

June 23, 2022

WISCONSIN SUPREME COURT

TABLE OF PENDING CASES

Clerk of Supreme Court
Telephone: (608) 266-1880
Facsimile: (608) 267-0640
Web Site: www.wicourts.gov
Wisconsin Supreme Court Case Access: <http://wscca.wicourts.gov>

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- whether the Court of Appeals decision is published or unpublished, and, if it is published, the citations to the public domain citation and the official reports for the Court of Appeals decision.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 **June 23, 2022**. 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
WISCONSIN SUPREME COURT PENDING CASES
 Clerk of Supreme Court
 (608) 266-1880

Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
2018AP942-CR	<u>State v. Robert Daris Spencer</u> Was the court of appeals correct that the trial court's assumed unconstitutional ex parte communication with, and dismissal of, the only African-American on the defendant's jury, was subject to harmless error analysis; and, if so, was the court of appeals correct that the dismissal of the juror constituted harmless error? Did the trial court violate the defendant's constitutional rights and/or erroneously exercise its discretion when it considered the race of the defendant and of trial participants when justifying the juror's dismissal? If Defendant-Appellant-Petitioner's right to counsel was denied at a critical state, was that error harmless? Did the circuit court's decision dismissing the sick juror violate Defendant-Appellant-Petitioner's rights to due process and equal protection, or constitute an erroneous exercise of discretion?	08/13/2021 REVW Oral Arg 03/02/2022	1 Milwaukee	Unpub.
*2018AP2005-CR	<u>State v. Garland Dean Barnes</u> Can a defendant "open the door" to testimonial hearsay violating his confrontation rights, and which was excluded based on an "egregious" discovery violation, by challenging the quality of the police investigation? Can the claim that a non-testifying officer witnessed the defendant commit the crime be admitted over hearsay objections under the theory that it is admissible to show the course of investigation, not for the truth of the matter asserted?	04/15/2022 REVW	3 Douglas	Unpub.
2018AP2205	<u>State v. C. G.</u> Does Wis. Stat. § 301.45, the statute governing juvenile sex offender registration, unconstitutionally infringe on Ella's* First Amendment right to freedom of speech by preventing her from legally changing her name to reflect her gender identity? Does requiring Ella to register under Wis. Stat. § 301.45 amount to cruel and unusual punishment in violation of the Eighth Amendment? * Ella is a pseudonym pursuant to Wis. Stat. § 809.19(1)(g). Ella is a transgender female and, therefore, will be referred to using female pronouns.	04/27/2021 REVW Oral Arg 02/17/2022	3 Shawano	02/24/2021 Pub. 2021 WI App 11 396 Wis. 2d 105 955 N.W.2d 443

NOTE: 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.

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
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 Oral Arg 09/09/2021	2 Waukesha	10/29/2020 Pub. 2020 WI App 61 394 Wis. 2d 387 950 N.W.2d 831
2019AP221-CR	<u>State v. Nhia Lee</u> If the circuit court lost jurisdiction to determine probable cause at a preliminary hearing because the ten-day time limit under Wis. Stat. § 970.03(2) had expired by 104 days, what is the appropriate remedy? Should circuit courts be required to appoint attorneys when there are delays in securing SPD-appointed counsel for a defendant? Was a defendant's right to counsel denied? Was defendant denied due process? Was a defendant's right to a speedy trial denied?	05/19/2021 REVW Dismissed 05/24/2022 2022 WI 32	3 Marathon	02/24/2021 Pub. 2021 WI App 12 396 Wis. 2d 136 955 N.W.2d 424
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 Oral Arg 10/01/2021	2 Sheboygan	Unpub.

NOTE: 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.

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
2019AP664-CR	<p><u>State v. Alan S. Johnson</u></p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>02/26/2021 REVW Oral Arg 09/29/2021</p>	<p>4 Waupaca</p>	<p>11/19/2020 Pub. 2020 WI App 73 394 Wis. 2d 807 951 N.W. 2d 616</p>
2019AP1007	<p><u>Container Life Cycle Management, LLC v. DNR</u></p> <p>Is "finality," a word that appears nowhere in section 227.52, a required characteristic of an agency decision that is the subject of a petition for judicial review under that statute?</p> <p>When an agency makes a determination that has the effect of subjecting a person to a more rigorous and expensive regulatory regime and substantially increasing the cost and delay that person will encounter in seeking a permit, is that determination subject to immediate judicial review under section 227.52 of the Wisconsin Statutes?</p> <p>Did the agency's decision adversely affect the petitioner's substantial interests?</p> <p>Does issue preclusion apply in different permitting proceedings subject to chapter 227?</p>	<p>09/14/2021 REVW Affirmed 06/23/2022 2022 WI 45</p>	<p>1 Milwaukee</p>	<p>Unpub.</p>

NOTE: 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.

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
2019AP1033	<p><u>Sauk County v. S. A. M.</u></p> <p>Whether respondent's appeal of his recommitment was moot because the commitment expired before respondent filed his notice of appeal.</p> <p>Whether Sauk County failed to meet its burden to prove by clear and convincing evidence that respondent was dangerous.</p> <p>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.</p> <p>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?</p>	<p>02/24/2021 REVW Reversed 06/23/2022 2022 WI 46</p>	<p>4 Sauk</p>	<p>Unpub.</p>
2019AP1046-CR	<p><u>State v. Theophilous Ruffin</u></p> <p>Was Ruffin entitled to an evidentiary hearing based on his postconviction allegation that his trial counsel was deficient for not pursuing a theory of self-defense?</p>	<p>09/17/2021 REVW Reversed 05/26/2022 2022 WI 34</p>	<p>1 Milwaukee</p>	<p>Unpub.</p>

NOTE: 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.

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
2019AP1085 2019AP1086	<p><u>5 Walworth, LLC v. Engerman Contracting, Inc.</u></p> <p>Whether there must be damage to third-property for there to be "property damage" caused by an "occurrence" under a standard Commercial General Liability ("CGL") insurance policy.</p> <p>Whether the integrated-systems test analysis applies to insurance coverage disputes to aid in the determination of whether there was "property damage" caused by an "occurrence."</p> <p>When a plaintiff's claims exclusively seek the cost of removing and replacing an improperly constructed product, and allege no damage to property other than to that product itself, has there been an "occurrence" such that a standard Commercial General Liability ("CGL") insurance policy must provide coverage?</p> <p>Does the integrated-systems test apply in construction related insurance coverage cases to help determine whether "property damages" were the result of an "occurrence"?</p> <p>Is an insurer entitled to summary judgment declaring it has no coverage obligations when its policy commenced roughly a year after a contractor had received notices of damages, had attempted to repair damages, and was aware of claims of ongoing damages at a pool complex, when its policy does not extend to losses which have occurred, or which have begun to occur, prior to its term?</p> <p>Does the plaintiff's claim that it bought a defective pool complex that needed to be replaced constitute "property damage" caused by an "occurrence" within the meaning of the commercial general liability policy issued by the insurer to a construction company?</p> <p>Is the pool complex an "integrated system" such that damage by one component to another component is not "property damage" caused by an "occurrence"?</p> <p>Do the policy's business risk exclusions, specifically the "your product" exclusion, eliminate coverage under the insurer's policy?</p>	01/11/2022 REVW	2 Walworth	08/25/2021 Pub. 2021 WI App 51 399 Wis.2d 240 963 N.W.2d 779

NOTE: 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.

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
*2019AP1319	<u>Milwaukee Police Supervisors Organization v. City of Milwaukee</u> Does the 2013-2016 Collective Bargaining Agreement between the Milwaukee Professional Firefighters' Local 215 and the City of Milwaukee, the City of Milwaukee's Charter, and the parties' past practice require the City of Milwaukee Employees' Retirement System to include the 5.8% wage increase in its calculation of duty disability retirement ("DDR") benefits? Does the 2013-2016 Collective Bargaining Agreement between the Milwaukee Policy Supervisors Organization and the City of Milwaukee, the City of Milwaukee's Charter, and the parties' past practice require the City of Milwaukee Employees' Retirement System to include the 5.8% wage increase in its calculation of DDR benefits? Does the court of appeals' decision comply with precedent regarding the interpretation of pension laws, in this case Milwaukee City Charter § 36?	05/18/2022 REVW	1 Milwaukee	Unpub.
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 Reversed 06/21/2022 2022 WI 42	3 Pierce	Unpub.
2019AP1728 (consolidated with 2019AP2063)	<u>Marilyn Casanova v. Michael S. Polsky, Esq.</u> May an undocumented, unrecorded lien—created by judicial fiat—have priority over a Trustee's perfected first mortgage and security interest? Did the Court of Appeals (and, by extension, this Court) lack jurisdiction over these appeals by virtue of the failure to appeal from a final order? Did the Bondholders agree that their right to re-payment is subject to the Residents first receiving reimbursement of their entrance fees? Do the appellate courts have jurisdiction over the present case?	10/18/2021 REVW	2 Racine	Unpub.

NOTE: 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.

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
2019AP1850-CR	<u>State v. Scott W. Forrett</u> Is Wisconsin's accelerated penalty structure for OWI related offenses unconstitutional under <u>Birchfield v. North Dakota</u> , 579 U.S. ___, 136 S. Ct. 2160 (2016) and <u>State v. Dalton</u> , 2018 WI 85, 383 Wis. 2d 147, 914 N.W.2d 120? Is an increased penalty for an offense because the person is a repeater an increased penalty for the prior offense?	09/14/2021 REVW Affirmed as modified, remanded 06/03/2022 2022 WI 37	2 Waukesha	05/26/2021 Pub. 2021 WI App 31 398 Wis. 2d 371 961 N.W.2d 132
2019AP1876-CR	<u>State v. Donald P. Coughlin</u> How does a court consider the theory of guilt in an evidence sufficiency claim when an inconsistency exists between a jury instruction and verdict? Must a court accept a jury's resolution of any vagueness in testimony as jury credibility and weight determinations and must a court then adopt the reasonable inferences that a jury may have drawn from the evidence? Has the defendant challenging the sufficiency of the evidence met his burden to overcome the deference given to the jury and its verdict to satisfy that the evidence, viewed most favorably to the State and the convictions, was insufficient to sustain the guilty verdicts?	09/14/2021 REVW Reversed 06/21/2022 2022 WI 43	4 Juneau	Unpub.
2019AP1987	<u>Lowe's Home Centers, LLC v. City of Delavan</u> Can the fee simple market value of a retail property be determined under the Markarian Hierarchy based on sales of reasonably comparable properties (Tier II) that are "vacant" (i.e., not occupied by a retail business at the time of sale), but do not constitute sales under duress or distressed sales, or are all sales of properties which are merely vacant at the time of sale per se disqualified as "dark stores"? When does a "presumption of correctness" attach to a property assessment as a threshold matter, and what responsibility does a statutory assessor bear in a tax assessment challenge to demonstrate or otherwise evidence that an assessment was determined in accordance with Wisconsin law?	01/11/2022 REVW	2 Walworth	--
2019AP2063 (consolidated with 2019AP1728)	<u>Marilyn Casanova v. Michael S. Polsky, Esq.</u> May an undocumented, unrecorded lien—created by judicial fiat—have priority over a Trustee's perfected first mortgage and security interest? Did the Court of Appeals (and, by extension, this Court) lack jurisdiction over these appeals by virtue of the failure to appeal from a final order? Did the Bondholders agree that their right to re-payment is subject to the Residents first receiving reimbursement of their entrance fees? Do the appellate courts have jurisdiction over the present case?	10/18/2021 REVW	2 Racine	Unpub.

NOTE: 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.

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
2019AP2065-CR	<u>State v. Richard Michael Arrington</u> Did the defendant prove that his counsel was ineffective for failing to move to suppress the CI's recordings and testimony on Sixth Amendment grounds? Did the defendant prove that the State violated his Sixth Amendment right to counsel?	09/14/2021 REVW Oral Arg 03/10/2022	3 Brown	05/26/2021 Pub. 2021 WI App 32 398 Wis. 2d 198 960 N.W.2d 459
2019AP2095	<u>Great Lakes Excavating, Inc. v. Dollar Tree Stores, Inc.</u> Does Wis. Stat. § 779.05(1), relating to waivers of construction liens, prohibit the consideration of extrinsic evidence to give effect to the written language used by parties? Can equitable estoppel be asserted to counter the argument that a lien waiver intended to be a partial lien waiver must be regarded as a full lien waiver pursuant to Wis. Stat. § 779.05(1)? What must a party do to preserve an appeal when asserting equitable estoppel to oppose a defense?	10/18/2021 REVW Reversed, remanded 06/22/2022 2022 WI 44	1 Milwaukee	04/28/2021 Pub. 2021 WI App 23 397 Wis. 2d 210 959 N.W.2d 351
2019AP2150-CR	<u>State v. Valiant M. Green</u> Did the affidavit in support of a search warrant for a blood draw fail to state probable cause to believe that the suspect had committed a crime and thus require suppression of the blood test result?	09/14/2021 REVW Affirmed 06/15/2022 2022 WI 41	2 Kenosha	--
2019AP2184-CR	<u>State v. Jeffrey L. Moeser</u> Whether the 'Oath' requirement under the Fourth Amendment of the US Constitution and Article 1, Section 11 of the Wisconsin Constitution require a police officer to swear an oath to the truthfulness of an affidavit used to obtain a search warrant to conduct an evidentiary blood draw in a criminal OWI matter.	11/17/2021 REVW	4 Portage	Unpub.
2019AP2383-CR	<u>State v. Daimon Von Jackson, Jr.</u> Is a defendant prejudiced when trial counsel does not communicate with the defendant in advance of a homicide trial? Should a defendant be allowed to obtain new counsel when that defendant's counsel is deficient?	03/15/2022 REVW	2 Racine	Unpub.

NOTE: 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.

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
2020AP29-CR	<u>State v. Westley D. Whitaker</u> Does it violate the First and Fourteenth Amendments and Article I Section 18 of the Wisconsin Constitution to consider a defendant's religious identity and impose a sentence intended to deter crime solely within his religious community? If a sentencing court may consider a defendant's religious association to deter other members of a religious community does the "reliable nexus" test in <u>State v. Fuerst</u> 181 Wis. 2d 903, 512 N.W.2d 243 (1994) and <u>State v. J.E.B.</u> 161 Wis. 2d 655, 469 N.W.2d 192 (1991) require congruity between the offense and the activity protected by the First Amendment? Does the sentencing factor/ objective of "protection of the public" include permitting the sentencing court to increase the sentence imposed on the defendant to send a message to an identified set of third parties that they should alter their behavior in the future, apart from generally being deterred from committing offenses like those committed by the defendant?	06/16/2021 REVW Oral Arg 12/09/2021	4 Vernon	03/31/2021 Pub. 2021 WI App 17 396 Wis. 2d 557 957 N.W.2d 561
2020AP32-CR	<u>State v. Oscar C. Thomas</u> Whether the appellate court misapplied the standard in determining that admission of DNA evidence in violation of a defendant's right of Confrontation was harmless. Whether the appellate court erred in determining that a defendant's confession was corroborated by a significant fact.	01/11/2022 REVW	2 Kenosha	08/25/2021 Pub. 2021 WI App 55 399 Wis. 2d 277 963 N.W.2d 887
2020AP128	<u>Robert L. Slamka v. General Heating and Air Conditioning</u> Is the Right to Work Act in the State of Wisconsin pre-empted by Federal Law depriving the Wisconsin Employment Relations Commission of jurisdiction to hear and determine cases under the Right to Work Act § 111.06(l)(a) and § 111.04(3)(a) Wis. Stats.? Does Article I, Section 9 of the Wisconsin Constitution provide a remedy before the Wisconsin Employment Relations Commission under the Right to Work Act § 111.04(3)(a) Wis. Stats.?	09/14/2021 REVW	4 Dane	Unpub.

NOTE: 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.

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
2020AP189	<u>ACUITY v. Estate of Michael Shimeta</u> Whether an insurer providing underinsured motorist ("UIM") coverage in a "predetermined, fixed sum," which does nothing more than put those insured under the UIM policy in the same position they would have occupied had the tortfeasor's liability limits been the same as the UIM limits purchased, may reduce the benefits payable to those afforded coverage under the same UIM policy by all sums paid on behalf of any person that may be legally responsible for a motor vehicle accident. Whether Wis. Stat. § 632.32(5)(i) permits an insurer issuing a UIM policy to reduce its per accident limit by any amounts paid on behalf of any person that may be legally liable for a motor vehicle accident to those insured under the same UIM policy to achieve the "predetermined, fixed sum" purchased.	01/11/2022 REVW	1 Milwaukee	09/29/2021 Pub. 2021 WI App 64 399 Wis. 2d 375 965 N.W.2d 78
2020AP192-CR	<u>State v. Chrystul D. Kizer</u> Does the defense set forth in section 939.46(1m)—for crimes committed as a "direct result" of trafficking—provide a complete defense to a charge of first-degree intentional homicide?	09/14/2021 REVW Oral Arg 03/01/2022	2 Kenosha	07/28/2021 Pub. 2021 WI App 46 398 Wis. 2d 697 963 N.W.2d 136
2020AP202	<u>Estate of Anne Oros v. Divine Savior Healthcare Inc.</u> Is a lawsuit against the respondent, a defined Wisconsin Chapter 655 provider and its affiliate healthcare providers subject to Chapter 655? Is a Community Based Residential Facility (CBRF) that is a d/b/a of the respondent, an affiliate entity "whose operations are combined as a single entity with a hospital" pursuant to Chapter 655.002, such that the respondent is entitled to the protections of Wisconsin Chapter 655?	04/27/2021 REVW Affirmed 05/06/2022 2022 WI 27	4 Columbia	01/27/2021 Pub. 2021 WI App 8 395 Wis. 2d 676 953 N.W.2d 914
2020AP225	<u>Louis Pagoudis v. Marcus Keidl</u> Whether a seller of residential real estate can be held liable in perpetuity to a subsequent third-party purchaser or transferee for alleged misrepresentations in a Real Estate Condition Report issued on a s part of an earlier home sale. Whether an owner of residential real estate who transfers the property to a third party can recover for damages not incurred by the owner before transfer. Whether Limited Liability Companies (LLCs) are treated as separate legal entities even if they are owned by the same person.	11/17/2021 REVW	2 Washington	08/25/2021 Pub. 2021 WI App 56 399 Wis. 2d 75 963 N.W.2d 803

NOTE: 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.

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
2020AP226-CR	<u>State v. Jeffrey L. Hineman</u> In cases involving credibility contests between a complaining witness and the defendant, to what extent can a reviewing court reweigh the witnesses' credibility in assessing whether, based on omitted evidence, there was a reasonable likelihood of a different result under the <u>Brady</u> materiality (<u>Brady v. Maryland</u> , 373 U.S. 83 (1963)) or <u>Strickland</u> prejudice standards (<u>Strickland v. Washington</u> , 466 U.S. 668 (1984))? Did the court of appeals have authority to reach an abandoned <u>Shiffra/Green</u> (<u>State v. Shiffra</u> , 175 Wis. 2d 600, 499 N.W.2d 719 (Ct. App. 1993), <u>State v. Green</u> , 2002 WI 68, 253 Wis. 2d 356, 646 N.W.2d 298) issue, which the defendant did not raise as a direct claim on appeal, and did it have authority to reverse the postconviction court's ruling on a basis that the defendant did not advance? Was the fact that the victim's therapist made a mandatory report, without more, enough to satisfy the <u>Green</u> pleading standard permitting in camera review of the victim's therapy files "related to the report"?	04/13/2022 REVW	2 Racine	Unpub.
2020AP298-CR	<u>State v. Joseph G. Green</u> Did the circuit court have authority to order tolling of the 12-month statutory time limit for bringing an incompetent criminal defendant to trial competency?	06/16/2021 REVW Limited in part, affirmed in part 05/13/2022 2022 WI 30	4 Dane	03/31/2021 Pub. 2021 WI App 18 396 Wis. 2d 658 957 N.W.2d 583
2020AP307	<u>Gregory M. Backus v. Waukesha County</u> In light of the decision in <u>118th St. Kenosha, LLC v. DOT</u> , 2014 WI 125, 359 Wis. 2d 30, 856 N.W.2d 486, is a temporary limited easement compensable under Wis. Stat. § 32.09(6g) (2019-20)?	09/14/2021 CERT Oral Arg 04/06/2022	2 Waukesha	--
2020AP485	<u>Wisconsin Property Tax Consultants, Inc. v. Wisconsin Department of Revenue</u> In concluding that the Tax Appeals Commission had jurisdiction to entertain a declaratory judgment action asserting the Department of Revenue failed to comply with the rule promulgation requirements of Chapter 227 when it denied the exemption enacting in Wis. Stat. § 70.111(27) to all manufacturers, did the circuit court improperly rely on the primary jurisdiction doctrine to dismiss the declaratory judgment action under Wis. Stat. § 227.40?	10/18/2021 REVW Oral Arg 04/05/2022	2 Ozaukee	07/28/2021 Pub. 2021 WI App 47 398 Wis.2d 654 963 N.W.2d 103
2020AP704	<u>Daniel Doubek v. Joshua Kaul</u> Are <u>Evans v. DOJ</u> , 2014 WI App 31, 353 Wis. 2d 289, 844 N.W.2d 403, and <u>Leonard v. State</u> , 2015 WI App 57, 364 Wis. 2d 491, 868 N.W.2d 186, "good law" in light of the United States Supreme Court's decision in <u>United States v. Castleman</u> , 572 U.S. 157 (2014)?	06/16/2021 CERT Reversed and remanded 05/20/2022 2022 WI 31	3 Brown	--

NOTE: 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.

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
*2020AP806	<u>Allsop Venture Partners III v. Murphy Desmond SC</u> When is evidence of a settlement between plaintiff and co-defendant joint tortfeasors admissible under Wis. Stat. § 904.08? Are allegations in a prior, unverified and superseded complaint admissible as admissions of a party opponent if the prior allegations are not inconsistent with the operative complaint? Is a negligent tortfeasor entitled to indemnity from an intentional tortfeasor without proof of any connection between the intentional wrongdoing and subsequent negligence? Do certain comments made in defense counsel's closing argument require a new trial?	05/18/2022 REVW	4 Dane	Unpub.
2020AP877	<u>Rachel Slabey v. Dunn County</u> Are the county and the county defendants liable under 42 U.S.C. § 1983 for their failure to address credible allegations that an employee was likely to cross a line sexually or romantically with female county jail inmates? Are the county and the county defendants liable under § 1983 for their failure to protect the plaintiff from a single sexual assault in light of the constitutional risk of being sexually assaulted, particularly in light of allegations that its employee was likely to engage in inappropriate sexual conduct?	01/11/2022 REVW	3 Dunn	Unpub.
2020AP878-CR	<u>State v. Avan Rondell Nimmer</u> Does law enforcement, within a minute of receiving a ShotSpotter report of shots fired at a residential address, have reasonable suspicion to stop the only person outside the address, where the person reacts to the police by grabbing at his waistband, angling one side of his body away from police, and speeding his pace away from the officers?	03/24/2021 REVW Reversed 06/23/2022 2022 WI 47	1 Milwaukee	Unpub.

NOTE: 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.

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
2020AP925	<u>James Cobb v. Gary A. King</u> Did the Circuit Court misconstrue Wis. Stat. § 706.10(3), which provides: In conveyances of lands words of inheritance shall not be necessary to create or convey a fee, and every conveyance shall pass all the estate or interest of the grantor unless a different intent shall appear expressly or by necessary implication in the terms of such conveyance . . . when it concluded that an easement, which mentioned only the grantees and no one else, nonetheless ran with the land by virtue of the statute? Did the passage in the same statute that provided, “In conveyances of land words of inheritance shall not be necessary to create or convey a . . .” apply to easements, when cases hold that easements involve a limited right to use another’s property but do not involve a fee interest in the land and when Wis. Stat. § 700.02(1) defines fee interests in real property but does not include easements. Did the passage in the statute that “every conveyance shall pass all the estate or interest of the grantor unless a different intent shall appear expressly or by necessary implication in the terms of such conveyance” mean that the easement ran with the land, when nothing in the easement’s terms indicated that was the case; in other words, did the terms of the statute supersede the terms of the easement?	09/14/2021 REVW Oral Arg 03/02/2022	3 Oconto	Unpub.
2020AP1014-CR	<u>State v. Christopher D. Wilson</u> Did the police have implicit license to enter the backyard of defendant’s home through a gated privacy fence?	11/17/2021 REVW	1 Milwaukee	Unpub.
2020AP1032	<u>John Doe 1 v. Madison Metro School District</u> May plaintiffs in Wisconsin courts sue using pseudonyms in appropriate cases, and if so, when and how? Did the lower courts erroneously deny Petitioners’ anonymity request? Whether the lower court erred by declining to enjoin an alleged violation of constitutional rights without considering Petitioner’s likelihood of success or properly weighing the serious harms Petitioners identified?	01/11/2022 REVW Oral Arg 04/12/2022	4 Dane	08/25/2021 Pub. 2021 WI App 60 399 Wis. 2d 102 963 N.W.2d 823

NOTE: 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.

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
2020AP1078-FT	<u>Secura Supreme Insurance Company v. The Estate of Daniel Keith Huck</u> Whether the statutorily approved phrase "all sums...[p]aid or payable because of the bodily injury under...[w]orker's compensation law" in an underinsured motorist ("UIM") insurance policy's reducing clause necessarily permits the reduction for all amounts paid, including those amounts that the employer/worker's compensation insurer initially paid, but then recovered through a third-party action pursuant to Wis. Stat. § 102.29.	04/13/2022 REVW	2 Racine	10/27/2021 Pub. 2021 WI App 69 399 Wis. 2d 542 966 N.W.2d 124
2020AP1124	<u>Matthew W. Murphy v. Columbus McKinnon Corporation</u> Did the Wisconsin State legislature ("Legislature") eliminate application of the consumer-contemplation standard for design defect claims when it enacted Wis. Stat. § 895.047? If the Legislature did not eliminate application of the consumer-contemplation test, can a product, as a matter of law, be "unreasonable dangerous" where the risk was undisputedly obvious and foreseeable? In a products liability design defect case, can a factfinder reasonably base its verdict on ipse dixit expert testimony that is: (i) not based on testing despite the expert's ability to test, or; (ii) reliant on the circular inference that the accident itself is evidence of a design defect?	11/17/2021 REVW	4 Sauk	08/25/2021 Pub. 2021 WI App 61 399 Wis. 2d 18 963 N.W.2d 867
2020AP1213-CR	<u>State v. Corey T. Rector</u> Whether the plain meaning of "separate occasions" in the sex-offender-registration statute means that the two convictions must have occurred at <u>different</u> times in two <u>separate proceedings</u> so that the qualifying convictions occurred sometime before a defendant is convicted in the current case. Stated otherwise, can the qualifying convictions occur simultaneously, as they did in this case, and as <u>State v. Wittrock</u> , 119 Wis. 2d 664, 350 N.W.2d 647 (1984) and <u>State v. Hopkins</u> , 168 Wis. 2d 802, 484 N.W.2d 549 (1992) held?	02/16/2022 CERT	2 Kenosha	--
*2020AP1362-CR	<u>State v. Jovan T. Mull</u> Did the court of appeals fail to defer to a defendant's attorney's strategic decisions?	05/18/2022 REVW	1 Milwaukee	Unpub.
2020AP1582	<u>Beatriz Banuelos v. University of Wisconsin Hospitals and Clinics Authority</u> May a health care provider charge a fee for providing an electronic copy of a patient's health care record, where neither Wis. Stat. § 146.83(3f) nor any other provision of state or federal law prohibits such a fee?	03/15/2022 REVW	4 Dane	10/27/2021 Pub. 2021 WI App 70 399 Wis.2d 568 966 N.W.2d 78

NOTE: 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.

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
*2020AP1683	<u>Citation Partners, LLC v. Wisconsin Department of Revenue</u> Are reimbursement payments made under a lease by the lessees of an aircraft for the lessees' proportional share of airplane parts and maintenance and repair services exempt from sales tax pursuant to the provisions of 2013 Wisconsin Act 185 and the common law of agency?	05/18/2022 REVW	4 Dodge	12/27/2021 Pub. 2021 WI App 86 400 Wis. 2d 260 968 N.W.2d 734
2020AP1696	<u>Saint John's Communities, Inc. v. City of Milwaukee</u> In order to pursue an action under Wis. Stat. § 74.35, must a tax payer pay the disputed real estate taxes before filing a claim against the municipality?	02/16/2022 REVW	1 Milwaukee	11/17/2021 Pub. 2021 WI App 77 399 Wis. 2d 729 967 N.W.2d 151
*2020AP1728-CR	<u>State v. Percy Antione Robinson</u> Whether the CR-215 procedure triggers the attachment of the Sixth Amendment right to counsel, which would then entitle an accused person to have the right to counsel for any subsequent "critical stage" of the legal proceedings.	05/18/2022 CERT	1 Milwaukee	--
2020AP1943	<u>Lindsey Dostal v. Curtis Strand</u> Does issue preclusion stemming from a criminal conviction bar the civil claims of a victim who was not a party to the criminal proceedings? Does the defendant's conviction of second-degree reckless homicide, Wis. Stat. § 940.06, preclude an "occurrence" under the policy as a matter of law?	02/16/2022 REVW	3 Barron	11/17/2021 Pub. 2021 WI App 79 399 Wis. 2d 781 967 N.W.2d 157
2020AP2003	<u>Wisconsin Justice Initiative, Inc. v. Wisconsin Elections Commission</u> In the April 7, 2020 election, Wisconsin voters ratified "Marsy's Law"—the proposed amendment to WIS. CONST. art. I, § 9m that provided additional "privileges and protections" to crime victims. Did the ballot question for the Marsy's Law amendment in the April 2020 election "reasonably, intelligently, and fairly comprise or have reference to every essential of the amendment"? <u>See State ex rel. Ekern v. Zimmerman</u> , 187 Wis. 180, 201, 204 N.W. 803 (1925). Was the ballot question for the Marsy's Law amendment misleading—either by containing misinformation or by failing to "mention[] [its subject] in accord with the fact"? <u>See State ex rel. Thomson v. Zimmerman</u> , 264 Wis. 644, 660, 60 N.W.2d 416 (1953). Under the "separate amendment" rule, was the Marsy's Law amendment required to have been submitted as more than one ballot question because it encompassed more than one subject matter and accomplished more than one purpose? <u>See McConkey v. Van Hollen</u> , 2010 WI 57, ¶¶25-26, 41, 326 Wis. 2d 1, 783 N.W.2d 855.	02/17/2022 CERT	4 Dane	--

NOTE: 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.

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
2020AP2081-AC (consolidated with 2020AP2103-AC)	<u>Wisconsin Manufacturers and Commerce v. Tony Evers</u> Whether the Associations sufficiently alleged a justiciable controversy under the Uniform Declaratory Judgments Act. Whether the right to challenge a records release under the Uniform Declaratory Judgments Act survived the enactment of Wis. Stat. § 19.356, which states that "[e]xcept as . . . otherwise provided by statute . . . no person is entitled to judicial review of the decision of an authority to provide a requester with access to a record."	08/12/2021 REVW Affirmed 06/07/2022 2022 WI 38	2 Waukesha	05/26/2021 Pub. 2021 WI App 35 398 Wis. 2d 164 960 N.W.2d 442
2020AP2103-AC (consolidated with 2020AP2081-AC)	<u>Wisconsin Manufacturers and Commerce v. Tony Evers</u> Whether the Associations sufficiently alleged a justiciable controversy under the Uniform Declaratory Judgments Act. Whether the right to challenge a records release under the Uniform Declaratory Judgments Act survived the enactment of Wis. Stat. § 19.356, which states that "[e]xcept as . . . otherwise provided by statute . . . no person is entitled to judicial review of the decision of an authority to provide a requester with access to a record."	08/12/2021 REVW Affirmed 06/07/2022 2022 WI 38	2 Waukesha	05/26/2021 Pub. 2021 WI App 35 398 Wis. 2d 164 960 N.W.2d 442
2020AP2119-CR	<u>State v. Larry L. Jackson</u> Whether defendant's post-conviction motion, claiming ineffective assistance of his trial counsel, alleged sufficient facts to warrant an evidentiary hearing.	01/11/2022 REVW	1 Milwaukee	--
*2020AP2146	<u>DEKK Property Development, LLC v. Wisconsin Department of Transportation</u> Can DOT remove a "right of access," contained in a record deed made under eminent domain procedures, as an exercise of policy power without prior due process proceedings or compensation?	05/18/2022 REVW	2 Kenosha	Unpub.
2021AP6	<u>Sheboygan County v. M.W.</u> Whether the court of appeals decision is contrary to the express purpose of the underlying rule from <u>Langlade Cty. v. D.J.W.</u> , 2020 WI 40, 391 Wis. 2d 231, 942 N.W.2d 277, under which the circuit court erred?	09/14/2021 REVW Reversed 06/10/2022 2022 WI 40	2 Sheboygan	Unpub.
2021AP21-CR	<u>State v. Robert K. Nietzold, Sr.</u> Whether a prosecutor breached a plea agreement by inadvertently recommending a specific term of imprisonment but then remedied the error after defendant's objection by withdrawing the mistaken recommendation and substituting the agreed recommended sentence. (See, i.e., <u>State v. Smith</u> , 207 Wis. 2d 258, 558 N.W.2d 379 (1997), <u>State v. Bowers</u> , 2005 WI App 72, 280 Wis. 2d 534, 696 N.W.2d 255; <u>State v. Knox</u> , 213 Wis. 2d 318, 570 N.W.2d 599 (Ct. App. 1997)).	04/13/2022 REVW	4 Vernon	Unpub.

NOTE: 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.

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
2021AP102	<u>Green Bay Professional Police Association v. City of Green Bay</u> Does providing notice to law enforcement officers of "the nature of the investigation" prior to being interrogated under §164.092, Stats., satisfy the <u>Cleveland Board of Education v. Loudermill</u> , 470 U.S. 532 (1985) requirement that a public employee be provided with notice and an opportunity to be heard with respect to disciplinary "charges" after a personnel investigation has been completed? Is due process satisfied when a law enforcement officer is disciplined for "charges" never identified in either a <u>Loudermill</u> notice or <u>Loudermill</u> hearing, simply because his employer identified the policies that eventually led to such discipline prior to interrogating the officer? Does <u>Loudermill</u> limit the government's ability to discipline its employees to the "charges" that are actually identified in a <u>Loudermill</u> notice and/or at a <u>Loudermill</u> hearing? Did the arbitrator "manifestly disregard the law" articulated in <u>Loudermill</u> ?	01/11/2022 REVW	3 Brown	10/27/2021 Pub. 2021 WI App 73 399 Wis.2d 504 966 N.W.2d 107
2021AP142-CR	<u>State v. Charles W. Richey</u> Whether, at the time of a traffic stop, the law enforcement officer only had a generalized hunch that the defendant's motorcycle may have been the one that committed a traffic violation.	04/13/2022 REVW	3 Marathon	Unpub.
2021AP419	<u>State v. X.S.</u> Did the court of appeals erroneously exercise its discretion in denying the motion for reconsideration less than 24 hours after it was filed in a written order that contained no explication? Did the juvenile court err when it permitted the respondent to introduce an explanation of the underlying offense that mitigated, but did not negate probable cause for, the offense(s) alleged in the delinquency petition?	10/18/2021 REVW Oral Arg 03/09/2022	1 Milwaukee	Unpub.

NOTE: 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.

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
2021AP463	<u>Colectivo Coffee Roasters, Inc. v. Society Insurance</u> Does an all risk commercial property insurance policy that provides coverage for “direct physical loss of or damage to property” and does not contain any virus exclusions apply to loss of business income and other expenses incurred from the contaminating presence of the COVID-19 virus on the covered premises? Does an all risk commercial property insurance policy that provides coverage for “direct physical loss of or damage to property” and does not contain any virus exclusions apply to loss of business income and other expenses arising from government orders restricting and limiting the physical use of the premises in response to the COVID-19 pandemic? Does a policy that provides coverage for loss of business income, which requires (a) action by civil authority that (b) prohibits access to the insured’s premises due to (c) damage to property other than property at the insured’s premises, thereby provide coverage when the civil authority prohibits gatherings of people? Does a policy that provides coverage for loss of business income, which requires “contamination” that results in action by a governmental authority prohibiting access to the insured’s premises apply when the insured and patrons can continue to access the insured premises for modified purposes and/or sell products at the insured location?	09/14/2021 BYPA Reversed and remanded 06/01/2022 2022 WI 36	1 Milwaukee	--

NOTE: 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.

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
2021AP1321-LV (consolidated with 2021AP1325)	<p><u>County of Dane v. Public Service Commission of Wisconsin</u></p> <p>Whether an appeal challenging the lawfulness of a subpoena for testimony (that has been stayed pending appeal) is mooted when the subpoenaing party withdraws the subpoena while simultaneously stating that it will soon issue, and does issue, yet another subpoena for testimony to which the subpoenaed party objects on the same grounds.</p> <p>Whether a circuit court commits a per se abuse of discretion on the “likelihood of success” prong of the Gudenschwager test by simply cross-referencing its merits decision in its denial of a motion for stay pending appeal? See <u>Waity v. LeMahieu</u>, No. 2021AP802 (July 15, 2021) (P-App. 1103).</p> <p>Whether conduct by an adjudicator that creates a mere “appearance of bias” violates the Due Process Clause.</p> <p>Whether an adjudicator’s personal connections to individuals linked to parties appearing before the adjudicator, whether those individuals are close friends or mere professional acquaintances, give rise to a “serious risk of actual bias” under the Due Process Clause, notwithstanding the presumptions of regularity, integrity, honesty, and impartiality that attach to the adjudicator’s decisions.</p> <p>Whether the practice of applying for employment, after leaving public office, with an entity that had previously appeared before the adjudicator creates a “serious risk” that the adjudicator, when the entity appeared before him, had been actually biased.</p>	09/21/2021 REVW Oral Arg 02/28/2022	4 Dane	--

NOTE: 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.

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
2021AP1325 (consolidated with 2021AP13210-LV)	<u>County of Dane v. Public Service Commission of Wisconsin</u> Whether an appeal challenging the lawfulness of a subpoena for testimony (that has been stayed pending appeal) is mooted when the subpoenaing party withdraws the subpoena while simultaneously stating that it will soon issue, and does issue, yet another subpoena for testimony to which the subpoenaed party objects on the same grounds. Whether a circuit court commits a per se abuse of discretion on the “likelihood of success” prong of the Gudenschwager test by simply cross-referencing its merits decision in its denial of a motion for stay pending appeal? See <u>Waity v. LeMahieu</u> , No. 2021AP802 (July 15, 2021) (P-App. 1103). Whether conduct by an adjudicator that creates a mere “appearance of bias” violates the Due Process Clause. Whether an adjudicator’s personal connections to individuals linked to parties appearing before the adjudicator, whether those individuals are close friends or mere professional acquaintances, give rise to a “serious risk of actual bias” under the Due Process Clause, notwithstanding the presumptions of regularity, integrity, honesty, and impartiality that attach to the adjudicator’s decisions. Whether the practice of applying for employment, after leaving public office, with an entity that had previously appeared before the adjudicator creates a “serious risk” that the adjudicator, when the entity appeared before him, had been actually biased.	09/21/2021 REVW Oral Arg 02/28/2022	4 Dane	--
2021AP1673	<u>Joshua L. Kaul v. Frederick Prehn</u> Does respondent’s refusal to leave office on the Wisconsin Natural Resources Board to allow a successor gubernatorial appointee to take office support the issuance of a writ of quo warranto?	11/16/2021 BYPA Oral Arg 03/10/2022	4 Dane	--
2022AP91	<u>Richard Teigen v. Wisconsin Elections Commission</u> Whether guidance provided by the respondent to municipal clerks concerning absentee ballot provisions contravenes Wisconsin law, specifically, Wis. Stat. §§ 6.87 and 6.855,	01/28/2022 BYPA Oral Arg 04/13/2022	2 Waukesha	--

NOTE: 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.