



# Supreme Court of Wisconsin

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FOR IMMEDIATE RELEASE

## Wisconsin Supreme Court accepts four new cases

**Madison, Wisconsin** (Jan. 5, 2023) – The Wisconsin Supreme Court recently voted to accept four 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](#).

2021AP1732-CR

State v. Debrow

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

**Court of Appeals:** District IV

**Circuit Court:** Dane County, Judge John D. Hyland, reversed and cause remanded with directions

**Long caption:** State of Wisconsin, Plaintiff-Respondent-Petitioner v. Eric J. Debrow, Defendant-Appellant

**Issue presented:**

Did the court of appeals apply the proper legal standard to its review of the circuit court's decision to deny Debrow's motion for a mistrial when it considered the adequacy of the curative instruction given by the circuit court and, if not, did the circuit court properly exercise its discretion in denying the motion for a mistrial?

2021AP1764

Miller v. Village of Lyndon Station

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

**Court of Appeals:** District IV

**Circuit Court:** Juneau County, Judge William Andrew Sharp, reversed

**Long caption:** Thomas G. Miller, Plaintiff-Respondent-Petitioner v. Zoning Board of Appeals of the Village of Lyndon Station and Village Board of Lyndon Station, Defendants, Larry Whaley and Kristi Whaley, Intervenors-Appellants

**Issues presented:**

1. Whether there is a Due Process right to impartial decisionmakers in rezoning hearings in Wisconsin and, if so, whether it is commensurate with the recusal requirements of Wis. Stat. § 19.59;
2. Whether rezoning of a single parcel is a quasi-judicial or legislative determination; and
3. Whether the zoning board of appeals had jurisdiction to hear petitioner's appeal from the village board's rezoning decision, and, if not, whether the court of appeals' decision should be vacated?

2022AP1233

Wisconsin Property Tax Payers, Inc. v. Town of Buchanan

**Supreme Court case type:** Joint Petition to Bypass

**Court of Appeals:** District III

**Circuit Court:** Outagamie County, Judge Mark J. McGinnis

**Long caption:** Wisconsin Property Taxpayers, Inc., Plaintiff-Respondent-Petitioner, v. Town of Buchanan, Defendant-Appellant-Petitioner

**Issues presented:**

1. Does Wis. Stat. § 66.0827 authorize the Town of Buchanan's Transportation Utility Fee?
2. Does the Town of Buchanan's Transportation Utility Fee violate its levy limit under Wis. Stat. § 66.0602?
3. Does the Town of Buchanan's Transportation Utility Fee violate the Uniformity Clause of the Wisconsin Constitution?

2021AP938-CR

State v. Moore

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

**Court of Appeals:** District IV

**Circuit Court:** Wood County, Judge Nicholas J. Brazeau, Jr., affirmed

**Long caption:** State of Wisconsin, Plaintiff-Appellant-Petitioner v. Quaheem O. Moore, Defendant-Respondent

**Issues presented:**

1. Did the court of appeals correctly read this Court's decision in Secrist [224 Wis. 2d 201, 589 N.W.2d 387] to establish a standard of evidence for search and arrest based on the odor of a controlled substance that is more demanding than the constitutional standard of probable cause?

2. Under the totality of the circumstances, which included the "strong" odor of marijuana and these two, additional objective facts, did officers have probable cause to conduct the search of Moore's person incident to arrest?

**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:

**Brown County**

2022AP531

2022AP1830-W

Brown County DHS v. K.Y.T.

Dorian C. Brown v. Div. of Hearings and Appeals (WSU)

**Calumet County**

2021AP1715-CR

State v. Tetter

**Columbia County**

2021AP1030

Veach v. Barber

**Dane County**

2021AP1111-CR

2021AP1706

2022AP767

2022AP907

2022XX841

State v. Singh

Jessie v. Wisconsin

Ghashiyah v. Carr

Mosely v. Oakwood Lutheran Senior Ministries (BYP)

Balele v. Hon. Rachel A. Graham

**Dodge County**

2022AP499-W

Dye v. DeVries

**Fond du Lac County**

2021AP903-CR

2021AP1541

State v. Elworth

Kaminsky Law, S.C. v. Schmitz

**Kenosha County**

2019AP1352-CRNM

State v. Marsiliano

**La Crosse County**

2021AP1221-CR

2021AP2093

State v. Shaw

La Crosse County HSHD v. L.G.W.

**Marinette County**

2021AP1097-CR

State v. Petersen

**Milwaukee County**

2013XX1441-CR

State v. Hollis (Justice Patience Drake Roggensack did not participate)

2019AP2145-CR

State v. Brookshire

2020AP1276-CR

State v. Hightower

2020AP1637

State v. Morrow (Justice Rebecca Frank Dallet did not participate)

2021AP731-CR

State v. Carrao

2021AP1729

State v. T.M.

2022AP209

State v. L.N.H.

2022AP1028

State v. J.D.C., Jr. (Justice Patience Drake Roggensack did not participate)

2022AP1696-W

Deneiro J. Brown v. Div. of Hearings and Appeals (WSU)

2022AP1699-W

Fluker v. Div. of Hearings and Appeals (WSU)

2022AP1785-W

Carter v. Div. of Hearings and Appeals (WSU)

**Ozaukee County**

2021AP510-CR

State v. Stewart

2021AP912-CR

State v. Heins

**Sawyer County**

2021AP591-CR

State v. Bildeau

**Sheboygan County**

2020AP1589-CR

State v. Urquhart

**St. Croix County**

2020AP176-CR

State v. Nunez

**Waukesha County**

2022AP871

LaFaive v. Records Custodian Waukesha County DA (BYP)

**Winnebago County**

2022AP606-FT

Winnebago County v. P.D.G.

2022AP1784-W

Williams v. Div. of Hearings and Appeals (WSU)