WISCONSIN SUPREME COURT
CALENDAR AND CASE SYNOPSES
DECEMBER 2026

The cases listed below will be heard in the Supreme Court Hearing Room, 231 East, State Capitol. The cases listed below originated in the following counties:

Outagamie County
Walworth County

TUESDAY, December 8, 2026

9:00 a.m.	2023AP1709	Appvion, Inc. Retirement Savings and Employee Stock Ownership Plan v. PricewaterhouseCoopers LLP
10:30 a.m.	2023AP1371-CR	State v. Angela R. Joski

Note: The Supreme Court calendar may change between the time you receive it and when a case is heard. It is suggested that you confirm the time and date of any case you are interested in by calling the Clerk of the Supreme Court at (608) 266-1880. If your news organization is interested in providing any type of camera coverage of the Supreme Court oral argument, you must contact media coordinator Jason Cuevas at WISC-TV, (608) 277-5241. The synopses provided are not complete analyses of the issues presented.

WISCONSIN SUPREME COURT
December 8, 2026
9:00 a.m.

2023AP001709 Appvion, Inc. Retirement Savings and Employee Stock Ownership Plan v. PricewaterhouseCoopers LLP

This is a review of a decision by the Wisconsin Court of Appeals, District III (headquartered in Wausau), which affirmed an Outagamie County Circuit Court order, Judge Tammy Jo Hock presiding, dismissing the case because PricewaterhouseCoopers LLC (PwC) did not owe a duty of care to the petitioners.

After many unsuccessful attempts to find a buyer, Appvion's management proposed an employee buyout that would make the company 100% employee owned. Appvion's Retirement Savings and Employee Stock Ownership Plan (ESOP) purchased all of Appvion's stock as a trust designed to provide retirement benefits for eligible employees, and employees chose whether and how much to invest in ESOP with funds from their 401(k) savings. Independent evaluators performed all of ESOP's stock valuations, which Appvion's management supplied to employees. PwC performed audits of Appvion's financial statements. In 2017, the new ESOP committee member discovered that Appvion's stock purchase price had been fraudulently and materially overstated. Appvion filed for bankruptcy, and the employees' ESOP shares became worthless. ESOP filed suit against PwC and others, alleging intentional misrepresentation, negligent misrepresentation, professional negligence, and aiding and abetting fraud. The circuit court granted PwC's motion to dismiss, finding that, as relevant to this appeal, the elements of negligence were not met because PwC did not owe ESOP a duty of care. Specifically, ESOP had not alleged it relied solely on PwC's audit opinions to its detriment.

ESOP appealed, and the Court of Appeals affirmed. The Court of Appeals agreed that there was no "triangular relationship" between ESOP, Appvion, and PwC that would give rise to a duty of care under *Krier v. Vilione*, 2009 WI 45, 317 Wis. 2d 288, 766 N.W.2d 517. The Court of Appeals reasoned that PwC was not an auditor for ESOP and it was not reasonably foreseeable that ESOP would rely on PwC's audit opinions to set Appvion's share price.

On appeal to the Wisconsin Supreme Court, ESOP argues that a duty exists because it was reasonably foreseeable that ESOP, as the sole Appvion shareholder, would rely on PwC's audit certifications. Alternatively, ESOP argues that the question of whether ESOP's reliance was reasonably foreseeable is a matter of fact that cannot be resolved on a motion to dismiss. PwC argues that PwC could not have reasonably foreseen that ESOP would rely on PwC to disagree with the share price which had already been set. PwC also argues that ESOP's proposed legal rule is too broad and not supported by precedent and that public policy precludes a claim here.

The Wisconsin Supreme Court granted review to address the following issue:

> Whether it is reasonably foreseeable that the sole shareholder of an audited corporation will rely on unqualified audit opinion letters addressed to the shareholder, giving rise to claims for misrepresentation and professional negligence?

WISCONSIN SUPREME COURT
December 8, 2026
10:30 a.m.

2023AP001371-CR State v. Angela R. Joski

This is a review of a decision by the Wisconsin Court of Appeals, District II (headquartered in Waukesha), which reversed a Walworth County Circuit Court order, Judge Daniel S. Johnson presiding, granting Defendant Angela Joski's petition for sentence adjustment pursuant to WIS. STAT. § 973.195.

Joski was convicted of operating a motor vehicle while intoxicated (OWI) – seventh offense, a Class G felony at the time of the offense. WISCONSIN STAT. § 346.65(2)(am)6 requires that the court impose a bifurcated sentence for Class G felonies, and that the "confinement portion of the bifurcated sentence imposed on the person shall be not less than 3 years." At sentencing, Joski received the minimum sentence of three years of confinement. After serving two years and three months in confinement, Joski petitioned for a sentence adjustment pursuant to WIS. STAT. § 973.195, which provides that an inmate serving a sentence for a crime other than a Class B felony may petition the sentencing court to adjust the sentence if they have served at least 75% of the term of confinement. The circuit court granted her petition.

The State appealed, and the Court of Appeals reversed. The court relied on its previous holding in *State v. Gramza*, 2020 WI App 81, ¶24, 395 Wis. 2d 215, 952 N.W.2d 836, which ruled that a Substance Abuse Program (SAP) that required release after completion could not apply to the OWI-7th statute that required the sentencing court to impose a minimum sentence of three years confinement. The *Gramza* court interpreted the word "imposed" in § 346.65(2)(am)6 to require that the defendant serve a minimum of three years. In this case, the Court of Appeals expressed disagreement with the *Gramza* decision but concluded it was bound to follow the precedent *Gramza* set.

On appeal to the Wisconsin Supreme Court, Joski argues that *Gramza* is incorrect, and that this Court should rule that the word "imposed" in the OWI statute refers to the sentence imposed by the sentencing court, not the actual time of confinement served. Joski points to context around the OWI statutory scheme, arguing that the legislature encouraged rehabilitation and that sentence reductions are consistent with that goal. The State maintains that *Gramza* is correct and further argues that the most reasonable construction of the relevant statutes is that a person convicted of OWI-7th must *serve* a minimum of three years in confinement, not just that the circuit court impose that sentence. The State also contends that if the two statutes are irreconcilable, the OWI-7th sentencing scheme should prevail as the most specific.

The Wisconsin Supreme Court granted review to address the following issue:

> Are statutory early-release mechanisms, including sentence adjustment under WIS. STAT. § 973.195 and the earned release program under WIS. STAT. § 302.05, available to individuals sentenced to a mandatory minimum term of initial confinement under WIS. STAT. § 346.65(2)(am)6?