

WISCONSIN SUPREME COURT
THURSDAY, JANUARY 11, 2007
9:45 a.m.

05AP767-CR

State of Wisconsin v. Edward Bannister

This is a review of a decision of the Wisconsin Court of Appeals, District I (headquartered in Milwaukee), which reversed a Milwaukee County Circuit Court decision, Judge John Siefert, presiding.

Edward Bannister was convicted in Milwaukee County Circuit Court of one count of delivery of a controlled substance, morphine. The court of appeals reversed because it held the state had failed to sufficiently corroborate Bannister's confession.

Bannister was arrested and originally charged with delivering morphine to Michael Wolk, and first-degree reckless homicide. On Jan. 17, 2003, officers discovered Wolk's body in Wolk's apartment. The cause of death was morphine toxicity. Drug paraphernalia, including syringes and a teaspoon, rolling papers, and a white powdery rock substance were found nearby. Testing revealed morphine on the syringes and teaspoon.

At the time of his arrest, nine months after Wolk's death, Bannister was taken to the Cudahy Police station. Bannister told officers he gave morphine tablets to Michael Wolk or his brother, Steven Wolk, eight to ten times between mid-December 2002 and mid-January 2003. Bannister never signed a confession, and the officer's notes of Bannister's statements were destroyed after the officer completed his report.

At trial, Bannister entered into a stipulation that in exchange for not having to face a charge of reckless homicide, he would not object to the state's introduction of evidence of a morphine overdose.

A Cudahy police officer testified regarding Bannister's confession. But Steven Wolk refused to testify, despite a statement by prosecutors that he may do so during opening arguments. Bannister's attorney sought to mention in his closing argument that Steven Wolk never did testify, but the court denied his request.

The court of appeals explained that the corroboration rule ensures the reliability of a confession and is required to produce confidence in the truth of a confession. The rule, developed at common law, requires that a "conviction of a crime may not be grounded on the admission or confessions of the accused alone," the court of appeals concluded.

In its petition for review, the state has asked the Supreme Court to clarify whether the corroboration rule operates as a rule of admissibility or a rule of substantive evidence. Bannister never raised the corroboration question until appeal, the state argues in its petition.