



# Supreme Court of Wisconsin

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## Wisconsin Supreme Court accepts three new cases

**Madison, Wis.** (June 28, 2022) – The Wisconsin Supreme Court has 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](#).

2021AP267-CR

State v. Mitchell D. Green

**Supreme Court case type:** Petition for Review

**Court of Appeals:** District I

**Circuit Court:** Milwaukee County, Judge David L. Borowski, reversed and remanded with directions

**Long caption:** State of Wisconsin, Plaintiff-Respondent-Petitioner v. Mitchell D. Green, Defendant-Appellant

**Issue presented:**

Did the circuit court erroneously exercise its discretion when it concluded that there was a manifest necessity for a mistrial after Green introduced unnoticed third-party perpetrator evidence at trial via the testimony of a witness who claimed to have committed the crime but was unrepresented by counsel?

2020AP1775

Nancy Kindschy v. Brian Aish

**Supreme Court case type:** Petition for Review

**Court of Appeals:** District III

**Circuit Court:** Trempealeau County, Judge Rian Radtke, affirmed

**Long caption:** Nancy Kindschy, Petitioner-Respondent v. Brian Aish, Respondent-Appellant-Petitioner

**Issues presented:**

1. Whether Wis. Stat. §813.125, as construed by the Court of Appeals to prohibit speech from a public sidewalk intended to persuade listeners to cease their sinful conduct (participation in abortion) and repent immediately before something bad happens and they no longer have time to repent, violates the First Amendment of the U.S. Constitution and Art. I, §3 of the Wisconsin Constitution?
2. Whether speech from a public sidewalk intended to persuade listeners, even if directed to a specific listener, to cease sinful conduct (participation in abortion) and repent immediately before something bad happens and there is no longer time to repent serves “no legitimate purpose” within the meaning of Wis. Stat. §813.125?
3. Whether enjoining, for a period of four years, a longtime pro-life, anti-Planned Parenthood protestor from protesting on a public sidewalk in front of a Planned Parenthood during its business hours because he made comments urging a Planned Parenthood worker to repent before something bad happens and there was no more time to repent, constitutes an unconstitutional restraint on First Amendment protected expression?

2021AP462-CR

State v. Michael K. Fermanich

**Supreme Court case type:** Petition for Review

**Court of Appeals:** District III

**Circuit Court:** Langlade County, Judge John B. Rhode, reversed and remanded with directions

**Long caption:** State of Wisconsin, Plaintiff-Appellant v. Michael K. Fermanich, Defendant-Respondent-Petitioner

**Issues presented:**

1. Whether, in order to prove that his custody was “in connection with the course of conduct for which sentence was imposed” on count one, under Wis. Stat. § 973.155(1)(a), Mr. Fermanich was required to prove that count one was based on the same “specific act” as counts four and five.
2. Whether State v. Tuescher should be re-examined to determine whether its definition of “course of conduct” as meaning “specific act” was erroneous, or alternatively, whether the definition should be limited to the specific circumstances present in Tuescher.
3. Whether Mr. Fermanich is entitled to the 433 days of pretrial credit on count one.

**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:

2019AP1101-CRNM	<u>State v. Discua-Bados</u>
2019AP1190-CRNM	<u>State v. Hutter</u>
2019AP1710-CRNM	<u>State v. Whitelaw</u>
2020AP470-CRNM	<u>State v. Biller</u>
2020AP705-CRNM	<u>State v. Williams</u>
2020AP957-CR	<u>State v. Perry</u>
2020AP1031-CR	<u>State v. Hodges</u>
2020AP1160-CR	<u>State v. Carter</u> <i>Justice Jill J. Karofsky did not participate</i>
2020AP1259-W	<u>Franklin v. Jess</u>
2020AP1382	<u>Crown Asset Management LLC v. Albahrani</u> <i>Chief Justice Annette Kingsland Ziegler did not participate</i>
2020AP1476-CR	<u>State v. Dawkins</u>
2020AP1893-CR	<u>State v. Steinpreis</u>
2020AP1926-CR	<u>State v. Davis</u>
2020AP1931	<u>Soria v. Classic Custom Homes</u>
2020AP1968-CRNM	<u>State v. Murphy</u>
2020AP2018-CR	<u>State v. Virgil</u>
2021AP159-CR	<u>State v. Santana</u>
2021AP160-CR	
2021AP193-CR	<u>State v. Ward</u>
2021AP318	<u>State v. Carstens</u>
2021AP558-CR	<u>State v. Taylor</u>
2021AP559-CR	
2021AP857	<u>Carroll v. Sarko Engineering</u> <i>Justice Patience Drake Roggensack dissents</i> <i>Justice Rebecca Grassl Bradley dissents</i>
2021AP1082-CR	<u>State v. Pearson</u>

2021AP2158-W	<u>W.A.H. v. Tegels</u>
2022AP237-W	<u>McCauley v. Circuit Court for Jefferson Co.</u>
2022AP291-W	<u>Vaughn v. Court of Appeals, Dist. I (WSU)</u>
2020AP1750-CR	<u>State v. Griffin</u>
2020AP1990	<u>Oakwood JT Klein v. Oakwood Acquisition</u>
2021AP149	<u>State v. Gordon</u>
2021AP151-CR	<u>State v. Salgado</u>
2021AP408-CR	<u>State v. Booth</u>
2021AP409-CR	
2021AP410-CR	
2021AP411-CR	
2021AP1003/4-CR	<u>State v. Petty</u>
2017AP1303-CR	<u>State v. Stokes</u>
2018AP1903-CR	<u>State v. Sanders</u>
2020AP1473	<u>Weber v. County of Milwaukee</u>
2020AP1474-CR	<u>State v. Williams</u>
2020AP2072-CR	<u>State v. Alford</u>
2021AP103-CR	<u>State v. Carolina</u>
2021AP443	<u>Santino LLC v. Society Ins.</u>
2021AP475	<u>Zimmerman v. Worzalla</u>
2021AP567-CR	<u>State v. Helgeland</u>
2021AP585	<u>Circolo v. Society Ins.</u>
2021AP701	<u>Badger Crossing v. Society Ins.</u>
2021AP1755	<u>State v. Muehl</u>
2021AP1758	
2022AP76	<u>Dane County DHS v. A.D.</u>
2022AP77	
2022AP105-OA	<u>Blank v. Carr</u>

2022AP279-W	<u>Zastrow v. Eplett</u> (WHC)
2022AP869-W	<u>MacMillan v. Circuit Court for Winnebago</u> <u>Cnty. (WSU)</u>
2020AP1101	<u>State v. Johnson</u>
2020AP1918-CR	<u>State v. Elmhdati</u>
2021AP309-CR	<u>State v. Ramczyk</u>
2021AP725-W	<u>Lewis v. Noble</u>
2021AP1292	<u>Taylor Cnty. Human Services v. L.E.</u>
2021AP1470	<u>Hoeller v. Jorgens</u>
2021AP1949-CR	<u>State v. Leighton</u>
2021AP2144	<u>Jacobs v. Secretary of DOC</u>