

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 29, 2005

Cornelia G. Clark
Clerk of Court of Appeals

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 WIS. STAT. § 808.10 and RULE 809.62.

**Appeal Nos. 2005AP552
2005AP553
STATE OF WISCONSIN**

**Cir. Ct. Nos. 2004TR3322, 2004TR3323,
2004TR3324**

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

GREGGORY A. BROWN,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Rock County:
R.A. BATES, Judge. *Affirmed.*

¶1 LUNDSTEN, P.J.¹ Gregory Brown appeals a judgment of the circuit court finding him guilty of operating a motor vehicle while intoxicated,

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(c) (2003-04). All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

first offense, contrary to WIS. STAT. § 346.63(1)(a) (2001-02), operating a motor vehicle with a prohibited blood alcohol content, contrary to § 346.63(1)(b) (2001-02), and operating a motor vehicle left of the center line, contrary to WIS. STAT. § 346.05(1) (2001-02).

¶2 Brown filed two motions to dismiss for lack of personal jurisdiction in the circuit court. Both of those motions were denied. Brown argues on appeal that the circuit court erred in denying both motions because service by mail and personal service of unauthenticated summons are insufficient to give the court personal jurisdiction. We disagree and affirm the circuit court.

Background

¶3 Gregory Brown, an Illinois resident, was convicted on February 22, 2005, of operating a motor vehicle while intoxicated, first offense, operating a motor vehicle with a prohibited blood alcohol content, and operating a motor vehicle left of the center line, all stemming from a traffic stop on July 7, 2002. Brown was issued three uniform traffic citations for those charges. The charges were later dismissed without prejudice.

¶4 The charges were re-filed with the circuit court, and three new citations were sent to Brown in Illinois, by ordinary mail, on February 24, 2004. Brown subsequently filed a motion to dismiss for lack of personal jurisdiction, and appeared specially on May 10, 2004, for a hearing on the motion. The circuit court denied the motion, finding that Brown had received notice of the proceedings. Brown attempted an interlocutory appeal of the order denying his motion. We declined to hear the appeal.

¶5 On July 22, 2004, the State again served Brown. This time, Brown was personally served with a summons and copies of the uniform traffic citations. The summons was not authenticated. Again, Brown filed a motion to dismiss for lack of personal jurisdiction because the summons was unauthenticated. The circuit court denied that motion on September 9, 2004, finding that personal service of copies of the uniform traffic citations was sufficient to confer personal jurisdiction under WIS. STAT. § 345.11(5). Following a bench trial, Brown was convicted on all three charges. This appeal followed.

Discussion

¶6 Brown argues that both the February 24, 2004, and the July 22, 2004, attempts to serve him were deficient because no statute allows a court to obtain personal jurisdiction through service by mail, or personal service of an unauthenticated summons. Thus, he asserts, the circuit court never had jurisdiction over his person.

¶7 The State responds that WIS. STAT. § 345.11(5) confers personal jurisdiction when a defendant is personally served with uniform traffic citations. The State argues that, regardless of the propriety of the service by mail, or the personal service of an unauthenticated summons, the circuit court obtained personal jurisdiction over Brown when Brown was personally served with copies of the uniform traffic citations on July 22.

¶8 The flaw in Brown's argument is that it addresses only the mailed citations and the unauthenticated summons. The facts clearly establish that Brown

was personally served with copies of the traffic citations on July 22, yet his brief does not acknowledge those citations, much less address them.²

¶9 Personal service by citation in traffic violation cases involving civil forfeitures is governed by WIS. STAT. § 345.11(5), which reads:

Notwithstanding any other provision of the statutes, the use of the uniform traffic citation promulgated under sub. (4) by any peace officer in connection with the enforcement of any state traffic laws, any local traffic ordinances in strict conformity with the state traffic laws or s. 218.0114(1) or 218.205(1) shall be deemed adequate process to give the appropriate court jurisdiction over the person upon the filing with or transmitting to the court of the uniform traffic citation.

The State argues that § 345.11(5) confers personal jurisdiction where a defendant is personally served with copies of uniform traffic citations, as Brown was in this case. Brown makes no attempt to argue this point.

¶10 Because Brown has given this court no reason to doubt that personal service of copies of the uniform traffic citations was sufficient to provide personal jurisdiction under WIS. STAT. § 345.11(5), we will not disturb the circuit court's order to that effect.

By the Court.—Judgment affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)4.

² Brown never argues that the circuit court should not have allowed the State's second attempt at service on July 22. We will therefore assume that the July 22 service was properly allowed. Brown must demonstrate, then, that the mailed citations, the unauthenticated summons, *and* the personally served citations were insufficient to confer personal jurisdiction over him.

