

**COURT OF APPEALS
DECISION
DATED AND FILED**

January 12, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

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

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.

No. 98-1652

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

COUNTY OF TAYLOR,

PLAINTIFF-RESPONDENT,

V.

DUSTIN DAVID HAMLAND,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Taylor County:
GARY L. CARLSON, Judge. *Affirmed.*

HOOVER, J. Dustin David Hamland was cited for operating a motor vehicle left of the center line, in violation of § 346.05(1), STATS. Hamland filed a motion to dismiss on the day of his jury trial. The trial court interpreted the motion as challenging, inter alia, its subject matter jurisdiction. The court summarily denied the motion. The matter proceeded to trial, and Hamland was convicted. He appeals the judgment of conviction, contending that his Fifth

Amendment right to due process was violated “when the trial Court failed to establish subject matter jurisdiction prior to proceeding against the appellant.” Wisconsin circuit courts have subject matter jurisdiction over alleged violations of the rules of the road. The judgment of conviction is therefore affirmed.

Hamland filed a motion to dismiss the traffic citation alleging thirteen separate grounds. None of the bases specifically asserted that the trial court lacked subject matter jurisdiction.¹ At the motion hearing, however, Hamland objected to the court’s denial of his dismissal motion on the grounds that “[j]urisdiction has been challenged and it is the State’s burden to prove the jurisdiction in this case.” The trial court concluded summarily that it had subject matter jurisdiction and denied the motion to dismiss.

Hamland reiterates his contention before this court that he challenged the trial court’s subject matter jurisdiction, and it was then incumbent upon that court to “establish jurisdiction.” He cites *Hagans v. Lavine*, 415 U.S. 528, 533 (1974), and other cases for the proposition that when jurisdiction is objected to, it must be affirmatively proven. This is the extent to which Hamland developed his argument before either the trial court or this court. He presents no authority for the dubious proposition that a facially vague and ambiguous statement in a paper designated as a “motion to dismiss” is sufficient to challenge a circuit court’s subject matter jurisdiction. This court will not consider arguments unsupported by legal authority. See *State v. Shaffer*, 96 Wis.2d 531, 545-46, 292 N.W.2d 370, 378 (Ct. App. 1980). Nor will this court develop appellant’s

¹ The word “jurisdiction” appears only in paragraph five of Hamland’s motion: “Mark: Your abandoned paper *lacks jurisdictional facts* necessary to place or bring Me within your venue”

amorphous and unsupported arguments for him. *See Barakat v. DHSS*, 191 Wis.2d 769, 786, 530 N.W.2d 392, 398 (Ct. App. 1995). These maxims of appellate law are sufficient bases upon which to affirm the judgment of conviction. This court will nonetheless address the question whether the trial court had subject matter jurisdiction because the answer is easily accessible and well established.

Subject matter jurisdiction is conferred on a court solely by the constitution and state statutes. *See Thompson v. Thompson*, 129 Wis.2d 348, 352, 384 N.W.2d 713, 715 (Ct. App. 1986). Thus, whether a court has subject matter jurisdiction presents a question of statutory and constitutional interpretation. This is a question of law to which this court applies an independent standard of review. *See State v. Gavigan*, 122 Wis.2d 389, 391, 362 N.W.2d 162, 164 (Ct. App. 1984).

Article VII, § 8 of the Wisconsin Constitution provides in pertinent part that “the circuit court shall have original jurisdiction in all matters civil and criminal” Section 345.30, STATS., provides, again in part, that “[j]urisdiction over actions for violation of traffic regulations ... is conferred upon circuit courts.” Section 346.05(1), STATS., is a “traffic regulation” as that term is defined in § 345.20(1)(b), STATS.² Accordingly the Taylor County Circuit Court has subject

² Section 345.20(1)(b), STATS. provides in part: “‘Traffic regulation’ means a provision of chs. 194 or 341 to 349 for which the penalty for violation is a forfeiture” A violation of § 346.05(1), STATS., is a forfeiture. *See* § 346.17(2), STATS.: “Any person violating ss. 346.05 ... may be required to forfeit not less than \$30 nor more than \$300.”

matter jurisdiction to hear an action involving an alleged violation of § 346.05(1).
The trial court's judgment of conviction is therefore affirmed.

By the Court.—Judgment affirmed.

This opinion will not be published. RULE 809.21(1)(b)4, STATS.

