

March 22, 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
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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- whether the Court of Appeals decision is published or unpublished, and, if it is published, the citations to the public domain citation and the official reports for the Court of Appeals decision.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 **March 22, 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.

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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 Oral Arg. 04/21/2021	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>	07/15/2020 REVW Oral Arg 11/10/2020	2 Washington	Unpub.

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
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 Oral Arg. 04/21/2021	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 Affirmed in part, reversed in part; remanded 02/02/2021 2021 WI 8	2 Waukesha	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 Affirmed 01/27/2021 2021 WI 6	3 Oneida	11/20/2019 Pub. 2019 WI App 59 389 Wis. 2d 309 935 N.W.2d 856
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.

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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 Affirmed, remanded 01/29/2021 2021 WI 7	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 32 392 Wis. 2d 672 946 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
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 Reversed and remanded 03/16/2021 2021 WI 26	4 Green	02/26/2020 Pub. 2020 WI App 7 390 Wis. 2d 708 940 N.W.2d 725
*2018AP1476-CR	<u>State v. Octavia W. Dodson</u> Did the sentencing court violate the defendant's Second Amendment right by considering his status as a lawful gun owner an aggravating factor at sentencing?	01/20/2021 REVW	1 Milwaukee	Unpub.
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 Reversed and remanded 02/23/2021 2021 WI 14	3 Vilas	08/28/2019 Pub. 2019 WI App 46 388 Wis. 2d 421 933 N.W.2d 167

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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 Affirmed 02/09/2021 2021 WI 9	4 Waupaca	Unpub.
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 Decision modified; as modified, affirmed 03/18/2021 2021 WI 27	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 Reversed 02/11/2021 2021 WI 11	4 Rock	Unpub.
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 33 392 Wis. 2d 715 946 N.W.2d 200

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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 34 392 Wis. 2d 754 946 N.W.2d 206
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 50 393 Wis. 2d 688 948 N.W.2d 377
*2018AP2319-CR	<u>State v. Manuel Garcia</u> Did the court of appeals err when it reversed the defendant's conviction based on the legal conclusion that the introduction at trial of inculpatory statements Garcia made to police violated his rights under <u>Miranda v. Arizona</u> , 384 U.S. 436 (1966) because the defendant himself did not testify, despite the fact that the circuit court admitted the statements under the "opening the door" exception, elucidated by this court in <u>State v. Brecht</u> , 143 Wis. 2d 297, 421 N.W.2d 96 (1988), and not the impeachment exception discussed in <u>Harris v. New York</u> , 401 U.S. 222 (1971)?	01/20/2021 REVW	2 Racine	11/19/2020 Pub. 2020 WI App 71 ___ Wis. 2d ___ 951 N.W.2d 631

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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 Affirmed and remanded 03/10/2021 2021 WI 24	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 ___
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
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 Reversed 12/23/2020 2020 WI 93	1 Milwaukee	Unpub.

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*2019AP96	<u>Friends of Frame Park, U.A. v. City of Waukesha</u> Is the test to be applied to determine if a litigant is entitled to attorney's fees under Wis. Stat. § 19.37(2)(a) of the Public Records Law whether the legal custodian properly withheld records under an exception to that law initially, regardless of whether commencement of an action was a cause of the release of the records? May a draft contract which is the subject of negotiation between a municipality and a private entity be withheld from disclosure under the Public Records Law pursuant to Wis. Stat. §§ 19.35(1)(a) and 19.85(1)(e) where the contract has not yet been presented to the municipality's governing body for review, and before it meets in closed session to do so?	02/24/2021 REVW	2 Waukesha	10/29/2020 Pub. 2020 WI App 61 394 Wis. 2d 387 950 N.W.2d 831
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
*2019AP299	<u>Friends of the Black River Forest v. DNR</u> Does a plaintiff satisfy the "injury-in-fact" prong of the standing test by alleging an injury that will not, and cannot, result from the challenged action until numerous intervening, uncertain, and unrelated events occur? Does a plaintiff satisfy the "zone of interest" prong of the standing test by alleging a violation of statutes and regulations that expressly grant the DNR the power to take such action? Does a Plaintiff satisfy the "zone of interest" prong of the standing test by alleging that an injury is environmental in nature, even where the statute at issue is not? Does the plaintiff's alleged injuries fall outside the zone of interests of the land-disposition law, so that they lack standing to challenge the Board's land exchange with one of the defendants?	02/24/2021 REVW	2 Sheboygan	Unpub.
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 REVW Affirmed 02/23/2021 2021 WI 13	1 Milwaukee	Unpub.

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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 REVW 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 REVW Oral Arg. 02/22/2021	2 Waukesha	06/24/2020 Pub. 2020 WI App 38 392 Wis. 2d 866 946 N.W.2d 231

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*2019AP664-CR	<u>State v. Alan S. Johnson</u> Whether an alleged victim in a criminal case has standing under the 2020 Wisconsin Constitutional Amendment to lodge legal arguments in opposition to a defendant's motion for in camera review. Whether the 2020 Wisconsin Constitutional Amendment applies retroactively to an alleged victim's request for standing to lodge legal arguments in opposition to a pending motion for in camera review which was filed, and pertinent issue litigated, prior to the enactment of the amendment. Whether Wis. Stat. § 950.105, which provides in relevant part that, "[a] crime victim has a right to assert, in a court in the county in which the alleged violations occurred, his or her rights as a crime victim under the statutes or under article 1, section 9m of the Wisconsin Constitution," confers standing upon the alleged crime victim in this matter.	02/26/2021 REVW	4 Waupaca	11/19/2020 Pub. 2020 WI App 73 394 Wis. 2d 807 951 N.W. 2d 616
*2019AP691-CR 2019AP692-CR	<u>State v. Cesar Antonio Lira</u> Should the defendant's award of credit be reversed because, under the terms of Wis. Stat. § 973.155, the defendant's Oklahoma custody was not connected to the conduct for which he was sentenced in Wisconsin? Should <u>State v. Brown</u> , 2006 WI App 41, 289 Wis. 2d 823, 711 N.W.2d 708, be overruled because it misinterpreted the interplay between Wis. Stat. §§ 973.15(5) and 973.155? Should this award of credit to the defendant be vacated because it is contrary to Wis. Stat. § 973.155(1)(a) and case law interpreting the statute?	01/20/2021 REVW	1 Milwaukee	Unpub.

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
2019AP818	<u>Southwest Airlines Co. v. Wis. Dept. of Revenue</u> 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? 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? 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? 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? 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?	09/16/2020 REVW Oral Arg. 02/23/2021	4/1 Dane	Unpub.
2019AP882	<u>City of Mayville v. Dept. of Administration</u> Did DOA validly approve a Wis. Stat. § 66.0307 cooperative plan that changed the boundary between two municipalities by entirely eliminating it? Did Mayville have standing under ch. 227, Stats., to challenge DOA's approval of the plan? 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. 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.	12/17/2020 REVW Oral Arg. 04/08/2021	4 Dodge	10/29/2020 Pub. 2020 WI App 63 394 Wis. 2d 296 950 N.W.2d 925

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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
*2019AP1033	<u>Sauk County v. S. A. M.</u> Whether respondent's appeal of his recommitment was moot because the commitment expired before respondent filed his notice of appeal. Whether Sauk County failed to meet its burden to prove by clear and convincing evidence that respondent was dangerous. Whether respondent was denied procedural due process because he did not receive particularized notice of the basis for his recommitment, including which of the standards of dangerousness was being alleged. Whether this court has the authority, through its "superintending and administrative authority over all courts" (Wis. Const. art. VII, § 3(1)) and/or its authority to "regulate pleading, practice, and procedure in judicial proceedings in all courts" (Wis. Stat. § 751.12(1)), to require the Court of Appeals to expedite the disposition of appeals under Wis. Stat. ch. 51, or in some other manner to ensure that appellants under Wis. Stat. ch. 51 receive an appeal that addresses the merits of the appellants' contentions?	02/24/2021 REVW	4 Sauk	Unpub.
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

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*2019AP1206	<u>Daniel J. Hennessy, Jr. v. Wells Fargo Bank, N.A.</u> Should Wisconsin modernize its approach to interpreting foreign countries' laws by adopting the federal and other states' approach of allowing judges to consult whatever resources they deem helpful and treating legal interpretation as a question of law? Did the circuit court correctly extend comity to a Mexican proceeding by entering a monetary judgment for no specific amount of money in the absence of a judgment for a definite sum of money by the Mexican court? Where it is undisputed that the Wisconsin contracts were governed by Wisconsin law and that the Mexican courts did not consider Wisconsin law, did the circuit court err in concluding that the Mexican judgment intended, <u>sub silentio</u> , to find liability under the Wisconsin Contracts?	02/24/2021 REVW	1 Milwaukee	10/29/2020 Pub. 2020 WI App 64 394 Wis. 2d 357 950 N.W.2d 877
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
*2019AP1320	<u>Elliot Brey v. State Farm Mutual Automobile Ins. Co.</u> Does the definition of "underinsured motorist coverage" in Wis. Stat. § 632.32(2)(d) void underinsured motorist (UIM) insurance policy provisions requiring that an insured sustain a bodily injury in order for UIM benefits to be collectable, thereby overruling the prior Court of Appeals decision in <u>Ledman v. State Farm Mut. Auto Ins. Co.</u> , 230 Wis. 2d 56, 601 N.W.2d 312 (Ct. App. 1999)?	02/24/2021 REVW	4 Monroe	07/29/2020 Pub. 2020 WI App 45 393 Wis. 2d 574 947 N.W.2d 205

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*2019AP1365	<u>Danelle Duncan v. Asset Recovery Specialists, Inc.</u> Was the repossession of plaintiff's vehicle from the ground floor, open door, multivehicle parking garage and separate parking space proper under Wis. Stat. § 425.206(2)(b), based on the circuit court's determination that the parking garage was not a "dwelling used by [the plaintiff] as a residence?" Was the dismissal of plaintiff's Wis. Stat. § 425.107 "Unconscionable Behavior" claim on summary judgment by the circuit court proper? Whether a plaintiff may bring an affirmative claim under Wis. Stat. § 425.107, or whether that section is limited to being raised only defensively in response to a suit by a merchant or creditor?	01/25/2021 REVW	4 Dane	08/31/2020 Pub. 2020 WI App 54 393 Wis. 2d 814 948 N.W.2d 419
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 Oral Arg. 04/12/2021	3 Brown	--
*2019AP1565-CR	<u>State v. Ryan Hugh Mulhern</u> Must the rape shield statute bar relevant evidence of the victim's lack of sexual conduct that the victim offers to corroborate her claim of sexual assault, that is not prejudicial to her or to the defendant, and that causes none of the harms that the statute protects against? Assuming that the rape shield law barred a victim's elicited statement, is the error harmless, given that the admitted evidence was relevant, non-prejudicial, and admitted in violation of a statute designed to protect victims?	01/20/2021 REVW	3 Pierce	Unpub.

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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 Affirmed by equally divided court 03/09/2021 2021 WI 22	4 Portage	Unpub.
*2019AP2034	<u>Andrea Townsend v. ChartSwap, LLC</u> Whether Wis. Stat. § 146.83(3f)(b), which limits the amount that a "health care provider" may charge for providing copies of patient health records, applies to entities that are not "health care providers". Whether, under Wis. Stat. § 990.001(9), an agent is directly liable for any conduct that violates any statutory requirement applicable to the principal.	02/24/2021 REVW	1 Milwaukee	12/23/2020 Pub. 2020 WI App 79 395 Wis. 2d 229 952 N.W.2d 831
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.

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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
*2020AP370	<u>Waukesha County v. E.J.W.</u> When a final hearing is adjourned for good cause to facilitate the appointment of new counsel, is the deadline to file a jury demand reset to 48 hours in advance of the new time set for the hearing under Wis. Stat. § 51.20(11)?	02/24/2021 REVW	2 Waukesha	Unpub.

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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 Oral Arg. 04/08/2021	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	--
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	--

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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	--
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	--
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	--
*2021AP265-CQ	<u>St. Augustine School v. Carolyn Stanford Taylor</u> For purposes of determining whether two or more schools are "private schools affiliated with the same religious denomination" for purposes of Wis. Stat. 121.51, must the state superintendent rely exclusively on neutral criteria such as ownership, control, and articles of incorporation, or may the superintendent also take into account the school's self-identification in sources such as its website or filings with the state. The Free Exercise Clause and the Establishment Clause of the First Amendment may bear upon our interpretation of Wis. Stat. § 121.51 and its inclusion of "private schools affiliated with the same religious denomination." In meeting the query of the certified question, should we revisit this court's decisions in <u>State ex rel. Vanko v. Kahl</u> , 52 Wis. 2d 206, 188 N.W.2d 210 (1971) and <u>Holy Trinity Community School, Inc. v. Kahl</u> , 82 Wis. 2d 139, 262 N.W.2d 210 (1978).	02/17/2021 CERQ Oral Arg. 05/04/2021	U.S. Court of Appeals, 7 th Circ.	--

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