

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 8, 2003

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. 02-2834-CR
02-2835-CR**

**Cir. Ct. Nos. 01-CF-261
01-CT-350**

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

ROBERT F. KNUTH,

DEFENDANT-APPELLANT.

APPEAL from judgments of the circuit court for Wood County:
JAMES M. MASON, Judge. *Affirmed.*

Before Vergeront, P.J., Dykman and Lundsten, JJ.

¶1 PER CURIAM. Robert Knuth appeals judgments convicting him of third offense operating after revocation (OAR), and seventh offense operating while intoxicated (OWI). Both charges resulted from Knuth's late-night arrest while driving on a county park road which at the time of arrest was open only to

park campers. The sole issue is whether the road qualified as a “highway” for purposes of the OWI and OAR statutes. We conclude that the facts establish that the road was a “highway,” and therefore affirm.

¶2 The statutes that Knuth violated, WIS. STAT. §§ 346.63(1)(a) and 343.44(1) (1999-2000),¹ prohibit driving while intoxicated and driving after revocation, respectively, while on “highways” of the state. WIS. STAT. § 346.02(1). For purposes of these statutes, a “highway” includes “those roads or driveways in the state, county or municipal parks and in state forests which have been opened to the use of the public for the purpose of vehicular travel.” WIS. STAT. §§ 340.01(22); 343.01(1); 346.01(1). It is Knuth’s contention that the road he was on when arrested did not qualify as a “highway” under this definition because, while open to the general public during the day, the road was closed at night to all but registered park campers, or those arriving on it with the intent of registering.

¶3 The park road remained a highway at the time of Knuth’s arrest, despite the fact that night-time users other than registered or arriving campers were subject to fine. If the language of a statute is susceptible to only one reasonable interpretation, we will give it that interpretation. *See Truttschel v. Martin*, 208 Wis. 2d 361, 365, 560 N.W.2d 315 (Ct. App. 1997). Here, the definition of “highway” includes “all public ways and thoroughfares” and “those roads or driveways in the state, county or municipal parks ... which have been opened to the use of the public for [travel].” WIS. STAT. § 340.01(22). No

¹ All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

reasonable interpretation of that definition would exclude the park road. There is no exception, express or implied, for park roads open to all members of the public only part of the day, but open to certain members of the public at all times. Knuth's argument necessarily implies that a publicly owned and maintained county park road can be a "highway" during the day, and something else at night, despite its continued lawful use by campers.² We find no basis for that unreasonable and strained construction of § 340.01(22).

¶4 Our decision makes it unnecessary to determine whether the evidence supported a finding of guilt on the OWI charge, based on the alternative contention that Knuth was operating while intoxicated on premises other than a highway that are "held out to the public for use of their motor vehicles." *See* WIS. STAT. § 346.61.

By the Court.—Judgments affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)5 (2001-02).

² The road was not "closed" in the sense of being blocked off. Anyone could still travel it at the risk of a citation if not legitimately within the campground.

