

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**March 23, 2006**

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 No. 2004AP580-CR**

**Cir. Ct. No. 2003CF291**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**DANIEL M. ANDREOLA, SR.,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment and an order of the circuit court for Rock County: DANIEL L. LaROCQUE, Judge. *Affirmed.*

Before Dykman, Vergeront and Deininger, JJ.

¶1 PER CURIAM. Daniel Andreola appeals pro se from a judgment of conviction and an order denying postconviction relief. We affirm.

¶2 Andreola was convicted after a trial to the court of misdemeanor and felony counts, two for issuing worthless checks and three for theft by false representation. He first argues that certain evidence should have been suppressed because it was collected in a search that exceeded the scope of the search warrants. This argument fails because Andreola appears to believe that the warrants authorized the seizure of only items “belonging” to Andreola, rather than to the corporation that Andreola claims the evidence actually belonged to. In actuality, the warrants did not specify who the items sought belonged to, they simply said that the specified items might be found in the premises “occupied by” Andreola. Andreola does not dispute that he occupied those premises. He also argues that the search was improper because it included “private papers,” but there is no law that prevents a search warrant from including private papers.

¶3 Andreola argues that there were several instances of prosecutorial misconduct. Most of these appear to be alleged violations of the State’s obligation to provide the defendant with exculpatory evidence in its possession. However, Andreola does not explain how any of the material allegedly withheld was exculpatory. Another alleged act of misconduct appears to be that the prosecutor instructed police to take four disks from a certain company without a search warrant. Based on the prosecutor’s description of this event, which is the only portion of the record Andreola cites, it is clear that the company voluntarily gave these disks to police, and that the State had not viewed contents of the disks after they obtained them. The other act of alleged misconduct concerns the prosecutor allegedly allowing a witness to perjure herself, but this point is so inadequately briefed we are unable to determine what is alleged to have occurred or why it would affect the validity of Andreola’s conviction.

¶4 Andreola next argues that the evidence was insufficient to support the convictions. We affirm the verdict unless the evidence, viewed most favorably to the State and the conviction, is so insufficient in probative value and force that no reasonable trier of fact could have found guilt beyond a reasonable doubt. *State v. Poellinger*, 153 Wis. 2d 493, 507-08, 451 N.W.2d 752 (1990).

¶5 Andreola's arguments on this point are difficult to understand, but it appears that his main point, as to the worthless check charges, is that the checks were issued for "past consideration" and therefore the worthless check statute does not apply to that conduct, by its own terms. The statute provides that it does not apply to "a postdated check or to a check given for a past consideration, except a payroll check." WIS. STAT. § 943.24(4).<sup>1</sup> We have previously adopted an attorney general opinion saying that "checks given either for services already performed or for goods already received, or for a past due obligation, are examples of transactions involving past consideration because in each case the drawer is not receiving anything of value *at the time the check is issued.*" *State v. Archambeau*, 187 Wis. 2d 502, 506, 523 N.W.2d 150 (Ct. App. 1994) (adopting definition of past consideration in 66 Op. Att'y Gen. 168, 174 (1977) for purpose of worthless check statute).

¶6 Andreola argues that his checks were for past consideration because they were issued after the signing of the contracts they were supposed to be in payment for, namely, a three-month commercial office lease and an architectural services contract. The State does not respond to this argument. However, we

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

conclude that Andreola's conduct was not for past consideration. Even though the contracts were signed before the checks were issued, both contracts involved the other party providing *continuing* consideration to Andreola, in the form of allowing him to continue his tenancy and continuing to perform architectural services. Therefore, Andreola was, in fact, receiving something of value at the time the check was issued, and he continued to receive that something into the future after issuance of the check.

¶7 Andreola also argues that the evidence was insufficient on the three theft charges because none of the witnesses expressly testified that he made a false representation to them. The State argues that the false representations were that Andreola would pay the people who received the checks. It can reasonably be inferred from the circumstances that this representation was false.

¶8 Andreola argues that the court commissioner and judges committed various violations of supreme court rules of judicial conduct. Those rules are not enforced by this court, and Andreola cites no authority stating that violations of them are grounds for reversal of a judgment. We are not aware of any such authority.

¶9 The remainder of Andreola's arguments are inadequately briefed to enable us to provide any meaningful analysis of them. *See State v. Pettit*, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992).

*By the Court.*—Judgment and order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

