

In Re: State v. Courtney M. Cowins, Case No 09CF247/Appeal Nos. 2010AP2339 & 2013AP1766

To the Clerk of the Supreme Court,

RECEIVED

please file the attached documents in the above-captioned case

FEB 26 2021  
Supreme  
CLERK OF COURT OF APPEALS  
OF WISCONSIN

- Contents:
- 1) Motion for Reversal/Motion for Reinstatement (2 pages)
  - 2) Attachment for (1) = "Attachment A" 2-16-21 order (1 page)
  - 3) Attachment for (1) = "Attachment B" Motion for Recconsideration & Attachment (7 pages)
  - 4) Certificate of Service

Thank you

  
 Courtney M. Cowins #407326  
 Wisconsin Secure Program Facility  
 P.O. Box 1000  
 Boscobel, WI 53805

**FILED**

FEB 26 2021

Supreme  
CLERK OF COURT OF APPEALS  
OF WISCONSIN

## Supreme Court of Wisconsin

State of Wisconsin

V.

Courtney M. Cowins  
Pro Se litigantCase No.: 09CF247  
Appeal Nos.: 2010AP2339  
& 2013AP1766**MOTION FOR REVERSAL OF DISMISSAL/  
MOTION FOR REINSTATEMENT OF PLEADING**

I, Courtney M. Cowins, pro se litigant in the above-captioned case, hereby respectfully move the Supreme Court of Wisconsin to reverse its dismissal of my recently-filed Motion for Reconsideration.

On 2-16-21, this court entered an order dismissing my Motion for Reconsideration. In said order, this court held that "there is no statutory authority permitting a motion for reconsideration of an order denying a petition for review". See Attachment A. However, by this court basing its dismissal of the Motion for Reconsideration solely on my challenge to the denial of my Petition for Review, one key fact has been disregarded: the denial of the Petition for Review is not the only order being challenged in the Motion for Reconsideration.

In this court's 1-20-21 order, not only did the court deny my Petition for Review, it also denied my Motion for Action - a pleading wherein I asked this Court to act on the Court of Appeals' lack of jurisdiction in the above-listed appeal numbers. That said, my Motion for Reconsideration is challenging this court's denial of both pleadings - not just the denial of the Petition for Review.

A review of the Motion for Reconsideration will show that the single argument raised therein was not specific to the denial of the Petition for Review; rather, said argument was purposely presented to be considered and applied universally - not to one denial; but to either. Additionally, the conclusion of the Motion for Reconsideration makes clear that I am requesting an either-or reconsideration: in the conclusion, after

①

asking the Court to reconsider its denial of the Petition for Review and the Motion for Action, I asked the Court to "either grant review of the issues presented in the petition [for review], OR act on the Court of appeals' lack of Jurisdiction....". See Attachment B, pg 3 (emphasis added).

## CONCLUSION

Though there may be barriers preventing reconsideration of the denial of my Petition for Review (unknown to me at the time of filing the Motion for Reconsideration), there is nothing that I can find that prevents reconsideration of the denial of my Motion for Action. Thus, by this Court basing its dismissal of my Motion for Reconsideration squarely on my challenge to the denial of my Petition for Review, the other half of the Motion for Reconsideration - the challenge to the denial of the Motion for Action - is being unfairly disregarded.

THEREFORE, I respectfully ask this Court to 1) forgive me - an untrained and inexperienced pro se litigant - for not knowing not everything in this court's 1-20-21 order could be reconsidered; 2) in the interest of justice, reinstate my timely-filed Motion for Reconsideration - disregarding my request for reconsideration of the denial of the Petition for Review; and 3) using the facts and points presented in the Motion for Reconsideration, reconsider the denial of my Motion for Action.

Respectfully Submitted,  
2-22-21

Courtney M. Cowles #407326  
Wisconsin Secure Program Facility  
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## OFFICE OF THE CLERK

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February 16, 2021

**To:**

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Circuit Court Judge  
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Madison, WI 53703

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Courtney M. Cowins 407326  
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You are hereby notified that the Court, by its Clerk and Commissioners, has entered the following order:

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Nos. 2010AP2339-CRNM State v. Cowins L.C. #2009CF247  
2013AP1766

The court having considered the motion of defendant-appellant, Courtney M. Cowins, pro se, to reconsider its January 20, 2021 orders denying the petition for review filed in these cases, and the court noting that there is no statutory authority permitting a motion for reconsideration of an order denying a petition for review, Archdiocese of Milwaukee v. City of Milwaukee, 91 Wis. 2d 625, 284 N.W.2d 29 (1979);

IT IS ORDERED the motion is dismissed. No costs.

---

Sheila T. Reiff  
Clerk of Supreme Court

ATTACHMENT B

Supreme Court of Wisconsin

State of Wisconsin

v.

Crim Case No. 09CF247

Appeal Nos. 2010AP2339

& 2013AP1766

Courtney M. Cowins

Pro Se litigant - Petitioner

MOTION FOR RECONSIDERATION

I, Courtney M. Cowins (hereafter "me" & "I"), pro se litigant in the above - captioned case & appeal numbers, hereby respectfully move the Supreme Court of Wisconsin to reconsider its 1-20-2020 denial of my Petition for Review, and my Motion for Action.

This motion is based on the following:

1) My Case Has Been Treated In A Manner That Completely Contradicts Its Handling Of The Only Other Case In Recent History Suffering From The Exact Same Error Affecting My Case

In *Whitewater v. Gill*, 224 Wis. 2d 644 (Wis. App. 1995) (unpublished opinion) (Attachment D), faced with an error indistinguishable from the error affecting my case, the court of appeals acknowledged the error and an uncertified trial transcript had on both an appellate court's jurisdiction and the right to a meaningful appeal.

In *Gill*, the defendant was convicted in the municipal court of operating a motor vehicle while intoxicated. Gill then appealed the conviction to the circuit court. The circuit court affirmed the conviction; however, the circuit court's order was later reversed by the court of appeals because the circuit court had relied on an uncertified trial transcript in its review of the case. Relying on well-settled precedent set forth by the state supreme court, the court of appeals recognized that "If the lower court retains jurisdiction of the case until everything necessary to perfect the appeal has been done". *Id.*

1

at 3 (quoting *Todorovic v. Hirschberg*, 172 Wis.14, 15 (1920)).

The court of appeals acknowledged that according to the statute governing trial transcripts relied on by the circuit court, in order for Gill's appeal to have been deemed perfected, the municipal court was required to certify said transcript prior to transferring the case to the appellate court - which would be the circuit court in Gill's case. The Gill court also recognized that the court is bound by the language of a statute. Gill, 224 Wis. 2d at 4

Finally, the Gill court stated that when the defendant became aware that his appellate record failed to comply with state statute, his remedy was to move the circuit court (the appellate court) for relief from the appellate order. Id. at 5

As pointed out in my Petition for Review, under Wis. Stat. § 809.32(2), the trial record in a no-merit appeal is transmitted to the appellate court "pursuant to § 809.15." At the time of the appeal in the above-captioned case, Wis. Stat. § 809.15(1)(a)13 required that a "transcript of reporter's notes" be a part of the appellate record; Wis. Stat. § 757.57(2) places the burden of certifying and transferring a transcript "made and certified by a court reporter" upon the court system. (emphasis added).

In my Petition for Review, I provided proof that a trial transcript in my appellate record - a transcript relied on by the court of appeals during its review of my case during the no-merit appeal - was not certified by the circuit court reporter, and therefore did not adhere to Wis. Stat. § 757.57(2). Further, I also discussed my attempts to remedy the problem almost six years ago via a motion to vacate, which ended in said motion being passed around from one court to another - all without my knowledge.

Comparing my case to Gill's, the only difference between the circumstances in my case and Gill's is that his case began in the municipal court - making the circuit court the appellate court; and my case began in the circuit court - making the court of appeals the appellate court. However, there is absolutely no distinction between the errors affecting Gill's case, and the errors affecting my case: a transcript in the appellate record lacking certification (and thus failing to adhere to statute) being relied on by the appellate court in its analysis of the appeal. Therefore, it is confusing how the very same issue can be treated two completely different ways - the error in Gill's case amounted to a failure of the appellate court to acquire

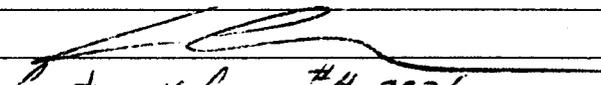
Jurisdiction over Gill's case AND a denial of his right to a meaningful appeal, I do; however, in my case, through presenting the exact same errors and relying on the exact same case law and principles as the Gill court, AND taking the exact same steps to resolve the issue as the Gill court discussed, the issue is treated as nothing.

### Conclusion

In denying my pleadings, this court is excusing the court of appeals' deprivation of my right to a lawful, meaningful and fair direct appeal - a deprivation that has already been acknowledged by said court when faced with errors indistinguishable from the errors affecting my case.

**THEREFORE**, I respectfully ask this court to reconsider its denial of my Petition for Review and my Motion for Action, and either grant review of the issues presented in the petition, or act on the court of appeals' lack of jurisdiction over my direct/merit appeal.

Respectfully Submitted

  
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407326

ATTACHMENT 1

Document: City of Whitewater v. Gill, 1999 Wisc. App. LEXIS 32

**City of Whitewater v. Gill, 1999 Wisc. App. LEXIS 32**

**Copy Citation**

Court of Appeals of Wisconsin, District Two

January 13, 1999, Released

No. 98-1946

**Reporter**

1999 Wisc. App. LEXIS 32 \* | 224 Wis. 2d 644 | 590 N.W.2d 282

City of Whitewater, Plaintiff-Respondent, v. Darren R. Gill, Defendant-Appellant.

**Notice:** [\*1] UNPUBLISHED LIMITED PRECEDENT OPINION - REFER TO LOCAL RULE 809.23(1)(B)5, STATS.

**Prior History:** APPEAL from an order of the circuit court for Walworth County: MICHAEL S. GIBBS ▾, Judge.

**Disposition:** Reversed and cause remanded with directions.

**Core Terms**

circuit court, municipal court, county court, certify

**Case Summary**

**Procedural Posture**

Defendant appealed an order of the Circuit Court for Walworth County (Wisconsin), which affirmed

defendant's conviction in the municipal court for operating a motor vehicle while intoxicated in violation of Wis. Stat. § 346.63(1)(a).

### Overview

Defendant was convicted in a municipal court for operating a motor vehicle while intoxicated in violation of Wis. Stat. § 346.63(1)(a). The parties stipulated on appeal to the circuit court that the case would be decided on the record pursuant to Wis. Stat. § 800.14(5). The circuit court relied on a police report and an uncertified transcript of the trial and affirmed the conviction. The court reversed and remanded. The circuit court should have reviewed a certified copy of the trial transcript pursuant to Wis. Stat. § 800.14(5). The municipal court was required to certify the transcript to perfect the appeal to the circuit court. The burden of certifying and transferring a transcript belonged to the court system, not to defendant. Due process required that defendant's right to appeal be meaningful; thus, the failure to certify the transcript was not harmless error.

### Outcome

The court reversed defendant's conviction for operating a motor vehicle while intoxicated. The municipal court failed to certify the transcript to perfect the appeal to the circuit court. The circuit court lacked jurisdiction to act on defendant's appeal without having reviewed a certified transcript. The court remanded the matter to the circuit court with directions that the municipal court be ordered to certify the transcript.

### ▼ LexisNexis® Headnotes

Civil Procedure > Appeals ▼ > Standards of Review ▼ > De Novo Review ▼

Governments > Legislation ▼ > Interpretation ▼

Governments > Courts ▼ > Justice Courts ▼

#### **HN1** Standards of Review, De Novo Review

An appellate court reviews questions of statutory interpretation without deference to the conclusions of the trial court. 🔍 More like this Headnote

*Shepardize* - Narrow by this Headnote

Civil Procedure > Appeals ▼ > Appellate Jurisdiction ▼ > General Overview ▼

**HN2** Appeals, Appellate Jurisdiction

See Wis. Stat. § 800.14(5). More like this Headnote

Shepardize - Narrow by this Headnote

Civil Procedure > Appeals > Appellate Jurisdiction > Lower Court Jurisdiction

Governments > Courts > Justice Courts

Civil Procedure > Appeals > Appellate Jurisdiction > General Overview

**HN3** Appellate Jurisdiction, Lower Court Jurisdiction

An appellate court does not acquire jurisdiction of a case until the jurisdiction of the lower court is superseded. The lower court retains jurisdiction of the case until everything necessary to perfect the appeal has been done. More like this Headnote

Shepardize - Narrow by this Headnote

Governments > Legislation > Interpretation

**HN4** Legislation, Interpretation

An appellate court must give effect to the ordinary and accepted meaning of the statutory language. More like this Headnote

Shepardize - Narrow by this Headnote

Opinion by: SNYDER

Opinion

**SNYDER, P.J.** Darren R. Gill appeals a circuit court order affirming his municipal court conviction for operating a motor vehicle while intoxicated contrary to § 346.63(1)(a), Stats. Gill contends that the circuit court's order is void because the court failed to review a certified copy of the municipal court transcript pursuant to § 800.14(5), Stats. The City of Whitewater counters that Gill was responsible for the record on appeal, that there was sufficient evidence to support the circuit court's decision without the trial transcript, that any error was harmless and that Gill waived his right to contest the issue. We conclude that the circuit court should have reviewed a certified copy of the trial transcript, and, therefore, we reverse and remand.

At Gill's October 29, 1997 municipal court trial, the proceedings were electronically recorded and a transcript was later made. On appeal [\*2] to the Walworth County Circuit Court, the parties waived their request for a trial de novo and stipulated that the matter would be decided on the record pursuant to § 800.14(5), Stats. The circuit court then affirmed the municipal court, relying upon the police report and an uncertified transcript of the trial.

**HN1** We review questions of statutory interpretation without deference to the conclusions of the trial court. See *Burnett v. Hill*, 199 Wis. 2d 163, 167, 544 N.W.2d 580, 582 (Ct. App. 1996), rev'd on other grounds, 207 Wis. 2d 110, 557 N.W.2d 800 (1997). Section 800.14, Stats., governs appeals from municipal court decisions. Because the parties agreed to forego a trial de novo, we look to § 800.14(5), which sets forth the procedure for a "transcript review":

**HN2** An appeal shall be based upon a review of a transcript of the proceedings. The municipal judge shall direct that the transcript be prepared from the electronic recording

under s. 800.13(1) and shall certify the transcript... The electronic recording and the transcript shall be transferred to the circuit court for review. Emphasis added.

*Id.*; see **City of Middleton v. Hennen**, [\*3] 206 Wis. 2d 346, 350, 557 N.W.2d 818, 819 (Ct. App. 1996).

We view the appellate issue as not whether the circuit court erred in affirming the municipal court conviction as framed by the City, but as to what jurisdiction the circuit court had, if any, to act upon Gill's appeal without having received the lower court's certified transcript. See **State v. Waste Management of Wis., Inc.**, 81 Wis. 2d 555, 564, 261 N.W.2d 147, 151 (1978) (stating that an appellate court is not required to address the appellate issues as structured by a party).

It is undisputed that the municipal court failed to certify the transcript to the circuit court. The statute, however, plainly requires that it must do so in order to perfect the appeal to the circuit court. "It is manifest that **HN3** an appellate court does not acquire jurisdiction of a case until the jurisdiction of the lower court is superseded. The lower court retains jurisdiction of the case until everything necessary to perfect the appeal has been done." **Todorovic v. Hirschberg**, 172 Wis. 14, 15, 177 N.W. 884, 884 (1920). Contrary to the City's position, it was not Gill's responsibility to send a certified transcript to the circuit [\*4] court; § 800.14(5), Stats., places the burden of certifying and transferring a transcript upon the court system. **HN4** We must give effect to the ordinary and accepted meaning of the statutory language. See **County of Walworth v. Spalding**, 111 Wis. 2d 19, 24, 329 N.W.2d 925, 927 (1983).

The appellate issue presented in this case was addressed in **Bruins v. Downey**, 45 Wis. 496 (1878). Bruins sued Downey in the justice court and judgment was rendered in favor of Downey. Bruins appealed to the Fond du Lac county court. The county court reversed the decision of the justice court. Because the justice court records and papers had not been properly certified to the county court, the Wisconsin Supreme Court held that the county court "could not lawfully reverse the judgment" and that there could be no jurisdiction in the county court "except that there could be an application for an order to compel the lower court return, or an application to dismiss the appeal." *Id.* at 497; see also **Allard v. Smith**, 97 Wis. 534, 537, 73 N.W. 50, 51 (1897) (distinguishing failure to pay the required fee from failing to obtain transfer of the lower court record). The supreme [\*5] court then reversed the county court and remanded the cause "for further proceedings according to law." **Bruins**, 45 Wis. at 498. Because Gill's appeal suffers from the same procedural defect as described in **Bruins** (the failure to perfect the appeal as required by law), we conclude that the circuit court's jurisdiction was limited to dismissal of the appeal or ordering the municipal court to certify and transfer the transcript.

When Gill became aware of the lack of compliance with § 800.14(5), Stats., his remedy was to move the circuit court for relief from the appellate order because his appeal had not been perfected under § 800.14(5). However, because Gill has the right to appeal, and because due process requires that the right to appeal cannot be rendered meaningless, see **State v. Borrell**, 167 Wis. 2d 749, 778, 482 N.W.2d 883, 894 (1992), [1] we are compelled to reverse the existing order and remand the matter to the circuit court with directions that the municipal court be ordered to certify the transcript as required by § 800.14(5).

[\*6] *By the Court.* -Order reversed and cause remanded with directions.

This opinion will not be published. See Rule 809.23(1)(b)4, Stats.

#### Footnotes

[1]

For those reasons, we also reject the City's contentions that the failure of the municipal court to certify the transcript is technical or harmless error, or was subject to Gill's waiver of the certification. The right of appeal is a substantial, important and valuable right and is favored by the courts. See **Allard v. Smith**, 97 Wis. 534, 535-36, 73 N.W. 50, 50 (1897).

## CERTIFICATE OF SERVICE

I, Courtney M. Cowins, pro se litigant, hereby certify that 2 (two) copies of this Motion for Reversal of Dismissal/Motion for Reinstatement were placed in the U.S. Mail at Wisconsin Secure Program Facility on the 22<sup>nd</sup> day of February, 2021. These copies were addressed to the following:

Supreme Court of Wisconsin  
Office of the Clerk  
110 E. Main St., Ste. 215  
Madison, WI 53701-1688

Gregory M. Weber/William L. Gansner A.A.G.  
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Courtney M. Cowins #407326  
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### \* Contents:

- <sup>1</sup> Motion for Reversal/Motion for Reinstatement
- <sup>2</sup> Attachment A = 2-16-21 order
- <sup>3</sup> Attachment B = Motion for Reconsideration & Attachment (originally mailed 2-9-21)