

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

November 27, 1996

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**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 96-1828-CR**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

**STATE OF WISCONSIN,**

**Plaintiff-Respondent,**

**v.**

**STEVEN R. ROTHERMEL,**

**Defendant-Appellant.**

APPEAL from a judgment of the circuit court for Waushara County: LEWIS MURACH, Judge. *Affirmed.*

VERGERONT, J.<sup>1</sup> Steven R. Rothermel appeals from a judgment of conviction for operating a motor vehicle under the influence of an intoxicant in violation of § 346.63(1)(a), STATS. The sole issue on appeal is whether his prosecution was precluded by the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution because his license had been administratively suspended for the same violation.

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<sup>1</sup> This appeal is decided by one judge pursuant to § 752.31(2), STATS.

Rothermel acknowledges that in *State v. McMaster*, 198 Wis.2d 542, 543 N.W.2d 499 (Ct. App. 1995), *petition for review granted*, \_\_\_ Wis.2d \_\_\_, 546 N.W.2d 468 (1996), we held that criminal prosecution for operating a motor vehicle with a prohibited blood alcohol concentration after administrative suspension of operating privileges does not violate the Double Jeopardy Clause of the Fifth Amendment. *Id.* at 544, 543 N.W.2d at 499. Rothermel explains that he has raised this issue on appeal solely to preserve it for review.

*McMaster* is controlling. We conclude that the prosecution did not violate the Double Jeopardy Clause.

*By the Court.*—Judgment affirmed.

This opinion will not be published.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