

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

March 7, 1996

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(1), STATS.

NOTICE

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

No. 94-3126

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

SUSAN WADE,

Plaintiff-Appellant,

v.

**LIN MECHLER,
GARY MCCAUGHTRY
and MICHAEL SULLIVAN,**

Defendants-Respondents.

APPEAL from an order of the circuit court for Dane County:
ANGELA B. BARTELL, Judge. *Affirmed.*

Before Dykman, Sundby, and Vergeront, JJ.

PER CURIAM. Susan Wade appeals from an order dismissing her action against Lin Mechler, Gary McCaughtry and Michael Sullivan. Mechler is a correctional officer at Waupun Correctional Institution, McCaughtry is the warden there and Sullivan is secretary of the Department of Corrections. Wade sued after Mechler denied her permission to visit Waupun inmate Larry Brown, and McCaughtry affirmed that decision on administrative appeal. She sought *certiorari* review of McCaughtry's decision, and injunctive

relief, costs and reasonable attorney fees under 42 U.S.C. §§ 1983 and 1988. Her claims for *certiorari* review and injunctive relief became moot after Waupun officials granted her permission to visit Brown. The sole remaining issue is her right to reasonable attorney fees under § 1988. We conclude that the trial court correctly held that she failed to state a claim under § 1983. We therefore affirm.

WISCONSIN ADM. CODE § DOC 309.10 encourages and accommodates visitation between inmates and family members, friends and others who provide support to inmates. WISCONSIN ADM. CODE § DOC 309.12(2)(a) limits visitors to those who know and are approved by the inmate. Section DOC 309.12(4)(e) provides the exclusive criteria for denying visitation. McCaughtry denied Wade visitation solely because she did not know Brown *before* he was confined at Waupun. That reason is not among the criteria for excluding visitors under § DOC 309.12(4)(e).

McCaughtry's decision did not violate Wade's civil rights. State law may create a constitutionally protected liberty interest by placing precise substantive limits on official discretion. *Kentucky Dep't of Correction v. Thompson*, 490 U.S. 454, 461-62 (1989). The DOC regulations may have created a protected interest in the inmate's right to have visitors, but they did not create a liberty interest in the inmate's new acquaintances.

By the Court. – Order affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.