

State of Wisconsin

Supreme Court

Warren Slocum

2220 122nd St.

New Richmond, WI 54017

715-248-3150

Petitioner, Petitioner, Plaintiff

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CLERK OF SUPREME COURT
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Petition to Review

Vs.

Town of Star Prairie

2118 Cook Dr.,

Somerset, WI 54025

715-246-9878

2016 AP 280

Respondent, Respondent, Defendant

The Court is petitioned to review a decision by the Court of Appeals, District III.

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The Court is petitioned to review a decision by the Court of Appeals, District III.

The decision was one of four (4) of my appealed cases that were decided in a single day (Feb. 28, 2017), and the court's curious, dismissive, superficial, and excessively harsh treatment of each is an indication of the courts' unwillingness to responsibly and objectively consider the evidence in any of the cases, while instead fixating and insisting only on addressing the unsubstantiated, irrelevant accusations of improper/frivolous qualities of the cases.

Besides this case, the others decided on the same day are: 16ap41, 15ap1006, and 14ap1093. The first of these cases involves an s. 74.37 action, the second one is an s. 74.35 action and the last one involves the

same instance as this present, instant case--- of an invalid board of review, because of non-compliance with s. 70.46(4), among other things.

This judicial response in each case indicates the courts' lack of impartiality, an abundance of misinformation regarding judicial precedents/practices, and outright prejudice.

Neither lower court responsibly addressed the issues of this case (and similar case 14ap1093), but each court instead fabricated invalid justifications for dismissing the case without proper adjudication.

These are transparent attempts by the lower courts at redirection, diversion, and distraction from the actual case issues (gaslighting, as we see in current Presidential politics), and they do not bring credit, praise, or acclaim to the lower courts.

While many other similar cases have been published, and they clearly show the courts' abilities at critical thinking and ambitious attention to the other cases' details, the lower courts' shoddy handling of my cases is partially concealed and camouflaged by its refusal to publish its opinions that clearly conflict with its other well-established precedents, and that additionally contradict a perception that a sensible, responsible adjudication has occurred, of the issues presented.

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Table of Authorities:

Within this petition, reference is made to the *Wisconsin Property Assessment Manual*(WPAM), and

s. 74.33, s. 74.35, s. 74.37, s. 809.62, s. 809.19, s. s. 70.75, s. 70.23, s. 74.05, s. 74.43, s. 70.09, s. 70.47, s. 70.01, s. 503, s. 70.46, s, 893.80, and s. 70.52. Reference is also made to other documents in the record of this case and others.

Cases referred to include:

***Coleman v. Percy*, 96 Wis. 2d 578, 292 N.W. 2d615 (1980)**

***Little Sissabagama Lake Shore Owners Assoc. v. Town of Edgewater*, 208 Wis. 2d 259, 559 N.W. 2d 914 (Ct. App. 1997), 96-1800**

***Kaskin and Sokolski v Board of Review, County of Kenosha*, 91 Wis. 2d 272, 282 NW 2d 620 (1979)**

***Walgreen Co. v. City of Oshkosh*, 848 NW 2d 314 Wis: Court of Appeals 2014**

Duesterbeck et. al. v Town of Koshkonong Board of Review, 2000 WI App 6, 232 Wis. 2d 16, 605 N.W.2d 904, 98-3048.

Ahrens v. Town of Fulton, 240 Wis.2d 124 (2000), 621 NW 2d 643 Wis: Court of Appeals 2000 WI App 268

State v. Missouri, 2006 WI App 74, 291 Wis. 2d 466, 714 N.W.2d 595, 05-1486

Additional cases include:

16ap41 (14cv238), 14ap1093 (13cv668), 16ap281 (15cv228), and
15ap2473 (13cv2666), 15ap1006

These references appear on several pages of this petition.

Statement of the issues:

The current issues in this case are the lower courts' unwillingness to give proper attention and adherence to the well-established judicial procedures for cases such as this.

Each lower court ignored the evidence in this case, and contrived mistaken justifications for dismissing it.

For example, the circuit court claimed that Board of Review members could not be sued because of the quasi-judicial of the entity.

This generalization is contradicted by the state legislature's specific designation of civil liability for members of boards of review, and assessors, among others, as specified in s. 70.503.

Similarly, it was claimed that criminal prosecution must precede civil litigation, but this too is a complete, mistaken fabrication, with no validity in these circumstances.

The courts similarly overlooked the most clear (and easily verified) statutory violation, involving s. 70.46(4), which requires at least one voting member of a board of review to have taken the training course provided by the state Department of Revenue.

The training course is an online offering that's easily completed, with a minimum of time and energy. There are several provisions making it easily accessible and available for prospective and current members of boards of review, and it is easy to comply with the requirements of s. 70.46(4).

Despite these various contingencies dealing with a wide range of possible scenarios---- all of which are clearly communicated to boards of review--- the Star Prairie Township Board of Review chose to ignore the mandatory requirements of s. 70.46 (and other statutory obligations of such boards).

These are serious matters, but instead of addressing them directly, the courts chose to “shoot the messenger” of bad news, by inventing various claims of impropriety and insufficiency in my legal action.

The lower courts similarly overlooked the established procedures for litigating legal actions where no specific judicial approach is specified by statute, as with s. 70.46(4) (and the other statutes violated by the invalid board of review).

The judicial convention is to make use of common law certiorari in such circumstances, as was reiterated in such cases as:

***Coleman v. Percy*, 96 Wis. 2d 578, 292 N.W. 2d 615 (1980)**

This proper approach of using common law certiorari also occurred in Dane County case 13cv2666, involving the township’s taxpayer petition under s. 70.75.

The Court of Appeals response in this present, instant case is similar to its approach to three other of my cases that were also decided by the Court of Appeals on the same day, February 28, 2017.

In each case, the Court of Appeals simply repeated the unsubstantiated allegations of the circuit court, and reacted with an excessively harsh and inappropriate denial of access to the judicial system.

Each court did not address, acknowledge or observe the simple substantive basis of the litigations, which is founded on property tax assessment errors including imperfect parcel descriptions that bear no relation to the real properties' actual locations, and boundaries (15ap1006).

An example of the Court of Appeals misunderstandings of this case appears on page two (2) of its recent decision, where it's claimed that

“We have also noted that all of Slocum’s cases center around the same basic issue—namely that his property taxes are too high.”

This error is gigantic, in that it completely misses the point of the litigation which involves correction of assessment and review procedures at a local level.

The statement of the Court of Appeals (which is a simple parroting of the circuit court judge’s writings) clearly ignores my specific property tax circumstances where assessments are distinct from property taxes, and the assessments do not even determine the property taxes.

These circumstances result from the properties’ enrollment in the Managed Forest Law program, where per-acre property tax amounts are uniformly fixed and standardized throughout the entire state of Wisconsin, so the property tax amounts are not indexed at all to the assessed valuations of the property.

Property valued at a million dollars-per-acre (\$1,000,000/acre), for example, would have the exact same property tax as property valued at \$100/acre, if both properties were enrolled in the Managed Forest Law (MFL) program, so the courts clearly misunderstand the nature of both this case, and the others that I've brought to the judicial system---some of which, for example, largely focus on correcting clerical errors in the wildly imperfect tax descriptions of my properties, for example (s. 74.35 actions).

While there are certainly illegal, excessive taxes being levied on my subject parcels, it cannot be truthfully claimed by the courts that my only complaint in every individual legal case is that my "...property taxes are too high".

The refusal of the courts to accurately understand the case---or comprehensively/responsibly evaluate it---is an issue in this case.

The evidence proving these claims is clear, simple, easy to understand, and completely ignored by each lower court, in favor of their alternative response of punishing the messenger of the bad news of property tax assessment errors.

Rather than directly addressing the issues of assessment/review misconduct by local officials, each court has instead fixated its attention on the wildly bizarre contention that the judicial system has been abused by

my use of it---even though it is only the judicial system that is the designated, statutory means of correcting such assessment errors.

I have brought these assessment errors to the attention of courts in previous years, and this has caused the courts to curiously assert that the subsequent years' assessment objections constitute an abuse of the judicial process, even though there have been many other similar assessment cases that have extended over many more consecutive years, such as the eight (8) years of individual litigations it took to resolve:

Walgreen Co. v. City of Oshkosh, 848 NW 2d 314 Wis: Court of Appeals 2014

There was no attempt to bar Walgreens from access to the state's judicial system, even though it made considerably more demands on that system than my personal pro se litigations have done.

The Court of Appeals has ordered that my access to the judicial system should now be limited for future cases, and that is a significant issue in this case, since it seems to be an unnecessarily harsh response to the circumstances of this case that have been so mistakenly described by the lower courts.

Rather than simply recognizing the obvious assessment errors that have occurred, that continue to exist, and that I've repeatedly asked the courts to correct, the Court of Appeals has instead attempted to mistakenly

describe and portray my repeated attempts at correction of these errors as irresponsible abuse of the judicial process, rather than appropriate, responsible civic action to limit local officials' abuse of the property tax assessment system through inaccurate, oppressive assessments.

The noble aspirations of the Courts and the State were articulated in a case that is often cited for its precedential value, where the testimony of authorities and officials was improperly given more credibility than testimony that contradicted it.

In that case, our highest courts voiced their support for the pursuit of truth and justice, even when officials and authorities in the state may seek to deny that to certain parties in legal actions. The case I'm referring to is:

***State v. Missouri*, 2006 WI App 74, 291 Wis. 2d 466, 714 N.W.2d 595, 05-1486**

There are curious circumstances that help to explain the extreme resistance of local officials to correcting the assessment errors on my properties.

The subject properties in this case with assessment errors were claimed in ownership by local governments---for decades---and these local governments took extreme offense at my showing them that their ownership claims were without any basis at all.

St. Croix County claimed to own nearly sixty (60) acres here, but they really only had less than 20 acres, with extremely limited access.

Star Prairie Township also claimed to own significant acreage in a road right-of-way that was (and always has been) a private driveway.

Each of these governments has attempted to vindictively seize ownership of the properties they'd seen as their own, but their many attempts have proven unsuccessful, so they've instead reverted to use of the property tax assessment system, to oppress me as a taxpayer they dislike.

Criteria for granting review:

This petition for review meets the criteria of s. 809.62(1r)b,

Issues of appropriate judicial policies/procedures have surfaced in this case that have significance to many others throughout the state.

A decision by the Supreme Court will help to develop, clarify, and harmonize the law.

The questions in the case are likely to recur, unless resolved by the Supreme Court.

The Court of Appeals decision is in conflict with other Superior Court decisions, such as the many judicial precedents cited in the briefs submitted to the lower courts, and in this Petition to Review.

The Court has control over these policies, and they can be implemented and established within its authority.

Statement of the case:

This case resulted from the same cause of action as 13cv668 (14ap1093), which was dismissed because it was mistakenly claimed that no compliance with the terms of s. 893.80 had been performed, even though such notification was unnecessary, as in

***Little Sissabagama Lake Shore Owners Assoc. v. Town of Edgewater*, 208 Wis. 2d 259, 559 N.W. 2d 914 (Ct. App. 1997), 96-1800**

To eliminate that invalid criticism, redundant (though legally unnecessary) notification was made, according to the terms of s. 893.80.

The video recording of the notification (included in the record for 14ap1093 (13cv668)) includes the municipal clerk's admission that I'd already and previously submitted the notification----just as I'd always claimed, but that others had denied, in yet another attempt at disqualifying my criticism of the local officials, and holding them accountable for their misconduct.

Additional attempts at disqualifying/dismissing the legal case includes the claim that there were other inadequacies and insufficiencies of the filing

(such as failure to state a claim on which relief can be granted), despite the fact that similar filings have always been accepted in other circuit courts.

The complaint need not contain every detailed bit of evidence that can instead be submitted later, as the case proceeds with certiorari briefs, as was done with Dane case 13cv2666, and other cases in St. Croix County, as well.

My complaint was sufficient to show the nature of the issues that would be covered in greater detail later in the litigation.

The circuit court took off on various other irrelevant tangents, as well, including a consideration of whether the case was sufficient to “disturb the findings” of the board of review.

The action does not address the “findings” of the board of review---only the validity of the board, and the misconduct displayed by the members of the board and the board entity itself. This was made clear by my indication that the action was not undertaken by any of the various statutory means (e.g. 70.47(13), s. 74.35, or s. 74.37) of taking into account the actual “findings” of the board.

Another misleading tangent is the circuit court's page nine (9) mention of the affidavit of Michael Burke, regarding the DOR's training of a non-voting member, along with mention of the fact that the board of review meeting may legally take place without a voting member who's taken the DOR's training course.

The statutory provisions for such a scenario allow for a transcript or recording of the board meeting to be provided for even a new board member, but there must be a specified period of time that passes---after he/she is provided with the hearing recording--- before that member who was absent from the actual board meeting can vote with the board.

It is even possible for a board member to take the DOR's online training course *after* the board meeting, but before voting with the board. None of these possibilities was made use of, so the board was therefore invalid, by proceeding as it did.

These are very predictable situations that the state Department of Revenue has anticipated as possible occurrences for boards of review around the state, so each of these contingency plans is fully explained by the DOR, to the board of review members who take its training course, or who bother to avail themselves of the easily accessible information.

There's nothing "absurd" about dealing with such scenarios or contingencies, despite the circuit court's page 10 discussion of the topic.

The circuit court's assertion that assessment errors are the responsibility of the assessor---not the board---is similarly misplaced. It is the function of the board to review the assessor's work, hence the name board of review.

The board is entitled and required to correct various assessment errors, and it is not contingent upon including the hired assessor in lawsuit about misconduct by the board to correct the board's actions----not those of the assessor.

Similarly disingenuous is the circuit court's discussion of various sorts of liability that the judge claims (page 12) is only contingent upon previous criminal conviction. This is completely made up, and yet another diversion from addressing the relief that's sought----of a valid board of review.

Though the board's meeting was properly scheduled and held, it was the invalidity of the board--- and the misconduct of its members--- that is the issue here.

The board acted improperly in its scheduling and conducting of the meeting----therefore my proper observation of wrongdoing.

Had the board followed the proper, requisite procedures for subsequently training a voting board member before the board voted (but *after* the board's meeting took place), there would be no complaint with that aspect of its performance.

Similarly, the circuit court judge attempts to prematurely dispose of the violations of s. 70/47(10), by mistakenly describing the "other property" mentioned at the board of review hearing.

Other property than my own was presented to the board, for correction of flawed assessments. This is verified by examination of the evidence presented to the board, included the transcript of the hearing, which is required to be produced (but has not been), under the provisions of s. 70.47 that include mention of other court proceedings.

An examination of the transcript of the hearing, and evidence submitted at it will show that violation of s. 70.47(12) occurred. It is not enough for the circuit court judge to simply take the word of the clerk, in the clerk's affidavit referred to on page 14 of the local judge's decision.

This clerk has frequently misunderstood many legalities of his position, such as his claim that he can vote in board of review decisions, despite the fact that he is only appointed to his position---not elected to it.

For a clerk to be legally qualified to vote with a board of review, he/she must be elected, not appointed to his/her position.

The local judge's "disposal" of the matter of the clerk's mandatory correction of imperfect parcel descriptions (s. 70.52) is similarly well off the mark.

The clerk is described by the local judge as having liberal discretion in evaluating parcel descriptions for their accuracy, but this is not the case at all, especially in light of the circumstances of the clerk's employment as treasurer, as well as clerk.

The judge suggests that the clerk can overlook errors on the tax roll that are not readily apparent, but this is not the case, since the presence and issue of imperfect parcel descriptions was clearly communicated to the clerk/treasurer on numerous occasions, in attempts to correct the flawed parcel descriptions.

It would be absurd to suggest that the official can simply ignore this incorrect information on the tax roll if he chooses to, after it's been clearly identified to him.

Additionally, the individual's dual role as treasurer makes him responsible for correcting imperfect parcel descriptions under s. 74.05.

Making these corrections to imperfect parcel descriptions is not discretionary----it is mandatory, by statute.

Seeing the circumstances in this correct, easily-verified way, makes it apparent that the case has a sound, substantive basis, so it is not in any way frivolous.

Many procedural irregularities occurred in the case, and in other cases involving property taxes/assessments.

Rather than judicially addressing the assessment errors, however, the lower courts have instead chosen to fixate their attention on fabricated allegations of abuse of the judicial system for having repeatedly pointed out the assessment errors that are simple, clear, and easy to both understand and correct.

Instead of acting impartially, and objectively reviewing the evidence of assessment errors in a detached manner of critical scrutiny, the lower courts have alternatively ignored the simple evidence of assessment errors, and asserted that consecutive years' objections over these uncorrected assessment errors is irresponsible, and an abuse of the judicial process.

This, despite the fact that several other landmark legal precedents in property tax/assessment cases have clearly shown the need for consecutive

legal actions over annual assessments that are stand-alone entities worthy of individual attention, as in ***Kaskin and Sokolski v Board of Review, County of Kenosha, 91 Wis. 2d 272, 282 NW 2d 620 (1979)***

Judicial corrections to one year's assessment errors have not automatically corrected other years' assessment errors, so it's been necessary for taxpayers to make individual objections to consecutive years' assessments, even when those respective assessments are identical, as in

Dueterbeck et. al. v Town of Koshkonong Board of Review, 2000 WI App 6, 232 Wis. 2d 16, 605 N.W.2d 904, 98-3048.

In that case (and others), taxpayers who did not formally and legally object to their property tax assessments for consecutive years did not receive corrective judicial relief for those years in which their assessments were wrong, if they hadn't objected to each year's assessments.

The need for correct parcel description is very basic for accurate property tax assessments.

The importance of correct parcel descriptions is indicated by the fact that there is significant redundancy among MANY respective officials and entities to insure that property tax parcel descriptions are correct, or corrected, if found to be flawed in any way.

Those designated by state statute as responsible for correcting imperfect parcel descriptions include:

- 1) the assessor (s. 70.23),
- 2) the municipal clerk (s. 70.52),
- 3) the municipal treasurer (s.74.05),
- 4) the county treasurer (s. 74.43),
- 5) the Real Property Lister (s. 70.09),
- 6) the board of review (s. 70.47(6)), and
- 7) the Town Board (s. 74.33).

One reason it's important to have accurate parcel descriptions is because property taxes serve as a lien on the property, as mentioned in s. 70.01.

70.01 General property taxes; upon whom levied.

...taxes are a lien upon the property against which they are charged.

Additionally, it's specified in s. 70.09 that tax descriptions must correspond to deed descriptions, as "...an accurate legal description as shown on the latest records of the office of the register of deeds"

An accurate property tax parcel description is statutorily defined as one that would be sufficient and adequate for sale of the subject property.

The tax parcel descriptions of my property do not qualify for that designation, as shown by the deeds' legal descriptions of the parcels that are VERY different from those of the tax descriptions. It is the deeds'

descriptions that take precedence over tax assessment descriptions, which must be indexed to the legally recorded property descriptions

One explanation for local officials' refusal to correct the obvious assessment flaws (including imperfect parcel descriptions) is that there are special circumstances regarding the subject parcels of this case.

Local governments have---for many years--- mistakenly claimed ownership of the acreage, and they've vindictively abused their authority in the property tax assessment system to punitively oppress me as an owner of land they've long thought to be public, not private.

When their many attempts at seizing the property failed, they reverted to use of the property tax assessment system----unreasonably raising assessments beyond those of comparable properties, while also refusing to correct obvious assessment errors such as those of this case, under s. 74.35 .

It is to correct this fraudulent abuse of the property tax assessment system by local officials that this case was initiated and litigated.

While the judiciary is sworn to maintain the essential checks-and-balances that maintain order and equity in our democratic society, what we see in this case is judicial unwillingness to perform impartial adjudication of very simple issues.

Instead of addressing the issues brought before the lower courts, these judicial bodies have instead sought to cast blame on me as unreasonable, for simply exposing the extensive local abuses of the property tax system.

The lower courts' complicity in defensively shielding government officials from accountability appears to be something of a circling-of-the-wagons approach to protecting officials, while denying justice to an individual citizen/taxpayer who is being portrayed as unreasonable for exposing errors in the property tax assessment system.

The errors that have been clearly identified are all of the variety that have statutory means of correction.

By ignoring these simple, basic errors, the lower courts have shown themselves to be less than impartial, and quick to join others in denying justice where it is sorely required.

Argument:

The property tax assessment system in Wisconsin has been seen as flawed for many years, by even those state officials responsible for administering it.

Some of those flaws have to do with the local control of the system.

The state Department of Revenue was commissioned by Gov. Dreyfuss to study the issue, and the agency recommended a more centralized assessment system----through counties instead of municipalities. That study by the DOR appears in the record of Dane County case 2013 CV 2666 (2015 AP 2473), and 15cv228.

By removing control over property tax assessments from local municipalities, the system is less subject to politicization and local corruption/abuse by part-time officials who are, in Star Prairie township, unschooled in assessment details, and not always willing to resist the temptation to abuse their power/authority. .

Some counties in Wisconsin have adopted the centralized assessment system recommended by the DOR, but even then there have been some problems with the ways assessments have been done, as in

Kaskin and Sokolski v Board of Review, County of Kenosha, 91 Wis. 2d 272, 282 NW 2d 620 (1979)

It was Kenosha County that was the first in the state to adopt a centralized property tax assessment system.

In other places, there has been considerable resistance to such changes over local control of the property tax system, including in Star Prairie Township, where local officials recently adopted a resolution opposing a

loss of their control over assessments that was proposed at the state legislative level.

The local resolution was circulated by the Wisconsin Towns Association (WTA), and it's included in the record for case 2016 AP 281 (15cv228). In opposing centralized assessment systems (which would be those administered through counties, not municipalities), the contention of the municipalities is that they can do a better job with their own local assessments than the counties can provide----despite the state DOR's recommendations to the contrary.

A common problem with local municipal control over property tax assessments is that there can be corruption of the system through fraudulent abuses of authority, where preferential assessments and kickbacks occur to entice local officials to hire specific assessment companies, in the competitive marketplace.

Many instances of this kind of official abuse of power/authority have been identified in Star Prairie Township, and they have been acknowledged by the state Department of Revenue, in two recent agency studies of the local assessments, following separate, different years' s. 70.75 petitions from taxpayers in the municipality. Some of these fraudulent assessment practices appear in Dane County case 2013 CV 2666 (2015 AP 2473).

The lower courts' turning a blind eye toward the property tax assessment abuses of the subject parcels of this case in Star Prairie Township renders our state's carefully enacted laws to be little more than window dressings--- -noble principles by which authorities are supposed to operate, but that they can (and do) disregard without consequence---IF the judiciary does not perform its duty to maintain property tax equity by checking abuses of the system by unethical officials.

While taxpayers have often in past years been relatively uninformed about legal, statutory property tax procedures and requirements in Wisconsin, the recent accessibility and availability of tax/assessment information has changed that situation.

Now, citizens can easily become informed of our state's assessment laws and practices, since the *Wisconsin Property Assessment Manual* (WPAM) is freely available online, for example, as are judicial documents/precedents involving case law precedents resolving various conflicts over statutory interpretations.

While the information age has made it possible to assure property tax accuracy and equity throughout the state, some officials at various levels of government have disregarded even the most basic assessment requirements, by use of various tactics like those we see in this case, where instead of correcting obvious and egregious assessment errors, the taxpayer is

punished for pointing them out----portrayed and vilified as insubordinate to officials who seek to impose their own personal preferences, rather than abide by and adhere to the simple, clear, altruistic and noble laws governing property tax assessments.

The state's highest courts have often clearly shown and nobly displayed their capability to make sage decisions regarding property tax assessments, as shown by the many landmark precedents that clearly contain critical thinking by judges.

Sometimes the highest courts will expend considerable attention and judicial energy resolving issues and disputes that involve little or no monetary considerations at all, as in

***Ahrens v. Town of Fulton*, 240 Wis.2d 124 (2000), 621 NW 2d 643 Wis: Court of Appeals 2000 WI App 268**

In that case, which also (like mine) extended over several years, there was no issue with the monetary value of the property tax assessment.

Instead, the only issue in ***Ahrens*** was whether the non-disputed assessment figure would be designated as applying to real property or personal property, each of which had the same tax mil rate.

While the Court of Appeals is obviously capable of making sound judicial decisions, it is equally obvious that its decision in this case is not the court's best work.

The drama and sensationalism the lower courts have engaged in do disservice to their standing and credibility.

It would be a simple matter to notice the assessment errors I've brought to the courts' attention, but instead they've refused to give even the most passing attention to the clear, simple evidence showing the incontrovertible mistakes made by local government officials.

Certification of petition:

I certify that this petition conforms to the rules contained in s. 809.19(8)(b) and (c) for a petition produced using the Proportional serif font. The length of this petition is 5,048 words.

Signed this March 28, 2017



Warren Slocum, pro se