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Wisconsin Supreme Court accepts three new cases

Madison, Wisconsin (Oct. 27, 2023) – The Wisconsin Supreme Court recently voted to accept three new cases, and the Court acted to deny review in a number of other cases. The case numbers, counties of origin and the issues presented in granted cases are listed below. More information about pending appellate cases can be found on the Wisconsin Supreme Court and Court of Appeals Access [website](#). Published Court of Appeals opinions can be found [here](#), and the status of pending Supreme Court cases can be found [here](#).

2023AP1399

Clarke v. WEC [Chief Justice Annette Kingsland Ziegler dissents, joined by Justices Rebecca Grassl Bradley and Brian Hagedorn; Justice Rebecca Grassl Bradley dissents, joined by Chief Justice Annette Kingsland Ziegler; Justice Brian Hagedorn dissents, joined by Chief Justice Annette Kingsland Ziegler]

Supreme Court case type: Original Action

Court of Appeals: N/A

Circuit Court: N/A

Long caption: Rebecca Clarke, Ruben Anthony, Terry Dawson, Dana Glasstein, Ann Groves-Lloyd, Carl Hujet, Jerry Iverson, Tia Johnson, Angie Kirst, Selika Lawton, Fabian Maldonado, Annemarie McClellan, James McNett, Brittany Muriello, Ela Joosten (Pari) Schils, Nathaniel Slack, Mary Smith-Johnson, Denise Sweet and Gabrielle Young, Petitioners, Governor Tony Evers, in his official capacity; Nathan Atkinson, Stephen Joseph Wright, Gary Krenz, Sarah J. Hamilton, Jean-Luc Thiffeault, Somesh Jha, Joanne Kane and Leah Dudley, Intervenors-Petitioners v. Wisconsin Elections Commission, Don Millis, Robert F. Spindell, Jr., Mark L. Thomsen, Ann S. Jacobs, Marge Bostelmann, Joseph J. Czarnezki, in their official capacities as Members of the Wisconsin Election Commission; Meagan Wolfe, in her official capacity as the Administrator of the Wisconsin Elections Commission; Andre Jacque, Tim Carpenter, Rob Hutton, Chris Larson, Devin LeMahieu, Stephen L. Nass, John Jagler, Mark Spreitzer, Howard Marklein, Rachael Cabral-Guevara, Van H. Wanggaard, Jesse L. James, Romaine Robert Quinn, Dianne H. Hesselbein, Cory Tomczyk, Jeff Smith and Chris Kapenga, in their official capacities as Members of the Wisconsin Senate, Respondents, Wisconsin Legislature; Billie Johnson, Chris Goebel, Ed Perkins, Eric O'Keefe, Joe Sanfelippo, Terry Moulton, Robert Jensen, Ron Zahn, Ruth Elmer and Ruth Streck Intervenors-Respondents.

Issues granted:

1. Do the existing state legislative maps violate the contiguity requirements contained in Article IV, Sections 4 and 5 of the Wisconsin Constitution?
2. Did the adoption of the existing state legislative maps violate the Wisconsin Constitution's separation of powers?
3. If the court rules that Wisconsin's existing state legislative maps violate the Wisconsin Constitution for either or both of these reasons and the legislature and the governor then fail to adopt state legislative maps that comply with the Wisconsin Constitution, what standards should guide the court in imposing a remedy for the constitutional violation(s)?
4. What fact-finding, if any, will be required if the court determines there is a constitutional violation based on the contiguity clauses and/or the separation-of-powers doctrine and the court is required to craft a remedy for the violation? If fact-finding will be required, what process should be used to resolve questions of fact?

2021AP2105

State v. Wiskowski**Supreme Court case type:** Petition for Review**Court of Appeals:** District II**Circuit Court:** Sheboygan County, Judge Kent R. Hoffmann, *summarily affirmed*.**Long caption:** State of Wisconsin, Plaintiff-Respondent v. Michael Gene Wiskowski, Defendant-Appellant-Petitioner.**Issues presented:**

1. When the report of a person sleeping in a car while waiting in line at a drive thru is contradicted by the officer's observation of the car driving on the road without any traffic violations, is there reasonable suspicion to stop the car or can police justify the stop based on the community caretaker doctrine?
2. After the stop, when the driver provides a reasonable explanation, can the officer use the community caretaker doctrine to extend the stop to perform field sobriety tests?

2023AP441

State v. R.A.M.**Supreme Court case type:** Petition for Review**Court of Appeals:** District I**Circuit Court:** Milwaukee County, Judge Ellen R. Brostrom, *reversed and cause remand with directions*.**Long caption:** State of Wisconsin, Petitioner-Respondent, v. R.A.M., Respondent-Appellant.**Issues presented by the Guardian ad Litem:**

1. Does a circuit court striking a parent's contest posture and entering default judgment after a finding of bad faith and egregious behavior by the respondent parent automatically trigger a waiver of counsel under Wis. Stat. § 48.23?
2. Does an automatic waiver of counsel under Wis. Stat. § 48.23 without an explicit finding of waiver and discharge of counsel by the circuit court lead to absurd results?

3. Does any limitation of appointed counsel's participation in a TPR proceeding as a sanction after entering default judgment against a parent amount to "total deprivation" of counsel under Shirley E. [Torrance P., Jr. v. Shirley E., 2006 WI 129, ¶43, 298 Wis. 2d 1, 724 N.W.2d 623]?

Review denied: The Supreme Court denied review in the following cases. As the state's law-developing court, the Supreme Court exercises its discretion to select for review only those cases that fit certain [statutory criteria](#) (see Wis. Stat. § 809.62). Except where indicated, these cases came to the Court via petition for review by the party who lost in the lower court:

2023AP1412 Wright v. WEC [(Original Action) Chief Justice Annette Kingsland Ziegler concurs, joined by Justice Rebecca Grassl Bradley]

2023AP1663 Hanson-Hysell v. Assembly [(Original Action) Justice Janet C. Protasiewicz did not participate]

Ashland County

2020AP1008-CRNM State v. Phillips

Brown County

2020AP2115-CR State v. Walker

2021AP416-CR State v. Duval

2021AP1505 Marine Credit Union v. Estate of Robert M. Pratsch

2022AP32-CR State v. Cayer

2023AP694-CRLV State v. Brown

2023AP1128-W Brown v. Judge Zakowski

Calumet County

2022AP382-CR State v. Mader

Columbia County

2022AP1835 Columbia County DH&HS v. K.D.K

Dane County

2022AP682-CR
2022AP683-CR
2022AP684-CR
2022AP685-CR
2022AP686-CR
2022AP687-CR

State v. Dugan

2022AP1160

McKinney v. Cromwell

2023AP607

Dane County DHS v. S.M.

Douglas County

2021AP1252-CR

State v. Wright [Justice Rebecca Frank Dallet
dissents]

Iron County

2022AP432-CR

State v. Oungst

Juneau County

2020AP516-CRNM
2020AP517-CRNM
2020AP518-CRNM

State v. Jones

Kenosha County

2020AP795-CRNM
2022AP1477

State v. Ward

Cursey v. Cromwell

Manitowoc County

2021AP2216-CR

State v. Cortez

Marinette County

2023AP429
2023AP430

Marinette County H&HSD v. T.P.

Milwaukee County

2021AP39	<u>State v. Young</u>
2021AP671-CR	<u>State v. Vaughn</u>
2021AP2000-CR	<u>State v. Ireland</u>
2021AP1084-CR	<u>State v. Burton</u> [Justice Janet C. Protasiewicz did not participate]
2021AP1339-CR	<u>State v. Hailes</u> [Justice Janet C. Protasiewicz did not participate]
2021AP1429-CR 2021AP1430-CR	<u>State v. McAfee</u>
2021AP1483-CR	<u>State v. Rivera</u>
2021AP1663-CR	<u>State v. Webster</u> [Justice Janet C. Protasiewicz did not participate]
2021AP1894-CR	<u>State v. Chaney</u> [Justice Janet C. Protasiewicz did not participate]
2021AP1982-CR	<u>State v. Coleman</u>
2022AP89	<u>State v. M.B.</u>
2022AP521	<u>State v. Carter</u>
2022AP969-CR	<u>State v. Tillmon</u>
2022AP1012	<u>Przytarski v. Vallejos</u>
2022AP1179 2022AP1180	<u>State v. S.S.</u>
2022AP1945	<u>State v. N.H.</u>
2023AP692	<u>State v. M.S.H</u>
2023AP732	<u>State v. M.H.</u>
 <u>Oneida County</u>	
2021AP1015-CR	<u>State v. Tran</u>

Outagamie County

2022AP230 Outagamie County v. C.J.A. [Justice Brian Hagedorn dissents]

Racine County

2022AP1049-CR State v. Smothers

2022AP1731 Huiras v. Huiras

Richland County

2022AP881 State v. Willison

Sawyer County

2021AP926-CR State v. Johnson

St. Croix County

2021AP1102-CRNM State v. Krizan

Trempealeau County

2021AP536 State v. S.C.M.

Waukesha County

2022AP871 LaFaive v. Records Custodian Waukesha Cty. District Attorney

2022AP1726-CR State v. Swift
2022AP1758-CR

Winnebago County

2022AP1439-CR State v. Colon

2022AP1589 Winnebago County DHS v. L.J.F.G. [Justices Ann Walsh Bradley and Janet C. Protasiewicz dissents]