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Wisconsin Supreme Court accepts two cases

Madison, Wisconsin (May 17, 2024) – The Wisconsin Supreme Court recently voted to accept two cases, and the Court acted to deny review in a number of other cases. 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](#).

2024AP232

Brown v. WEC

(Justice Rebecca Frank Dallet concurs, joined by Justice Jill J. Karofsky; Chief Justice Annette Kingsland Ziegler dissents, joined by Justice Rebecca Grassl Bradley; Justice Brian Hagedorn dissents).

Supreme Court case type: Petition to Bypass
Court of Appeals: District II
Circuit Court: Racine County, Judge Eugene A. Gasiorkiewicz

Long caption: Kenneth Brown, Plaintiff-Respondent-Cross-Appellant v. Wisconsin Elections Commission, Defendant-Co-Appellant-Cross-Respondent, Tara McMenamini, Defendant-Appellant-Cross-Respondent, Black Leaders Organizing for Communities, Democratic National Committee, and Wisconsin Alliance for Retired Americans, Intervenors-Co-Appellants-Cross-Respondents

Issues granted:

BLOC's Petition:

1. Whether the Circuit Court improperly construed the "partisan advantage" language of Wis. Stat. § 6.855(1).

2. Whether the Circuit Court improperly applied Wis. Stat. § 6.84 to prohibit the City of Racine's Mobile Elections Unit (MEU) under Wis. Stat. § 6.855.

WEC's Petition:

1. Under Wis. Stat. § 6.855(1), municipalities may designate alternate voting sites for in-person absentee voting. A site may not afford an advantage to any political party. Wis. Stat. § 6.855(1). In response to a 2016 federal court ruling concluding that limiting municipalities to a single site could violate federal law, the Legislature passed Wis. Stat. § 6.855(5), which permits multiple sites. But the circuit court held that Racine erred in establishing such sites for the August 2022 primary election because its sites were located in wards with different Democratic/Republican voting results than the ward where the city clerk's office is located. Did the circuit court correctly interpret the statute?
2. This lawsuit was filed by a voter who filed an administrative complaint with the Commission under Wis. Stat. § 5.061[] and then appealed after the Commission found no violation of law. The plaintiff asserted that he is a voter who wants to see the law followed. He did not assert that his ability to vote had been injured or that he belongs to a political party that was injured. The circuit court held that the plaintiff had standing based on Teigen v. WEC, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519. Was the plaintiff "aggrieved" under Wisconsin law?
3. For the August 2022 primary election, Racine parked a mobile voting unit at the sites designated as alternate in-person absentee voting. The unit contained the voting equipment and other materials needed for voters to cast their votes. The circuit court held that this violated Wisconsin statutes. Was this a correct reading of Wisconsin law?

Brown's Cross Appeal:

1. Whether the circuit court erroneously interpreted Wis. Stat. § 6.855 with respect to the use of alternate absentee voting sites including when they may be used, where they may be located, and their availability throughout the election period.

Supreme Court case type: Petition for Review

Court of Appeals: District II

Circuit Court: Ozaukee County, Judge Sandy A. Williams

Long caption:

In re the marriage of: Karen Elizabeth Morway, Petitioner-Respondent v. David Seth Morway, Respondent-Appellant-Petitioner

Issue(s) presented:

1. Is an order that includes no finality language and that expressly contemplates additional substantive litigation between the parties a "final order" under Wis. Stat. § 808.03(1) for purposes of appeal?
2. Is there an attorney fee exception to finality under Wis. Stat. § 808.03(1), such that an order is final for purposes of appeal if all that remains to be litigated is a claim for attorney's fees?
3. If an attorney fee exception exists, does it extend to fee claims that require additional substantive litigation between the parties?

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:

Original Action Petition

2024AP112-OA George v. Evers

Adams County

2022AP1583-CR State v. Siegert

Buffalo County

2022AP1786-CR State v. Medeiros

Chippewa County

2023AP630 R.G. v. J.J.

Dane County

2022AP1592 MacMillan v. Carr
2022AP1662

2023AP1574-W Buchanan v. Barrett [Writ of Habeas Corpus
Petition]

Douglas County

2022AP2035 Douglas County v. J.M.

Eau Claire County

2021AP2094-CR State v. Schye

2024AP87-W Brown v. Circuit Court of Eau Claire County
[Supervisory Writ Petition]

Fond du Lac County

2023AP59 Osceola Mobile Home Recreational Park
Cooperative v. Dye [Justice Rebecca Grassl Bradley
dissents]

Kenosha County

2022AP2149-CR State v. Busse
2022AP2150-CR

2023AP2235 State v. Warfield

Langlade County

2022AP649-CRNM State v. Buck

Milwaukee County

2021AP1412-CR State v. Zocco

2022AP1399 312 East Wisconsin Building, LLC v. Project Build
Behavioral Health, LLC [Justice Rebecca Grassl
Bradley dissents]

2022AP1470-CR State v. Bland

2022AP1495-CR State v. Bonilla

2022AP1570-CR State v. Brown

2023AP204-CR State v. Grisby

2023AP716 Village of Hales Corners v. Singh

2023AP757 Racine County v. B.L.M.

2023AP1786 State v. S.H.

2023AP2030-W Carr v. Fuchs [Writ of Habeas Corpus Petition
(Justice Janet C. Protasiewicz did not participate)]

2023AP2043
2023AP2044 State v. E.M.A.
2023AP2045

Outagamie County

2022AP148 Doxtator v. Tegels

2022AP1323-CR State v. Nass

2022AP1744-CR State v. Chay

Racine County

2018AP2108-CR State v. Harris

2022AP542-CR State v. Knight

Richland County

2022AP1562 Pellett v. Pellett
[Justice Ann Walsh Bradley did not participate]

Rock County

2022AP865-CR State v. Sims

2022AP1594 State v. Greer

St. Croix County

2024AP385-W P&P Properties, LLC v. Circuit Court for St. Croix
County
[Supervisory Writ Petition]

Walworth County

2023AP1358

State v. Helgeland [Petition to Bypass]

2023AP1362

Washington County

2023AP1867

Rogers v. Acuity, A Mutual Ins. Co. [Petition to Bypass]

Waukesha County

2022AP1878-CRNM

State v. Adams

2023AP2214-W

Krause-Kapalczynski v. Court of Appeals, District II

2023AP2357-W

Krause-Kapalczynski v. Circuit Court for Waukesha County