# COURT OF APPEALS
# DECISION
# DATED AND RELEASED

February 13, 1997

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* § 808.10 and RULE 809.62, STATS.

## NOTICE

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**No. 96-1826-CR**

**STATE OF WISCONSIN** **IN COURT OF APPEALS**
**DISTRICT IV**

**STATE OF WISCONSIN,**

**Plaintiff-Respondent,**

**v.**

**FRANKIE L. TAYLOR,**

**Defendant-Appellant.**

APPEAL from a judgment of the circuit court for Rock County: EDWIN C. DAHLBERG, Judge. *Affirmed*.

EICH, C.J.[1] Frankie L. Taylor appeals from a judgment convicting him of three misdemeanors: battery, disorderly conduct and resisting an officer. He argues that (1) the trial court lost competency to proceed with the case as a result of undue delay in filing the complaint; (2) his due process rights were violated by the State's failure to provide him with a copy of the complaint; (3) he did not have a preliminary hearing on the charges; and (4) he was prevented

[1] This appeal is decided by one judge pursuant to § 752.31(2)(f), STATS.

from appearing personally in court. We reject his claims and affirm the judgment.

Taylor was charged with the offenses as the result of a domestic disturbance. He pled to the charges in exchange for the State's agreement not to seek repeater enhancement of the possible sentences. A joint recommendation was made to the court that he receive the maximum periods of incarceration for the offenses, to run consecutively to one another and consecutively to a sentence imposed after parole revocation on other charges. The court accepted the plea, found him guilty and imposed the recommended sentences.

## I. Charging Delay

Citing ***County of Riverside v. McLaughlin***, 500 U.S. 44, 56 (1991), which held that a probable-cause determination must be made for a person in custody within forty-eight hours after arrest, Taylor first asks us to rule that the trial court lost jurisdiction to proceed with his case. Nowhere in his brief, however, does he inform us of either the date of his arrest or the date he first appeared in court or otherwise refer us to places in the record where such information appears. We do not review issues that are inadequately briefed, ***State v. Pettit***, 171 Wis.2d 627, 646, 492 N.W.2d 633, 642 (Ct. App. 1992), or unaccompanied by citations to the record. ***In Interest of D.P.***, 170 Wis.2d 313, 334-35, 488 N.W.2d 133, 142 (Ct. App. 1992).[2]

[2] We see no reason to depart from the rule in this case, for even if Taylor had adequately briefed the issue, we have held that "a ***Riverside*** violation ... is not a jurisdictional defect causing a trial court to lose competency over the case." ***State v. Golden***, 185 Wis.2d 763, 768-69, 519 N.W.2d 659, 661 (Ct. App. 1994). It is only where delay results from deliberate acts on the part of the State—and where the defendant's ability to prepare a defense is prejudiced thereby—that relief will be afforded. ***Id***. at 769, 519 N.W.2d at 661. Taylor advances no such claims here.

Beyond that, Taylor himself acknowledges that he was being held in custody on a probation/parole hold at the time, and we said in ***State v. Harris***, 174 Wis.2d 367, 375, 497 N.W.2d 742, 745 (Ct. App. 1993), that absent either prejudice or unforeseen circumstances—and, as we said, neither claim is made by Taylor in this case—"the interval between an `arrest' and an initial appearance is never unreasonable where the ... suspect is already in the lawful physical custody of the State." Taylor's argument borders on

## II. The Criminal Complaint

Taylor next argues that because he was never served with a copy of the complaint he must be held to have lacked "adequate knowledge" of the elements of the offense. We are unsure of the relief he requests, however. We presume he attempts to challenge the validity of his plea in some respect. He complains that the complaint was given to his attorney and retained by her. And while he states at one point in his brief that "[t]here is no real evidence that anyone correctly informed [him] of the penalties to the offenses in counts two and three," he acknowledges a few sentences later that, at his plea hearing, the trial court "described the elements of the offenses and the penalties that could be imposed upon the conviction.... in each charge." Taylor's argument, in its entirety, is as follows:

> The record ... indicates that Mr. Taylor attempted to interpret statutes pertaining to sentencing issues and preliminary examination issues. It is clear that Mr. Taylor was unable to understand the material, statutory language, [sic] that he received. There isn't any indication that Mr. Taylor's ability to comprehend was considered.

As we noted above, we do not consider arguments unsupported by citations to authority, ***State v. Shaffer***, 96 Wis.2d 531, 545-46, 292 N.W.2d 370, 378 (Ct. App. 1980), or references to the record. ***Keplin v. Hardware Mut. Cas. Co.***, 24 Wis.2d 319, 324, 129 N.W.2d 321, 323 (1964); ***Lechner v. Scharrer***, 145 Wis.2d 667, 676, 429 N.W.2d 491, 495 (Ct. App. 1988).[3]

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frivolous.

[3] The State points out that the record is replete with explanations of the offenses and penalties to Taylor—both at his initial appearance and at the plea hearing. The State also points out that, at the initial appearance, the court commissioner's statement of the penalties was imprecise in that the commissioner did not state that Taylor could be either jailed or fined, or both, on the charges. Because, however, the statutes require advising a defendant of possible penalties only in felony cases, § 970.02(1)(a), STATS., such a minor inaccuracy was harmless.

## III. Preliminary Hearing

Taylor's counsel states that Taylor "insists that he was entitled to a preliminary hearing on the charges filed against him." He goes on to acknowledge, however, "It is clear" no such hearing is required or provided in misdemeanor cases. *See* § 971.02(1), STATS.[4] Counsel's assertions under this heading (they cannot be called an "argument") are frivolous and an unprofessional waste of the State's and the court's time.

## IV. Inability to Appear

Finally, Taylor claims that, although he was in custody throughout, he was "absen[t] ... for scheduled court appearances." He correctly points out that under § 971.04(1), STATS., a defendant must be present at arraignment, trial, jury selection, evidentiary hearings, jury views, and at the return of the verdict and sentencing. Again, however, he has not referred us to anything in the record reflecting his absence from such court hearing or proceeding in the case. All he says is that "[d]ue to [his] absence for scheduled court appearances, [he] ha[d] no ability to proved [sic] input into [sic] decision made as to procedure or timing of activity in the case," and that "[t]his is clearly demonstrated ... by [his] filing motions on his own behalf, apparently without imput [sic] or knowledge by his attorneys."

Again, we do not consider arguments that are undeveloped or lacking in citation to the record or applicable legal authority.[5]

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[4] Section 971.02(1), STATS., basic to Wisconsin criminal law, states that a preliminary hearing is prerequisite to an information or indictment only "[i]f the defendant is charged with a felony."

[5] Citing to the record, the State informs us that the only "court appearances" at which Taylor was not present were occasions at which continuances were either requested or granted.

Finally, we note that Taylor's attempt to assert a constitutional right-of-confrontation claim in this respect is equally flawed. The right to be present "throughout the trial" is indeed essential to due process; it is a right to be present at "all critical states of [the] proceeding," ***State v. Divanovic***, 200 Wis.2d 210, 220, 546 N.W.2d 501, 505 (Ct. App.

*By the Court.*—Judgment affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.

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1996), but Taylor simply has not shown—indeed, or even alleged—that he was absent at any "critical" stage of this proceeding.