

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 25, 2001

Cornelia G. Clark
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 WIS. STAT. § 808.10 and RULE 809.62.

No. 00-2898-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

TIMOTHY M. LONG,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Winnebago County: WILLIAM H. CARVER, Judge. *Affirmed.*

¶1 NETTESHEIM, J.¹ Timothy M. Long appeals from a judgment of conviction for operating a motor vehicle while intoxicated pursuant to WIS. STAT. § 346.63(1)(a). Long challenges the warrantless draw of his blood following his

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (1999-2000). All references to the Wisconsin Statutes are to the 1999-2000 version.

arrest. Long acknowledges that *State v. Thorstad*, 2000 WI App 199, 238 Wis. 2d 666, 618 N.W.2d 240, *review denied*, 2000 WI 121, 239 Wis. 2d 310, 619 N.W.2d 93 (Wis. Oct. 17, 2000) (No. 99-1765-CR), has previously decided this issue against him. Therefore, Long takes this appeal only to preserve the issue since, as of the writing of his brief, a writ of certiorari in *Thorstad* was pending before the United States Supreme Court.² We are bound by *Thorstad*. See *Cook v. Cook*, 208 Wis. 2d 166, 189-90, 560 N.W.2d 246 (1997).

By the Court.—Judgment affirmed.

This opinion will not be published.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

² The United States Supreme Court has since denied certiorari in *Thorstad*. *Thorstad v. Wisconsin*, 121 S. Ct. 1099 (2001).

