

January 12, 2021

## WISCONSIN SUPREME COURT

### TABLE OF PENDING CASES

Clerk of Supreme Court  
Telephone: (608) 266-1880  
Facsimile: (608) 267-0640  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)

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The following table describes pending cases the Supreme Court has accepted on petition for review, bypass, certification and original jurisdiction.

The cases included for the first time (that is, the most recently accepted cases) are marked with an \* next to the case number. After the Supreme Court decides a case, the date of oral argument or date of submission on briefs is replaced with the date of the Supreme Court decision and abbreviated mandate. That mandate will generally be listed in the table for two months and then the case will be removed from the table.

The information in the table, from left to right, is as follows:

- the case number;
- an abbreviated caption of the case (case name);
- a statement of the issue(s);
- the date the Supreme Court accepted the case;
- the method by which the case came to the Supreme Court: REVW = Petition for review, CERT = Certification, CERQ = Certified Question, BYPA = Petition to bypass, ORIG = Original Action, WRIT = Petition for supervisory writ, REMD = Remanded from the U.S. Supreme Court;
- the date of oral argument or submission on briefs; or the date of the Supreme Court decision and an abbreviated mandate;
- the Court of Appeals district from which the case came, if applicable; the county;
- the date of the Court of Appeals decision, if applicable;
- whether the Court of Appeals decision is published or unpublished, and, if it is published, the citations to the public domain citation and the official reports for the Court of Appeals decision.

The statement of the issue is cursory and does not purport to be an all-inclusive, precise statement of the issues in the case. Readers interested in a case should determine the precise nature of the issues from the record and briefs filed with the Supreme Court.

The following table covers cases accepted and decisions issued through **January 12, 2021**. Please direct any comments regarding this table to the Clerk of Supreme Court, P.O. Box 1688, Madison, WI 53701-1688, telephone (608)266-1880.

APPENDIX  
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 Clerk of Supreme Court  
 (608) 266-1880

Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
*2016AP308-CR	<u>State v. Dawn M. Prado</u>  Was the blood draw justified under <u>Mitchell v. Wisconsin</u> , which established that for the category of cases involving suspected drunk drivers who are unconscious and taken to the hospital before a breath test can be administered, a warrantless blood draw is almost always justified by exigent circumstances?  Was the blood draw from the defendant justified by her consent under the implied consent law?  Was suppression of the blood test results improper because the police officer who ordered the blood draw relied in good faith on the unconscious driver provision in Wisconsin's implied consent law?  Whether the "good faith" exception to the warrant requirement should be extended to an officer's reliance on law which is not "well established."  Whether the "good faith" exception to the warrant requirement should be extended to officers who are not "well trained" in the matter they supposed exercised "good faith" in.  Whether a circuit court's determination that an officer did not act in good faith is a question of fact, law, or both, and what standard of review ought to apply to such determinations, is an issue of first impression requiring a decision from this court.	10/21/2020 REVW Oral Arg. 03/18/2021	4 Dane	07/29/2020 Pub. 2020 WI App 42 393 Wis. 2d 526 947 N.W.2d 182
2016AP1688 (consolidated with 2016AP2502)	<u>Clean Wisconsin, Inc. v. DNR</u>  Does the Department of Natural Resources (DNR) have authority to impose off-site groundwater-monitoring requirements and an animal-unit maximum on a Wisconsin Pollution Discharge Elimination System (WPDES) permit?  Did DNR retain discretion to decide whether to impose certain permit conditions after denying review of the Administrative Law Judge's decision?  Was the circuit court competent to enter, and, if so, did it correctly enter an award of costs and fees to Petitioners?	04/09/2019 CERT	4 Dane	--

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2017AP2244	<p><u>Village of Slinger v. Polk Properties, LLC</u></p> <p>Can a property owner's application for a zoning change, the owner's entry into a development agreement, or the owner's entry into restrictive covenants alone, constitute an abandonment under <u>State ex rel. Schaetz v. Manders</u>, 206 Wis. 121, 238 N.W. 835, 837 (1931)?</p> <p>Did the trial court lack competence to retroactively reassess the subject property without prior involvement of the specified administrative process under <u>Hermann v. Town of Delavan</u>, 215 Wis. 2d 370, ¶10, 24, 572 N.W.2d 855 (1998)?</p> <p>Was the trial court's assessment against a property owner an unlawful retroactive reassessment of taxes under <u>Wisconsin Central Ltd. v. Wisconsin Department of Revenue</u>, 2000 WI App 14, 232 Wis. 2d 323, 606 N.W.2d 226?</p> <p>Do multiple additional errors require the reversal of the circuit and court of appeals' decisions; specifically:</p> <p>a. Is restrictive covenant 10.1, which expressly entitled the property owner to use unsold lots for non-residential purposes, an exception to restrictive covenant 5.1?</p> <p>b. Having issued a scheduling order that did not include a contempt hearing as a remaining proceeding in the case, and without any prior notice from the court of such a hearing, did the court conduct a contempt hearing without the required notice?</p> <p>c. Did the doctrine of judicial estoppel preclude the Village from seeking and obtaining penalties and contempt sanctions from the property owner for agricultural use in 2014-2017 under <u>Thoma v. Village of Slinger</u>, 2018 WI 45, 381 Wis. 2d 311, 912 N.W.2d 56?</p> <p>d. Did the Village fail to identify a zoning ordinance that had been violated and did it fail to present evidence of a zoning code violation?</p> <p>e. Was it prejudicial error for the trial court to have precluded offered evidence of the lack of fines imposed on similarly situated offenders under <u>State v. Boyd</u>, 2000 WI App 208, ¶14, 238 Wis. 2d 693, 618 N.W.2d 251?</p>	<p>07/15/2020            REVW            Oral Arg            11/10/2020</p>	<p>2            Washington</p>	<p>Unpub.</p>

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2018AP59	<u>Clean Wisconsin, Inc. v. DNR</u>  Did the Department of Natural Resources (DNR) lawfully approve eight high capacity wells without conducting an additional environmental review not required by statute or rule, given that Act 21 prohibits agencies from enforcing any requirement that is not “explicitly” permitted, and given that no statute explicitly authorizes additional environmental review for these wells?  Is Petitioners’ claim that DNR failed to “consider . . . cumulative impacts” when approving the wells barred by Wis. Stat. § 281.34(5m), which prohibits any person from “challeng[ing] an approval . . . of a high capacity well based on the lack of consideration of [ ] cumulative environmental impacts”?	04/09/2019 CERT	4 Dane	--
2018AP71	<u>Mohns Inc. v. BMO Harris Bank National Association</u>  Does Wisconsin law prevent a court from entering, as a discovery sanction, a default judgment or directed verdict when the discovery conduct had no impact on the plaintiff’s ability to pursue and prove its case?  Does Wisconsin law prevent a plaintiff from recovering damages for unjust enrichment and breach of contract simultaneously, in the presence of a discovery sanction of liability?  Does Wisconsin law bar an award of punitive damages based solely on damages claims that sound in contract or quasi-contract, in the presence of a discovery sanction of liability?	03/17/2020 REVW Oral Arg 10/01/2020	2 Waukesha	Unpub.
2018AP283	<u>Gail Moreschi v. Village of Williams Bay and Town of Linn ETZ Zoning Board of Appeals</u>  Whether a board can create new minutes and new decisions after receipt of a writ of certiorari action.  Whether the court of appeals determination of what constitutes a “triggering event” for purposes of appeal on a writ of certiorari conflicts with Wis. Stats. § 62.23(7); ETZ ordinances; or the Court of Appeals’ holding in <u>Zelman v. Town of Erin</u> , 2018 WI App 50, 383 Wis. 2d 679, 917 N.W.2d 222.	11/12/2019 REVW <b>Affirmed</b> <b>12/30/2020</b> <b>2020 WI 95</b>	2 Walworth	Unpub.
2018AP547	<u>Michael Anderson v. Town of Newbold</u>  Are The Town of Newbold Land Division Standards set forth in ordinance 13.13 an exercise of a subdivision authority granted under Wis. Stat. 236?  Is the Legislative intent in enacting 2015 WI Act 55 to set statewide shoreland standards, and to not defer to municipalities?	06/16/2020 REVW Oral Arg 10/01/2020	3 Oneida	11/20/2019 Pub. 2019 WI App 59 389 Wis. 2d 309 935 N.W.2d 856

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2018AP594-CR	<u>State v. Leevan Roundtree</u>  Is Wis. Stat. § 941.29(2) unconstitutional as applied to a person convicted of failure to pay child support?  In the aftermath of <u>Class v. United States</u> , 138 S. Ct. 798 (2018), does a guilty plea waive a claim that the statute of conviction is unconstitutional as applied?	01/14/2020 REVW <b>Affirmed</b> <b>01/07/2021</b> <b>2021 WI 1</b>	1 Milwaukee	Unpub.
2018AP669	<u>Ronald L. Collison v. City of Milwaukee Bd. of Review</u>  Whether the policy used by the City of Milwaukee in valuing contaminated property, “City of Milwaukee Environmental Contamination Standards (CMECS)”, conforms to statute.  Whether the assessor for the City of Milwaukee considered the impairment of the properties market value due to the presence of contamination as required by statute § 70.32(1m).  Whether the assessment in the instant action conforms to Wisconsin statutes.	04/30/2020 REVW Oral Arg 01/21/2021	1 Milwaukee	Unpub.
2018AP731-CR	<u>State v. Kevin L. Nash</u>  When accepting a guilty plea under <u>Alford v. North Carolina</u> , 400 U.S. 25 (1970), a circuit court may find there is a factual basis for the plea only if there is “strong proof of guilt.” May a court find strong proof of guilt based on the information contained in the criminal complaint, or must the court hear additional evidence before it can make that finding?	12/10/2019 REVW <b>Affirmed</b> <b>11/19/2020</b> <b>2020 WI 85</b>	2 Waukesha	Unpub.
2018AP858-CR	<u>State v. Brian L. Halverson</u>  Does incarceration automatically produce <u>Miranda</u> ( <u>Miranda v. Arizona</u> , 384 U.S. 436 (1966)) custody under the Wisconsin Constitution?  Did the totality of the circumstances surrounding the defendant’s interrogation put him in <u>Miranda</u> custody?	03/17/2020 REVW Oral Arg 09/14/2020	3 Chippewa	12/18/2019 Pub. 2019 WI App 66 389 Wis. 2d 554 937 N.W.2d 74
2018AP960	<u>Country Visions Coop. v. Archer-Daniels-Midland Co.</u>  Whether a property subject to a right of first refusal, when sold with other property not subject to that right, should be valued based on its market value, as the term “market value” has been traditionally defined by Wisconsin case law.	09/16/2020 REVW Oral Arg. 02/25/2021	2 Fond du Lac	06/24/2020 Pub. 2020 WI App 32 ____ Wis. 2d ____ 946 N.W.2d 169
2018AP1114	<u>Christus Lutheran Church of Appleton v. Wisconsin Department of Transportation</u>  Did the court of appeals’ decision misconstrue Wis. Stat. § 32.05(2)(a)?  Was a jurisdictional offer DOT made to the petitioner “based” “upon” the appraisal?	05/19/2020 REVW Oral Arg 10/05/2020	3 Outagamie	12/18/2019 Pub. 2019 WI App 67 389 Wis. 2d 600 937 N.W.2d 63

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APPENDIX

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2018AP1239	<u>Applegate Farm v. Wis. Department of Revenue</u>  Whether Wisconsin state agencies need to consider indirect environmental effects when determining whether to issue an environmental impact statement ("EIS") under Wis. Stat. § 1.11(2).	05/19/2020 REVW Oral Arg 10/05/2020	4 Green	02/26/2020 Pub. 2020 WI App 7 390 Wis. 2d 708 940 N.W.2d 725
2018AP1518	<u>Ted Ritter v. Tony Farrow</u>  Does Wisconsin trademark law permit an implied assignment of trademarks to a new owner when no other business assets or services are transferred?  Does Wisconsin's Condominium Ownership Act (Wis. Stat. ch. 703) require that control of business services and corresponding trademarks transfer to a condominium association when the real property where the services are provided is converted to a condominium?	01/14/2020 REVW Oral Arg 09/08/2020	3 Vilas	08/28/2019 Pub. 2019 WI App 46 388 Wis. 2d 421 933 N.W.2d 167
2018AP1782	<u>Francis G. Graef v. Continental Indemnity Co.</u>  Does the exclusive remedy statute (Wis. Stat. § 102.03(2)) bar a claim for severe injury resulting from an attempted suicide against a worker's compensation insurer which withheld depression-curing medication when the insurer denies all liability for compensating that injury under the worker's compensation act?	09/16/2020 REVW Oral Arg 01/19/2021	3 Marinette	Unpub.
2018AP1880 (consolidated with 2018AP2371)	<u>David Stroede v. Society Insurance, A Mutual Company</u>  Whether the defendant qualifies as a "Possessor of Real Property" as that term is defined and used in Wis. Stat. § 895.529, Civil liability limitation; duty of care owed to trespassers.	07/15/2020 REVW Oral Arg 12/09/2020	1 Milwaukee	02/26/2020 Pub. 2020 WI App 8 390 Wis. 2d 817 ___ N.W.2d ___
2018AP1887	<u>Waupaca County v. K.E.K.</u>  Whether the circuit court lacked competency to exercise subject matter jurisdiction over a recommitment proceeding due to Waupaca County's conceded violation of § 51.20(13)(g)2r.  Whether § 51.20(1)(am) violates substantive due process and equal protection of the law on its face and as applied.	07/24/2020 REVW Oral Arg 11/17/2020	4 Waupaca	Unpub.

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2018AP1952-CR	<u>State v. Mark D. Jensen</u>  Did the court of appeals overlook an established exception to the law-of-the-case doctrine when it concluded that it and the circuit court were bound to follow this Court's 2007 holding that the victim's statements were testimonial?  Did the circuit court correctly determine that, under the narrower definition of testimonial adopted by the Supreme Court since 2007, the victim's statements are nontestimonial?  Should this Court remand to address the remaining issues that the court of appeals did not decide because of its holding that it was bound by this Court's prior decision?	06/16/2020 REVW Oral Arg 11/17/2020	2 Kenosha	--
2018AP2066-CR	<u>State v. Alfonso C. Loayza</u>  Do the lack of a judgment of conviction for a prior offense and other documents that "support the inference" that the conviction does not exist render a Wisconsin DOT driving record that lists the conviction unreliable so that it cannot prove the conviction by even a preponderance of the evidence?	06/16/2020 REVW Oral Arg 11/10/2020	4 Rock	Unpub.
2018AP2104	<u>State v. Jamie Lane Stephenson</u>  To prove that a person meets the criteria for commitment under Chapter 980, must the State present expert opinion testimony that the person is "dangerous" as defined under ch. 980?  Should the standard of review of the sufficiency of the evidence of dangerousness in a Chapter 980 case be changed to require that a reviewing court conduct a de novo review of whether the evidence satisfies the legal standard of dangerousness?	03/17/2020 REVW <b>Affirmed</b> <b>12/18/2020</b> <b>2020 WI 92</b>	3 Dunn	11/20/2019 Pub. 2019 WI App 63 389 Wis. 2d 322 935 N.W.2d 842
2018AP2142	<u>State v. Tavodess Matthews</u>  Is an adjourned probable cause hearing a "preliminary contested matter" that terminates litigants' opportunity to request judicial substitution?	08/26/2020 REVW Oral Arg 02/22/2021	1 Milwaukee	06/24/2020 Pub. 2020 WI App 33 ___ Wis. 2d ___ 946 N.W.2d 200
2018AP2220-CR	<u>State v. Adam W. Vice</u>  Under the totality of the circumstances, was a defendant's confession voluntary?	08/20/2020 REVW Oral Arg 12/09/2020	3 Washburn	06/24/2020 Pub. 2020 WI App 34 ___ Wis. 2d ___ 946 N.W.2d 206

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2018AP2318-CR	<u>State v. Alan M. Johnson</u>  Was the defendant entitled to a jury instruction for perfect self-defense based on his testimony concerning his motivation for trespassing with a loaded firearm in the victim's house, despite the fact that the victim was unarmed, shot five times, and the defendant could not recall anything about the shooting other than that the victim "lunged" at him?  Was the defendant entitled to submission of the lesser-included offense of second-degree reckless homicide under the above circumstances?  Did the circuit court erroneously exercise its discretion in excluding evidence of alleged child pornography the defendant found on the victim's computer before he killed the victim?	09/16/2020 REVW Oral Arg 01/19/2021	2 Walworth	08/31/2020 Pub. 2020 WI App 50 ___ Wis. 2d ___ ___ N.W.2d ___
2018AP2357-LV	<u>State v. Anthony James Jendusa</u>  In an appeal of a sexually-violent person commitment trial, did the appellate court erroneously exercise its discretion in denying the State's petition for leave to appeal because the order subjects DOC and the researchers to substantial and irreparable injury and raises issues in the administration of justice, because the circuit court had no authority—pursuant to Wis. Stat. § 980.036(2)(h), § 980.036(2)(j), § 980.036(5), or <u>Brady v. Maryland</u> , 373 U.S. 83 (1963) — to order DOC to disclose this data to the defense for use in a sexually-violent person commitment trial?  Does release of the information in the database sought by the respondent violate either Wisconsin or federal law, see e.g., Wis. Stat. § 51.30; Wis. Stat. §§ 146.81-83; Wis. Admin. Code ch. DHS 92; 42 C.F.R. ch. 1(A)2, 2a; 42 C.F.R. Part 2; 45 C.F.R. Subt. A, Subch. A., pt. 46 (protection of human subjects); 45 C.F.R. Subt. A, Subch. C, pt. 164 (HIPPA)?  Does an entity like the Department of Corrections fall under the umbrella of “the state” for the purposes of the Wis. Stat. Ch. 980 discovery statutes?  Does the circuit court have authority to order a non-investigative agency to provide a defendant with data that does not meet any of the discovery provisions in Wis. Stat. Ch. 980?  Does <u>Brady v. Maryland</u> impose any duty on a prosecutor in sexually violent person commitment trials?	01/23/2020 REVW Oral Arg 10/26/2020	1 Milwaukee	--
2018AP2371 (consolidated with 2018AP1880)	<u>David Stroede v. Society Insurance, A Mutual Company</u>  Whether the defendant qualifies as a "Possessor of Real Property" as that term is defined and used in Wis. Stat. § 895.529, Civil liability limitation; duty of care owed to trespassers.	07/15/2020 REVW Oral Arg 12/09/2020	1 Milwaukee	02/26/2020 Pub. 2020 WI App 8 390 Wis. 2d 817 ___ N.W.2d ___

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2018AP2383	<u>United America, LLC v. Wisconsin Department of Transportation</u>  The issue presented is the interpretation and scope of the statutory language in Wis. Stats. § 32.18, "any damages to said lands."	08/20/2020 REVW Oral Arg 01/11/2021	3 Lincoln	05/27/2020 Pub. 2020 WI App 24 392 Wis.2d 335 944 N.W.2d 38
2018AP2419-CR	<u>State v. Angel Mercado</u>  Did the court of appeals contravene Wis. Stat. § 901.03(1)(a) when it directly reviewed the defendant's forfeited challenges to the admission of the victims' forensic- interview videos into evidence?  Did the circuit court properly admit the victims' forensic-interview videos into evidence at trial? This question presents four sub-issues:  Did the circuit court comply with Wis. Stat. § 908.08(2)(b) when it reviewed the relevant portions of two child victims' forensic-interview videos before playing them to the jury?  Did the court of appeals conflict with precedent when it rejected the State's argument that all three victims' forensic-interview videos were admissible under the residual hearsay exception?  Was the youngest victim's forensic-interview video also admissible under Wis. Stat. § 908.08(3)(c) or as a prior inconsistent statement?  Did the circuit court comply with Wis. Stat. § 908.08(5)(a) when it allowed the youngest victim to testify before playing her forensic-interview video for the jury?	05/19/2020 REVW Oral Arg 10/26/2020	1 Milwaukee	03/26/2020 Pub. 2020 WI App 14 391 Wis. 2d 304 ___ N.W.2d ___
2019AP90-CR	<u>State v. George E. Savage</u>  Did the defendant prove that he was entitled to withdraw his plea without showing a reasonable probability that his defense would have succeeded at trial?  Did <u>State v. Sholar</u> , 2018 WI 53, 381 Wis. 2d 560, 912 N.W.2d 89, prevent the court of appeals from affirming the circuit court's determination that counsel was not ineffective based on the evidence at the <u>Machner</u> hearing?	05/19/2020 REVW <b>Reversed</b> <b>12/23/2020</b> <b>2020 WI 93</b>	1 Milwaukee	Unpub.
2019AP130	<u>Southport Commons, LLC v. Wisconsin Department of Transportation</u>  What is the correct interpretation of Wis. Stat. § 88.87(2)(c), which provides in relevant part: "If ...[DOT] constructs and maintains a highway ... not in accordance with par. (a), any property owner damaged by the highway ... may, within 3 years after the alleged damage occurred, file a claim with the appropriate governmental agency."?	08/20/2020 REVW Oral Arg 01/13/2021	2 Kenosha	05/27/2020 Pub. 2020 WI App 26 392 Wis.2d 207 944 N.W.2d 46

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2019AP411-CR	<u>State v. Decarlos K. Chambers</u>  Whether the Court of Appeals erred in affirming the trial court's decision and order in denying the defendant's Motion for Postconviction Relief.	09/16/2020 REVV Oral Arg 01/11/2021	1 Milwaukee	Unpub.
2019AP435-CR	<u>State v. James Timothy Genous</u>  Do the following facts contribute to reasonable suspicion of illegal drug activity: a brief encounter in a car between two or more people, an officer's belief that one or more people is a known drug user, the time of day or night, and the car's headlights turning off right before the encounter and turning back on right afterward?	09/16/2020 REVV Oral Arg. 03/03/2021	1 Milwaukee	Unpub.
2019AP447-CR	<u>State v. Heather Jan VanBeek</u>  Whether a consensual encounter becomes an unconstitutional seizure under the Fourth Amendment when an officer requests and takes an individual's driver's license to the officer's squad car without reasonable suspicion.	09/16/2020 CERT Oral Arg. 02/23/2021	2 Sheboygan	--
2019AP488	<u>Kemper Independence Ins. Co. v. Ismet Islami</u>  What degree of endangerment must exist for innocent victims of abuse to support application of the public policy limitations on insurance contracts under Wis. Stat. § 631.95(2)(f)?  Whether the Wisconsin Marital Property Act, Wis. Stat. § 766.01(7) and (8), which provides that a judgment of legal separation effectuates "dissolution" of marriage as a matter of law, applies to property insurance.  Whether the public policy of the state of Wisconsin prohibits a property insurer from denying payment to an "innocent insured" victim of arson pursuant to the seminal supreme court decision in <u>Hedtcke v. Sentry Insurance Company</u> , 10 Wis. 2d 461, 326 N.W.2d 727, 739 (1992).  Whether the language of the "intentional loss" clause in the subject policy, which specifically severs and preserves recovery rights under the policy to "innocent insureds," supersedes conflicting language of the "concealment or fraud" clause.  Whether the wording of the "concealment or fraud" clause of the subject homeowner's policy is ambiguous, when viewed in isolation.  Whether the superseding Wisconsin endorsement conditions E. and G. prohibit application of the "concealment or fraud" condition relied upon by the insurer to void coverage.	09/16/2020 REVV Oral Arg. 02/22/2021	2 Waukesha	06/24/2020 Pub. 2020 WI App 38 ___ Wis. 2d ___ 946 N.W.2d 231

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2019AP818	<p><u>Southwest Airlines Co. v. Wis. Dept. of Revenue</u></p> <p>Did the Airline qualify for the Hub Facility Exemption for the 2013 Assessment Year when, in the prior year, the Airline operated and flew common carrier departing flights on each and every weekday; operated and flew at least 45 common carrier departing flights on all but six weekdays that were adversely impacted due to weather and holidays (or 97 percent of weekdays); and/or scheduled more than 45 common carrier departing flights on 98 percent of the weekdays?</p> <p>Did the Airline qualify for the Hub Facility Exemption for the 2014 Assessment Year when, in the prior year, the Airline scheduled and flew common carrier departing flights each and every weekday and scheduled an average of more than 46 common carrier departing flights on each weekday?</p> <p>Are the general property tax provisions at Wis. Stat. § 70.11(intro), which requires a newly-exempt taxpayer to file a form with the local assessor to request an exemption, and Wis. Stat. § 74.35, which purports to be the exclusive procedure to claim an exemption, inapplicable to an air carrier company that qualifies for the Hub Facility Exemption?</p> <p>In the absence of any other statutory-prescribed remedy, does Wis. Stat. § 76.075 provide the Airline with a procedure to request a refund when the statute allows the Department or a person subjected to tax under Chapter 76 to request an adjustment to the data submitted by the person at any time within four years?</p> <p>Did the Airline's filing of annual reports for the 2012 and/or 2013 Assessment Years during a transitional period in Southwest Airlines' acquisition of AirTran Airways constitute a mistake of fact that bars application of the voluntary payment doctrine to deny the Airline's claim for refund?</p>	<p>09/16/2020            REVW            Oral Arg.            02/23/2021</p>	<p>4/1            Dane</p>	<p>Unpub.</p>
*2019AP882	<p><u>City of Mayville v. Dept. of Administration</u></p> <p>Did DOA validly approve a Wis. Stat. § 66.0307 cooperative plan that changed the boundary between two municipalities by entirely eliminating it?</p> <p>Did Mayville have standing under ch. 227, Stats., to challenge DOA's approval of the plan?</p> <p>Whether DOA properly approved the cooperative plan boundary agreement between the Village of Kekoskee and the Town of Williamstown pursuant to Wis. Stat. § 66.0307.</p> <p>Whether Mayville had standing to challenge DOA's decision to approve the cooperative plan even though Mayville was neither a party to the cooperative plan nor a third party beneficiary of it.</p>	<p>12/17/2020            REVW</p>	<p>4            Dodge</p>	<p>10/29/2020            Pub.            2020 WI App 63            394 Wis. 2d 296            950 N.W.2d 925</p>

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APPENDIX  
**WISCONSIN SUPREME COURT PENDING CASES**  
 Clerk of Supreme Court  
 (608) 266-1880

Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
*2019AP894	<u>Eau Claire County Department of Human Services v. S. E.</u>  Whether as a matter of statutory construction the new, shorter timeframe begins with the initial CHIPS order, even if it predates the change in the statute and thus does not include notice of the shorter timeframe.  Whether starting the shorter timeframe with a CHIPS order that predates the statutory change violates a parent's due process rights.	10/21/2020 REVW Oral Arg. 02/25/2021	3 Eau Claire	06/24/2020 Pub. 2020 WI App 39 392 Wis. 2d 726 946 N.W.2d 155
*2019AP1200	<u>Kathy Schwab v. Paul Schwab</u>  Does Wis. Stat. § 893.40 deprive the circuit court of its inherent and statutory contempt power under Wis. Stat. ch. 785 when one party brings a contempt action to enforce a vested property right, which was not obtainable until after 20 years from the entry of the judgment?	11/18/2020 REVW Oral Arg. 03/15/2021	1 Milwaukee	06/24/2020 Pub. 2020 WI App 40 392 Wis. 2d 660 946 N.W.2d 241
*2019AP1272-CR	<u>State v. Jordan Alexander Lickes</u>  Does the expungement statute's requirement that a probationer have "satisfied the conditions of probation" also mean that the probationer must perfectly comply at all times with each and every rule of probation set by the probation agent?  When a circuit court chooses to hold a hearing and exercise discretion to determine whether a probationer who violated a rule set by his agent has nevertheless "satisfied the conditions of probation" so as to qualify for expungement, should the appellate court review the circuit court's decision for an erroneous exercise of discretion?  When a circuit court makes factual findings concerning whether a probationer violated a condition of probation rendering him ineligible for expungement, must the appellate court uphold the finding in the absence of clear error?	11/18/2020 REVW Oral Arg. 03/18/2021	4 Green	09/30/2020 Pub. 2020 WI App 59 394 Wis. 2d 161 949 N.W.2d 623

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APPENDIX  
**WISCONSIN SUPREME COURT PENDING CASES**  
 Clerk of Supreme Court  
 (608) 266-1880

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*2019AP1404-CR	<u>State v. George Steven Burch</u>  Would a reasonable person consider the scope of consent to search a cell phone to be limited by the person's discussion with law enforcement, or would a reasonable person properly consider a subsequent discussion about police extracting information from the cell phone as showing the person had consented to police searching the phone in its entirety?  May a reasonable person consider the broad scope of the consent form signed by a defendant despite the officer's initial request to review only the text messages on the phone?  After police downloaded information from the cell phone, what portion of Burch's data could it lawfully retain?  If the police department was permitted to retain some or all of the downloaded material, how long could it do so?  Did the status of the original investigation that produced the download affect the ability of police to lawfully retain the downloaded material?  Did the police have any obligation to return the downloaded material to Burch, and if so, when?	11/18/2020 CERT	3 Brown	--
2019AP1767-CR	<u>State v. Mitchell L. Christen</u>  Does the consumption of a legal intoxicant void the Second Amendment's guarantee of the right to carry a firearm for the purpose of self-defense?	09/16/2020 REVW Oral Arg 01/21/2021	4 Dane	Unpub.
*2019AP1918	<u>Cheyne Monroe v. Chad Chase</u>  Whether a malicious prosecution defendant's unilateral voluntary dismissal of a prior proceeding can ever satisfy the third element of a malicious prosecution claim—that the prior proceeding terminated in the malicious prosecution plaintiff's favor.	10/21/2020 CERT Oral Arg. 03/03/2021	4 Dane	--
*2019AP1983-CR	<u>State v. Jacob Richard Beyer</u>  Whether the guilty-plea-waiver rule applies when a defendant pleads not guilty to an offense, but stipulates to the inculpatory facts supporting each element of the offense, and explicitly agrees to a finding of guilt at a hearing before the circuit court at which no witness testifies.	11/18/2020 CERT Oral Arg. 03/15/2021	4 Dane	--
2019AP2033	<u>Portage County v. E. R. R.</u>  Whether an appeal from a Wis. Stat. § 51.20(1)(am) commitment order may properly be dismissed as moot.  Whether the County met its burden to prove by clear and convincing evidence that the respondent was currently dangerous as required by Wis. Stat. § 51.20(1)(am).	08/20/2020 REVW Oral Arg 12/10/2020	4 Portage	Unpub.

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APPENDIX  
**WISCONSIN SUPREME COURT PENDING CASES**

Clerk of Supreme Court  
(608) 266-1880

Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
*2019AP2061-CR	<u>State v. Brian Vincent Rotolo</u>  Does the <u>Lonkoski</u> standard ( <u>State v. Lonkoski</u> , 2013 WI 30, 346 Wis. 2d 523, 828 N.W.2d 552) for whether an individual is "in custody" for purposes of <u>Miranda</u> ( <u>Miranda v. Arizona</u> , 384 U.S. 436 (1966)) apply in all Fifth Amendment inquiries, or does a different test apply when the person is detained pursuant to a <u>Terry</u> stop? ( <u>Terry v. Ohio</u> , 392 U.S. 1 (1968)).	12/28/2020 REVW	2 Winnebago	Unpub.
*2019AP2073	<u>Fond du Lac County v. S.N.W.</u>  Did the circuit court lack competency to proceed with the final hearing due to the 48-hour rule violation?  If the circuit court retained competency, did it err in admitting the tardy report and its author's testimony?  Was the evidence presented at S.N.W.'s final hearing sufficient to prove him dangerous?  Is this appeal moot?	11/19/2020 REVW Oral Arg. 03/23/2021	2 Fond du Lac	Unpub.
2019AP2397 (consolidated with 2020AP112)	<u>Timothy Zignego v. Wisconsin Elections Commission</u>  Does Wis. Stat. § 6.50(3) apply to the Wisconsin Elections Commission ("WEC")?  Was it proper to order WEC to comply with Wis. Stat. § 6.50(3) and, as is required by that law, to deactivate the voter registrations of voters within 30 days of sending them a notice and receiving no response?  Was it proper to find WEC and certain of its commissioners in contempt for failing to comply with the Writ of Mandamus for 32 days after the Circuit Court granted the Writ, and for twice voting not to comply with the Writ?	06/01/2020 REVW Oral Arg. 09/29/2020	2 Ozaukee	03/26/2020 Pub. 2020 WI App 17 391 Wis. 2d 441 941 N.W. 2d 284
2020AP112 (consolidated with 2019AP2397)	<u>Timothy Zignego v. Wisconsin Elections Commission</u>  Does Wis. Stat. § 6.50(3) apply to the Wisconsin Elections Commission ("WEC")?  Was it proper to order WEC to comply with Wis. Stat. § 6.50(3) and, as is required by that law, to deactivate the voter registrations of voters within 30 days of sending them a notice and receiving no response?  Was it proper to find WEC and certain of its commissioners in contempt for failing to comply with the Writ of Mandamus for 32 days after the Circuit Court granted the Writ, and for twice voting not to comply with the Writ?	06/01/2020 REVW Oral Arg. 09/29/2020	2 Ozaukee	03/26/2020 Pub. 2020 WI App 17 391 Wis. 2d 441 941 N.W.2d 284

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APPENDIX

**WISCONSIN SUPREME COURT PENDING CASES**

Clerk of Supreme Court  
(608) 266-1880

Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
2020AP557-OA	<u>Mark Jefferson v. Dane County</u>  Do respondents have the authority to issue an interpretation of state election law allowing Dane County voters to vote absentee without a photo ID?  Does Emergency Order #12, the “Safer at Home” Order, authorize all Wisconsin voters – regardless of whether they are “indefinitely confined” or suffering a “physical illness or infirmity” due to COVID-19 – to vote absentee without a photo ID?  May an elector who is not indefinitely confined and who is not disabled for indefinite period obtain an absentee ballot under Wis. Stat. § 6.86(2)(a) due to the COVID-19 pandemic?	04/01/2020 ORIG <b>Wis. Stat. § 6.86 (2) (a) interpreted 12/14/2020 2020 WI 90</b>	4 Dane	--
*2020AP616-CR	<u>State v. Anthony M. Schmidt</u>  Does Wis. Stat. § 973.042(1) (the child pornography surcharge statutes) permit the circuit court to impose a child pornography surcharge for an offense that is "read in" for sentencing purposes?  Is the child pornography surcharge a punishment that must be explained during a plea colloquy? If so, was the defendant entitled to a hearing on his claim that the plea colloquy was deficient in this case?	12/28/2020 BYPA	2 Walworth	--
2020AP1419-OA (consolidated with 2020AP1420-OA and 2020AP1446- OA)	<u>Sara Lindsey James v. Janel Heinrich</u>  Whether the School-Closure Order exceeds the Dane County health officer's statutory authority under Wis. Stat. § 252.03.  Whether the School-Closure Order violates the petitioners' fundamental right to the free exercise of religion under Article I, § 18 of the Wisconsin Constitution.  Whether the School-Closure Order violates the petitioners' fundamental right to direct the education and upbringing of their children under Article I, §1 of the Wisconsin Constitution.  Whether indefinitely closing all public and private schools in Dane County to in-person student instruction for grades 3 through 12 is “reasonable and necessary for the prevention and suppression” of COVID-19 and/or “necessary to prevent, suppress and control” COVID-19.	09/10/2020 ORIG Oral Arg 12/08/2020	4 Dane	--

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APPENDIX  
**WISCONSIN SUPREME COURT PENDING CASES**

Clerk of Supreme Court  
(608) 266-1880

Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
2020AP1420-OA (consolidated with 2020AP1419-OA and 2020AP1446- OA)	<u>WCRIS v. Janel Heinrich</u>  Whether the School-Closure Order exceeds the Dane County health officer's statutory authority under Wis. Stat. § 252.03.  Whether the School-Closure Order violates the petitioners' fundamental right to the free exercise of religion under Article I, § 18 of the Wisconsin Constitution.  Whether the School-Closure Order violates the petitioners' fundamental right to direct the education and upbringing of their children under Article I, §1 of the Wisconsin Constitution.  Whether indefinitely closing all public and private schools in Dane County to in-person student instruction for grades 3 through 12 is "reasonable and necessary for the prevention and suppression" of COVID-19 and/or "necessary to prevent, suppress and control" COVID-19.	09/10/2020 ORIG Oral Arg 12/08/2020	4 Dane	--
2020AP1446-OA (consolidated with 2020AP1419-OA and 2020AP1420- OA)	<u>St. Ambrose Academy, Inc. v. Joseph T. Parisi</u>  Whether the School-Closure Order exceeds the Dane County health officer's statutory authority under Wis. Stat. § 252.03.  Whether the School-Closure Order violates the petitioners' fundamental right to the free exercise of religion under Article I, § 18 of the Wisconsin Constitution.  Whether the School-Closure Order violates the petitioners' fundamental right to direct the education and upbringing of their children under Article I, §1 of the Wisconsin Constitution.  Whether indefinitely closing all public and private schools in Dane County to in-person student instruction for grades 3 through 12 is "reasonable and necessary for the prevention and suppression" of COVID-19 and/or "necessary to prevent, suppress and control" COVID-19.	09/10/2020 ORIG Oral Arg 12/08/2020	4 Dane	--
*2020AP1634-CQ	<u>Democratic National Committee v. Marge Bostelmann</u>  Whether, under Wis. Stat. § 903.09 (2m), the State Legislature has the authority to represent the State of Wisconsin's interest in the validity of state laws.	10/02/2020 CERQ <b>Certified questioned answered; remanded to 7<sup>th</sup> Circ. 10/06/2020</b>	U.S. Court of Appeals, 7 <sup>th</sup> Circ.	--
*2020AP1718-OA	<u>Jere Fabick v. Tony Evers</u>  Whether the Governor violated Wis. Stat. § 323.10 when he issued multiple and successive executive orders declaring a state of emergency beyond 60 days in response to the COVID-19 pandemic.	10/28/2020 ORIG Oral Arg. 11/16/2020	4 Dane	--

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APPENDIX  
**WISCONSIN SUPREME COURT PENDING CASES**  
 Clerk of Supreme Court  
 (608) 266-1880

Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
*2020AP1742	<u>Tavern League of Wisconsin, Inc. v. Andrea Palm</u>  Did the court of appeals err in concluding that Emergency Order 3 is invalid because it was not promulgated as a rule pursuant to Wis. Stat. ch. 227?	11/18/2020 REVW Oral Arg. 12/17/2020	3 Sawyer	--
*2020AP2038	<u>Donald J. Trump v. Joseph R. Biden</u>  Whether certain classes of votes cast in Dane and Milwaukee Counties can be legally included in the total state vote counts in the 2020 presidential election.	12/11/2020 <b>Judgment of circuit court affirmed</b> 12/14/2020 2020 WI 91	1 Milwaukee	--

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