

# **WISCONSIN SUPREME COURT CALENDAR AND CASE SYNOPSES MARCH 2025**

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:

Dunn  
Milwaukee  
Waukesha

## **WEDNESDAY, MARCH 12, 2025**

9:45 a.m.	21AP1346-CR	State v. Jobert L. Molde
11:00 a.m.	23AP874-CR	State v. Joan L. Stetzer

## **FRIDAY, MARCH 14, 2025**

9:45 a.m.	22AP1759	Nicole McDaniel v. Wisconsin Department of Corrections
11:00 a.m.	23AP1140	Wisconsin Dept. of Corrections v. Brian Hayes

**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 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

March 12, 2025

9:45 a.m.

21AP1346-CR

State v. Jobert L. Molde

*This is a review of a decision by the Wisconsin Court of Appeals, District III (headquartered in Wausau), which affirmed a Dunn County Circuit Court ruling, Judge Rod W. Smeltzer presiding. The case examines whether statistical testimony regarding the rarity of false allegations in child sexual assault cases constitutes impermissible vouching for the credibility of a complainant under State v. Haseltine and whether trial counsel was ineffective for failing to object to such testimony.*

Jobert L. Molde was convicted of first-degree sexual assault of a child under 12 and incest based on allegations made by his daughter, who disclosed the alleged abuse years later. At trial, the prosecution presented expert testimony from Dr. Alice Swenson, a child abuse pediatrician. During jury deliberations, a juror submitted a question asking how often children fabricate claims of sexual abuse. In response, Dr. Swenson testified that false reports are “extraordinarily rare” and occur in approximately one percent of cases. Molde’s defense attorney did not object to this statement.

Molde later sought postconviction relief, arguing that Dr. Swenson’s testimony improperly bolstered the complainant’s credibility, violating the rule established in *State v. Haseltine*, which prohibits expert witnesses from offering opinions that directly or indirectly vouch for a complainant’s truthfulness. He also claimed that his trial counsel was ineffective for failing to object to the testimony. The circuit court denied his motion, concluding that the statistical evidence did not amount to improper vouching and that counsel’s failure to object did not affect the outcome of the trial. The Court of Appeals affirmed, holding that the expert’s response was general in nature and did not constitute an opinion on the specific complainant’s credibility.

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

- 1) What is the proper place for statistical evidence of the prevalence of false reports of abuse in sexual assault cases, and did the court of appeals wrongly conclude in Mader<sup>1</sup> and now in this case in holding that statistical testimony putting the incidence of false reporting at or below 8 percent amounts to Haseltine testimony that the victim in the case is telling the truth?
- 2) Even if Mader correctly determined that such statistical testimony violates Haseltine<sup>2</sup>, was this proposition settled law at the time of Mader’s and Molde’s 2019 trials, as Mader and the court here held below, so that trial counsel should have known to object to the testimony?

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<sup>1</sup> State v. Mader, 2023 WI App 35, 408 Wis. 2d 632, 993 N.W.2d 761 (petition for review denied). The petition for review raised numerous ineffective assistance of counsel issues, but it did not raise the issue of whether the court of appeals was wrong in concluding that testimony from a therapist and interviewing officer about the frequency of false reporting did not violate the Haseltine rule.

<sup>2</sup> State v. Haseltine, 120 Wis. 2d 92, 352 N.W.2d 673 (Ct. App. 1984).

# WISCONSIN SUPREME COURT

March 12, 2025

11:00 a.m.

23AP874-CR

State v. Stetzer

*This is a review of a decision by the Wisconsin Court of Appeals, District II (headquartered in Waukesha), affirming a Waukesha County Circuit Court ruling, Judge Paul Bugenhagen Jr. presiding. The case concerns the applicability of Wisconsin's coercion defense under Wis. Stat. § 939.46(1) in determining whether a defendant's entire course of conduct should be evaluated as a single act or subdivided into separate parts for legal analysis. The court will also review whether the trial court properly applied the coercion defense in this case and whether it considered the defendant's personal characteristics and history in evaluating the reasonableness of her actions.*

The case arises from an incident in which Joan Stetzer was convicted after failing to report her husband's alleged assault of another individual. Stetzer argued that she acted under coercion and that this defense should apply to her entire course of conduct. She contends that the trial court improperly treated her actions as distinct rather than considering them as a single, continuous response to an ongoing threat. According to Stetzer, her fear of retaliation prevented her from taking immediate action, and her failure to report the assault should be viewed within the larger context of coercion. The State argues that the trial court correctly applied the coercion defense, asserting that Stetzer's actions following her departure from the scene were independent decisions rather than the direct result of an immediate threat. Prosecutors maintain that once she was physically removed from the presence of her husband, she had opportunities to report the assault and was no longer under duress.

Stetzer further argues that the legal standard for coercion should be interpreted in a way that recognizes the complex dynamics of domestic abuse, rather than applying a rigid analysis of individual moments in time. The State contends that allowing a broad interpretation of the coercion defense could set a precedent that would limit accountability in criminal cases where defendants claim ongoing fear rather than immediate coercion. The Court of Appeals upheld the lower court's ruling, concluding that Stetzer was not entitled to the coercion defense for certain aspects of her conduct after she left the residence.

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

- 1) Does Wis. Stat. § 939.46(1) permit a trial court to artificially and temporally subdivide a single “act” that is entitled to the privilege at its inception and determine whether each subdivided portion of the single “act” would be entitled to the privilege if viewed in isolation before the coercion defense will be applied?
- 2) Did the trial court fail to apply the correct legal standard by failing to consider the reasonableness of Joan's decision not to stop and report her husband's assault to the police from the perspective of a reasonable person with Joan's particular characteristics and personal history?

# WISCONSIN SUPREME COURT

March 14, 2025

9:45 a.m.

22AP1759

Nicole McDaniel v. Wisconsin Department of Corrections

*This is a review of a decision by the Wisconsin Court of Appeals, District I (headquartered in Milwaukee), which reversed a Milwaukee County Circuit Court ruling, Judge Glenn H. Yamahiro presiding, that granted class certification in a wage and hour dispute involving corrections officers and the Wisconsin Department of Corrections (DOC).*

The plaintiffs, a group of corrections officers, allege that DOC violated wage laws by failing to compensate them for time spent undergoing mandatory security screenings before and after their shifts. The circuit court granted their motion for class certification, allowing the case to proceed as a class action. The Court of Appeals reversed, concluding that the plaintiffs had not met the legal standard for class certification and that individualized issues among employees would predominate over common legal questions.

The plaintiffs argue that the Court of Appeals applied an improperly strict legal standard when reviewing their motion for class certification. They contend that the court essentially treated their motion as a request for summary judgment rather than evaluating whether their claims shared common legal and factual issues suitable for class-wide resolution. They further assert that security screenings are a necessary part of their job duties and should be considered compensable work under wage and hour laws.

DOC argues that security screenings do not qualify as compensable work under established legal precedent, including *Integrity Staffing Solutions, Inc. v. Busk*, in which the U.S. Supreme Court ruled that pre- and post-shift security screenings were not integral and indispensable to an employee's principal job duties. DOC also contends that class certification is inappropriate because the screenings vary based on location, shift, and job duties, meaning individual circumstances must be examined rather than adjudicating claims on a class-wide basis.

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

- 1) Did the Wisconsin Court of Appeals err when it ruled, contrary to many state and federal courts around the country, that the corrections officers cannot be compensated for pre-shift and post-shift activities such as security screenings?
- 2) Did the Wisconsin Court of Appeals err when it ruled, contrary to many state and federal courts around the country, that the corrections officers cannot be compensated for pre-shift and post-shift activities such as security screenings?

**WISCONSIN SUPREME COURT**

**March 14, 2025**

**11:00 a.m.**

23AP1140

Wisconsin Dept. of Corrections v. Brian Hayes

*This case is before the court on petition for review from the Wisconsin Court of Appeals, District I (headquartered in Milwaukee), seeking Supreme Court review of an order of the Milwaukee County Circuit Court, Judge Thomas J. McAdams presiding that reversed the Division of Hearings and Appeals' decision to overturn the revocation of Keyo Sellers's probation.*

Keyo Sellers was on probation when he was accused of sexual assault. The Department of Corrections (DOC) sought to revoke his probation, relying in part on out-of-court statements made by the alleged victim, K.A.B. An administrative law judge (ALJ) determined that Sellers violated his probation and ordered revocation. The Division of Hearings and Appeals (DHA), led by Administrator Brian Hayes, reversed the ALJ's decision, concluding that K.A.B.'s statements were inadmissible and that the remaining evidence was insufficient to support revocation.

DOC petitioned for judicial review, and the Milwaukee County Circuit Court overturned DHA's decision, reinstating the revocation. The Court of Appeals later reversed the circuit court, holding that DHA acted properly in excluding the out-of-court statements and determining that the remaining evidence was insufficient to revoke probation. DOC now argues that even if the statements were inadmissible, DHA erred by not considering whether other non-hearsay evidence supported revocation.

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

- 1) Even if a sexual assault victim's out-of-court statements are found inadmissible, must the agency in a revocation proceeding still consider whether other unobjected-to, non-hearsay evidence supports a finding of the probation violations?
- 2) Does a probationer's conditional right to confront the victim under Morrissey v. Brewer, 408 U.S. 471, 487, 489-90 (19), allow an agency to consider out-of-court statements by a sexual assault victim?
- 3) Where an agency commits an error of law about its ability to consider certain evidence and thus fails to consider it, does a reviewing court properly ignore that error and simply consider the remaining evidence under certiorari review?