

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

September 19, 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, 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. 95-0876**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

**STATE OF WISCONSIN,**

**Plaintiff-Respondent,**

**v.**

**ROWLLAND R. JACKSON,**

**Defendant-Appellant.**

APPEAL from an order of the circuit court for Rock County:  
JAMES E. WELKER, Judge. *Reversed and cause remanded with directions.*

Before Dykman, P.J., Vergeront, J., and Paul C. Gartzke, Reserve  
Judge.

PER CURIAM. Rowlland R. Jackson appeals from a circuit court order denying his postconviction motion to amend the judgment of conviction so as to reflect his alias (and allegedly correct name) "Randal Roy Clarke." For the reasons set forth below, we reverse the circuit court and remand with directions.

In 1993, Rowlland R. Jackson was convicted of a cocaine offense in Wisconsin.<sup>1</sup> As a non-U.S. national born in Jamaica, he potentially faced deportation by the Immigration and Naturalization Service (INS). In an attempt to show the INS that he could be a productive member of United States society, Jackson proposed to take the General Equivalency Exam. With a General Equivalency Diploma (GED), Jackson would be eligible for earlier release. Section 304.06(1r)(a)2, STATS.

Jackson alleges that he is known to the INS as Randal Roy Clarke. In order that his GED diploma display the name known to the INS, he brought a motion before the circuit court to amend the judgment of conviction to show his name as Randal Roy Clarke.

Apparently without holding a hearing,<sup>2</sup> the circuit court denied the motion on the grounds that Jackson was "estopped from claiming a different name other than the name which he testified to under oath" in the criminal proceeding. We disagree.

Whether to apply estoppel is a question of law. *Nichols v. Nichols*, 162 Wis.2d 96, 103, 469 N.W.2d 619, 622 (1991). We owe no deference to the circuit court on legal issues. *Ball v. District No. 4, Area Bd.*, 117 Wis.2d 529, 537, 345 N.W.2d 389, 394 (1984).

We conclude that estoppel has no application here for two reasons. First, estoppel only arises where there is action or inaction by a party that induces reliance by another to his or her detriment. *Tomah-Mauston Broadcasting Co. v. Eklund*, 143 Wis.2d 648, 656, 422 N.W.2d 169, 172 (Ct. App. 1988). There has been no indication that the State relied to its detriment on appellant's identity as Jackson in the criminal proceedings. Second, any reliance must be reasonable. *City of Kenosha v. Jensen*, 184 Wis.2d 91, 99, 516 N.W.2d 4, 8 (Ct. App. 1994). As shown by the transcript of the sentencing proceeding,

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<sup>1</sup> The conviction was affirmed by this court. *State v. Jackson*, 188 Wis.2d 537, 525 N.W.2d 165 (Ct. App. 1994).

<sup>2</sup> The record does not contain a hearing transcript, and neither the appellant's pro se brief nor the state's brief contains reference to a hearing.

both the prosecution and the circuit court were aware that Jackson had numerous aliases, including "Randal Clarke." To have relied on appellant's identity as Jackson would be unreasonable under these circumstances.

We conclude that Jackson must be allowed an opportunity to prove his identity as "Randal Roy Clarke."<sup>3</sup> We remand to the circuit court for further proceedings.<sup>4</sup>

*By the Court.*—Order reversed and cause remanded with directions.

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

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<sup>3</sup> We conclude that, standing alone, the uncertified copies of INS documents attached by Jackson are insufficient to make this showing. On the other hand, we conclude that if the INS is prepared to deport Jackson under the name of Clarke, this is strong indicia that Jackson and Clarke are the same person. If Jackson can show by corroborated testimony, or by certified copy of documents or by some other method that contains similar indicia of reliability, that he is the subject of the INS proceedings against Clarke, he is entitled to prevail.

<sup>4</sup> Citing *Miller v. Smith*, 100 Wis.2d 609, 617, 302 N.W.2d 468, 472 (1981), and § 807.12(2), STATS., the State's brief correctly acknowledges that if the defendant can actually establish that his true name is Randal Roy Clarke, public policy considerations favoring correct court records would require "at least ... that the judgment of conviction contain both names: either Rowlland R. Jackson aka Randal Roy Clarke or Randal Roy Clarke aka Rowlland R. Jackson."