

November 9, 2023

## WISCONSIN SUPREME COURT

### TABLE OF PENDING CASES

Clerk of Supreme Court  
Telephone: (608) 266-1880  
Facsimile: (608) 267-0640  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)  
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- whether the Court of Appeals decision is published or unpublished, and, if it is published, the citations to the public domain citation and the official reports for the Court of Appeals decision.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 **November 9, 2023**. 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  
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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
2020AP333	<u>Erik A. Andrade v. City of Milwaukee Bd. of Fire and Police Commissioners</u>  Did the Chief of Police deprive an officer of Due Process by failing to provide an explanation of his evidence supporting his decision to discharge the officer?  Did the Chief of Police deprive an officer of Due Process by failing to comply with Wis. Stat. §62.50(13)?	06/22/2023 REVW Oral Arg 10/09/2023	1 Milwaukee	Unpub.
2020AP1775	<u>Nancy Kindschy v. Brian Ash</u>  Whether Wis. Stat. §813.125, as construed by the Court of Appeals to prohibit speech from a public sidewalk intended to persuade listeners to repent sinful conduct violates the First Amendment of the U.S. Constitution and Art. I, §3 of the Wisconsin Constitution?  Whether speech from a public sidewalk intended to persuade listeners, even if directed to a specific listener, to repent sinful conduct serves “no legitimate purpose” within the meaning of Wis. Stat. §813.125?  Whether enjoining, for a period of four years, a pro-life, anti-Planned Parenthood protestor from protesting on a public sidewalk in front of a Planned Parenthood during its business hours constitutes an unconstitutional restraint on First Amendment protected expression?	06/22/2022 REVW Oral Arg 12/01/2022	3 Trempealeau	04/28/2022 Pub. 2022 WI App 17 401 Wis. 2d 406 973 N.W.2d 828
2020AP2007	<u>Catholic Charities Bureau, Inc. v. State of Wisconsin Labor and Industry Review Commission</u>  Whether Wisconsin’s unemployment insurance law, which exempts “an organization operated primarily for religious purposes,” exempts Petitioners.  Whether the court of appeals’ interpretation of the religious exemption to Wisconsin’s unemployment insurance law violates the First Amendment to the United States Constitution and Article I, Section 18 of the Wisconsin Constitution.	04/18/2023 REVW Oral Arg 09/11/2023	3 Douglas	03/29/2023 Pub. 2023 WI App 12 406 Wis. 2d 586 987 N.W.2d 778
2021AP311-CR	<u>State v. Donte Quintell McBride</u>  When reviewing a motion to suppress, what is the proper application of the “clearly erroneous” standard of review?  Was the seizure and subsequent search constitutional where the law enforcement officer observed two people sitting in an unilluminated SUV, which appeared to obstruct traffic, late at night in a high crime area when the defendant made furtive movements in response to officer’s spotlight?	04/18/2023 REVW <b>Affirmed by equally divided court 10/10/2023 2023 WI 68</b>	1 Milwaukee	Unpub.

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2021AP1399-CR	<u>State v. Morris V. Seaton</u>  In light of the 2014 amendment of Wis. Stat. § 904.04(2)(b) (2019-20),1 codifying and expanding the “greater latitude” rule and the Wisconsin Supreme Court’s decision in <u>State v. Dorsey</u> , 2018 WI 10, ¶¶23-25, 379 Wis. 2d 386, 906 N.W.2d 158, interpreting and applying that amendment, are <u>State v. Alsteen</u> , 108 Wis. 2d 723, 324 N.W.2d 426 (1982), and <u>State v. Cofield</u> , 2000 WI App 196, 238 Wis. 2d 467, 618 N.W.2d 214, still controlling law as they relate to the admissibility of prior nonconsensual sexual wrongs in cases involving an adult victim of an alleged sexual assault where consent is the primary issue?	03/24/2023 CERT <b>Certification vacated, remanded 10/10/2023 2023 WI 69</b>	2 Waukesha	--
2021AP1589	<u>Sojenhomer LLC v. Village of Egg Harbor</u>  Do the recently enacted prohibitions on condemnation for "pedestrian ways" set forth in Wis. Stat. § 32.015 and Wis. Stat. § 61.34(3)(b), prohibit Wisconsin municipalities from exercising their condemnation powers pursuant to Wis. Stat. § 61.34(3)(a), to widen and reconstruct a road when a sidewalk will be located within the right-of-way?	08/17/2023 REVV Oral Arg 12/19/2023	3 Door	04/26/2023 Pub. 2023 WI App 20 407 Wis. 2d 587 990 N.W.2d 267
*2021AP2105-CR	<u>State v. Michael Gene Wiskowski</u>  When the report of a person sleeping in a car while waiting in line at a drive thru is contradicted by the officer's observation of the car driving on the road without any traffic violations, is there reasonable suspicion to stop the car or can police justify the stop based on the community caretaker doctrine?  After the stop, when the driver provides a reasonable explanation, can the officer use the community caretaker doctrine to extend the stop to perform field sobriety tests?	09/26/2023 REVV Oral Arg 01/24/2024	2 Sheboygan	--
2022AP13	<u>Amazon Logistics, Inc. v. LIRC</u>  Whether the Court of Appeals erred in construing three statutory conditions for determining independent-contract status under Wis. Stat. § 108.02(12)(bm)2 to collapse into one in the context of gig workers in the modern economy.  Whether the Court of Appeals erred in deferring to LIRC's legal conclusions about whether evidence was admissible and sufficient to satisfy Amazon Logistics' burden of proof.  Whether the Court of Appeals erred in holding that Amazon Logistics was required to present evidence about each of the 1,000-plus workers at issue during the single-day hearing set for its appeal of the underlying unemployment benefits determination.	08/17/2023 REVV Oral Arg 12/19/2023	2/4 Waukesha	05/31/2023 Pub. 2023 WI App 26 407 Wis. 2d 807 992 N.W.2d 168

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2022AP1334	<u>A.M.B. v. Circuit Court of Ashland County</u>  Whether Wis. Stat. Ann. § 48.81 and 48.92(2) violate the equal protection rights under Wis. Const., art. I, § 1 and the Fourteenth Amendment of the U.S. Constitution, by requiring A.M.B. and T.G. to be married to enable T.G. to adopt her.  Whether Wis. Stat. Ann. § 48.81 and 48.92(2) violate the equal protection rights under Wis. Const., art. 1, § 1 and the Fourteenth Amendment of the U.S. Constitution by requiring T.G. to be married to A.M.B. to adopt M.M.C.  Do unstated legislative interests of "promoting marriage" and "preserving the traditional unitary family" trump the stated legislative interest of promoting the best interest of the child in Chapter 48?  Is it consistent with Wisconsin law to discriminate against individuals based on marital status for stepparent adoptions to "promot[e] marriage" and "protect the traditional unitary family"?	02/21/2023 BYPA Oral Arg 09/11/2023	3 Ashland	--
2022AP1999-W	<u>Antonio S. Davis v. Circuit Court for Dane County</u>  Whether the State Public Defender's inability to appoint counsel before the deadline for requesting a substitution of judge expires is a "government created obstacle" that interferes with a defendant's intelligent exercise of his right of substitution.  Alternatively, whether the doctrine of equitable tolling tolls the deadline for filing a request for substitution of judge until the defendant is appointed counsel.	03/31/2023 REVW Oral Arg 10/09/2023	4 Dane	
*2023AP441	<u>State v. R. A. M.</u>  Does a circuit court striking a parent's contest posture and entering default judgment after a finding of bad faith and egregious behavior by the respondent parent automatically trigger a waiver of counsel under Wis. Stat. § 48.23?  Does an automatic waiver of counsel under Wis. Stat. § 48.23 without an explicit finding of waiver and discharge of counsel by the circuit court lead to absurd results?  Does any limitation of appointed counsel's participation in a TPR proceeding as a sanction after entering default judgment against a parent amount to "total deprivation" of counsel under <u>Shirley E. [Torrance P., Jr. v. Shirley E., 2006 WI 129, ¶43, 298 Wis. 2d 1, 724 N.W.2d 623]</u> ?	09/26/2023 REVW Oral Arg 01/24/2021	1 Milwaukee	07/26/2023 Unpub.

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*2023AP1399-OA	<u>Rebecca Clarke v. Wisconsin Elections Commission</u>  Do the existing state legislative maps violate the contiguity requirements contained in Article IV, Sections 4 and 5 of the Wisconsin Constitution?  Did the adoption of the existing state legislative maps violate the Wisconsin Constitution's separation of powers?  If the court rules that Wisconsin's existing state legislative maps violate the Wisconsin Constitution for either or both of these reasons and the legislature and the governor then fail to adopt state legislative maps that comply with the Wisconsin Constitution, what standards should guide the court in imposing a remedy for the constitutional violation(s)?  What fact-finding, if any, will be required if the court determines there is a constitutional violation based on the contiguity clauses and/or the separation-of-powers doctrine and the court is required to craft a remedy for the violation? If fact-finding will be required, what process should be used to resolve questions of fact?	10/06/2023 ORIG Oral Arg 11/21/2023	--	--

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