

STATE OF WISCONSIN
IN SUPREME COURT

No. 03-0246-CR

FILED

DEC 18 2003

**Clerk of Supreme Court
Madison, WI**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

LAWRENCE NORTHERN,

Defendant-Appellant-Petitioner.

RESPONSE TO PETITION FOR REVIEW

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Defendant-Appellant-Petitioner.

RESPONSE TO PETITION FOR REVIEW

It is the position of the plaintiff-respondent State of Wisconsin that defendant-appellant-petitioner Lawrence Northern (Northern) fails to show that this case warrants supreme court review.

In a decision not recommended for publication, the court of appeals affirmed Northern's judgment of conviction entered upon a jury verdict finding him guilty of possession with intent to deliver of 15-40 grams of cocaine and 100 grams of cocaine, contrary to Wis. Stat. §§ 961.41(1m)(cm)3 and 5 (slip op. at 1; Pet-Ap. at A:1).

Northern argues that "the prosecutor's failure to provide discovery of his witnesses['] criminal records, inducements and previous statements in a timely manner or at all violated due process" (Petition at 4)

(capitalization omitted); and "the prosecutor's violation of the discovery statute, §971.23, Wis. Stats., presented Mr. Northern with an unconstitutional election as to waiver of his rights when the trial court denied a motion to exclude a witness" (Petition at 8) (capitalization omitted). The court of appeals disagreed; it stated, in part:

Northern now appeals, contending the State breached its discovery obligations by providing only the number, not the nature, of the witnesses' prior convictions; by failing to timely and fully disclose the terms of Peterson's plea agreement; and by failing to disclose the contents of Peterson's oral statements. Because we hold that Northern failed to preserve these issues for review, we do not address his further contention that he was prejudiced by these errors.

(Slip op. ¶7; Pet-Ap. at A:3).

The court of appeals properly affirmed Northern's conviction. Northern fails to show that review of the court of appeals' decision is warranted.

CONCLUSION

The state respectfully submits that Northern's petition should be denied.

Dated at Madison, Wisconsin, this 18th day of December, 2003.

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CERTIFICATION

I hereby certify that this response conforms to the rules contained in Wis. Stat. § 809.62(4)(b) for a response produced with a proportional serif font. The length of this response is 274 words.

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STATE OF WISCONSIN
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December 18, 2003

Cornelia G. Clark, Clerk
Wisconsin Supreme Court
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Madison, Wisconsin 53702

Re: *State v. Lawrence Northern*
Case No. 03-0246

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CLERK OF SUPREME COURT
OF WISCONSIN

Dear Ms. Clark:

Enclosed for filing in the above matter are original and nine copies of plaintiff-respondent's Response to Petition for Review. A copy of this response has been served by mail today on counsel for defendant-appellant-petitioner.

Sincerely,

Kathleen M. Ptacek
Assistant Attorney General

KMP:mab

Enclosures

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