conduct after he and his girlfriend, Bresha La'Chyna Goode, drove from South Carolina to Wisconsin to abduct two-month-old Ben[2] from his mother.

Although Ben's mother claimed that Caldwell was the father, Caldwell was not listed as the father on Ben's birth certificate; no paternity test or legal acknowledgment of his paternity existed; and he had no parental rights to or parental relationship with Ben. Caldwell and Ben's mother had a brief romantic relationship, which ended when Ben's mother learned that Goode was pregnant with Caldwell's child. Shortly after breaking up with Caldwell, Ben's mother learned she was pregnant, and saw Caldwell about five times during her pregnancy. Caldwell saw Ben only three times after his birth before the abduction took place.

A few months after Ben's birth, Goode began taunting Ben's mother over social media, and the two argued, with Goode threatening that Ben's mother would "get hurt." After the threats, Ben's mother contacted Caldwell, and told him to stay away from her and her son or she would call the "cops." The next evening Caldwell showed up where Ben's mother was living and continually asked Ben's mother to come outside with Ben so Caldwell could see him, but Ben's mother refused his request. The next day, Caldwell continued to ask to see Ben, to which Ben's mother finally acquiesced. After visiting on the front porch, eventually Caldwell asked

[2] To protect the identify of the victims, we use pseudonyms. *See* WIS. STAT. RULES 809.19(1)(g); 809.86(4).

Ben's mother to come sit with him in the car and bring Ben, which she agreed to. Once they were in the car, Caldwell locked the doors and drove off, even as Ben's mother repeatedly told him to stop and take her home. Caldwell finally stopped in an empty parking lot and took Ben, after which Goode appeared and pulled Ben's mother from the car by her hair. Goode and Caldwell beat Ben's mother, left her behind, and drove away with Ben.

After the pretrial, Caldwell moved to dismiss the kidnapping charge based on a common law defense that a parent cannot kidnap their own child. The trial court concluded that no law established the defense, the legislature had not written a parental immunity privilege into the statute, and that Caldwell's paternity of Ben had not been established, meaning WIS. STAT. §767.82(2m) gave all parental rights to Ben's mother, not Caldwell. Thus, the court denied the motion. At trial, a jury found Caldwell guilty of kidnapping, battery, and disorderly conduct.[3] Postconviction, Caldwell contended that text messages on his cell phone would show that Ben's mother consented to his taking of Ben, and he sought postconviction discovery of those messages. The court denied the postconviction motion, concluding that the text messages from Ben's mother's phone were not consistent with the limited consent to do anything other than visit Ben at the house.

Caldwell now appeals the kidnapping verdict and denial of his postconviction motion.

[3] Caldwell was found not guilty of the other two counts.

DISCUSSION

On appeal, Caldwell again contends that his kidnapping charge should be dismissed based on a common law defense that a parent cannot kidnap their own child. In the alternative, Caldwell contends that his petition for postconviction discovery should be granted, as the evidence is relevant and could create a reasonable probability of a different outcome with respect to the kidnapping charge.

This issue is ultimately one of statutory interpretation, which is a question of law we review de novo. ***MBS-Certified Pub. Accts., LLC v. Wisconsin Bell, Inc.***, 2012 WI 15, ¶26, 338 Wis. 2d 647, 809 N.W.2d 857. We review the nature and scope of a common law privilege de novo. ***State v. Hobson***, 218 Wis. 2d 350, 358, 577 N.W.2d 825 (1998). We also review whether a common law doctrine "applies to bar a claim under a given set of facts" de novo. ***Below v. Norton***, 2008 WI 77, ¶19, 310 Wis. 2d 713, 751 N.W.2d 351.

The Supreme Court of the United States has rejected the notion that a biological father has any inherent rights to custody of a child born to unwed parents when the father has failed to take any steps to establish either a legal recognition of paternity or to develop a paternal relationship with the child. ***Lehr v. Robertson***, 463 U.S. 248, 262-65 (1983). Further, "[i]f one parent has an established custodial relationship with the child and the other parent has either abandoned or never established a relationship, the Equal Protection Clause does not prevent a state from according the two parents different legal rights." ***Id.*** at 267-68. The Supreme Court observed that state law governing family relationships generally controls in these situations. ***Id.*** at 256-57.

Two Wisconsin cases serve as guidance for this question. In ***State v. Simplot***, we decided whether a third person acting on behalf of a parent with sole custody could be convicted of kidnapping the children. 180 Wis. 2d 383, 390-91, 509 N.W.2d 338 (Ct. App. 1993). We acknowledged a common law rule that a parent with custody could not be convicted of kidnapping, ***id.*** at 392, but did not go further, as we held that whatever parental privilege may exist for the mother in that situation did not extend to the defendant who was allegedly acting on her behalf. ***Id.*** at 398. In ***State v. Teynor***, we held that even a father who was still married to the children's mother at the time had no parental privilege to falsely imprison the couple's marital children. 141 Wis. 2d 187, 200, 414 N.W.2d 76 (Ct. App. 1987). In that case, we concluded that Wisconsin's 1955 criminal code reform expressly considered and rejected broad parental immunity from criminal prosecution. ***Id.*** at 199. Therefore, the common law parental defense to a statutory privilege was meaningfully limited to only "[w]hen the actor's conduct is reasonable discipline of a minor by his parent[.]" ***Id.*** at 200. Under WIS. STAT. § 940.31, the kidnapping statute under which Caldwell was convicted, the only parental immunity recognized is reasonable discipline of a minor. *See* ***Teynor***, 141 Wis. 2d at 200 (stating that "parental status affords only a privilege which may be asserted as a defense to prosecution for *any crime* by a parent against his or her child if the conduct is reasonable discipline of the child" (emphasis added)); WIS. STAT. § 939.45(5)(b) (providing privilege for reasonable discipline for a child by a person responsible for the child's welfare).

Caldwell's argument that common law parental kidnapping defense bars his prosecution under WIS. STAT. § 940.31 fails for two independent reasons under Wisconsin law. First, the Wisconsin legislature expressly replaced any broad common law parental immunity with a narrow statutory privilege limited to reasonable parental discipline, as recognized in ***Teynor***.

Teynor, 141 Wis. 2d at 200. Taking and confining Ben from his mother through force, without her consent, cannot constitute "reasonable parental discipline[,]" and thus the narrow parental immunity is unavailable to Caldwell.

Second, even assuming that some wider common law parental defense survived the 1955 criminal code reform, Caldwell cannot access that defense because he is not legally recognized as the child's father under law. Because Caldwell's paternity has never been legally established under WIS. STAT. § 767.80, he holds no parental rights, and thus no legal custody, no physical placement rights, and no recognized legal status as a father. *See* § 767.80(5m). Caldwell's unverified belief that he is the parent does not create legal parenthood, and Wisconsin's narrow parental immunity protects recognized legal parents, not unrecognized putative fathers. *See* ***Randy A.J. v. Norma I.J.***, 2004 WI 41, ¶¶19-20, 270 Wis. 2d 384, 677 N.W.2d 630. Without recognized paternity in Wisconsin, Caldwell holds no legal parental status and, therefore, cannot invoke even the narrow immunity that protects recognized parents. We will not set aside the kidnapping conviction.

Generally, a defendant is not entitled to discovery beyond what the prosecutor is statutorily and constitutionally required to disclose. ***State v. Harris***, 2004 WI 64, ¶16, 272 Wis. 2d 80, 680 N.W.2d 737. However, a defendant may have a due process right to postconviction discovery if the desired evidence is relevant enough to create "a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." ***State v. O'Brien***, 223 Wis. 2d 303, 320-21, 588 N.W.2d 8 (1999). A "mere possibility" that the requested evidence might help the defense is not enough. ***Id.*** at 321 (citation omitted). In addition, the defendant must satisfy a fact-specific pleading burden and present more than mere conclusory allegations to avoid being rejected as "nothing more than a

fishing expedition[.]" ***State v. Kletzien***, 2008 WI App 182, ¶19, 314 Wis. 2d 750, 762 N.W.2d 788.

Caldwell's motion for postconviction discovery failed to explain why he did not access the texts prior to trial, especially in light of his claim that the evidence presented such a critical piece of his case. Moreover, even if there was a message from Ben's mother consenting to taking Ben for a while, it would not be material and would not create a reasonable probability of a different outcome. It is clear from the Record that consent, if any had previously been given, was revoked when Ben's mother told Caldwell to stop driving repeatedly once they were in the car. Moreover, consent was certainly revoked after Goode and Caldwell beat Ben's mother. Even if the texts showed consent prior to the meeting, that consent was revoked by Ben's mother, and, the messages would not have altered the verdict. Because of this, the trial court correctly denied Caldwell's postconviction motion because the new evidence was not relevant to the verdict.

Ultimately, we conclude that Caldwell's common law defense fails as Wisconsin does not recognize noncustodial immunity for kidnapping. Moreover, Caldwell's postconviction motion also fails because the new evidence would have had no impact on the verdict entered by the jury.

Therefore,

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals