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Wisconsin Supreme Court accepts four cases at November 3 conference

Madison, Wisconsin (January 23, 2026) – The Wisconsin Supreme Court recently voted to accept four cases, and the Court acted to deny review in a number of other cases at its November 3, 2025 conference. The case numbers, counties of origin and the issues presented in granted cases are listed below. More information about pending appellate cases can be found on the Wisconsin Supreme Court and Court of Appeals Access [website](#). Published Court of Appeals opinions can be found [here](#), and the status of pending Supreme Court cases can be found [here](#).

No. 2022AP2026

Rabiebna v. Higher Educational Aids Board

Supreme Court case type: Petition for Review

Court of Appeals: District II

Circuit Court: Jefferson County, Judge William F. Hue, *reversed and cause remanded with directions*.

Long caption: Konkanok Rabiebna, Richard A. Freihoefer, Dorothy M. Borchardt, Richard Heidel and Norman C. Sannes, Plaintiffs-Appellants-Respondents, v. Higher Educational Aids Board and Tammie DeVoght-Blaney, Defendants-Respondents-Respondents.

Issue(s) presented:

1. The U.S. Supreme Court has held that programs using racial classifications are constitutional if they have a measurable compelling interest, narrow tailoring designed to address that interest, a lack of substantial harm to other groups, and a way to measure an appropriate end.

WISCONSIN STAT. § 39.44, currently funded at less than one percent of state aid, addresses disproportionate attrition rates among students in specific racial groups by awarding grants, beginning sophomore year,

through the private colleges the students attend. The grants help those schools retain the classes they matriculated and promote equal opportunity for all students. They dramatically reduce attrition for grant recipients, far more than race neutral financial aid. Annual reports keep public officials apprised of the program's performance, and the Legislature chooses how to fund the program biennially.

Did the respondents show that the statute is unconstitutional in all applications?

2. For a plaintiff to have standing, this Court's precedent requires the plaintiff to have suffered a real and immediate injury and to have a legally protectable interest. In turn, to establish taxpayer standing, a plaintiff must suffer a personal, pecuniary injury. Mere disagreement with a law is insufficient to afford taxpayer standing.

Here, Respondents are not students seeking financial assistance. Instead, as taxpayers, they challenged some of the criteria governing the Retention Grant but did not seek to have fewer taxpayer dollars spent.

Did Respondents satisfy the requirements for taxpayer standing by demonstrating a personal pecuniary loss?

No. 2023AP588

Cincinnati Insurance Company v. Ropicky

Supreme Court case type: Petition for Review

Court of Appeals: District II

Circuit Court: Waukesha County, Judge Michael J. Aprahamian, *reversed and cause remanded with directions.*

Long caption: Cincinnati Insurance Company, Plaintiff-Counter-Defendant-Respondent-Petitioner, v. James Ropicky and Rebecca Leichfuss, Defendants-Counter-Plaintiffs-Third-Party-Plaintiffs-Appellants-Respondents; Infratek Engineering Investigations, LLC and Donald L. Krizan, Third-Party-Defendants.

Issue(s) presented:

1. Whether The Cincinnati Insurance Company ("Cincinnati") is entitled to judgment as a matter of law that the Fungi Exclusion contained in the Executive Classic Homeowner insurance policy it issued to James Ropicky ("Ropicky") precludes coverage, except

for the \$10,000 limit of insurance provided pursuant to Section I, A.5. Section I Additional Coverage m. Fungi, Wet or Dry Rot, or Bacteria of the Policy, which Cincinnati has undisputedly paid.

2. Whether Cincinnati is entitled to judgment as a matter of law that it met its burden of establishing that the Policy's Construction Defect Exclusion applies to preclude coverage for damage caused by water infiltration and that Ropicky has not met his burden of establishing that an exception to the Construction Defect Exclusion, i.e., the "ensuing loss" clause, applies to reinstate coverage.

No. 2024AP1390

Waukesha County v. R.D.T.

Supreme Court case type: Petition for Review

Court of Appeals: District II

Circuit Court: Waukesha County, Judge Cody Horlacher, *affirmed*.

Long caption: In the matter of the mental commitment of R.D.T.: Waukesha County, Petitioner-Respondent-Respondent, v. R.D.T., Respondent-Appellant-Petitioner.

Issue(s) presented:

1. Is R.D.T.'s appeal from his recommitment moot where the commitment has expired, but he remains liable for the costs of care and [is] subject to a firearms ban?
2. Did the circuit court make sufficient factual findings – grounded in admissible evidence – to support R.D.T.'s recommitment?

No. 2025AP813-FT

Racine County v. R.P.L.

Supreme Court case type: Petition for Review

Court of Appeals: District II

Circuit Court: Racine County, Judge Timothy D. Boyle, *affirmed*.

Long caption: In the matter of the guardianship and protective placement of R.P.L.: Racine County, Petitioner-Respondent-Respondent, v. R.P.L., Respondent-Appellant-Petitioner.

Issue(s) presented:

1. Did the court of appeals apply the correct legal standard to its review of the sufficiency of the evidence?
2. Applying the correct legal standard, does the evidence meet the statutory criteria?

Review denied: The Supreme Court denied review in the following cases. As the state’s law-developing court, the Supreme Court exercises its discretion to select for review only those cases that fit certain [statutory criteria](#) (see Wis. Stat. § 809.62). Except where indicated, these cases came to the Court via petition for review by the party who lost in the lower court:

Brown County

2025AP660-W

Wells v. Circuit Court for Brown County

Fond du Lac County

2024AP1071

A.M.D. v. G.R.B., Jr.
[Justice R.G. Bradley dissents]

Jefferson County

2023AP1494-CR

State v. Williams

Kenosha County

2025AP2130-W

Olrich v. Court of Appeals, District II
[Supervisory Writ]

2025AP2131-W	<u>Olrich v. Court of Appeals, District II</u> [Supervisory Writ]
2025AP2132-W	<u>Olrich v. Court of Appeals, District II</u> [Supervisory Writ]
2025AP2133-W	<u>Olrich v. Court of Appeals, District II</u> [Supervisory Writ]
2025AP2225-W	<u>Wiley v. Kenosha County Circuit Court</u>

Langlade County

2023AP2121	<u>State v. Rindahl</u>
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Milwaukee County

2023AP839-CR	<u>State v. Eskridge</u>
2023AP1742-CR	<u>State v. Hall</u>
2023AP1775-CR	<u>State v. White-Andrews</u> [Justice J.C. Protasiewicz did not participate]
2023AP2060-CR	<u>State v Jelks</u>
2025AP177	<u>State v. A.L.</u>

Ozaukee County

2024AP95-CR	<u>State v. Leventhal</u>
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Rock County

2023AP2092

Ubelacker v. Rock Energy Cooperative

2024AP931-CR

State v. Morello

Washburn County

2024AP2443-FT

Washburn County v. D.C.R.